



American Nursing Services INC.
PROFESSIONALS WHO CARE

3012 29th STREET, METAIRIE, LA 70002
(800) 444-6877 • (504) 833-3100
WWW.AMERICAN-NURSE.COM

PHYSICIAN STATEMENT

NAME OF PATIENT STEVEN J FARMER DATE 9/21/07
SOCIAL SECURITY NUMBER [REDACTED]

The above named patient has been examined by me and found to be in good physical and mental health. The patient appears to be free from communicable diseases, and is able to function without physical restriction.

DATE OF PHYSICAL EXAM 9/21/07

CHEST X-RAY: Not done PD

Date - Results
(If test results are positive, see reverse side)

or TB SKIN TEST None / Air Healed Skin Distr

Date - Results
(If test results are positive, see reverse side) Disputed

RUBELLA TITER: 92 IU/ml 9/21/07

Date - Results

Anti HBs TITER: Neg 9/21/07

Date - Results

MEASLES TITER: 2.0 H 9/21/07

Date - Results

(Rubella)

VARICELLA TITER: 2.33 9/14/05

Date - Results

MUMPS TITER: 1.6 9/21/07

Date - Results

COLOR BLIND: YES ☐ NO ☐

Dist. Pres.

PHYSICIAN'S SIGNATURE [Signature]

PHYSICIAN'S NAME (PRINT) Dr. MANDEEP S. NAGRA

ADDRESS [REDACTED]

27Jun 2007 11:49 FROM:919-572-7450

TO:12858791895

LABCORP 800-833-3984 PAGE 002

TO: BHS/BEHAVIORAL HLTH SYSTEMS
P.O. BOX 830724
ATTN: MICHAEL CLOYD, MD-MRO

FROM: LABCORP OTS - SAN DIEGO
13112 EVENING CREEK DR. S.
SAN DIEGO, CA 92128
800-882-7272 // 858-668-3710

BIRMINGHAM

AL 35283

Laboratory Accession No.	257717515	Collected	26-JUN-07 @ 15:54
Specimen ID Number	0257717515	Received	27-JUN-07 @ 02:04
Donor's Social		Reported	27-JUN-07 @ 08:44
Employee ID		Reason For Test	Pre-Employment
First Name	STEVEN	Account	844249
Last Name	FARMER	Location	844249
Temperature In Range	Y	Location Phone	(702) 638-1200
Donor's Temperature		P.O.	OPEN
Donor's Phone #		Collector's Phone	(702) 878-4217

Client: BHS/AM.NURSING SRVCS-LAS VEGAS
Coll. Site: LABCORP - LAS VEGAS, NV
Site ID: 060998
Acct. Type: Non-DOT
Location: BHS/AMERICAN NURSING

*****SPECIMEN TEST RESULTS*****

DILUTE

Test(s)	Screening Cutoff	Confirm Cutoff	Confirm Quant	Unit	Result
Amphetamines	1000	500		ng/mL	negative
Barbiturates	200	200		ng/mL	negative
Benzodiazepines	200	200		ng/mL	negative
Cocaine*	300	150		ng/mL	negative
Marijuana Metab.	50	15		ng/mL	negative
Methadone	300	300		ng/mL	negative
Opiates	300	300		ng/mL	negative
PCP	25	25		ng/mL	negative
Propoxyphene*	300	300		ng/mL	negative

	Reference Interval	Unit	Result
Creatinine		mg/dL	15.6
Specific Gravity			1.0023
pH	4.5 - 8.9		Acceptable

*as Benzoylcegonine

*as Propoxyphene and/or Metabolite

***** End of Report *****

#

MEDICAL CLINIC
3315 CHANATE RD. STE. F
SANTA ROSA, CA 95404
(707) 570-0805

MEDICAL RECORD

Progress Notes

NOTE DATED: 09/21/2006 10:31 SR CLINIC PPD SKIN TEST (NURSING/MED).
VISIT: 09/21/2006 09:30 SR-MED-M.NAGRA-OPEN ACCESS
*****SKIN TESTING

Skin Testing

Per Provider's order:

Mantoux Tuberculin PPD 0.1 ml planted intradermally on left forearm.
Lot # C2250AB Exp: 02/17/2009.

Instructed patient to return to clinic or other health care provider after 48 -
72 hours for PPD reading.

Signed by: /es/ NINA H NGAO
LVN
09/21/2006 10:34

K. No. Jean RV Houldberg District Hospital
707. 431. 6320

Injection site LFA is no induration, redness
noted.

FARMER, STEVEN D

SAN FRANCISCO
Pt Loc: OUTPATIENT

Printed: 09/21/2006 10:34
Vice SF 509

VACCINATIONS	DATE	DATE	DATE	DATE
Td (Tetanus-diphtheria)				
Influenza Vaccine				
Pneumonia Vaccine				
MMR (Measles-Mumps-Rubella)	4/4/05			
Hepatitis B Vaccine				
Hepatitis A Vaccine				

KEEP THIS RECORD UP TO DATE. PRESENT THIS CARD EACH TIME YOU HAVE A SKIN TEST OR VACCINATION.

ALWAYS CARRY THIS CARD WITH YOU.

IMMUNIZATION RECORD

Comprobante de Inmunización

Name
nombreBirthdate
fecha de nacimientoAllergies
alergiasVaccine Reactions
reacciones a cualquier vacuna

RETAIN THIS DOCUMENT — CONSERVE ESTE DOCUMENTO

PROVIDERS: If using combination vaccines.	4			
	1			
	MMR			
	2			
	1	12/4/05		
	HEPATITIS B			
	2	4/1/06		
	3	6/15/06		
	VARICELLA (chickenpox)			
	<input type="checkbox"/> Had disease			
1				
HEPATITIS A				
2				

HIDH/Occupational Health Services
1375 University Avenue
Healdsburg CA 95448
Telephone (707) 431-6368

DT = diphtheria, tetanus (difteria, tétano)
 DTaP = diphtheria, tetanus, pertussis (whooping cough) (difteria, tétano y tos ferina)
 FLU = influenza
 Hep A = Hepatitis A, Hep B = Hepatitis B
 Hib = Hib meningitis (Haemophilus influenzae type B) (meningitis Hib)
 IPV = Inactivated polio (poliomielitis inactivado), OPV = oral polio (vacuna oral contra la polio)
 MMR = measles, mumps, rubella (sarampión, paperas y rubéola (sarampión alemán))
 PCV = pneumococcal conjugate vaccine (neumocócica conjugada)
 PPV = pneumococcal polysaccharide vaccine (vacuna polisacárida contra el neumococo)
 Td = tetanus, diphtheria (tétano, difteria)
 VAR = varicella (chickenpox) (varicela)

PH 948 (8/22) 10/16-75

WINNING VALLEY HOSPITAL
MEDICAL CENTER

NIOS: APPROVAL #84A-0457

**OSHA RESPIRATORY
MANDATORY MEDICAL EVALUATION
OSHA RULING 1910.134**

To employee: Can you read? (Circle one)

ARE YOU ALLERGIC TO SACCCHARIN? Yes ☒ No ☐

Your employer must allow you to answer this questionnaire during normal working hours, or at a time and place that is convenient to you. To maintain your confidentiality, your employer or supervisor must not look at or review your answers, and your employer must tell you how to deliver or send this questionnaire to the health care professional who will review it.

The following information must be provided by every employee who has been selected to use any type of respirator (Please print).

Employee's Name: STEVEN FARMER

Job Title: CNA

Age: (Nearest year) 55

Phone Number: [REDACTED]

Date: 2/15/08

Sex: Male Female ☐

Weight: 225

Height: Ft. 5 In. 10

Best time to be reached: ANY am/pm

- Please check the type of respirator you will use (you can check more than one category)
 - ☒ a. N, R, or P disposable respirator (filter-mask, none-cartridge type only)
 - ☐ b. Other type (for example, half or full face piece type, powered-air purifying, supplied-air, self-contained breathing apparatus)
- Have you ever had any of the following conditions? (Please circle answer)
 - a. Seizures (fits): Yes ☒ No ☐
 - b. Diabetes (sugar disease): Yes ☒ No ☐
 - c. Allergic reactions that interfere with your breathing: Yes ☒ No ☐
 - d. Claustrophobia (fear of closed-in places): Yes ☒ No ☐
 - e. Trouble smelling odors: Yes ☒ No ☐
- Have you ever had any of the following pulmonary or lung problems? (Please circle answer)
 - a. Asthma: Yes ☒ No ☐
 - b. Arthritis: Yes ☒ No ☐
 - c. Chronic bronchitis: Yes ☒ No ☐
 - d. Emphysema: Yes ☒ No ☐
 - e. Pneumonia: Yes ☒ No ☐
 - f. Tuberculosis: Yes ☒ No ☐
 - g. Silicosis: Yes ☒ No ☐
 - h. Pneumothorax (collapsed lung): Yes ☒ No ☐
 - i. Lung Cancer: Yes ☒ No ☐
 - j. Broken ribs: Yes ☒ No ☐
 - k. Any chest injuries or surgeries: Yes ☒ No ☐
 - l. Any other lung problem that you've been told about: Yes ☒ No ☐
- Do you currently have any of the following symptoms of pulmonary or lung illness? (Please circle answer)
 - a. Shortness of breath: Yes ☒ No ☐
 - b. Shortness of breath when walking fast on level ground, slight hill or incline: Yes ☒ No ☐
 - c. Shortness of breath when walking with other people at an ordinary pace: Yes ☒ No ☐
 - d. Have to stop for breath when walking at your own pace on level ground: Yes ☒ No ☐
 - e. Shortness of breath when washing or dressing yourself: Yes ☒ No ☐
 - f. Shortness of breath that interferes with your job: Yes ☒ No ☐
 - g. Coughing that produces phlegm (thick sputum): Yes ☒ No ☐
 - h. Coughing that wakes you early in the morning: Yes ☒ No ☐
 - i. Coughing that occurs mostly when you are lying down: Yes ☒ No ☐
 - j. Coughing up blood in the last month: Yes ☒ No ☐
 - k. Wheezing: Yes ☒ No ☐
 - l. Wheezing that interferes with your job: Yes ☒ No ☐
 - m. Chest pain when you breathe deeply: Yes ☒ No ☐
 - n. Any other symptoms that you think may be related to lung problems: Yes ☒ No ☐

- b. Stroke:
- c. Angina:
- d. Heart failure:
- e. Swelling in your legs or feet (not caused by walking):
- f. Heart arrhythmia (heart beating irregularly):
- g. High blood pressure:
- h. Any other heart problem that you've been told about:

Yes No
Yes No
Yes No
Yes No
Yes No
Yes No
Yes No

6. Have you ever had any of the following cardiovascular or heart symptoms? (Please circle answer)

- a. Frequent pain or tightness in your chest
- b. Pain or tightness in your chest during physical activity:
- c. Pain or tightness in your chest that interferes with your job:
- d. In the past two years, have you noticed your heart skipping or missing a beat?
- e. Heartburn or indigestion that is not related to eating:
- f. Any other symptoms you think may be related to heart or circulation problems:

Yes No
Yes No
Yes No
Yes No
Yes No
Yes No

7. Do you currently take medication for any of the following problems? (Please circle answer)

- a. Breathing or lung problems:
- b. Heart trouble:
- c. Blood pressure:
- d. Seizures (fits):

Yes No
Yes No
Yes No
Yes No

8. If you've used a respirator, have you ever had any of the following problems? (Please circle answer)
(If you have never used a respirator, circle N/A)

- a. Eye irritation:
- b. Skin allergies or rashes:
- c. Anxiety:
- d. General weakness or fatigue:
- e. Any other problem that interferes with your use of a respirator:

Yes No
Yes No
Yes No
Yes No
Yes No

9. Would you like to talk to the health care professional who will review this questionnaire about your answers?

Yes No

IMITATIONS: _____ BEARD _____ DENTURES _____ GLASSES _____ NONE

- FITTING:
- ☒ Satisfactory Qualitative Saccharin Fit Test
 - ☒ Instruction for Use Reviewed
 - ☒ Donning and Removal
 - ☒ Other

Size Medium
Respirator fit mask

Employee Signature: Steven Dale Farmer

Date: 2/05/08

Employee Name - Please Print: STEVEN DALE FARMER

Reviewed by: [Signature]

Date: 2/5/08

The Valley Health System

Dear Agency Staff Member:

As part of The Valley Health System's on-going performance improvement program, the following educational information is attached for you to review:

- Dress Code
- Service Excellence
- Telephone Etiquette
- Performance Improvement
- Environment of Care
- Electrical Safety
- Linen Management
- Fire Safety
- Bomb Threat
- Disaster Plan
- Security
- Code Guidelines
- COBRA / EMTALA
- Patient Rights and Responsibilities
- Information Management / Confidentiality
- On Line Incident Reporting
- Confidentiality
- Advanced Directives
- HIPAA
- Loss Control
- Back Safety / Ergonomics
- Infection Control
- Handwashing
- Standard Precautions
- Transmission Based Precautions
- Bloodborne Pathogens
- Pain Management
- Organ Donation
- Cultural Awareness
- End of Life
- Patient Safety
- 2005 Patient Safety Goals
- Age Specific Guidelines
- Medication Administration Safety
- PYXIS Tutorial
- Restraints
- Abuse / Neglect Information

Please review the information provided, sign and date below. Please note there have been revisions. This acknowledgement form will be maintained on file by the Agency and copy sent to facility.

I, STEVEN DALE FARMER have read the enclosed
PRINT NAME

information provided by The Valley Health System


SIGNATURE

DATE

Centennial Hills Hospital

MEDICAL CENTER

Hospital Orientation
 \ Allied Health Professionals
 New Employees approved for early starts
 Supplemental Agency Personnel
 Student Clinical Rotations

Name STEVEN FARMER Date _____ Job Title _____ Dept. _____

School (if Applicable) _____ Department of Clinical Rotation _____

The following list is to be read and signed by the orienting person. The last page is to be signed and returned to the Education Department. The checklist is to be kept with the person or placed in the employee education file as proof of orientation to the facility. A check denotes understanding:

General Safety

- ☒ Always wear hospital, school, or agency ID badge.
- ☒ Walk, don't run
- ☒ Familiarize yourself with emergency exits.
- ☒ Close drawers and cabinets to prevent undue injury.
- ☒ Keep halls and passageways clear of objects. Park carts on one side of hallway.
- ☒ Store materials on limited height to prevent falling or collapsing.
- ☒ Report unsafe conditions to supervisor or security.
- ☒ Report any suspicious persons in the hospital to security.
- ☒ Hospital Safety Officer is: Brett Chapman

Life Safety (Fire Safety)

- ☒ Code Red announcement via paging system means there could be a fire in the hospital. In the event of a fire in your area, follow the RACE method.
- ☒ R - Remove all patients and persons in immediate danger.
- ☒ A - Alarm. Activate the alarm at the nearest pull station.
- ☒ Call ext. 7-1111 and give the exact location of the fire.
- ☒ C - Contain the fire by shutting doors and windows in the area.
- ☒ E - Extinguish the fire if you can do so safely.
- ☒ Do not allow anyone to use the elevators. Listen for the "ALL CLEAR" announcement to resume duties.
- ☒ If the fire is not in your area: Close all doors. Resume normal activities while listening for further announcements. Doors may be opened and full duties resumed after the "ALL CLEAR" announcement.

Electrical Safety

- ☒ All personal appliances must be checked by Engineering prior to being used in the hospital.
- ☒ Pull cords out of outlets by the plug, not the cord.
- ☒ Extension cords are not allowed.

Hazardous Materials/Right to Know

- ☒ Employees have the right to know what hazardous materials they are working with.
- ☒ *Personal Protective Equipment (PPE)* must be worn when working with hazardous materials
- ☒ *Material Safety Data Sheets (MSDS)* are provided for each hazardous material in the hospital. Departments maintain a separate file of hazardous material specific to their areas.
- ☒ All containers of hazardous material must be clearly labeled.

Emergency Preparedness

- ☒ A disaster is any event that taxes the resources of the hospital beyond its normal operating mode.

Centennial Hills Hospital recognizes three (3) different disaster plans:

- ☒ Internal Disaster
- ☒ External Disaster
- ☒ Bomb Threat
- ☒ Environment of Care manual (EOC) is in every department and lists each department's duties during a disaster situation.
- ☒ In case of a disaster, you are responsible to know what your role is and where to report.

Hospital Utility Systems

- ☒ There are seven (7) basic utility systems in the hospital: Electrical System (red outlets are for emergency power), Medical Gas System, Steam System, Natural Gas System, Domestic Water System, Communication System and Elevator System
- ☒ In case of a failure in any of these systems call Engineering at 7-9730.

Safe Medical Devices Act

- ☒ Products and/or equipment that may have caused death or serious injury to patients or staff must be monitored and reported.
- ☒ If you have an equipment failure or problem; take care of the patient first, place a red Defective Tag on the piece of equipment and take it out of service. State exactly what is wrong with the device on the tag. Call Clinical Engineering and initiate a work order.

Infection Control

- ☒ *Wash your hands* (i.e., between patient contact, after using the restroom).
- ☒ Utilize *Standard Precautions* when there is the possibility of exposure to body fluids.
- ☒ Utilize *Personal Protective Equipment (PPE)* when appropriate, i.e., gloves, masks, etc.
- ☒ Show evidence of annual negative tuberculosis skin testing or x-ray.
- ☒ If no evidence, obtain two- (2) step TB skin testing from the Infection Control/Employee Health Nurse.
- ☒ Familiarize yourself with Isolation Precautions: Airborne, Droplet & Contact.
- ☒ Medical waste must be deposited in red bio-hazard bags.

Patient Care Safety

- ☒ Check for patient identification: Patient name and medical record number
- ☒ Set brakes on wheelchairs.
- ☒ Avoid "Do Not Use" Abbreviations
- ☒ Keep call light close to patients and answer promptly

- ☒ Report any concerns or changes in a patient's condition
- ☒ Make sure patient room floors are dry and keep area between bed and bathroom unobstructed
- ☒ Encourage patient's to ask questions about their care

Body Mechanics

- ☒ Bend knees when lifting heavy objects.
- ☒ Keep back straight.
- ☒ Maintain wide stance.
- ☒ Lift load close to body.
- ☒ Pivot, don't twist.
- ☒ Seek assistance if you believe the object/patient will be too heavy for you to safely move by yourself.

Overhead Pages – Emergency number to dial in any emergency is ext. 7-1111.

- ☒ "Code Red" – Code name for fire.
- ☒ "Code 99" – Code for cardiac arrest or respiratory arrest.
- ☒ "Code 99" Pediatric – Pediatric resuscitation response
- ☒ "Code Rush" – Code name for help to control an unruly patient or visitor.
- ☒ "Code Lift" – Code name for assistance with patient falls.
- ☒ "Code Pink" – Code name for abduction of an infant.
- ☒ "Code Mickey" – Pediatric abduction from OPS or ED
- ☒ "Code Orange" – Code name for Chemical/ Radiological/ Bioterrorism spill or exposure
- ☒ "Code Clean" – Activation of the decontamination unit
- ☒ "Code Lockdown" – Secure facility from external threat
- ☒ "Code HEICS" – Standby (Disaster Plan Pending Activation)
- ☒ "Code HEICS" – Activation (Disaster Plan Activated)
- ☒ "Code Green" – All Clear.
- ☒ "Code 100" – Stroke activation

Risk Management

- ☒ Risk Manager and Patient Safety Officer is: Janet Calliham.
- ☒ Sentinel events are everyone's business and include actual or "near miss" events that include:
 - Unanticipated death or major permanent loss of function
 - Associated with significant change from usual processes for delivering health care
- ☒ Sentinel events need immediate response and investigation. Notify your supervisor immediately.
- ☒ An event report needs to be completed in Midas out for any unusual occurrence in the hospital within 24 hours of the event.
- ☒ Label all patient personal property to avoid getting lost and fill out a patient belongings sheet.

Health Information Portability and Accountability Act (HIPPA)

Privacy Officer is Janet Calliham.

Our patients have a right to:

- ☒ request limited use or disclosure and security of Protected Health Information (PHI)
- ☒ receive confidential communication from the hospital at another location with written permission
- ☒ revoke authorization granted for use or disclosure of PHI
- ☒ inspect and copy PHI
- ☒ request amendments to their PHI
- ☒ give consent before sharing PHI for treatment, payment, and healthcare operations

- ☒ ensure that PHI is not used for non-health purposes
- ☒ ensure that PHI will be limited to the minimum necessary for the purposes of disclosure
- ☒ ensure that medical records in any form, electronic, paper or verbal, are protected
- ☒ to know who else sees their PHI
- ☒ receive clear written explanation of how the hospital may use or disclose their health information

Clinical Charting and Documentation and Patient Safety

- ☒ Familiarize yourself with the National Patient Safety Goals (See pages 6 & 7)
- ☒ Do not use unacceptable abbreviations in the medical record (See page 8)
- ☒ Use only black ink when charting in the medical record
- ☒ Must write legibly in the medical record
- ☒ Any provider documenting in the chart must sign the signature page in the front of the chart

Advanced Directives

- ☒ Advanced Directives provide for withholding or removal of extraordinary life support
- ☒ Examples of Advanced Directives are the Living Will and Durable Power of Attorney
- ☒ Written information regarding Advanced Directives is given to each patient upon admission
- ☒ Patients will be treated and have the same access to care whether or not they have an AD
- ☒ Centennial Hills Hospital will honor all patients decisions regarding Advanced Directives

Employee Health

- ☒ All employees are required to have a TB test annually
- ☒ Hepatitis B injections are available to all employees
- ☒ Contact the Supervisor/ Charge Nurse for appropriate care when exposed to blood or body fluids

SBAR (Situation, Background, Assessment, Recommendation)

- ☒ Patient-care providers will use SBAR as a standardized approach to communicate patient-specific information
- ☒ S - Situation: Identify yourself, your position, the patient's name, and current situation. Describe what is going on with the patient.
- ☒ B - Background: State the relevant history and physical (H&P), physical assessment pertinent to the problem, the treatment/clinical course summary, and any pertinent changes.
- ☒ A - Assessment: Offer your conclusions about the present situation.
- ☒ R - Recommendations: Explain what you think needs to be done, what the patient needs, and when.
- ☒ Use of the SBAR format and technique will occur during, but not limited to, the following exchanges of information:
 - (a) Nurse (RN) to RN reports
 - (b) Nurse (RN) to RN hand off for upgrade or downgrade of care
 - (c) During a Rapid Response team intervention
 - (d) RN to physician communication, and vice versa.
 - (e) Transfer of temporary responsibility for patient (example: breaks, during a procedure, or surgery)
 - (f) RN and/or physician hand off from the Emergency Department (ED) to an inpatient unit.
 - (g) Transfer to another hospital, nursing home, or home care agency.
 - (h) When critical lab values and other critical diagnostic results are provided to a physician or physician's office staff.

Rapid Response Team

- ☒ The Rapid Response Team is to aid in the preservation of a patient's life by early recognition and intervention
- ☒ The Rapid response Team is comprised of a critical care trained nurse and respiratory therapist
- ☒ If the patient's signs and symptoms fall outside of clearly recognized life threatening parameters call the Rapid Response team at ext. 7-9785 to prevent a delay in treatment that could lead to respiratory and/or cardiac arrest
- ☒ Call 7-9785 if:
 - The staff member is concerned (even if you don't know why)
 - Acute change in heart rate <40 or >130 bpm
 - Acute change in systolic blood pressure <90 mmHg
 - Acute change in respiratory rate <8 or >28 breaths per min
 - Acute change in saturation <93% despite oxygen
 - Acute change in mental status (This may also require a Code 100)
 - Acute change in urinary output to <50 ml in 4 hours

Tobacco-Free Campus

- ☐ Centennial Hills Hospital is a tobacco-free campus. The use of tobacco products is prohibited on hospital property including the parking lot.

2008 Hospital National Patient Safety Goals

Goal: Improve the accuracy of patient identification.

- Use at least two patient identifiers when:
Administering medications or blood products
Taking blood samples and other specimens for clinical testing
Providing any other treatments or procedures

The 2 patient identifiers for CHHMC are the patient's name and medical record number. NEVER use the patient's room number as an identifier. If a 3rd identifier is needed, such as when patients have same or similar names, use the patient's date of birth.

Goal: Improve the effectiveness of communication among caregivers.

- Write down and read-back all telephone or verbal orders and critical test results to the person providing the information
- Never use an abbreviation from the "Do not use" list
- Improve the timeliness of reporting critical test results/values (i.e. to physicians, charge RN's)
- Implement a standardized approach to "hand off" communications, including an opportunity to ask and respond to questions. The standardized approach for CHHMC is SBAR.

Goal: Improve the safety of using medications.

- Identify and prevent errors with look-alike/sound-alike medications
- Label all medications, medication containers (e.g. syringes, medicine cups, and basins) or other solutions on and off the sterile field in perioperative and other procedural settings such as Endoscopy, Radiology, Cath Lab, at the bedside and any place a procedure is performed.
- Reduce the likelihood of harm associated with the use of anticoagulants. Verify medication doses, check INR results, and be careful when programming infusion pumps. Watch for more information from the P&T committee. Check with pharmacy if you have any question regarding anticoagulants.

Goal: Reduce the risk of health care associated infections.

- Comply with current Centers for Disease Control and Prevention (CDC) hand hygiene guidelines
- Manage as sentinel events (i.e. root cause analysis) all identified cases of unanticipated death or major permanent loss of function associated with nosocomial infections

Goal: Accurately and completely reconcile medications across the continuum of care.

- Develop a process to obtain and document an admitted patient's complete list of current medications, involve the patient in the process, and compare the list to medications the organization provides
- Communicate to the next provider a complete list of a patient's medications when the patient is internally or externally transferred to another setting or level of care. The complete list of medications is also provided to the patient upon discharge

Goal: Reduce the risk of patient harm resulting from falls.

- Implement a fall reduction program including an evaluation of the effectiveness of the program.

Goal: Encourage patient's active involvement in their own care as a patient safety strategy.

- Define how patients and their families can report concerns about safety. Communicate this to them and encourage them to do so

Goal: The organization identifies safety risks inherent in its patient population.

- The hospital identifies patients at risk for suicide—this applies ONLY to those patients being treated for a primary diagnosis that is behavioral or psychiatric in nature

Goal: Improve recognition and response to changes in a patient's condition.

- Call for additional assistance to respond to a change in the patient's condition.
Call our "Rapid Response Team"

Goal: Universal protocol

- Prior to the start of any surgical or invasive procedure, conduct a final verification process, called a "time out". This must be done at the location where the procedure will be conducted and involve the entire operative team
- A time out consists of verifying the:
 - Correct patient
 - Correct side and site
 - Correct procedure to be done
 - Correct position
 - Availability of correct implants or any other special equipment/requirements
- Mark the operative site with a consistent unambiguous mark that is positioned at or near the incision site that will be visible after completion of the skin prep.
- The person performing the procedure should mark the site and if possible with the patient involved.

Do Not Use Abbreviations

In order to ensure safe medical practice, the following abbreviations will not be used anywhere in the medical record:

Dangerous Abbreviation	Potential Problem	Preferred Term
U/u IU (for unit/international unit)	Mistaken as zero, four (4), or cc/ IV, or ten (10)	Write "unit" or "International Unit"
MS MSO ₄ MgSO ₄	Can be confused for one another. Can mean morphine sulfate or magnesium sulfate.	Write "morphine sulfate" or "magnesium sulfate"
Q.D., QD, q.d., qd Q.O.D., QOD, q.o.d., qod (Latin abbreviation for once daily and every other day)	Mistaken for each other. The period after the Q can be mistaken for an "I" and the "O" can be mistaken for an "I"	Write "daily" and "every other day"
Trailing zero (X.0 mg) OR Lack of leading zero (.Xmg)	Decimal point is missed	Never write a zero by itself <u>after</u> a decimal point. Always use a zero <u>before</u> a decimal point.

I have read and understand the above Hospital Safety Checklist and have asked my
Manager/ Supervisor/ Instructor to clarify any questions regarding this list.

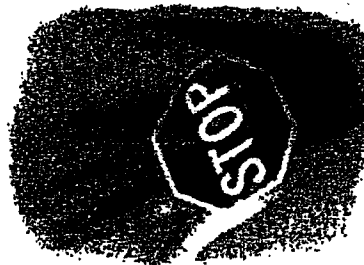
Signature St. D. Farmer Date 4/14/08

Name: (print) STEVEN PALE FARMER

Return this page to the Human Resources Department upon completion of the
checklist

NEVADA WORKPLACE SAFETY

Stop and Learn Your
Rights and Responsibilities



The Division of Industrial Relations of the Nevada Department of Business & Industry helps employers provide a safe and healthful workplace. This document explains the rights and responsibilities of both employers and employees in creating a safe working environment.

WORKPLACE SAFETY IS EVERYONE'S RESPONSIBILITY.



I have (check one) ☐ read this document or ☐ viewed the videotape, entitled "Nevada Workplace Safety: Your Rights and Responsibilities" and I understand my rights and responsibilities for safety in the workplace.

Employee Name (please print) STEVEN DAVE FARMER Date 4/14/08

Employee's Signature [Signature]

Place of Viewing Videotape _____

Employer's Name (please print) _____

Employer's Signature (for representative) _____

Note: This portion must be maintained in the employee's personnel file.

Any employee who does not understand this document should contact his or her supervisor, employee representative or the Division of Industrial Relations of the Nevada Department of Business & Industry.
Las Vegas: (702) 486-9148
Reno: (775) 824-1630
Elko: (775) 776-3312
Toll-Free: (877) 4SAFETY

EMPLOYEE RIGHTS AND RESPONSIBILITIES



If you see something that's unsafe, report it to your supervisor. That's part of your job. Give your employer a chance to fix the problem. If you think the unsafe condition still exists, it is your right to file a complaint with the Nevada OSHA Enforcement Section of the Division of Industrial Relations. The Division will not give your job to your employer.

There are laws that protect you if you are punished for filing a safety and health complaint. If you feel you have been treated unfairly for making a safety and health complaint, you have 30 days from the date of the punishment to file a discrimination complaint with the Nevada OSHA Enforcement Section of the Division of Industrial Relations.

From cuts and bruises to serious accidents, coverage begins the first minute you're on the job. Most on-the-job injuries are covered by Workers' Compensation Insurance.

It is your responsibility to report any on-the-job injury immediately. Your employer must file an "Employer's Report of Injury" (C3 Form) within six working days after the receipt of a "Claim for Compensation" (C-4 Form) from a physician or chiropractor.

Remember, it is **frivolous** to file an industrial insurance claim if you are not injured on the job. Filing a false claim will result not only in a loss of benefits, but could mean costly fines and/or jail time.

The Nevada Occupational Safety and Health Act was created to allow you to do your job in a safe and healthy workplace. But it is up to you to make sure that job safety works. Here are some tips to help you stay safe on the job.

Employers need follow all safety rules set by:

- Your employer
- The Nevada Occupational Safety and Health Act
- The Nevada OSHA Enforcement Section

You can get copies of all Nevada safety and health standards from the Safety Constitution and Training Section of the Division of Industrial Relations or on the web at www.state.nv.us/osha. Also, your employer may be required to have a written workplace safety program.

If your employer requires personal protective equipment, such as hard hats, safety shoes, safety glasses, respirators, or ear protection, you are responsible to wear and/or use the equipment.



If you do not know how to safely use tools, equipment or machinery, be sure to ask your supervisor.

EMPLOYER RIGHTS AND RESPONSIBILITIES

The Safety Consultation and Training Section of the Division of Industrial Relations, Nevada Department of Business & Industry, was created to assist employers in complying with Nevada laws which govern occupational safety and health.



A Nevada employer with 11 or more employees must establish a written workplace safety program. A safety consultation is required if you have more than 25 employees or if an employer's employees are engaged in the manufacturing of explosives.

The Safety Consultation and Training Section of the Division of Industrial Relations is available to provide a workplace hazard assessment. This service can assist employers in minimizing on-the-job hazards, and is provided at no charge. The Division also offers no cost safety training and informational programs for Nevada employers.

You must maintain a workplace that is free from unsafe conditions.

As an employer you are responsible for complying with all Nevada safety and health standards and regulations found in the:

- Nevada Occupational Safety and Health Act
- Occupational Safety and Health Standards and Regulations

Copies of all occupational safety and health standards and regulations are available from the Division of Industrial Relations Safety Consultation and Training Section and the Nevada OSHA Enforcement Section or on the web at www.safety.state.nv.us.

You are also responsible for ensuring that your employees comply with these same rules, standards and regulations. You must select someone to administer and enforce occupational safety and health programs in your workplace.

Before assigning an employee to a job, you must provide proper training in:

- Safe use of equipment and machinery
- Personal protective gear
- Hazard recognition
- Emergency procedures

You must also inform all employees of the safety rules, regulations and standards which apply to their respective duties.

It is your responsibility to maintain accurate accident, injury and safety records and reports. These files must be made available, upon request, to the affected employee and representatives of the Division of Industrial Relations, Nevada OSHA Enforcement Section.



The Nevada Safety and Health Poster, provided by the Division of Industrial Relations, must be posted in a prominent place on the job site.

Report immediately to the Division of Industrial Relations (Nevada OSHA Enforcement Section) all job-related fatalities, as well as those accidents where there or more employees require hospitalization.

Employers must acquire and maintain Workers' Compensation Insurance at all times. You are responsible for filing any workers' compensation claims with your employer.

The law requires that employers shall provide newly-hired employees with a copy of this document or with a video setting forth the rights and responsibilities of employers and employees to promote safety in the workplace.

Employers shall keep a signed copy of the attached receipt in the employer's personnel file to show he or she has been made aware of these rights and responsibilities.



State of Nevada Department of Business & Industry
Division of Industrial Relations Safety Consultation and Training Section

Las Vegas: (702) 486-9100
Reno: (775) 824-4630
Elko: (775) 771-3312
Toll-Free: (877) 654-ENY

To obtain this communication in alternative formats, contact the Division of Industrial Relations.

ADDITIONAL INFORMATION

If you require further information or would like to obtain copies of safety and health standards and regulations, contact the following:

State of Nevada Department of Business & Industry Division of Industrial Relations Safety Consultation and Training Section

In Southern Nevada
1301 N. Green Valley Parkway
Suite 200
Henderson, NV 89074
(702) 486-9100
Fax: (702) 990-0358

In Northern Nevada
4600 Twicken Lane
Suite E144
Reno, NV 89502
(775) 824-4630
Fax: (775) 688-1478

In Northeastern Nevada
350 West Silver Street
Suite 210
Elko, NV 89801
(775) 776-3312
Fax: (775) 776-3412

Or Call Toll-Free
1 (877) 654-ENY (472-3360)
www.safety.state.nv.us

State of Nevada Department of Business & Industry Division of Industrial Relations Nevada OSHA Enforcement Section

In Southern Nevada
1301 N. Green Valley Parkway
Suite 200
Henderson, NV 89074
(702) 486-9100
Fax: (702) 990-0358

In Northern Nevada
4600 Twicken Lane
Suite E153
Reno, NV 89502
(775) 824-4600
Fax: (775) 688-1378

A review of this information is available in English and Spanish through the Division of Industrial Relations, Safety Consultation and Training Section. This document may be copied. For additional copies, contact the Division of Industrial Relations or visit www.safety.state.nv.us.

CENTRAL HILLS HOSPITAL MEDICAL CENTER
OUTSIDE AGENCY CERTIFIED NURSING ASSISTANT STAFF EVALUATION

DATE: 02/28/08

NAME: STEVE FARMER

TITLE: CNA

AGENCY: AMERICAN NSG

SHIFT: 7p-7a

DEPT: NSG

1 = MEETS STANDARDS

2 = DID NOT MEET STANDARDS

PERSONAL QUALITIES	1	2	COMMENTS
1. Dependable, On time.	<input checked="" type="checkbox"/>		
2. Appearance is professional, meets dress code standards	<input checked="" type="checkbox"/>		
3. Consistently uses tact in dealing with patients.	<input checked="" type="checkbox"/>		
4. Alert, cheerful, and shows positive attitude toward work.	<input checked="" type="checkbox"/>		
Conduct is professional	<input checked="" type="checkbox"/>		
5. Clinical skills are appropriate to assignment	<input checked="" type="checkbox"/>		
6. Able to work on a team and contribute efforts to the whole.	<input checked="" type="checkbox"/>		
Flexible	<input checked="" type="checkbox"/>		
7. Maintains confidentiality	<input checked="" type="checkbox"/>		
PROBLEM SOLVING			
1. Able to identify problems and offer suggestions.	<input checked="" type="checkbox"/>		
2. Able to use resources to solve problems and take action.	<input checked="" type="checkbox"/>		
Asks questions appropriately.	<input checked="" type="checkbox"/>		
3. Knows proper channels of communication. Understands limitations and seeks help as needed.	<input checked="" type="checkbox"/>		
COMMUNICATION			
1. Follows procedures for documentation on flow sheets.	<input checked="" type="checkbox"/>		
2. Keeps RN informed of changes in patient condition and problems as they occur.	<input checked="" type="checkbox"/>		*STEVE IS VERY GOOD @ THIS + THIS THINGS JASAP
3. Accepts supervision/was cooperative RN.	<input checked="" type="checkbox"/>		
QUALITY OF CARE			
1. Can observe and report patient's needs and implement plan of care.	<input checked="" type="checkbox"/>		
2. Understands and accomplishes assignments.	<input checked="" type="checkbox"/>		
3. Considerate of patient's needs as well as family.	<input checked="" type="checkbox"/>		
4. Effective use of supplies and materials.	<input checked="" type="checkbox"/>		
5. Organization of care to optimize time; prioritizes appropriately.	<input checked="" type="checkbox"/>		
6. Clinical policies and procedures are followed consistently.	<input checked="" type="checkbox"/>		
7. Applies principles of growth and development to the following age groups assigned: Neonates <input type="checkbox"/> Infants <input type="checkbox"/>	<input checked="" type="checkbox"/>		
Pediatrics <input type="checkbox"/> Adolescents <input type="checkbox"/> Adults <input type="checkbox"/> Geriatrics <input type="checkbox"/>			

☐ DO NOT RETURN

☒ MAY RETURN

☐ EVALUATE FURTHER

ACTION TAKEN: STEVE IS AN EXCELLENT WORKER. HE GOES ABOVE + BEYOND HIS DUTIES. VERY HAPPY + NICE TO STAFF + PT'S.

EVALUATOR SIGNATURE: MUN SHONSON

STAFFING OFFICE NOTIFIED: ☒ YES / NO

TEAM LEADER OR CHARGE SIGNATURE: _____

FOR DEPARTMENTS WHO UTILIZE THE STAFFING OFFICE FOR AGENCY STAFF PLEASE RETURN THIS FORM TO THE STAFFING OFFICE.

FOR DEPARTMENTS WHO INDEPENDENTLY CONTRACT AGENCY STAFF PLEASE MAINTAIN THIS FORM WITH YOUR AGENCY FILES

EXHIBIT “E”

MICHELE SIMMONS, RN
JANE DOE vs. VALLEY HEALTH SYSTEM

November 15, 2012
1-4

<p>1 DISTRICT COURT 2 CLARK COUNTY, NEVADA 3 JANE DOE, 4 Plaintiff, 5 vs. 6 CASE NO. 09-A-595780 7 VALLEY HEALTH SYSTEM LLC, 8 a Nevada limited 9 liability company, d/b/a 10 CENTENNIAL HILLS HOSPITAL 11 MEDICAL CENTER; UNIVERSAL 12 HEALTH SERVICES, INC., a 13 Delaware corporation; 14 American Nursing 15 SERVICES, INC., a 16 Louisiana corporation; 17 STEVEN DALE FARMER, an 18 individual; DOES I 19 through X, inclusive; and 20 ROE CORPORATIONS I 21 through X, inclusive, 22 Defendants. 23 ----- 24 DEPOSITION OF 25 MICHELE SIMMONS, RN Thursday, November 15, 2012 9:30 a.m. 520 South Fourth Street Las Vegas, Nevada Carol O'Malley, CCR 178, RMR</p>	<p>Page 1 1 INDEX OF EXAMINATION 2 3 WITNESS: Michele Simmons 4 5 6 7 EXAMINATION PAGE 8 By Mr. Murdock 5 9 10 11 12 INDEX TO EXHIBITS 13 EXHIBITS MARKED 14 15 1 Code of Ethics, ANS00177 20 16 2 American Nursing Services, Inc. 17 Credentialing Standards 22 18 3 Incident Report 43 19 4 Addendum #1 Incident Report Policy 44 20 5 American Nursing Services, Inc. Nurse 21 Performance Evaluation 49 22 6 Appropriate Boundaries Competency 23 Examination 55 24 7 American Nursing Services, Inc. Incident 25 Report 59 26 8 January 25, 2008 Steven Farmer, CNA 27 Incident GPOD 3B 1/7/08 84 28 29 30</p>
<p>Page 2 1 APPEARANCES OF COUNSEL 2 For Plaintiff: 3 MURDOCK & ASSOCIATES, CHTD. 4 ROBERT E. MURDOCK, ESQ. 5 520 S. Fourth Street 6 Second Floor 7 Las Vegas, Nevada 89101 8 702.384.5563 9 702.384.4570 Fax 10 lasvegasjustice@aol.com 11 12 For Defendant Valley Health System LLC, d/b/a 13 Centennial Hills Hospital Medical Center: 14 HALL PRANGLE & SCHOONVELD, LLC 15 JOHN F. BEMIS, ESQ. 16 777 N. Rainbow Boulevard 17 Suite 225 18 Las Vegas, Nevada 89107 19 702.889.6400 20 702.384.6025 Fax 21 jrbemis@hpslaw.com 22 23 For Defendant American Nursing Services, Inc.: 24 LEWIS BRISBOIS BISGAARD & SMITH LLP 25 S. BRENT VOGEL, ESQ. 26 6385 S. Rainbow Boulevard 27 Suite 600 28 Las Vegas, Nevada 89118 29 702.693.4320 30 702.893.3383 31 702.893.3789 Fax 32 bvogel@lbbbslaw.com 33 34 For Defendant Farmer: 35 MANDELBAUM, ELLERTON & MCBRIDE 36 ROBERT E. MCBRIDE, ESQ. 37 2012 Hamilton Lane 38 Las Vegas, Nevada 89106 39 702.367.1234 40 702.367.1987 Fax 41 robert@memlaw.net</p>	<p>Page 3 1 EXHIBITS (Continued) PAGE 2 3 9 Las Vegas Metropolitan Police Department 4 Media Release dated 5/16/08 105 5 10 March 20, 2008 Memorandum to File signed 6 By Mary Jo Solon, RN, BSN, MSN, Director 7 of Nursing 120 8 11 American Nursing Services, Inc. Incident 9 Report, ANS00240, 241, 242, 243 142 10 12 To Whom It May Concern statement by L. 11 Elrington, LPN 163 12 13 Statement dated 1/28/08 from 14 Rontrance Theard 163 15 16 17 18 19 20 21 22 23 24 25</p>



800.211.DEPO (3376)
EsquireSolutions.com

Page 5

1 Deposition of Michele Simmons, RN
2 November 15, 2012
3 (Prior to the commencement of the deposition,
4 all of the parties present agreed to waive
5 statements by the court reporter, pursuant to
6 Rule 30(b)(4) of NRCP.)
7
8 MICHELE SIMMONS, RN,
9 having been first duly sworn, testified as follows:
10
11 EXAMINATION
12 BY MR. MURDOCK:
13 Q. Would you please state your name for the
14 record?
15 A. Michele Simmons.
16 Q. Ms. Simmons, have you ever had your
17 deposition taken before?
18 A. Yes, I have.
19 Q. My understanding is you had your deposition
20 taken in the Cagnina case approximately two or three
21 weeks ago, is that correct?
22 A. That is correct.
23 Q. Have you ever seen the transcript from
24 that?
25 A. No.

Page 6

1 Q. My understanding is the transcript is not
2 finished yet.
3 A. I have no idea. I asked for it actually.
4 Q. Because you asked to review it?
5 A. Yes.
6 Q. Okay. You understand that even though this
7 is a very relaxed proceeding, as can you tell by
8 these gentlemen who aren't wearing suits -- even
9 though it's a very relaxed proceeding, you still have
10 a duty to tell the truth?
11 A. Yes.
12 Q. If you don't understand a question of my
13 today, please let me know. If you go ahead and
14 answer a question, I'm going to assume that you
15 understood it. Is that fair?
16 A. Fair.
17 Q. If you need to take a break at some point,
18 no problem. We can take a break. The only thing I'm
19 going to ask of you is if there's a question pending,
20 please wait, answer the question, and then you can
21 take a break. Okay?
22 A. Okay.
23 Q. Now, my understanding is that you were at
24 some point employed with American Nursing, is that
25 correct?

Page 7

1 A. That is correct.
2 Q. And just so we're clear on the record, when
3 I call it American Nursing, it's American Nursing
4 Services, Incorporated; is that correct?
5 A. Yes.
6 Q. And what were you employed as?
7 A. Originally my title was a clinical
8 director, but I advanced over the course of several
9 years to be clinical director of clinical operations.
10 Q. Is that of the entire American Nursing?
11 A. Yes.
12 Q. Clinical director of --
13 A. -- clinical operations.
14 Q. And what were your job duties as clinical
15 director of clinical operations?
16 A. Basically my job duties was to help the
17 expansion, help the branches expand, the growth of
18 the company. You know, look for other opportunities,
19 other contracts. I was there as a clinical resource
20 as well as our human resources director, as well as
21 our corporate compliance officer.
22 But I was local here in Las Vegas,
23 and generally I still was in charge of the overall
24 operational responsibility of the Las Vegas branch.
25 Q. So were you the branch manager?

Page 8

1 A. I was. That was not my title, but
2 essentially I oversaw the operations and any clinical
3 issues of the Las Vegas branch.
4 Q. In 2008 who held the title of branch
5 manager?
6 A. I was the clinical director. We didn't
7 have a branch manager. That was not the title.
8 Q. And why didn't you have a branch manager?
9 A. Because I was essentially the clinical
10 director. We had clinical directors in our company
11 and we had branch managers. The difference was that
12 I was an RN. The branch manager was not an RN, so I
13 held a clinical title.
14 Q. I understand that, but what I'm getting at
15 is, my understanding is the way American Nursing was
16 set up, there were branch managers and then there
17 were clinical directors; is that correct?
18 A. Yes. And if you were an RN, like I stated,
19 you were a clinical director.
20 Q. Basically was a branch manager at the same
21 level as a clinical director, the only difference
22 being you have an RN and the branch manager doesn't?
23 A. At the same level? I'm not sure exactly,
24 because of my title, so --
25 Q. Okay. Now, you said you were the corporate

<p>Page 9</p> <p>1 compliance? 2 A. No. 3 Q. You were not corporate compliance? 4 A. No. 5 Q. Who was corporate compliance? 6 A. Connie Brown. 7 Q. Where was Connie Brown located? 8 A. Louisiana. 9 Q. Right around New Orleans? 10 A. Yes. 11 Q. And was she with Johnette? 12 A. She was in the same office as Johnette 13 Spellman, correct. 14 Q. And Johnette Spellman -- what was her duty? 15 What was her job? 16 A. She was the director of human resources. 17 Q. Have you spoken to Johnette recently? 18 A. I have not spoken to anyone from ANS 19 recently. 20 Q. When was the last time you spoke with 21 Johnette? 22 A. When the company filed bankruptcy. 23 Q. Let's talk about that for a second. 24 When the company filed 25 bankruptcy -- do you recall when that was, first of</p>	<p>Page 11</p> <p>1 Q. CFO, chief financial officer? 2 A. I don't understand the question. 3 Q. Did you ever identify yourself as chief 4 financial officer of the company? 5 A. Me? 6 Q. Yes. 7 A. No. 8 Q. Did you ever identify yourself as an 9 officer of the company? 10 A. No. 11 Q. Did you ever identify yourself in any of 12 the various state filings at American Nursing, as an 13 officer of the company? 14 A. As an officer of the company? No. 15 Q. You didn't? 16 A. No. 17 Q. So in other words, if the state has you 18 listed as an officer of one of the American Nursing 19 branches, that would be a mistake? 20 A. I'm not understanding, because as a 21 nurse -- and I'm trying to remember when we set up 22 our office. I'm not a hundred percent sure, as far 23 as the -- 24 MR. VOGEL: If you don't know or don't 25 remember --</p>
<p>Page 10</p> <p>1 all? 2 A. I don't know the exact date. I mean 3 approximately I think it was 2009. 4 Q. Okay. So around 2009 the company filed 5 bankruptcy. I won't hold you to that. That's fine. 6 Did you know the company was going 7 to be filing bankruptcy? 8 A. No. 9 Q. So it came as a shock to you? 10 A. Yes. 11 Q. Why did it come as a shock to you? 12 A. It was never brought up in any managerial 13 meeting. I knew that the company needed to expand 14 and grow, and we were getting into different areas of 15 travel; but I did not know until I walked through the 16 door and they said that was it. I was just as 17 shocked as everyone else. 18 Q. Were you dealing with Tom Fagan? 19 A. Tim Fagan. 20 Q. Tim Fagan. Excuse me. Tim Fagan was 21 basically the head of the company, is that correct? 22 A. Correct. 23 Q. Did you ever identify yourself as CFO of 24 the company? 25 A. Who?</p>	<p>Page 12</p> <p>1 THE WITNESS: I don't remember. I 2 don't know. I don't know as far as an RN, what I was 3 listed as as far as being in charge of the Las Vegas 4 branch. 5 BY MR. MURDOCK: 6 Q. I'm not asking you that. 7 I'm asking you, did you ever 8 identify yourself as an officer of American Nursing 9 to any state in the 50 United States? 10 A. No. 11 Q. Okay. Now, did you have dealings with 12 Johnette on an almost daily basis? 13 A. Not daily. 14 Q. I just want to kind of stick to the 15 timeframe basically, for the balance of this 16 deposition, of about the end of 2007 through 2008. 17 Okay? 18 A. Okay. 19 Q. How often would you speak with Johnette 20 during that timeframe? 21 A. It varied from week to week. 22 Q. Could you give me an average? 23 A. I know we would have meetings maybe -- I 24 would say on average probably once or twice a week. 25 Q. When you say you would have meetings,</p>

Page 13

1 telephone meetings?

2 A. We would have telephone meetings if there

3 was a clinical issue, if there was something that I

4 needed to talk to the HR director about. But

5 generally speaking, it wasn't like a set meeting, no.

6 Q. And would those meetings just be on the

7 telephone, or would you have Skype meetings?

8 A. No, no Skype meetings.

9 Q. No Skype meetings. Okay.

10 How would those meetings be set

11 up? In other words, would you set up a certain time

12 for the telephone conference?

13 A. We would have companywide meetings,

14 everyone in the company, just to say, you know, "This

15 is what's going on." It was run usually by Tim

16 Fagan. "This is what's going on during the week."

17 And I can't remember exactly what day that was on,

18 but we would have that.

19 As far as specific meetings with

20 individual officers -- myself, no. It would just be

21 random. It would be whenever I needed to speak with

22 them or they needed to speak with me.

23 Q. When the company filed bankruptcy, were

24 your doors locked?

25 A. My doors were not locked that day. We were

Page 14

1 given the phone call that morning.

2 Q. And what did you do at that point?

3 A. Well, we notified our employees and our

4 facilities, because we had nurses staffed.

5 Q. How did you do that?

6 A. We called them. We called the facilities.

7 We called the nurses. We tried to get ahold of

8 everybody and let them know that this is it, we were

9 notified by our corporate office that we are filing

10 bankruptcy.

11 Q. And then what did you do?

12 A. That was it. After the day was over -- I

13 don't remember how long we spent in the office, but

14 we locked our doors.

15 Q. What did you do in the office?

16 A. Nothing. I left.

17 Q. What did you do with your computer?

18 A. It's there.

19 Q. It's where?

20 A. It was there. I left it there at the

21 office.

22 Q. Now, did you use your computer on a daily

23 basis?

24 A. Yes.

25 Q. What did you use it for?

Page 15

1 A. I used it for work-related purposes.

2 Q. Like what?

3 A. Like staffing, like emails to clients, or

4 marketing. That type of thing.

5 Q. And when you used your computer, did you

6 use certain programs?

7 A. I used our staffing software, TSS, and --

8 what else did we have? Primarily TSS, and of course

9 our ANS intranet.

10 Q. For your ANS intranet, did you have an

11 email address?

12 A. Sure.

13 Q. What was your email address?

14 A. I don't remember.

15 Q. You don't remember your email address?

16 A. It's been years. Honestly I've had

17 different emails. I don't remember. I don't even

18 want to guess.

19 Q. Do you know what -- I mean was it a gmail

20 address, was it a hotmail address?

21 A. I think it was "at American Nursing" or --

22 "American Nurse" something. It was just related to

23 American Nursing.

24 Q. Do you know what service you used here in

25 town? In other words, did you use Cox, did you use

Page 16

1 CenturyLink, or anything like that?

2 A. At that time I can't say a hundred percent.

3 Q. Can you say 90 percent?

4 A. I don't want to guess.

5 Q. Well, I'm not asking you to guess.

6 A. Okay. Then I won't guess.

7 Q. There are several entities that serve the

8 internet.

9 A. Right, but I don't remember who our

10 contract was set up with.

11 Q. Did you sign the contract?

12 A. I didn't sign any contracts. Every

13 contract that was submitted had to be submitted to

14 corporate.

15 Q. And who would look at that at corporate?

16 A. It would either be Carla Bonvillain or Tim

17 Fagan. And Johnette Spellman in some cases, I

18 believe.

19 Q. Okay. Now, you said you had possibly

20 weekly meetings, maybe two times a week, with

21 Johnette, correct?

22 A. Yes. It was on and off, yes.

23 Q. On and off?

24 A. Yes.

25 Q. And you had -- would it be a monthly

<p style="text-align: right;">Page 17</p> <p>1 meeting with Tim Fagan, where he said what was going 2 on with the company, or something like that? 3 A. No, it was not monthly. At the end of 4 American Nursing Services it was less and less, I 5 believe. But generally we tried to schedule a 6 conference with the whole company, or he tried to 7 schedule a conference with the whole company on a 8 weekly basis. 9 Q. If you had issues with an employee, who 10 would you take those issues to? 11 A. I would take those issues to Connie Brown 12 or Johnette Spellman. And also Carla Bonvillain. 13 Carla Bonvillain was my immediate supervisor. 14 Q. Carla Bonvillain? 15 A. Yes. 16 Q. Where was she located? 17 A. She was located in Louisiana as well. 18 Q. Now, you have an RN, is that correct? 19 A. Yes. 20 Q. Where did you get your RN? 21 A. In Illinois. 22 Q. Did you go to college? 23 A. Yes. I have my BSN. 24 Q. And where did you get your BSN from? 25 A. Concordia University College of Nursing.</p>	<p style="text-align: right;">Page 19</p> <p>1 A. I came into Las Vegas as a travel nurse and 2 I was working at Sunrise. I worked at Sunrise as a 3 traveler. 4 Q. And then you got hired at ANS, and you got 5 hired as the clinical director, is that correct? 6 A. That's correct. 7 Q. When you got hired as clinical director, 8 who was the branch manager? 9 A. Jill Thornton. 10 Q. And what happened to Ms. Thornton? 11 A. She left the company. I don't know the 12 reason. I believe she got another job, but I can't 13 say a hundred percent. 14 Q. Did the company ever hire another branch 15 manager after Ms. Thornton left? 16 A. No. It was just myself then. 17 Q. Did the company ever send you back to New 18 Orleans to teach you about human resources? 19 A. Not directly about human resources. I have 20 gone back to New Orleans and I had some orientation 21 there in the beginning, but not directly in human 22 resources. 23 Q. What was the orientation about? 24 A. Just about how the company is run, their 25 policies and procedures, and what the goals were for</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. I assume you're licensed in Nevada? 2 A. Yes. 3 Q. When did you get licensed in Nevada? 4 A. I believe it was 2002. 5 Q. And outside of studying nursing, have you 6 ever studied any other subjects? 7 A. I have a Bachelor's degree in psychology. 8 Q. Where did you get that from? 9 A. Loyola University. 10 Q. Chicago or New Orleans? 11 A. Chicago. 12 Q. Do you have a degree in human resources? 13 A. No. 14 Q. Have you ever taken any courses in human 15 resources? 16 A. No. 17 Q. Have you ever taken any CMEs or anything 18 like that, in human resources? 19 A. No. 20 Q. When did you first get hired at ANS? 21 A. I believe it was 2004. 22 Q. Were you already in Las Vegas? 23 A. Yes. 24 Q. What were you doing in Las Vegas at the 25 time?</p>	<p style="text-align: right;">Page 20</p> <p>1 the company. How the branches are run. 2 Q. Is Mr. Fagan a nurse? 3 A. No, he's not. 4 Q. Does Mr. Fagan have any medical degree at 5 all? 6 A. I have no idea. I don't believe so. 7 MR. MURDOCK: Let's mark this as 8 Exhibit 1. 9 (Plaintiff's Exhibit 1 marked.) 10 BY MR. MURDOCK: 11 Q. Ma'am, I'm showing you what's been marked 12 as Plaintiff's Exhibit 1. Have you ever seen that 13 document before? 14 A. I believe so. 15 Q. Where is that document from? 16 A. I believe that was in our office. That's 17 our Code of Ethics. 18 Q. Have you ever seen the Code of Ethics 19 before today? 20 A. I have seen the Code of Ethics, yes. 21 Q. In fact, that was the Code of Ethics that 22 was part of American Nursing's manual, wasn't it? 23 A. I believe so. 24 Q. Or policies and procedures, wasn't it? 25 A. I believe so.</p>

Page 21

1 Q. And that's something that you, as the
2 clinical director of clinical operations, would
3 certainly adhere to; is that correct?
4 MR. VOGEL: I object to form.
5 THE WITNESS: Yes.
6 BY MR. MURDOCK:
7 Q. And you would expect your employees to
8 adhere to it as well, is that correct?
9 A. Yes.
10 Q. And you would expect Ms. Spellman to adhere
11 to it, is that correct?
12 A. Everyone in the company, sure.
13 Q. Including Mr. Fagan, correct?
14 A. Sure.
15 Q. Okay. So for instance, one of the top ones
16 under "General Moral Imperatives" says, "Avoid harm
17 to others," isn't that correct?
18 MR. VOGEL: I object to form.
19 THE WITNESS: That's what it says.
20 BY MR. MURDOCK:
21 Q. Okay. What does that mean to you?
22 A. As a nurse, that's one of my obligations
23 obviously, is not to provide any harm to my patients
24 or -- just to not impose any physical, mental, any
25 type of harm to anyone.

Page 22

1 Q. What about as the manager of a branch of
2 American Nursing? What does that mean to you? Not
3 as a nurse.
4 MR. McBRIDE: I object to form.
5 MR. VOGEL: Join.
6 THE WITNESS: I would hold my employees
7 responsible as well, as being employees of the
8 company.
9 BY MR. MURDOCK:
10 Q. And you certainly would hold yourself
11 responsible as an employee of the company as well,
12 correct?
13 A. Correct.
14 Q. Because you would want to avoid harm to
15 others, correct?
16 A. Correct.
17 Q. Now, let me show you another document.
18 (Plaintiff's Exhibit 2 marked.)
19 BY MR. MURDOCK:
20 Q. Ma'am, I'm showing you what's been marked
21 as Exhibit 2. Do you recognize that?
22 A. Yes.
23 Q. What is that?
24 A. That's our credentialing standards, what we
25 require from an employee.

Page 23

1 Q. Did you take part in drafting these
2 standards?
3 A. No.
4 Q. Who did? Do you know?
5 A. I think that was part of our corporate
6 compliance office. Generally they're the ones that
7 set our policies and procedures.
8 Q. What is "credentialing?"
9 A. "Credentialing" means that we
10 essentially -- it's what we hold our employees to
11 before we hire them, what they have to have to be an
12 employee, depending on their discipline, for a CNA,
13 for an RN, an LPN. So your basic license, your CPR,
14 that type of thing.
15 Q. Okay. And that's a process that you
16 followed while you were at ANS, is that correct?
17 MR. VOGEL: I object to form.
18 THE WITNESS: Yes. Well, I assisted
19 with the credentialing process. It wasn't part of my
20 essential job, but I was assisting.
21 BY MR. MURDOCK:
22 Q. Whose job was it?
23 A. It was our staffing coordinator.
24 Q. Who is that?
25 A. Elisa Lambert.

Page 24

1 Q. She was the one here in town?
2 A. Yes.
3 Q. But as I guess sort of manager of the Las
4 Vegas branch, you would have ultimate responsibility;
5 is that correct?
6 MR. VOGEL: I object to form.
7 THE WITNESS: We all did, but I was the
8 manager of the branch.
9 BY MR. MURDOCK:
10 Q. So in effect the buck stops with you, is
11 that correct?
12 MR. VOGEL: I object to form.
13 THE WITNESS: I didn't read every
14 single application.
15 BY MR. MURDOCK:
16 Q. Did you didn't review every single
17 application?
18 A. I can't say with a hundred percent
19 certainty.
20 Q. Is that something you tried to do though?
21 A. Yes.
22 Q. And why did you try and review every
23 application?
24 A. Because obviously I want the staff that's
25 representing us to be credentialed properly, that

<p>1 they're going to represent our company in a 2 professional manner. 3 Most of the time our employees 4 came into the office and I got to know them. 5 Obviously they were representing ANS, so I wanted to 6 make sure we're sending out the best staff we 7 possibly could. 8 Q. Sure. Now, credentialing is important when 9 the person first comes on to work with you, is that 10 correct? 11 MR. VOGEL: I object to form. 12 THE WITNESS: It's important all the 13 time. 14 BY MR. MURDOCK: 15 Q. You mean it's a continuing obligation? 16 A. Yes. With license, with CPR -- we require 17 ongoing, and also testing. 18 Q. It's something that was ongoing and 19 important. Why was it ongoing and important? 20 MR. VOGEL: I object to form. 21 THE WITNESS: Because you cannot 22 practice without a license. You cannot practice 23 without CPR. We want our nurses to be tested on a 24 yearly basis to make sure they're competent. 25</p>	Page 25	<p>1 A. Yes. Obviously we're staffing them at our 2 facilities, and we're going to ask our facilities how 3 they're doing, yes. 4 Q. Right. So what you would do is you would 5 constantly check up on the employees, correct? 6 A. We would. 7 Q. And before you would send them out to a new 8 job, you would see how they acted in their last job 9 to see if they were proper for the job that they were 10 going to go to, is that correct? 11 MR. VOGEL: I object to form. 12 MR. McBRIDE: Join. 13 THE WITNESS: Say that one more time? 14 BY MR. MURDOCK: 15 Q. I know, it was a mouthful. 16 If you were going to send a nurse 17 to job B, you would look at job A to see how they 18 performed in job A, to see if they were qualified to 19 go to job B. Wouldn't that be correct? 20 MR. VOGEL: I object to form. 21 THE WITNESS: Essentially we would look 22 and see how they're doing on the job. Sometimes with 23 some jobs they didn't fit as far as personality-wise 24 or -- it just depended on the situation. 25 But if they're a good employee</p>	Page 27
<p>1 BY MR. MURDOCK: 2 Q. Would you also make sure that they were 3 proper for whatever job they were sent out to? 4 A. Yes, that they are qualified for that 5 position. 6 Q. Okay. And in terms of qualifications for 7 that position, you would look at their various 8 credentialing, correct? 9 A. Yes. 10 Q. And you also look at their past 11 performance, correct? 12 MR. VOGEL: I object to form. 13 THE WITNESS: We would look at 14 references, we would look at background check, and we 15 would do our due diligence that way, yes. 16 BY MR. MURDOCK: 17 Q. And you would look at past performance at 18 other jobs, correct? 19 MR. VOGEL: I object to form. 20 THE WITNESS: We would look at -- we 21 required two references. 22 BY MR. MURDOCK: 23 Q. But let's talk about ongoing. 24 A. Ongoing? 25 Q. Yeah.</p>	Page 26	<p>1 we're going to continue staffing them, yeah. And if 2 they fit the qualifications for that second job, 3 we're going to send them there. 4 BY MR. MURDOCK: 5 Q. Okay. And in fact, if you look at 6 ANS00174, it's the fourth page in Exhibit 2 -- if you 7 look at subsection 4 it states, "Ongoing Quality 8 Assurance Program with special emphasis on the 9 following areas." 10 And what it says is, "Review 11 clinician's credentials prior to each assignment to 12 ensure current status is appropriate for unit 13 placement." 14 Did I read that correctly? 15 A. Yes, you did. 16 Q. And the next bullet point is, "Ongoing 17 (informal) performance evaluations." Do you see 18 that? 19 A. Yes. 20 Q. Then it says, "Formal Performance 21 Evaluation every 2 years." Do you see that? 22 A. Yes. 23 Q. What does the next one say? 24 A. "Employee record of any behavioral or 25 performance problems occurring while on assignment."</p>	Page 28

<p>1 Q. What does that mean?</p> <p>2 MR. VOGEL: I object to form.</p> <p>3 THE WITNESS: Well, I would record any</p> <p>4 behavioral performance problems occurring on any</p> <p>5 assignment, and discuss that.</p> <p>6 What my role was was if there was</p> <p>7 an issue, I would get the information from the</p> <p>8 facility and discuss it with our employee, and follow</p> <p>9 up with our HR and clinical corporate compliance</p> <p>10 office, is what we would do.</p> <p>11 BY MR. MURDOCK:</p> <p>12 Q. Okay. Well, how does that affect the</p> <p>13 Quality Assurance Program?</p> <p>14 MR. VOGEL: I object to form.</p> <p>15 THE WITNESS: I'm not sure exactly.</p> <p>16 BY MR. MURDOCK:</p> <p>17 Q. Okay. And just so we're all clear, this</p> <p>18 bullet point is under "Ongoing Quality Assurance</p> <p>19 Program with special emphasis on the following</p> <p>20 areas."</p> <p>21 The following area that I'm asking</p> <p>22 about is, "Employee record of any behavioral or</p> <p>23 performance problems occurring while on assignment."</p> <p>24 Is that correct?</p> <p>25 MR. VOGEL: I object to form.</p>	<p>Page 29</p>	<p>1 essentially.</p> <p>2 BY MR. MURDOCK:</p> <p>3 Q. No, I'm not.</p> <p>4 MR. VOGEL: Yeah, you are.</p> <p>5 MR. MURDOCK: No, I'm not.</p> <p>6 MR. VOGEL: You are.</p> <p>7 Go ahead and do the best you can.</p> <p>8 He's asking you the same thing. I object to form.</p> <p>9 BY MR. MURDOCK:</p> <p>10 Q. What employee record? What record are we</p> <p>11 talking about?</p> <p>12 A. Well, every single employee has a file. I</p> <p>13 mean obviously we're keeping records of our</p> <p>14 employees.</p> <p>15 Q. Okay. Let me see if I can break it down.</p> <p>16 So in other words, before you</p> <p>17 would send one of your employees out to another job</p> <p>18 you would look at their performance at the past job,</p> <p>19 correct?</p> <p>20 MR. VOGEL: I object to form.</p> <p>21 THE WITNESS: We would look that they</p> <p>22 were qualified to be sent out to that next job -- to</p> <p>23 that particular facility.</p> <p>24 BY MR. MURDOCK:</p> <p>25 Q. Okay. Let me see if I can break it down</p>	<p>Page 31</p>
<p>1 THE WITNESS: That is what you're</p> <p>2 asking me about.</p> <p>3 BY MR. MURDOCK:</p> <p>4 Q. Okay. So as you sit here today, you can't</p> <p>5 tell me what that bullet point meant with regard to</p> <p>6 the Qualify Assurance Program at ANS?</p> <p>7 MR. VOGEL: I object to form.</p> <p>8 Misstates testimony. Go ahead.</p> <p>9 THE WITNESS: Not at this time.</p> <p>10 BY MR. MURDOCK:</p> <p>11 Q. Well, this is my only time to take your</p> <p>12 deposition.</p> <p>13 A. I understand.</p> <p>14 Q. So when is going to be a good time for you?</p> <p>15 A. It's been years. I'm answering honestly,</p> <p>16 and I just don't know at this time.</p> <p>17 Q. Okay. Well, I'm glad you're answering</p> <p>18 honestly.</p> <p>19 Now, the "Employee record of any</p> <p>20 behavioral or performance problems" -- what does that</p> <p>21 mean? What record?</p> <p>22 MR. VOGEL: I object to form.</p> <p>23 THE WITNESS: "Employee record of any</p> <p>24 behavioral or performance record while on</p> <p>25 assignment." You're asking me the same question</p>	<p>Page 30</p>	<p>1 further.</p> <p>2 Before you would send an employee</p> <p>3 out to their next job, you would look at the employee</p> <p>4 record of any behavioral or performance problems</p> <p>5 occurring while on assignment at the prior job,</p> <p>6 correct?</p> <p>7 MR. VOGEL: I object to form.</p> <p>8 THE WITNESS: I would look at their</p> <p>9 whole file, yes. I would look at everything.</p> <p>10 BY MR. MURDOCK:</p> <p>11 Q. So in other words, if an employee of yours</p> <p>12 had had allegations against him for kissing a patient</p> <p>13 at a hospital, wouldn't you look at that record</p> <p>14 before sending him out to another hospital?</p> <p>15 MR. McBRIDE: Objection. Form. Lacks</p> <p>16 foundation. Assumes facts.</p> <p>17 MR. VOGEL: Join.</p> <p>18 THE WITNESS: Honestly, without a</p> <p>19 facility specifically -- of course that's documented.</p> <p>20 That is something that came in as a complaint by one</p> <p>21 of our facilities. We're going to look at that.</p> <p>22 However, there was nothing solid.</p> <p>23 There was nothing for sure, as far as --</p> <p>24 BY MR. MURDOCK:</p> <p>25 Q. Okay. Hold on. We'll get to all that.</p>	<p>Page 32</p>

<p style="text-align: right;">Page 33</p> <p>1 What I asked you was basically a hypothetical. I 2 didn't put in any names, I didn't put in any 3 hospitals. 4 So all I'm asking you is, if a 5 person was alleged in job A that he kissed a patient 6 in a hospital, before you sent him out to job B you 7 would certainly review the employee record of any 8 behavioral or performance problems occurring while on 9 assignment at that prior hospital, job A? 10 MR. McBRIDE: Same objection. 11 Incomplete hypothetical. 12 MR. VOGEL: Join. 13 THE WITNESS: If a complaint came in 14 that that happened, of course I'm going to look at 15 that, and I'm going to take it seriously, but -- 16 MR. VOGEL: You've answered the 17 question. 18 THE WITNESS: I don't know what else to 19 say. 20 MR. MURDOCK: Well, she's in the 21 middle. Don't stop her. 22 MR. VOGEL: She's answered the 23 question. 24 MR. MURDOCK: Because she just said she 25 answered the question.</p>	<p style="text-align: right;">Page 35</p> <p>1 job A kissed a patient. 2 Before you sent that worker, your 3 employee, to job B, what would you do? 4 MR. VOGEL: I object to form and 5 foundation. Incomplete hypothetical. Go ahead. 6 MR. McBRIDE: Join. 7 THE WITNESS: What I would do is I 8 would get the information from our employee. I would 9 follow up with our employee. I would speak with our 10 employee about the allegation. 11 Then I would go back to that 12 facility and speak with their supervisor, whoever 13 brought the complaint to me. 14 BY MR. MURDOCK: 15 Q. All done before you sent the person out to 16 the new job, correct? 17 MR. VOGEL: I object to form and 18 foundation. Incomplete hypothetical. Go ahead and 19 answer. 20 THE WITNESS: It depends. 21 BY MR. MURDOCK: 22 Q. What does it depend on? 23 MR. VOGEL: I object to form. 24 Incomplete hypothetical. 25 THE WITNESS: It's an alleged</p>
<p style="text-align: right;">Page 34</p> <p>1 MR. VOGEL: Because she did. 2 MR. MURDOCK: I think that's 3 inappropriate. I really do. Okay? 4 MR. VOGEL: She answered the question. 5 She said, "but" -- 6 MR. MURDOCK: Well, "but" usually means 7 it's not a finished answer. I think that's 8 inappropriate. 9 MR. VOGEL: You can follow up. 10 MR. MURDOCK: I'm going to follow up. 11 BY MR. MURDOCK: 12 Q. You said you'd certainly take it seriously. 13 Is that right? 14 A. I take any complaint by a facility 15 seriously, yeah, or by an employee. 16 Q. So in other words, when the person at job A 17 is alleged to have let's say kissed a patient, before 18 you sent that employee to job B what would you do? 19 A. But it's alleged. 20 MR. VOGEL: I object to form. 21 BY MR. MURDOCK: 22 Q. I don't care whether it's alleged. 23 Whatever it is, okay? Let's say it's alleged. 24 It has come to your attention that 25 there is an allegation made that your employee at</p>	<p style="text-align: right;">Page 36</p> <p>1 allegation. There's nothing concrete. So I cannot 2 prevent somebody from working. We just don't do 3 that. 4 I mean I would get the 5 information. I would make sure that there is -- you 6 know, I would speak with the supervisors. I would 7 speak with him. I would do my part in finding out 8 what happened at that facility. 9 BY MR. MURDOCK: 10 Q. What would you do? 11 A. I would speak to my employee. I would get 12 their information. I would find out what happened. 13 Q. How would you speak to the employee? 14 A. I would bring them into my office, speak 15 with them over the phone, gather what happened; type 16 that up, present that to the manager or the 17 supervisor at that other facility, and work with that 18 facility to find out what happened. 19 Q. While all that's going on, would you send 20 them out to other jobs? 21 MR. VOGEL: I object to form. 22 Incomplete hypothetical. 23 THE WITNESS: It depends on the 24 situation, but there were situations where nurses 25 would work other jobs.</p>

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1 Just because they had a problem
2 with one facility does not mean they're going to have
3 a problem at another facility.
4 BY MR. MURDOCK:
5 Q. Okay. Let's go back to my hypothetical
6 where the person is alleged to have kissed a patient.
7 Would you send that person to
8 another job before you finished this investigation?
9 MR. VOGEL: I object to form.
10 Foundation. Incomplete hypothetical.
11 MR. McBRIDE: Join.
12 THE WITNESS: I think I answered that
13 question.
14 BY MR. MURDOCK:
15 Q. No, you didn't. Would you send the person
16 out to another job?
17 MR. VOGEL: Same objections.
18 BY MR. MURDOCK:
19 Q. If a person kissed a patient at job A,
20 would you send that person out to job B before your
21 investigation is complete?
22 MR. VOGEL: Same objections.
23 MR. McBRIDE: Join.
24 THE WITNESS: It depends on the
25 situation. It just depends on all the information.

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1 BY MR. MURDOCK:
2 Q. What does it depend on? Tell me exactly
3 what it depends on.
4 MR. VOGEL: I object to form.
5 Foundation. Incomplete hypothetical. Go ahead.
6 THE WITNESS: It just depends on the
7 information I'm getting from the facility, from the
8 employee.
9 Does the employee have an
10 excellent background? Do they have an excellent
11 record, never had any complaint against them, then
12 all of a sudden one thing is brought against them?
13 It just would depend.
14 BY MR. MURDOCK:
15 Q. What's your line? In other words, is there
16 a line that you have when you're working at ANS,
17 where you wouldn't send that person out?
18 MR. VOGEL: I object to form.
19 Foundation. Incomplete hypothetical.
20 THE WITNESS: I mean if there was
21 something -- you know, if the nurse really did
22 something I felt was abusive, or if there was very
23 concrete -- I mean if somebody was arrested -- it
24 would just depend.
25

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1 BY MR. MURDOCK:
2 Q. So a nurse kissing a patient, that's not
3 abusive in your mind?
4 MR. VOGEL: I object to form.
5 Foundation. Incomplete hypothetical.
6 THE WITNESS: It just -- I would need
7 more information.
8 BY MR. MURDOCK:
9 Q. I'm not going to give you any more.
10 If a nurse kisses a patient, even
11 is alleged to have kissed a patient -- let's say
12 that -- do you think that's potentially abusive?
13 MR. VOGEL: I object to form.
14 Foundation.
15 MR. McBRIDE: Join.
16 THE WITNESS: Anybody can allege. It
17 depends on the situation. I mean people can allege
18 whatever. It just depends. I mean there's
19 allegations about everything.
20 BY MR. MURDOCK:
21 Q. And I'm not talking about allegations.
22 A. Well, it's a hypothetical situation.
23 Q. All I'm saying is, if there's an
24 allegation, if there's whatever -- I'm trying to find
25 what you believe is abusive to a patient, because you

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1 said that's where your line would be. Okay?
2 If a patient alleges that a nurse,
3 your employee, kissed him or her, do you believe that
4 is abusive?
5 MR. VOGEL: I object to form.
6 Foundation. Incomplete hypothetical. Asked and
7 answered.
8 THE WITNESS: If it was found to be
9 true.
10 BY MR. MURDOCK:
11 Q. So it has to be found to be true in order
12 for it to be abusive, is that correct?
13 A. Well, that would be a boundary issue. Of
14 course it's a boundary issue, something that as a
15 nursing professional you would not do. But again, if
16 it was found to be true.
17 Q. Okay. But what I'm asking you is -- you're
18 taking it to the last step, the "found to be true"
19 part.
20 What I'm saying is, before you get
21 to that step -- where you're still investigating, do
22 you say, "Well, you know what? We'd better not send
23 that person to any other hospitals until we find out
24 whether it's true or not?"
25 MR. VOGEL: Hold on. Is there a

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1 question there?

2 MR. MURDOCK: Yes.

3 MR. VOGEL: I object to form and

4 foundation.

5 THE WITNESS: It's based on the nurse

6 and their history with us. It's just one event. It

7 would be one event that happened.

8 Of course we're going to take that

9 seriously, like I stated. But we have to look at the

10 whole picture -- what had happened. It just would

11 depend.

12 BY MR. MURDOCK:

13 Q. What does it depend on? All I'm asking

14 you -- it's a very simple question. Would you send

15 the employee out before the investigation is over?

16 Because what if you determined at

17 the end of your investigation that, "Well, it

18 actually was true," but you would have sent that

19 employee out. That wouldn't be good on your part,

20 would it?

21 MR. VOGEL: I object to form.

22 Foundation. Compound.

23 THE WITNESS: This is an issue that I

24 would also bring up to my supervisors. I wouldn't

25 make that decision by myself.

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1 BY MR. MURDOCK:

2 Q. Okay. So you would have conversations with

3 your supervisors about it, is that correct?

4 A. Yes.

5 Q. What supervisors would you speak with about

6 it?

7 A. Generally something like this would be the

8 corporate compliance officer. I would send them an

9 Incident Report, and then I would send it up to our

10 corporate compliance office.

11 Q. And who was that?

12 A. At the time it was Connie Brown.

13 Q. Okay. And of course you would do that

14 because you want to go along with the Code of Ethics.

15 You want to avoid harm to others, correct?

16 MR. VOGEL: I object to form.

17 THE WITNESS: Correct.

18 BY MR. MURDOCK:

19 Q. By the way, as a licensed RN in the State

20 of Nevada you have a duty, don't you -- if you know

21 that there may be an incident of abuse of a patient,

22 you have a duty to report that to the Nursing Board,

23 don't you?

24 MR. VOGEL: I object to form.

25 Foundation.

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1 MR. McBRIDE: Join.

2 THE WITNESS: I would have to look at

3 that in the State Board of Nursing. I'm not sure

4 what I would have to do.

5 BY MR. MURDOCK:

6 Q. By the way, have you ever been investigated

7 by the State Board of Nursing?

8 A. No.

9 Q. Were you ever investigated by the State

10 Board of Nursing with regard to Steven Farmer and

11 your actions with regard to Steven Farmer?

12 A. No.

13 Q. Now, you said that you would fill out an

14 Incident Report, is that correct?

15 A. Correct.

16 MR. MURDOCK: Let's mark this next.

17 (Plaintiff's Exhibit 3 marked.)

18 BY MR. MURDOCK:

19 Q. Showing you what's been marked as

20 Plaintiff's Exhibit 3, ANS has given you an Incident

21 Report form, is that correct?

22 A. Yes.

23 Q. And that form is supposed to be filled out

24 by you, is that correct?

25 A. Yes.

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1 MR. MURDOCK: Let's mark this.

2 (Plaintiff's Exhibit 4 marked.)

3 BY MR. MURDOCK:

4 Q. In addition, ANS has provided you with

5 instructions on how to do an Incident Report, is that

6 correct? And I'm showing you what's been marked as

7 Plaintiff's Exhibit 4.

8 A. Yes.

9 Q. Have you ever seen that document before

10 today, Plaintiff's Exhibit 4?

11 A. It looks like our policy.

12 Q. And that's something that you would have

13 used in your work, correct?

14 A. Correct.

15 Q. Now, what's supposed to happen, according

16 to this document, Plaintiff's Exhibit 4, is that the

17 branch manager completes the Incident Report form.

18 Are you aware of that?

19 A. Yes.

20 Q. Or do you need to see it?

21 A. I saw that.

22 Q. And submits it to the Corporate Compliance

23 Department within 24 hours, is that correct?

24 A. Correct.

25 Q. Now, that's what's supposed to happen,

<p style="text-align: right;">Page 45</p> <p>1 correct?</p> <p>2 A. That's what the policy states.</p> <p>3 Q. Okay. And it's when you become aware that</p> <p>4 there's an incident, correct?</p> <p>5 A. Correct.</p> <p>6 Q. What did you consider an incident? In</p> <p>7 other words, when would you fill out an Incident</p> <p>8 Report?</p> <p>9 A. If there's a complaint against an employee</p> <p>10 that involves harm or any of the bullet points on</p> <p>11 this form.</p> <p>12 Q. So in other words, if there's an allegation</p> <p>13 that one of your employees kissed a patient in the</p> <p>14 hospital, that would rise to the level of having you</p> <p>15 fill out an Incident Report, correct?</p> <p>16 MR. VOGEL: I object to form.</p> <p>17 MR. McBRIDE: Join.</p> <p>18 THE WITNESS: I would document that.</p> <p>19 BY MR. MURDOCK:</p> <p>20 Q. You wouldn't do an Incident Report?</p> <p>21 A. "Alleged violations as defined in Practice</p> <p>22 Acts." I believe I would document that.</p> <p>23 Q. Would you do an Incident Report?</p> <p>24 A. I believe so.</p> <p>25 Q. Okay. In fact, what about if one of your</p>	<p style="text-align: right;">Page 47</p> <p>1 informal ones done, but two years was our minimum. I</p> <p>2 think we would do two-year performance evaluations.</p> <p>3 But it depended on the facility.</p> <p>4 We would follow along with what the facility required</p> <p>5 as well.</p> <p>6 Q. And in fact, Rawson-Neal used Nurse</p> <p>7 Performance Evaluations, correct?</p> <p>8 A. They used their own performance</p> <p>9 evaluations. At one point they were doing them every</p> <p>10 time they sent a nurse out.</p> <p>11 Q. And in fact, they provided them to you.</p> <p>12 You got a copy, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you would get a copy immediately after</p> <p>15 they were done, isn't that correct?</p> <p>16 MR. VOGEL: I object to form.</p> <p>17 THE WITNESS: I don't know if it was</p> <p>18 immediately after, but we would see a copy, yes.</p> <p>19 BY MR. MURDOCK:</p> <p>20 Q. When would you see a copy?</p> <p>21 A. That was four years ago. I can't remember</p> <p>22 how fast we would get those back, but I know that's</p> <p>23 what they were doing.</p> <p>24 Q. Days? What are we talking about?</p> <p>25 A. I can't remember exactly.</p>
<p style="text-align: right;">Page 46</p> <p>1 employees called a patient on the phone on two</p> <p>2 occasions?</p> <p>3 MR. VOGEL: I object to form and</p> <p>4 foundation.</p> <p>5 MR. McBRIDE: Incomplete hypothetical.</p> <p>6 Join.</p> <p>7 BY MR. MURDOCK:</p> <p>8 Q. Would you do an Incident Report?</p> <p>9 A. I believe at minimum what I would do, I</p> <p>10 would document it in our staffing system and I would</p> <p>11 document it as a disciplinary issue.</p> <p>12 Q. Would you do an Incident Report?</p> <p>13 A. I would also discuss it with my corporate</p> <p>14 compliance officer. Sometimes I would document it on</p> <p>15 an Incident Report, and sometimes I would just</p> <p>16 discuss it with corporate, and document it in our</p> <p>17 computer system that I've done that.</p> <p>18 Q. By the way, ANS used what's called Nurse</p> <p>19 Performance Evaluations, is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And were they submitted every day?</p> <p>22 A. No.</p> <p>23 Q. So how were those done?</p> <p>24 A. Well, our policy -- I would have to look up</p> <p>25 our policies and procedures. I believe we'd have</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Weeks?</p> <p>2 A. I don't want to lie about that. I'm not</p> <p>3 sure exactly when.</p> <p>4 Q. Can you give me an estimate?</p> <p>5 A. I don't even want to estimate. I'm not</p> <p>6 sure exactly. I don't remember.</p> <p>7 Q. Well, you received one regarding Steven</p> <p>8 Farmer, didn't you?</p> <p>9 A. I'm sure I received several performance</p> <p>10 evaluations for Steven Farmer.</p> <p>11 Q. Well, you received a performance evaluation</p> <p>12 regarding Steven Farmer where it was alleged that Mr.</p> <p>13 Farmer called a female client on the clients' phone</p> <p>14 on two occasions; isn't that correct?</p> <p>15 MR. VOGEL: I object to form.</p> <p>16 Foundation.</p> <p>17 THE WITNESS: I would have to look at</p> <p>18 that again. I don't remember specific details.</p> <p>19 BY MR. MURDOCK:</p> <p>20 Q. You don't remember that?</p> <p>21 A. (No response.)</p> <p>22 Q. You don't remember the details of that?</p> <p>23 A. I do not. I had a lot of employees. I do</p> <p>24 remember --</p> <p>25 Q. Do a lot of your employees get Nurse</p>

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1 Performance Evaluations where your employee called a
2 female client on the phone on two occasions?
3 MR. VOGEL: I object to form.
4 Foundation. Assumes facts not in evidence.
5 BY MR. MURDOCK:
6 Q. And is alleged to have fraternized with the
7 clients?
8 MR. VOGEL: Same objections.
9 BY MR. MURDOCK:
10 Q. Was that a common occurrence at American
11 Nursing?
12 A. No, it was not a common occurrence.
13 Q. So you don't remember this? Is that what
14 you're telling us here today?
15 MR. VOGEL: I object to form.
16 MR. McBRIDE: Asked and answered.
17 THE WITNESS: I would have to look at
18 all the documentation again. If you have a copy of
19 something there, I would like to see it.
20 MR. MURDOCK: We'll get to that.
21 (Plaintiff's Exhibit 5 marked.)
22 BY MR. MURDOCK:
23 Q. I'm going to hand you Plaintiff's Exhibit
24 5. Why don't you take a look at that and read it,
25 and that will refresh your recollection. We can take

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1 a break for a second while you do that.
2 (Recess.)
3 MR. MURDOCK: Okay. We can go back on
4 the record.
5 BY MR. MURDOCK:
6 Q. I'm showing you what's been marked as
7 Plaintiff's Exhibit 5. Now that you've had a chance
8 to review it, does that refresh your recollection?
9 A. I don't remember seeing this exact Nurse
10 Performance Evaluation, but I do recall getting some
11 kind of complaint for this.
12 Q. Was that the complaint?
13 A. This looks like one of our performance
14 evaluations, yes.
15 Q. Was there another document with a complaint
16 against Mr. Farmer, that you're aware of?
17 A. I don't know.
18 Q. Do you believe this is the only one?
19 A. I don't recall if this is it or not.
20 Q. Does it look familiar?
21 A. It looks like one of our performance
22 evaluations.
23 Q. When performance evaluations would come
24 back to American Nursing from your various clients,
25 how would they be marked by you? In other words --

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1 or strike that. Would they be marked by you?
2 A. Not all the time.
3 Q. And if you look at the bottom, it looks
4 like a little fax mark on the bottom, and actually
5 also on the top as well. Do you see that?
6 A. Barely, but yes.
7 Q. Well, you do see on the bottom it says,
8 "Total page 01," correct?
9 A. Yes.
10 Q. And you've certainly been around fax
11 machines, correct?
12 A. Yes.
13 Q. You're aware that fax machines leave a
14 stamp like that, correct?
15 A. (Witness nods.)
16 Q. Is that a yes?
17 A. Yes.
18 Q. Is there any way to know whether or not
19 this document was faxed to American Nursing?
20 A. I don't know where it came from. I mean
21 there's no number where it was forwarded from.
22 Q. Okay. Now, on this page it's talking about
23 one of your employees, Steven Farmers. Is that
24 correct?
25 A. Yes.

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1 Q. And his title was CNA, is that correct?
2 A. Yes.
3 Q. And the shift date is 1/2/08, is that
4 correct?
5 A. Yes.
6 Q. Did you ever go back and check whether or
7 not Mr. Farmer was actually working at the facility
8 on January 2, 2008?
9 A. I can't recall that.
10 Q. Did you know the facility was unit G3B?
11 A. It states there on the form.
12 Q. Did that have any meaning to you at all?
13 A. G3B was one of their units.
14 Q. Did you ever go out there?
15 A. I have gone out there.
16 Q. Now, on the "Evaluator Comments," could you
17 read that for me, please?
18 A. "Staff informed me that Mr. Farmer called a
19 female client on the clients' phone on two occasions.
20 The patient, EM, was familiar with Mr. Farmer's
21 living situation (renting a room in a house). This
22 agency does not support fraternizing with clients."
23 Q. So when you received this document, what
24 did you do?
25 A. Honestly, it was four years ago, and to go

<p style="text-align: right;">Page 53</p> <p>1 through the step by step process I would have to look 2 at the documentation. Usually I would document 3 something. 4 Q. Well, how would you document it? 5 A. I would either document it in our staffing 6 system or I would document it on an Incident Report. 7 Q. How would you document it in your staffing 8 system? In other words, if you did that, what would 9 I be looking at? 10 A. It would be a Temp Information Report, I 11 believe it was called. Everything is stamped. 12 I would go into the computer 13 system and check off -- it would be a disciplinary 14 issue, or whatever issue it may be. 15 And then I would document that 16 this came through, or I would document that I've 17 spoken with somebody at the facility. But I would 18 have to look into this further to see what this was 19 regarding. 20 Q. But you would look into it further, 21 correct? 22 A. Yes. 23 Q. That's not just something you would leave 24 hanging out there, right? 25 A. No. I would call the facility. I think</p>	<p style="text-align: right;">Page 55</p> <p>1 A. Yes. 2 MR. MURDOCK: Maybe we should mark it. 3 I'll substitute that with a photocopy. 4 (Plaintiff's Exhibit 6 marked.) 5 BY MR. MURDOCK: 6 Q. I'm showing you what's been marked as 7 Plaintiff's Exhibit 6. 8 Now, that document is titled 9 "Appropriate Boundaries Competency Examination." 10 Do you see that? 11 A. Yes. 12 Q. Now, the name on there is "Steven Farmer." 13 Do you see that? 14 A. Yes. 15 Q. And then there's a name underneath that 16 that says "Supervisor." Do you see that? 17 A. Yes. 18 Q. Whose name is there? 19 A. That is my name. 20 Q. In fact that's your signature, isn't it? 21 A. Correct. 22 Q. Okay. And if you look at the top of the 23 document, you'll see that there appears to be some 24 fax numbers and letters; is that correct? 25 A. Yes.</p>
<p style="text-align: right;">Page 54</p> <p>1 the first thing I would do is to call our employee, 2 and then I would call the facility. 3 Q. And is that what you're supposed to, by the 4 way? 5 MR. VOGEL: I object to form. 6 BY MR. MURDOCK: 7 Q. According to the Incident Report? 8 A. Gather information from the facility, as 9 well as our employees. 10 Q. If he was scheduled to work the next day, 11 would you send him out there? 12 MR. VOGEL: I object to form. 13 Foundation. Incomplete hypothetical. 14 THE WITNESS: It would depend on the 15 facility -- if the facility would have them back or 16 not. It would be dependent on them. 17 BY MR. MURDOCK: 18 Q. Now, you're aware, aren't you, that there 19 was a test given to Mr. Farmer regarding appropriate 20 boundaries, correct? 21 A. Correct. 22 Q. I'm not going to mark this, but I'll show 23 it to you. There's a document here called 24 "Appropriate Boundaries" from American Nursing. 25 Do you see that?</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Does it appear that American Nursing sent 2 this fax somewhere? 3 A. It appears, yes. 4 Q. Do you know where they sent it to, just by 5 looking at the document? 6 A. Not just by looking at the document. 7 Q. Okay. Now, whose exam was this, by the 8 way, the "Appropriate Boundaries?" 9 A. That's something I'm trying to remember, if 10 it was one of our forms or one of the facilities' 11 forms. I don't recall. 12 Q. So in other words, you had testing, but so 13 did your facilities, correct? 14 A. Correct. 15 Q. Now, this boundaries one is talking 16 about -- well, for instance, let's go to number 5. 17 It says, "List two boundary violations." 18 What did Mr. Farmer list on his 19 boundary violations, that he could come up with on 20 this form? 21 A. "Misuse of information" and 22 "over-familiarity." 23 Q. Is that correct? Are those proper answers? 24 A. I don't have the exact test in front of me 25 to say if that's correct answers or not.</p>

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1 Q. Well, you as a BSN, as an RN, as the
2 clinical director of clinical operations at American
3 Nursing -- could you tell me if two boundary
4 violations are "misuse of information" and
5 "over-familiarity?"
6 A. For this test I'm not a hundred percent
7 sure, but that sounds like something that would be a
8 boundary issue.
9 Q. Okay.
10 MR. McBRIDE: What's the date of that
11 document?
12 MR. MURDOCK: According to the top it
13 says August 9, 2007.
14 MR. McBRIDE: Okay.
15 BY MR. MURDOCK:
16 Q. Now, do you know why you have this document
17 filled out?
18 A. Why?
19 Q. It was a test, correct?
20 A. Correct.
21 Q. It was a test given to Mr. Farmer to see
22 whether or not he was qualified to work in a certain
23 facility, correct?
24 A. Correct.
25 Q. Okay. Now, what did he write down as his

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1 answer to number 7?
2 A. There is no answer there.
3 Q. He left it blank?
4 A. Yes.
5 Q. How can that happen?
6 MR. VOGEL: I object to form.
7 Foundation. Incomplete hypothetical.
8 THE WITNESS: Because I believe this
9 was a form that we sent back to the facility to go
10 over as well, and it might have been under their
11 policy and procedure as to what to do, as to what
12 action he should take.
13 BY MR. MURDOCK:
14 Q. Well, the question is, "If a boundary
15 violation is experienced or witnessed, what action
16 should be taken?" Is that correct?
17 A. Yes.
18 Q. Well, let me ask you, if a boundary
19 violation is experienced or witnessed at American
20 Nursing, what action should be taken?
21 A. The employee should report it to their
22 supervisor.
23 Q. And that's what you did when you found out
24 about Mr. Farmer, correct?
25 A. Correct.

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1 Q. Okay.
2 MR. MURDOCK: Let's mark this next.
3 (Plaintiff's Exhibit 7 marked.)
4 BY MR. MURDOCK:
5 Q. Showing you what's been marked as
6 Plaintiff's Exhibit 7 -- I'll also state this is
7 ANS00305 -- this apparently is an Incident Report.
8 Is that correct?
9 A. Yes.
10 Q. This is an Incident Report that you filled
11 out with regard to Steven Farmer, correct?
12 A. Yes.
13 Q. Now, the date of the occurrence on here is
14 what?
15 A. 1/7/08.
16 Q. Where did you get that from?
17 A. From the top here.
18 Q. No, I know, but where did you get that
19 information to fill in there? What were you using to
20 fill it in?
21 A. The original documentation from the
22 facility.
23 Q. What documentation did you get from the
24 facility to fill that out?
25 A. I believe I got a write-up from Mary Jo.

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1 I got some information from the director of nursing.
2 Q. Where is that?
3 A. I don't have it. I don't see it here.
4 Q. Where would it be?
5 A. What do you mean, "where would it be?"
6 Q. Well, in other words, if I don't have it,
7 I'm just wondering where that document is.
8 MR. VOGEL: I object to form.
9 BY MR. MURDOCK:
10 Q. Because I don't have anything from Mary Jo
11 stating 3:41.
12 A. It might have been a phone call that I got
13 from her as well. I don't remember exactly.
14 But it was obviously from the
15 facility. We got a phone call, or we had gotten
16 something that this had happened -- that there was
17 this Incident that had happened.
18 Q. Well, the "Date of occurrence" here you
19 said is January 7, '08.
20 A. That's what's stated on the Incident
21 Report.
22 Q. Now, of course that date corresponds with
23 the Nurse Performance Evaluation done by Rawson-Neal
24 dated January 7th, correct?
25 A. Yes.

<p>1 Q. Right?</p> <p>2 A. It is dated January 7th.</p> <p>3 Q. But that's not the date of the actual</p> <p>4 occurrence, correct?</p> <p>5 A. The date that this occurred is dated</p> <p>6 January 7th.</p> <p>7 Q. But if you look at Plaintiff's Exhibit 5,</p> <p>8 that's a different "Date of occurrence," isn't it?</p> <p>9 A. This occurred it looks like for a shift</p> <p>10 that he worked on January 2nd.</p> <p>11 Q. Okay.</p> <p>12 A. It looks like -- it's a little scribbled</p> <p>13 there, but it was signed by their evaluator on</p> <p>14 January 7th.</p> <p>15 Q. Okay. So your Incident Report at American</p> <p>16 Nursing has the "Date of occurrence" as January 7th,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. Because that would have been the date of</p> <p>20 the Nurse Performance Evaluation, correct?</p> <p>21 MR. VOGEL: I object to form.</p> <p>22 THE WITNESS: That is the day that's on</p> <p>23 there, yes.</p> <p>24 BY MR. MURDOCK:</p> <p>25 Q. I'm still wondering where you got the time</p>	Page 61	<p>1 Q. So in other words, is it your testimony</p> <p>2 that you did not receive Plaintiff's Exhibit 5, the</p> <p>3 Nurse Performance Evaluation regarding Steven Farmer,</p> <p>4 until January 24, 2008?</p> <p>5 MR. VOGEL: I object to form.</p> <p>6 THE WITNESS: I'm not sure.</p> <p>7 BY MR. MURDOCK:</p> <p>8 Q. Well, why would you write down, "Date</p> <p>9 occurrence reported, January 24, 2008?"</p> <p>10 A. I can't say exactly. I don't remember.</p> <p>11 Q. Well, what does "Date occurrence reported"</p> <p>12 mean to you?</p> <p>13 A. The "Date occurrence reported" was the</p> <p>14 date, I would think, that I would have gotten</p> <p>15 informed by the facility that there was something</p> <p>16 that happened.</p> <p>17 Q. So is it your testimony here today, under</p> <p>18 oath, that you did not receive the Nurse Performance</p> <p>19 Evaluation by Matt Ross from Rawson-Neal, until</p> <p>20 January 24, 2008?</p> <p>21 MR. VOGEL: I object to form.</p> <p>22 THE WITNESS: I'm not sure when I got</p> <p>23 that. I don't remember.</p> <p>24 BY MR. MURDOCK:</p> <p>25 Q. Is it possible you received it beforehand?</p>	Page 63
<p>1 of 3:41 p.m.</p> <p>2 A. I'm not sure exactly what that time is</p> <p>3 from.</p> <p>4 Q. Do you believe that we're missing a</p> <p>5 document here?</p> <p>6 MR. VOGEL: I object to form.</p> <p>7 Foundation.</p> <p>8 THE WITNESS: I don't know.</p> <p>9 BY MR. MURDOCK:</p> <p>10 Q. Is it possible we're missing a document?</p> <p>11 MR. VOGEL: I object to form.</p> <p>12 Foundation.</p> <p>13 THE WITNESS: I don't recall any other</p> <p>14 documents.</p> <p>15 BY MR. MURDOCK:</p> <p>16 Q. Then where can you tell me the 3:41 p.m.</p> <p>17 came from?</p> <p>18 MR. VOGEL: I object to form. Asked</p> <p>19 and answered.</p> <p>20 THE WITNESS: I'm not sure exactly.</p> <p>21 BY MR. MURDOCK:</p> <p>22 Q. Okay. Now, on the Incident Report again</p> <p>23 you wrote, "Date occurrence reported, January 24,</p> <p>24 2008." Do you see that?</p> <p>25 A. Yes.</p>	Page 62	<p>1 MR. VOGEL: I object to form.</p> <p>2 Foundation.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. MURDOCK:</p> <p>5 Q. Well, in fact you actually state that you</p> <p>6 received the occurrence report -- whatever report</p> <p>7 we're talking about -- at 4:30 p.m. on the 24th.</p> <p>8 How do you know that?</p> <p>9 MR. VOGEL: I object to form.</p> <p>10 Foundation.</p> <p>11 THE WITNESS: I don't remember</p> <p>12 honestly, Counselor. I can't say with a hundred</p> <p>13 percent certainty. I don't know.</p> <p>14 BY MR. MURDOCK:</p> <p>15 Q. When you got documents into American</p> <p>16 Nursing, did you stamp them with like a received</p> <p>17 date?</p> <p>18 A. No.</p> <p>19 Q. When you got faxes in, were they</p> <p>20 automatically stamped when received, and timed?</p> <p>21 A. I'm not sure if every fax had a timestamp</p> <p>22 on them.</p> <p>23 Q. But was that something common?</p> <p>24 A. Was what common?</p> <p>25 Q. Was that something common?</p>	Page 64

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1 A. Was what common?
2 MR. VOGEL: I object to form. Vague.
3 BY MR. MURDOCK:
4 Q. The dating by a fax machine.
5 A. I don't know. I'm not sure.
6 Q. Now, this Incident Report that we're
7 talking about, Plaintiff's Exhibit 7 -- that's
8 something you filled out, correct?
9 A. That looks like my handwriting.
10 Q. And as a matter of fact, on the bottom of
11 the report it's got, "Signature of person completing
12 report," and it's got your signature, correct?
13 A. Yes.
14 Q. And it's dated 1/25/08, is that correct?
15 A. That's correct.
16 Q. So in other words, you filled out this form
17 the day after the occurrence was reported to you,
18 correct?
19 A. It's dated 1/25 on here, yes.
20 Q. And the "Date of occurrence" reported was
21 January 24th, correct?
22 A. It looks like that, yes.
23 Q. One day earlier, correct?
24 A. Yes.
25 Q. Okay. Now, do you see where it says,

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1 "Nature of Incident?"
2 A. Yes.
3 Q. You checked off -- you put an X next to two
4 things. Let's talk about the first one.
5 You put an X next to, "Alleged
6 violations as defined in Practice Acts of respective
7 regulatory body." Is that correct?
8 A. Yes.
9 Q. What violations are we talking about there?
10 What alleged violations as defined in Practice Acts
11 of respective regulatory body?
12 MR. VOGEL: I object to form.
13 THE WITNESS: The allegation at that
14 time was a boundary issue -- patient-clinician
15 boundary.
16 BY MR. MURDOCK:
17 Q. And that's defined in the Practice Acts of
18 the respective regulatory body?
19 A. I would have to look up everything in the
20 Practice Acts, but as one of the choices that is what
21 I chose.
22 Q. At least on January 25, 2008 you believed
23 that to be true, correct?
24 MR. VOGEL: I object to form.
25 Foundation.

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1 THE WITNESS: I checked it off.
2 BY MR. MURDOCK:
3 Q. You believed it to be true when you checked
4 it off, didn't you?
5 MR. VOGEL: I object to form.
6 THE WITNESS: There was an allegation,
7 and in the options --
8 BY MR. MURDOCK:
9 Q. Well, this says the word "alleged."
10 A. Yes.
11 Q. You checked it off, correct?
12 A. I checked it off, yes.
13 Q. You didn't have to check it off, correct?
14 A. Correct.
15 Q. And as we sit here today -- first of all,
16 what regulatory body are we talking about? It says
17 "of respective regulatory body." What regulatory
18 body are we talking about?
19 A. I would think the State Board of Nursing.
20 Q. So you believed at the time you filled this
21 out that there was there was an alleged violation as
22 defined in the Practice Acts of respective regulatory
23 body, in other words, the Board of Nursing; is that
24 correct?
25 MR. VOGEL: I object to form.

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1 THE WITNESS: At that time there was a
2 boundary issue, so that fell under our Practice Act,
3 as far as you wouldn't -- that would be a boundary
4 issue, so that would be something that would go
5 against the Nursing Board.
6 BY MR. MURDOCK:
7 Q. And of course -- did you call the Nursing
8 Board?
9 A. No, we did not call the Nursing Board.
10 Q. Do you know whether or not you had a duty
11 to call the Nursing Board?
12 MR. VOGEL: I object to form.
13 Foundation.
14 THE WITNESS: At that particular time,
15 no.
16 BY MR. MURDOCK:
17 Q. No you didn't, or you're not sure?
18 A. I'm not sure a hundred percent.
19 Q. Isn't that something, as clinical director
20 of clinical operations, you would maybe want to know,
21 what you should report to the Board and what you
22 shouldn't?
23 MR. VOGEL: I object to form.
24 THE WITNESS: I spoke with my corporate
25 compliance about this situation.

<p style="text-align: right;">Page 69</p> <p>1 BY MR. MURDOCK:</p> <p>2 Q. You did. Who did you speak to?</p> <p>3 A. Connie Brown.</p> <p>4 Q. How did you notify Connie Brown about this?</p> <p>5 A. I'm not sure a hundred percent. I believe</p> <p>6 it was through the phone. I believe.</p> <p>7 Q. Did you email her?</p> <p>8 A. I'm not sure.</p> <p>9 Q. Now, of course when you were filling out</p> <p>10 this form, you certainly were being honest, correct?</p> <p>11 A. I was gathering information and what I had</p> <p>12 in front of me.</p> <p>13 Q. And you were being honest?</p> <p>14 A. Yes.</p> <p>15 Q. Just as you are here today, correct?</p> <p>16 A. Yes.</p> <p>17 Q. So under "Nature of Incident" you put an X</p> <p>18 next to this one, "Abuse of client and/or patient</p> <p>19 and/or other caregivers." Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. You checked that off, correct?</p> <p>22 A. Yes.</p> <p>23 Q. You didn't have to check it off, correct?</p> <p>24 MR. VOGEL: I object to form.</p> <p>25 THE WITNESS: This is asking me the</p>	<p style="text-align: right;">Page 71</p> <p>1 BY MR. MURDOCK:</p> <p>2 Q. You checked it off, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, if you turn to the second page, it's</p> <p>5 got your signature again on the second page, correct?</p> <p>6 A. Yes.</p> <p>7 Q. This is what's called the "Incident Report</p> <p>8 Investigation" page, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And it says, "This section to be completed</p> <p>11 by the branch manager," is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you were acting as the branch manager</p> <p>14 when you filled this out, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And so let's see. Under the first line it</p> <p>17 says, "Are there any factors that caused the</p> <p>18 occurrence?" What did you write down?</p> <p>19 A. I did not write anything, because I</p> <p>20 attached a write-up. I didn't fill out everything,</p> <p>21 because I attached a write-up to this form, as to</p> <p>22 what my investigation was.</p> <p>23 Q. The second question asked you, "What</p> <p>24 actions were necessary to resolve the occurrence?"</p> <p>25 Your answer was, "Followed up with</p>
<p style="text-align: right;">Page 70</p> <p>1 nature of the incident and what the incident came in</p> <p>2 as.</p> <p>3 BY MR. MURDOCK:</p> <p>4 Q. Right.</p> <p>5 A. And that is defined as -- one of the</p> <p>6 options was that that was the allegation, as far as</p> <p>7 that would be an abusive situation.</p> <p>8 Q. What would be an abusive situation?</p> <p>9 A. Fraternizing with clients would be a</p> <p>10 boundary.</p> <p>11 Q. Do you believe that's abusive?</p> <p>12 MR. VOGEL: I object to form.</p> <p>13 THE WITNESS: Only if an act had been</p> <p>14 done.</p> <p>15 BY MR. MURDOCK:</p> <p>16 Q. So if an act had been done, you believe</p> <p>17 it's abusive, correct?</p> <p>18 A. If an act had been done, yes.</p> <p>19 Q. Certainly. And on January 25, 2008 you</p> <p>20 actually checked off, "Abuse of client and/or patient</p> <p>21 or other caregivers," with regard to the information</p> <p>22 you had before you with regard to Steven Farmer,</p> <p>23 correct?</p> <p>24 MR. VOGEL: I object to form.</p> <p>25 THE WITNESS: It's checked off, yes.</p>	<p style="text-align: right;">Page 72</p> <p>1 Steve Farmer. Please see attached response.</p> <p>2 Followed up with Mary Jo Solon, Director of Nursing."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And then under, "What can be done to</p> <p>6 prevent recurrence" it's blank, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Then it's got your signature where "Branch</p> <p>9 Manager" is, correct?</p> <p>10 A. Yes.</p> <p>11 Q. There's nothing there for "Corporate</p> <p>12 Compliance Director/HR Director Recommendations,"</p> <p>13 correct?</p> <p>14 A. Because at that time it was forwarded to</p> <p>15 them. I would have to know exactly when I forwarded</p> <p>16 it, but that would go to corporate compliance, yes.</p> <p>17 Q. And corporate compliance was not you,</p> <p>18 correct?</p> <p>19 A. No.</p> <p>20 Q. In fact, if you look at the bottom of this</p> <p>21 document it says, "Date reviewed by Corporate</p> <p>22 Compliance Director/HR Director." Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And do you see that's blank?</p> <p>25 A. Yes.</p>

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1 Q. Have you ever seen one that's actually
2 signed and dated?
3 A. I have not seen this come back to me. It
4 was in corporate.
5 Q. It was in corporate. They were doing their
6 own investigation?
7 A. This form was submitted to corporate.
8 Q. What happened to this form after it was
9 submitted to corporate?
10 A. I do not know.
11 Q. What's supposed to happen to this form when
12 it's submitted to corporate?
13 A. It goes to the corporate compliance
14 officer, and then she would follow up with me. But
15 that's her responsibility, not mine.
16 Q. Well, did you ever follow up with corporate
17 compliance about this form?
18 A. I submitted it to Connie Brown. I would
19 have to look in my documentation to see. But by that
20 time Steven was already allowed to come back to the
21 facility.
22 Q. What time was that?
23 A. By the time -- I didn't get anything back
24 from corporate compliance, no, that I know of.
25 Q. You said by that time Steven was allowed to

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1 come back to the facility. What time are we talking
2 about?
3 A. Ultimately he was allowed to go back to the
4 facility.
5 Q. When you wrote this up, this Incident
6 Report, he was DNR'd, correct?
7 A. Pending an investigation, yes, I think he
8 was.
9 Q. "Do not return pending investigation," is
10 that correct?
11 A. That was correct.
12 Q. Okay. So your investigation was you're
13 going to talk to Steve Farmer, correct?
14 A. Yes.
15 Q. And what you did was you had Steve Farmer
16 fill out a document to write down everything that he
17 could say about this incident, correct?
18 A. We had a discussion and I documented what
19 he had told me.
20 Q. Did you have him write anything down?
21 A. I can't recall.
22 Q. Who taught you that that's how to run an
23 investigation?
24 A. Nobody taught me.
25 Q. How did you decide that's how you were

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1 going to run this investigation?
2 A. My job is to gather information from our
3 clinician and write it down.
4 Q. Who told you that it's your job to write
5 the information down yourself, as opposed to having
6 the employee write it down himself?
7 A. I can't recall if there was a document
8 where he wrote it down or not.
9 Q. In other words, why wouldn't you have
10 Mr. Farmer write it down?
11 MR. VOGEL: I object to form.
12 THE WITNESS: I don't know. I mean he
13 was brought into my office and we had the discussion.
14 BY MR. MURDOCK:
15 Q. How long did the discussion last?
16 A. I'm not sure exactly.
17 Q. Did you tape it?
18 A. No.
19 Q. Why not?
20 A. That's not something we generally do.
21 Q. Do you know you're allowed to do that?
22 A. I'm not a lawyer. I'm sorry, I didn't know
23 that.
24 Q. Did you call your HR person and say, "Hey,
25 we're doing an investigation, how should I do it?"

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1 A. No.
2 Q. Had you done investigations like this
3 before?
4 A. Not to this extent.
5 Q. Was this the first one you had ever done?
6 A. We have clinical issues and things that
7 come to our office at times, but this was something
8 that I directed.
9 I did speak with my HR and I
10 gathered information. That was what I followed. I
11 followed the policy and procedure of our company.
12 Q. What policy and procedure is that? What
13 specific one?
14 A. It was to gather the information from the
15 employee and the other information from the facility.
16 Q. Aren't you supposed to have the employee
17 write up his or her side of the story, so to speak?
18 MR. VOGEL: I object to form.
19 THE WITNESS: Like I stated, I'm not
20 sure if he did or did not.
21 BY MR. MURDOCK:
22 Q. Now, what did Steven Farmer tell you?
23 MR. VOGEL: I object to form.
24 THE WITNESS: I would have to refer
25 to --

<p style="text-align: right;">Page 77</p> <p>1 BY MR. MURDOCK:</p> <p>2 Q. Well, why don't you tell me what you</p> <p>3 remember.</p> <p>4 A. It's four years ago. I don't want to</p> <p>5 misquote anything.</p> <p>6 Q. I'm not asking you to misquote anything.</p> <p>7 What do you remember?</p> <p>8 A. I don't remember exactly word-for-word. I</p> <p>9 don't remember exactly. It's been four years.</p> <p>10 Q. Did you take notes?</p> <p>11 A. Yes, I'm sure I did.</p> <p>12 Q. So in other words, as he spoke you took</p> <p>13 notes, correct?</p> <p>14 A. Yes.</p> <p>15 Q. What did you do with those notes?</p> <p>16 A. Anything personal I would shred. There</p> <p>17 wouldn't be anything like that. Or I would document</p> <p>18 anything in our computer system, and I would document</p> <p>19 on my write-up that I did.</p> <p>20 Q. Why would you shred those notes?</p> <p>21 MR. VOGEL: I object to form. She</p> <p>22 didn't say she shredded the notes. It misstates her</p> <p>23 testimony. Go ahead.</p> <p>24 THE WITNESS: I'm not sure exactly.</p> <p>25</p>	<p style="text-align: right;">Page 79</p> <p>1 to find out from the employee, and I had a duty to</p> <p>2 follow up with the facility.</p> <p>3 BY MR. MURDOCK:</p> <p>4 Q. Okay. Mr. Farmer told you what happened.</p> <p>5 You don't remember?</p> <p>6 A. I remember --</p> <p>7 Q. I mean you just had your deposition taken a</p> <p>8 couple weeks ago with regard to this matter. I'm</p> <p>9 sure you were asked these questions, weren't you?</p> <p>10 MR. McBRIDE: Don't be so sure.</p> <p>11 MR. VOGEL: Yeah, don't be so sure. I</p> <p>12 object. Foundation.</p> <p>13 THE WITNESS: I don't want to misquote</p> <p>14 anything I stated.</p> <p>15 BY MR. MURDOCK:</p> <p>16 Q. I'm not asking you for a quote. Let's go</p> <p>17 back a little bit.</p> <p>18 What did you do to prepare for</p> <p>19 this deposition today?</p> <p>20 A. I tried to remember what I did.</p> <p>21 Q. How did you try to remember?</p> <p>22 A. Just tried to go back.</p> <p>23 Q. How did you do that?</p> <p>24 A. I went over information that I had before</p> <p>25 the deposition.</p>
<p style="text-align: right;">Page 78</p> <p>1 BY MR. MURDOCK:</p> <p>2 Q. Okay. So in other words, the notes may be</p> <p>3 there or the notes may not be there, we just don't</p> <p>4 know?</p> <p>5 A. I don't know.</p> <p>6 Q. But you did mention "shredding," so I'm</p> <p>7 wondering why you mentioned shredding notes.</p> <p>8 A. If it was just like a random -- it was</p> <p>9 something personal, so I mean I honestly don't know</p> <p>10 what I did with them. I don't.</p> <p>11 I mean I probably took notes, and</p> <p>12 then I wrote up an occurrence that I sent to the</p> <p>13 facility. I know I did that.</p> <p>14 Q. Did you notify the State Board of Nursing?</p> <p>15 A. No, I did not.</p> <p>16 Q. Didn't you have a duty to do that?</p> <p>17 MR. VOGEL: I object. Asked and</p> <p>18 answered.</p> <p>19 THE WITNESS: I think you asked me that</p> <p>20 question before.</p> <p>21 BY MR. MURDOCK:</p> <p>22 Q. Didn't you have a duty to do it?</p> <p>23 MR. VOGEL: I object. Asked and</p> <p>24 answered.</p> <p>25 THE WITNESS: At that time I had a duty</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. How did you do that?</p> <p>2 A. I had previous documentation from the</p> <p>3 previous deposition.</p> <p>4 Q. So you reviewed the documentation, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And one of those documents you probably</p> <p>7 reviewed, I would assume, was your investigation</p> <p>8 notes regarding Mr. Farmer, correct?</p> <p>9 A. Correct.</p> <p>10 Q. So you did review it. When did you review</p> <p>11 it?</p> <p>12 A. Probably shortly -- I read through it</p> <p>13 definitely before the previous deposition, but I</p> <p>14 didn't really go over it this time.</p> <p>15 Q. So in other words, a few weeks ago you</p> <p>16 reviewed it, and you haven't reviewed it since; is</p> <p>17 that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Did you review any other documents?</p> <p>20 A. What came along with that was -- I didn't</p> <p>21 have a copy of the Incident Report, but I did have</p> <p>22 just my page of documentation, and then the</p> <p>23 supporting documentation from the facility. Mary</p> <p>24 Jo's response essentially.</p> <p>25 Q. How did you learn to do an investigation?</p>

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1 MR. VOGEL: I object to form.
2 THE WITNESS: I learned to do an
3 investigation essentially from asking HR, trying to
4 follow the policy and procedure of our agency.
5 BY MR. MURDOCK:
6 Q. You certainly took this matter seriously,
7 correct?
8 A. Yes.
9 Q. In fact you took it so seriously you
10 checked off with regard to "Nature of Incident,"
11 "Abuse of client and/or patient or other caregivers,"
12 correct?
13 A. Allegedly, yes.
14 Q. Well, it doesn't say "allegedly," does it?
15 A. That's how I took it though.
16 Q. Okay. Nevertheless, you checked it off?
17 A. Yes, I did check it off.
18 Q. You took it seriously, correct?
19 A. Yes.
20 Q. You took the investigation seriously?
21 A. Yes.
22 Q. Because you were concerned. You certainly
23 didn't want to hurt potentially other patients,
24 correct?
25 A. Correct.

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1 Q. So what you wanted to do is make sure that
2 the investigation was full and complete, correct?
3 MR. VOGEL: I object to form.
4 THE WITNESS: To the best of my
5 ability.
6 BY MR. MURDOCK:
7 Q. And your job was to make sure the
8 investigation was full and complete and fair to
9 Mr. Farmer, correct?
10 MR. VOGEL: I object to form.
11 THE WITNESS: With regard to
12 Mr. Farmer, my job was to get his side of it and
13 present it to the facility.
14 And of course I took that and
15 provided that information to our corporate and our HR
16 department, and followed what they recommended as
17 well.
18 BY MR. MURDOCK:
19 Q. And what did they recommend?
20 A. I did exactly what they recommended.
21 Q. What did they recommend?
22 A. I followed up with the facility and got the
23 background information and their investigation. My
24 job was to just find out from them as to what their
25 investigation was.

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1 Q. Now, when did Mr. Farmer go on "Do not
2 return?"
3 A. When?
4 Q. Yeah.
5 A. I don't know exactly what date.
6 Q. What is "Do not return?"
7 A. Meaning that the clinician cannot return to
8 that facility to work.
9 Q. Okay. Now, is "Do not return" something
10 that you would put on, or something the facility
11 would put on?
12 A. The facility would put it on.
13 Q. So in other words, Rawson-Neal told you he
14 was a "Do not return," is that correct?
15 A. That's correct.
16 Q. And you started your investigation,
17 according to your Incident Report at least, on
18 January 25, 2008, correct?
19 A. That is when this Incident Report was
20 written, yes.
21 Q. When did you start your investigation?
22 A. I can't recall exactly.
23 Q. Did you start it before then?
24 A. I don't know.
25 Q. Did you start it after then?

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1 A. I can't recall exactly.
2 Q. Well, would it make sense for you to start
3 it after January 25, 2008?
4 MR. VOGEL: I object to form.
5 THE WITNESS: I'm not sure exactly. I
6 filled out this Incident Report on January 25th. I
7 know I have documentation to support what I did, and
8 I don't know exactly what date that was.
9 BY MR. MURDOCK:
10 Q. What do you mean, you have documentation?
11 What documentation?
12 A. I've seen the document that I have written
13 in response to this incident, in response to what my
14 investigation was. I'm not sure what date that was.
15 Q. Okay.
16 MR. MURDOCK: Let's mark this.
17 (Plaintiff's Exhibit 8 marked.)
18 BY MR. MURDOCK:
19 Q. Showing you what's been marked as
20 Plaintiff's Exhibit 8, it consists of two pages, ANS
21 307 to 309.
22 So take a look. Is that the --
23 well, why don't you tell me what that is.
24 A. This was my response to the complaint I
25 received against Mr. Farmer.

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1 Q. Now, on the Incident Report, which is again
2 Plaintiff's Exhibit 7, when you say, "See attached
3 write-up" -- is that the write-up you were talking
4 about?
5 A. This is the write-up I'm talking about.
6 Q. Okay. Now, so let's see.
7 Under "Description of exactly what
8 happened" on the Incident Report, Plaintiff's Exhibit
9 7, you wrote, "See attached write-up."
10 A. Yes.
11 Q. Now, if you look at your January 25, 2008
12 note regarding Steven Farmer that you said was the
13 attachment, was the write-up -- is this supposed to
14 be a description of exactly what happened?
15 A. This was Steven's response. I interviewed
16 Steven -- I called Steven and this is what he told
17 me, yes.
18 Q. Okay. But that's not what this is asking
19 for in the Incident Report, is it, Plaintiff's
20 Exhibit 7?
21 MR. VOGEL: I object to form.
22 BY MR. MURDOCK:
23 Q. The "Description of exactly what happened"
24 is supposed to be what the allegations are, isn't it?
25 A. Well, I can't say for certainty, but I

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1 would have attached a copy of the evaluation as well.
2 Q. Plaintiff's Exhibit 5?
3 A. I would have attached that to everything,
4 yes.
5 Q. Okay. Now, Plaintiff's Exhibit 8, your
6 notes state -- first of all, it's dated January 25,
7 2008; is that correct?
8 A. Yes.
9 Q. And it's got, "Steven Farmer Incident GPOD
10 3B 1/7/08," is that correct? Do you see that?
11 A. Yes.
12 Q. So in other words, the incident, according
13 to this, occurred on January 7, 2008; is that
14 correct?
15 A. Yes.
16 Q. Now, first of all, what computer program
17 did you use to type this?
18 A. I believe it was Word.
19 Q. Word. That's what you used generally at
20 American Nursing?
21 A. Yes.
22 Q. So you wrote down, "In response to the call
23 received from Mary Jo Solon from Rawson-Neal, the
24 following statement was taken from Steven Farmer from
25 American Nursing Services." Is that correct?

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1 A. Yes.
2 Q. That's what you typed out?
3 A. Yes.
4 Q. What call did you receive from Mary Jo
5 Solon on January 24, 2008?
6 MR. VOGEL: I object to form. Vague.
7 THE WITNESS: I received a phone call
8 in regards to this incident. I would have documented
9 that if I had gotten a phone call. We would document
10 it in the computer as well.
11 BY MR. MURDOCK:
12 Q. Because I have never seen any documentation
13 that you received a phone call from Mary Jo Solon on
14 January 24, 2008.
15 A. And quite honestly, I don't know if I put
16 that in the computer or not. But obviously I had
17 spoken with her.
18 Q. Why wouldn't you have put that in the
19 computer?
20 MR. VOGEL: I object to form.
21 THE WITNESS: I don't know. I don't
22 know why I wouldn't have.
23 BY MR. MURDOCK:
24 Q. In fact, that's something you probably did
25 do. Would you agree with that?

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1 MR. VOGEL: I object to form.
2 Foundation.
3 THE WITNESS: I would think so.
4 BY MR. MURDOCK:
5 Q. Okay. And do you recall what Mary Jo Solon
6 told you in that phone call?
7 A. I don't recall exactly word-for-word. It's
8 been a very long time ago. I don't recall exactly.
9 Q. Why don't you tell me not exactly.
10 A. Well, I'm taking an oath to be honest, so I
11 don't want to say anything --
12 Q. Do you remember, did she say "hello?"
13 A. Yes.
14 Q. How do you remember she said "hello?"
15 Because you assume that, correct? Because you can
16 estimate that, because you've had phone calls where
17 basically you pick up the phone and say "hello,"
18 correct?
19 A. Correct.
20 Q. Now, like we said before, this wasn't a
21 common occurrence at American Nursing, where one of
22 your employees fraternizes with a patient, correct?
23 MR. McBRIDE: I object to form. Lacks
24 foundation. Assumes facts.
25 MR. VOGEL: Join.

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1 BY MR. MURDOCK:
2 Q. Was it? Was it a common occurrence?
3 A. It was not a common occurrence.
4 Q. Okay. So this kind of sticks out, right?
5 A. Yes. But to remember a specific
6 conversation from four years ago is very hard for me
7 to do.
8 Q. But that conversation started the ball
9 rolling, in your mind, correct?
10 A. Correct.
11 Q. But you can't remember anything from that
12 phone call?
13 A. I know there was a complaint against
14 Mr. Farmer, which is why this elicited a reaction
15 from me to call him and find out what had happened.
16 Q. Okay. So in other words, you didn't bring
17 him into the office?
18 A. At some point I did, but I don't recall the
19 timeframe. But I know that I had spoken to him
20 directly.
21 Q. When did you bring him into the office?
22 A. That's what I stated, I cannot remember the
23 exact time. But he was in the office all the time.
24 He might have made a point of
25 coming in as soon as he was found to be a DNR,

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1 because he was always in our office. We saw him
2 quite frequently.
3 Q. What was he doing in the office?
4 A. Getting paid.
5 Q. Even though he wasn't sent out for jobs?
6 A. No, prior to the DNR.
7 Q. No, I understand that. But after the DNR
8 what was he doing? Was he hanging out at your
9 office?
10 A. No, he doesn't hang out at our office. I
11 mean he was concerned about the incident, so he
12 wanted to obviously talk about it and find out what's
13 going on with the investigation.
14 I don't know exactly what date or
15 anything, but I know I did speak with him on several
16 occasions.
17 Q. In person?
18 A. Yes.
19 Q. Now, this note says you called Steven
20 Farmer -- and we're talking about Plaintiff's Exhibit
21 8 -- you called Steven Farmer on January 25, 2007.
22 That's a mistake?
23 A. That's a mistake. Yes, it is.
24 Q. We can both agree that's probably 2008,
25 correct?

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1 A. Yes.
2 Q. And you spoke with him about the issues
3 addressed by Mary Jo Solon, correct?
4 A. Yes.
5 Q. What issues by Mary Jo Solon? What exact
6 issues?
7 A. There was a complaint against -- like I
8 stated, I don't remember my direct conversation with
9 her.
10 Q. But see, the Incident Report states here,
11 "Description of exactly what happened," okay? So I'm
12 trying to figure out years later exactly what the
13 allegations were, and I don't see a document from you
14 that says exactly what the allegations were, except
15 for, "Alleged violations defined in the Practice Acts
16 of the respective regulatory body," and, "Abuse of
17 patient."
18 As you sit here today, can you
19 tell me exactly what happened?
20 A. From what I remember from Steven's side,
21 there was a patient that was fixated on him, that
22 was --
23 Q. He said the word "fixated?" Or did
24 somebody else tell you that recently?
25 A. No, that was actually I think in one of the

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1 write-ups, one of the evaluations or something -- one
2 of the documents from Mary Jo or something. I think
3 it was a response from Mary Jo.
4 Q. Do you know what "patient fixation" is?
5 A. They're centered on one particular person.
6 Q. And that's not a good thing, right?
7 A. No.
8 Q. It's a very bad thing?
9 A. It depends on --
10 Q. And Mr. Farmer told you that this patient
11 was fixated on him?
12 A. I'm not sure if he used those exact words.
13 I think I used that term. I'm going to go by what I
14 got from his response.
15 Q. Okay. So from your notes?
16 A. Yes.
17 Q. Now, are these direct quotes, or are these
18 basically, "He might have said it, he didn't use
19 these exact words?" I mean what is this, in your
20 Exhibit 8?
21 A. It was my conversation with him and his
22 side of the story.
23 Q. I understand that.
24 What I'm getting at is, is this a
25 quote? In other words, was he talking and you were

<p style="text-align: right;">Page 93</p> <p>1 typing, so we could put quotes around it? Or was it</p> <p>2 basically he would say something, and you would write</p> <p>3 it down not exactly?</p> <p>4 A. This was -- I can't say that I was typing</p> <p>5 at the same time he was talking, no.</p> <p>6 Q. So these aren't his exact words, correct?</p> <p>7 A. To put a quote around it, no.</p> <p>8 Q. Okay.</p> <p>9 MR. MURDOCK: Why don't we take a break</p> <p>10 for a minute.</p> <p>11 (Recess.)</p> <p>12 BY MR. MURDOCK:</p> <p>13 Q. We were talking about Plaintiff's Exhibit</p> <p>14 8, which is your typewritten non-quotations of Steven</p> <p>15 Farmer's belief of what occurred at Rawson-Neal; is</p> <p>16 that correct?</p> <p>17 A. Yes.</p> <p>18 Q. So let's see. Steven told you that about a</p> <p>19 month ago when he worked on GPOD 3B he had first come</p> <p>20 in contact with this particular patient, is that</p> <p>21 correct?</p> <p>22 A. That's what it says.</p> <p>23 Q. Now, do you know whether or not the patient</p> <p>24 was on 3B?</p> <p>25 A. From the evaluation that was sent over, it</p>	<p style="text-align: right;">Page 95</p> <p>1 I'm asking you whether or not you</p> <p>2 took any steps to investigate whether or not this was</p> <p>3 true.</p> <p>4 A. This is what I did. I took his side of the</p> <p>5 story and I presented it to the facility. That's</p> <p>6 what I did.</p> <p>7 Q. You didn't take any steps to find out</p> <p>8 whether or not what he told you was the truth, is</p> <p>9 that correct?</p> <p>10 A. That was the facility's part in</p> <p>11 interviewing their own employees.</p> <p>12 Q. Did you ask to speak to the tech to find</p> <p>13 out if that was true?</p> <p>14 A. That was not part of our role.</p> <p>15 Q. Who told you that?</p> <p>16 A. As an agency -- they're not our employees.</p> <p>17 We talk to our own employees.</p> <p>18 Q. How do you know that? How do you know you</p> <p>19 don't, for instance, call up Mary Jo Solon and say,</p> <p>20 "Hey, you know what? He says he interacted with this</p> <p>21 patient with another tech. Could I speak with the</p> <p>22 tech?"</p> <p>23 A. It was just not something we did. It was</p> <p>24 their employee. That's something we just didn't do.</p> <p>25 Q. Was something preventing you from doing it?</p>
<p style="text-align: right;">Page 94</p> <p>1 states the unit was G3B.</p> <p>2 Q. Do you know if he had even worked on G3B,</p> <p>3 as opposed to G3A?</p> <p>4 A. The only way I would know that is when we</p> <p>5 get a time slip reported back to get paid, it's</p> <p>6 stated on there which unit, and it would be in our</p> <p>7 system as to where they were booked.</p> <p>8 Now, that's I mean ultimately.</p> <p>9 Sometimes they would move them during the night, or</p> <p>10 change them. Facilities will do that. But</p> <p>11 essentially they'll tell us when the clinician is</p> <p>12 booked, where they're going to.</p> <p>13 Q. Did you take any steps to find out whether</p> <p>14 or not he was actually working on GPOD 3B?</p> <p>15 A. I'm not sure exactly.</p> <p>16 Q. The next sentence states, "He stated that</p> <p>17 he interacted with the patient with another tech, and</p> <p>18 played cards with her through part of the</p> <p>19 nightshift." Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you do any investigation to find out</p> <p>22 whether or not that was true?</p> <p>23 A. My investigation includes taking his side</p> <p>24 of the story and --</p> <p>25 Q. I understand that. I understand that.</p>	<p style="text-align: right;">Page 96</p> <p>1 MR. VOGEL: I object to form.</p> <p>2 THE WITNESS: It's just something we</p> <p>3 didn't do.</p> <p>4 BY MR. MURDOCK:</p> <p>5 Q. But there was nothing preventing you from</p> <p>6 picking up the phone, calling Mary Jo Solon and</p> <p>7 saying, "Hey, this guy says he interacted with a</p> <p>8 patient with another tech. Can I speak to the tech?"</p> <p>9 There was nothing preventing you</p> <p>10 from doing that, was there?</p> <p>11 MR. VOGEL: I object to form.</p> <p>12 Foundation.</p> <p>13 THE WITNESS: It's just something we</p> <p>14 didn't do.</p> <p>15 BY MR. MURDOCK:</p> <p>16 Q. I understand you didn't do it, but there</p> <p>17 was nothing preventing you from doing it, correct?</p> <p>18 MR. VOGEL: I object to form.</p> <p>19 Foundation.</p> <p>20 BY MR. MURDOCK:</p> <p>21 Q. You could have done it?</p> <p>22 MR. VOGEL: I object to form.</p> <p>23 THE WITNESS: It was something I did</p> <p>24 not think of doing, because we just didn't routinely</p> <p>25 do that.</p>

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1 BY MR. MURDOCK:
2 Q. Now, you just added the word "routinely."
3 A. We did not do that. As an agency we would
4 talk to our own employees. The facilities would
5 handle their own employees.
6 If it's something that happened at
7 their facility, the director of nursing would handle
8 the investigation.
9 Q. Now, then Steven stated that that was all
10 the direct interaction he had. However, every time
11 he would come on the unit the patient would come up
12 to the desk and make a point of saying "hello" and
13 would focus on him; is that correct?
14 A. Yes.
15 Q. What did he mean by "focus on him?"
16 MR. VOGEL: I object to form.
17 Speculation.
18 MR. McBRIDE: Join.
19 THE WITNESS: I wrote it, so he told me
20 that.
21 BY MR. MURDOCK:
22 Q. But did you ask him, "What do you mean by
23 that?"
24 A. A focus in a psych facility -- you know, I
25 would assume they're coming up to him and making a

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1 point of --
2 Q. Well, did he tell you that? Did he tell
3 you what was meant by the word "focus," or did you
4 use the word?
5 A. I can't recall that.
6 Q. Okay. Now, it says here, "About a week
7 after his first contact with this particular patient,
8 Miriam, the RN III on GPOD stopped him and told him
9 that it would not be a good idea for him to come on
10 this unit while patient was on 3B, because patient is
11 stating 'She is having an affair with Santa Claus and
12 she thinks that she is married to him.'"
13 And that's what he told you,
14 correct?
15 A. That's in quotes. That's what he told me.
16 Q. Okay. And did you call the RN III, or did
17 you call Mary Jo Solon at Rawson-Neal to tell her
18 that you would like to talk to the RN III to find out
19 whether or not this was true?
20 A. Again, we did not do that.
21 Q. You didn't do it?
22 A. I did not call Mary Jo, because generally
23 that's not how it was done. I would talk to our
24 employees and she would talk to her employees.
25 Q. But there's nothing preventing you from

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1 doing that, correct?
2 MR. VOGEL: Objection to form. Asked
3 and answered.
4 THE WITNESS: Preventing? It's just
5 nothing that we did.
6 BY MR. MURDOCK:
7 Q. I understand. There's nothing preventing
8 you from picking up the phone and calling Mary Jo
9 Solon and saying, "Hey, look, Steven told me that the
10 RN III on GPOD told him that it wouldn't be a good
11 idea, because the patient is saying she's having an
12 affair with Santa Claus?"
13 A. I sent this to Mary Jo. That is what I
14 got, so she read this and she would have seen that
15 response.
16 Q. Now, the next paragraph states, "After this
17 discussion with Miriam, Steven stated that he felt
18 very uncomfortable with this situation, and called
19 Cindy in staffing and spoke with her about this and
20 told her that he could not be on this unit."
21 Do you see that?
22 A. Yes.
23 Q. Then it says, "Cindy had called our office
24 and spoke with Bonnie telling her that staffing would
25 not be putting Steven on this unit for right now,

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1 because there is a patient on that unit that is very
2 focused on the fact that Steve is married to her."
3 Do you see that?
4 A. Yes.
5 Q. Who is Bonnie?
6 A. Bonnie was a staffing coordinator at
7 American Nursing Services.
8 Q. So Bonnie worked for you?
9 A. Bonnie worked for us.
10 Q. Okay. So what you did after you took this
11 statement is you called Bonnie and said, "Hey,
12 Bonnie, did this occur?"
13 A. Well --
14 Q. Did you?
15 A. It's a very small -- let me finish what I'm
16 saying.
17 We're a very small office. This
18 was all going on and -- I mean Bonnie was right
19 there. So I mean I knew what was going on.
20 Q. Did you ask Bonnie whether or not this was
21 true?
22 MR. McBRIDE: Whether what was true?
23 THE WITNESS: Yeah. I don't
24 understand.
25 MR. VOGEL: I object to form.

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1 BY MR. MURDOCK:
2 Q. "Cindy had called our office and spoke with
3 Bonnie telling her that staffing would not be putting
4 Steven on this unit for right now, because there is a
5 patient on this unit that is very focused on the fact
6 that Steve is married to her."
7 A. Bonnie is in our office. I would have
8 talked to Bonnie about this.
9 Q. Did you talk to Bonnie?
10 A. I can't remember. I'm sure I did, but I
11 can't remember the exact conversation. It was four
12 years ago.
13 Q. Did you have Bonnie fill out an Incident
14 Report?
15 A. No. I ultimately would have.
16 Q. Did you have Bonnie fill out any notes at
17 all?
18 A. It would have been in our staffing system
19 if she had documented it.
20 Q. Do you know if she did?
21 A. I do not know for sure.
22 Q. Isn't that something that you would want
23 her to do? You would want her to document, "Yeah,
24 this is exactly what happened?"
25 MR. VOGEL: I object to form.

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1 BY MR. MURDOCK:
2 Q. If it really happened?
3 MR. VOGEL: I object to form.
4 THE WITNESS: I relied on my staffing
5 coordinators. They worked for me for awhile. I mean
6 I just relied on her that this was the truth. And it
7 should have been in our staffing system, if it was.
8 The staffing coordinators didn't really write out
9 documentation.
10 BY MR. MURDOCK:
11 Q. Have you seen any documents regarding
12 something in the system saying that Cindy called the
13 office and spoke with Bonnie, saying that staffing
14 wouldn't be putting Steven on the unit because there
15 was a patient that thinks that Steven is married to
16 her?
17 A. I can't remember all the documentation that
18 we had at that time.
19 Q. Do you recall any? Because I haven't seen
20 any.
21 A. I haven't seen our computer staffing
22 software in a long time, so I don't know for sure.
23 Q. If it wasn't there, does that mean it
24 didn't happen?
25 MR. VOGEL: Objection to form.

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1 Foundation.
2 BY MR. MURDOCK:
3 Q. Because you would expect it to happen,
4 wouldn't you? If Cindy had called Bonnie and said,
5 "Look, we're not putting Steven on this unit," you
6 would expect that that would be in your system,
7 wouldn't you?
8 MR. VOGEL: I object to form.
9 Foundation.
10 THE WITNESS: That's up to the
11 facility. If Steven went out there, they would have
12 not booked him on that particular unit. He was not
13 allowed to go back to that unit.
14 BY MR. MURDOCK:
15 Q. If Cindy had called American Nursing --
16 Cindy works at Rawson-Neal, right?
17 A. Cindy works at Rawson-Neal.
18 Q. Okay. If Cindy had called American Nursing
19 saying that, "We're not going to put Steven on this
20 unit because there's a patient saying that Steven is
21 married to her," you would expect that that would be
22 in your system, correct?
23 MR. VOGEL: I object to form.
24 Foundation.
25 THE WITNESS: We as an office would

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1 know that, yes.
2 BY MR. MURDOCK:
3 Q. Not in your office. In the system. In the
4 computer system.
5 A. I can't say for a hundred percent
6 certainty, Counselor. I don't have it in front of
7 me.
8 Q. I said you would expect it to be. Now,
9 whether it is, you would expect it to be?
10 MR. VOGEL: I object to form.
11 THE WITNESS: I would think it would
12 be. But you know, we make mistakes. We don't
13 document everything all the time sometimes.
14 BY MR. MURDOCK:
15 Q. But this is a pretty important thing
16 though, isn't it?
17 MR. McBRIDE: Let her finish.
18 MR. MURDOCK: I didn't know you were
19 representing her. I thought he was representing her.
20 MR. McBRIDE: I would just like a
21 complete answer, and I think you're interrupting her.
22 MR. MURDOCK: Well, we're getting
23 complete mumbo-jumbo. But that's okay.
24 BY MR. MURDOCK:
25 Q. Go ahead. Finish up whatever you were

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1 saying.
2 MR. VOGEL: Wait for the next question.
3 BY MR. MURDOCK:
4 Q. Well, you were saying something about, "We
5 make mistakes." Did you make a mistake in this case?
6 A. I don't know, Counselor.
7 Q. Well, did you ever look to find out whether
8 or not Cindy had actually called the office?
9 A. I don't know for sure if I did or not.
10 Q. Well, several months later you found out
11 that Steven was arrested, right?
12 A. Yes.
13 Q. And in fact you got a copy of a media
14 release.
15 MR. MURDOCK: We'll mark that as the
16 next exhibit.
17 (Plaintiff's Exhibit 9 marked.)
18 BY MR. MURDOCK:
19 Q. I'm showing you Plaintiff's Exhibit 9. You
20 got a copy of it at American Nursing, regarding
21 Steven Farmer, correct?
22 A. I don't remember this at all, honestly.
23 Q. Do you remember getting a call from a
24 detective at Metro?
25 A. I remember getting a call from Centennial

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1 Hills Hospital.
2 Q. Did you get a call from a detective at
3 Metro, and in fact you called American Nursing
4 because they wanted all Steven's personal
5 information? Do you remember that? And you refused
6 to give it to them.
7 Do you remember that?
8 MR. VOGEL: Hold on. You've got four
9 questions there. Which one do you want her to
10 answer?
11 MR. MURDOCK: Let's go to the first one
12 first. That's a good objection.
13 BY MR. MURDOCK:
14 Q. Did Metro call you?
15 A. I don't remember speaking with Metro
16 directly.
17 Q. Okay. Do you remember calling American
18 Nursing about Metro calling?
19 A. If I got a call from Metro I'm sure I
20 contacted somebody at corporate.
21 Q. Do you remember refusing to give Metro
22 Steven's personal information, his address?
23 A. If I refused anything, it was on advice of
24 our corporate office.
25 Q. All right. Now, that was somewhere around

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1 mid May, right? The media release is dated mid May,
2 and you say you've never seen that, correct?
3 A. I don't remember that document.
4 Q. It is an American Nursing document though,
5 right?
6 A. I don't know if it went right to corporate
7 or if it came to us. I'm not a hundred percent sure.
8 Q. Okay. Now, when you found out that Metro
9 was involved with Steven Farmer, did you go back and
10 look at this incident from January, from four months
11 before, to find out whether or not what Steven told
12 you was true? Did you want to look at that issue
13 maybe?
14 MR. VOGEL: I object to form.
15 THE WITNESS: I don't know if I went
16 back. Certainly I remember this incident, but --
17 BY MR. MURDOCK:
18 Q. Steven was arrested in May, correct?
19 You're aware of that?
20 A. Yes.
21 Q. Did you go back when he was arrested and
22 think to yourself, "Hey, I wonder if he was telling
23 me the truth back in January?" Did you go back and
24 do that?
25 A. I think as an individual -- not as a

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1 manager -- I mean I'm thinking about what happened
2 and what transpired, I mean as a human being and as a
3 nurse.
4 Q. Sure.
5 A. I certainly thought about it.
6 Q. Are you going back to say, in your own
7 mind, "Hey, do I think I might have made a mistake?
8 Did I miss something?"
9 A. No, I don't think so. I mean I think that
10 Steven -- there were incidents that happened. You
11 know, this happened to him.
12 But I've got a multitude of
13 positive evaluations that I received on him. From my
14 direct interaction, from other facilities'
15 interaction with him, he was a good employee. He was
16 a very good employee. He did everything we expected
17 of him. He got asked back numerous times at
18 different facilities.
19 And there's this one allegation.
20 And I took it seriously, but I believed there's also
21 his side of it.
22 And then when this happened -- I
23 couldn't predict that that was going to happen. I
24 didn't think that was going to happen.
25 Q. No, I understand that. I mean I'm not

<p style="text-align: right;">Page 109</p> <p>1 saying I agree with it, but what I'm saying is in May 2 of 2008, once he was arrested, in your own mind 3 didn't you go back and look through and say, "Hey, 4 you know, there was this other incident. I wonder if 5 there was something to it?" 6 Did you at least go back and think 7 about that? 8 A. I think I answered that question already. 9 Q. No, you didn't. Did you go back and think 10 about it? 11 A. I think as an individual I would have. 12 Q. Did you ask Bonnie -- when you went back 13 and thought about it, did you go back and look at 14 your notes and say to Bonnie, "Hey, Bonnie, did this 15 really occur?" 16 A. I don't remember saying that or doing that. 17 Q. Did you go back and look through the 18 computer documents to see whether or not Cindy had 19 actually called the office? 20 A. I don't remember doing that. 21 Q. Now, if you look at ANS00309, and that's 22 the second page of Plaintiff's Exhibit 8 -- that's 23 your second page of notes; is that correct? 24 A. That is my handwriting, yes. 25 Q. Well, it's the second page of notes and</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. "Left message for Mary Jo to follow up on 2 this," correct? 3 A. Yes. 4 Q. On February 12, 2008 you left a message for 5 Mary Jo to follow up on this, correct? 6 A. Yes. 7 Q. Did you actually write that, or did 8 somebody write that for you? 9 A. That's my handwriting. 10 Q. Do you see how there's little dots 11 underneath this? Maybe it's just a copy artifact or 12 a fax artifact. I don't know. 13 Was there something else written 14 there that was somehow attempted to be whited out or 15 something? 16 A. I don't believe so. That looks like my 17 handwriting. 18 Q. But do you see the dots underneath? 19 A. I don't know what that is, Counselor. 20 Q. Do you think that might be just an 21 artifact, or do you recall that there might be 22 something actually written underneath that somebody 23 tried to white out? 24 A. No, I don't think there was anything 25 written underneath. I don't what that is.</p>
<p style="text-align: right;">Page 110</p> <p>1 your handwriting, correct? 2 A. Yes. 3 Q. So can we agree that at the very least, on 4 January 25, 2008 he was on "Do not return" from 5 Rawson-Neal? Would you agree with that? 6 A. I would agree with that. 7 Q. Okay. Now, on your addendum you wrote a 8 note -- and I'm assuming the date is 1/31/08, as 9 opposed to 2/31/08? 10 A. Yes. 11 Q. Am I correct? 12 A. Yes. 13 Q. So on 1/31/08 you went to Southern Nevada 14 Mental Health and spoke with Mary Jo, is that 15 correct? 16 A. Yes. 17 Q. And that was on January 31st, correct? 18 A. That's what's documented, yes. 19 Q. And Mary Jo told you that she was still 20 gathering information with regard to the issue, and 21 she would get back to you, correct? 22 A. That's what I wrote. 23 Q. So on February 7th you wrote "LVM" -- I 24 assume that's "left message," correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Did you white something out and then write 2 on top of it, "Mary Jo to follow up on this?" 3 Do you see how it looks thicker 4 than the other? 5 A. I don't know. I can't recall. 6 Q. You can't recall whether you whited out 7 something that you had originally written? 8 A. I don't remember writing anything else but 9 this. I don't remember. 10 Q. Have you ever seen the original of this 11 document? 12 A. I don't know if it was in his original 13 employee file or not. 14 Q. Well, that was on February 12, 2008, 15 correct? 16 A. The last entry, yes. 17 Q. Okay. Now, he was still on "Do not 18 return," correct? 19 A. At Southern Nevada. 20 Q. And he was on "Do not return" for something 21 you described in your Incident Report as "Alleged 22 violations and abuse of patient." 23 Do you see that? 24 A. Yes. 25 Q. So of course what you did is on February</p>

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1 18th, six days later -- you sent him to Centennial
2 Hills, correct?
3 A. I would have to look at our staffing system
4 to see.
5 Q. Your investigation wasn't complete then,
6 was it?
7 A. The investigation at that facility was --
8 he was a DNR there, but we staffed other people at
9 different facilities when they still were DNR.
10 Q. But he was DNR for possible abuse of a
11 patient, not just because they didn't like his
12 attitude or something like that, right? This is a
13 little different. Would you agree with that?
14 MR. VOGEL: Different than what?
15 MR. MURDOCK: Okay. Let's take it back
16 a little bit.
17 BY MR. MURDOCK:
18 Q. People get DNR'd for every reason under the
19 sun from hospitals, right?
20 A. Yes.
21 Q. Because they don't like their attitude,
22 they maybe don't like piercings, they don't like
23 their hairstyle, whatever. Correct?
24 A. It could be a multitude of things, yes.
25 Q. A multitude of things.

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1 But you knew he was DNR'd at
2 Rawson-Neal because of possible abuse of a patient,
3 which is what you wrote, correct?
4 MR. VOGEL: I object to form.
5 THE WITNESS: I mean he was DNR'd based
6 on the feedback, what I heard from Mary Jo, and that
7 there was a patient that was focused on him.
8 And this was still -- like I
9 stated, this individual had an excellent history of
10 work. And I spoke with our corporate office about
11 this. It wasn't like I just staffed him without
12 speaking to anybody.
13 We're not going to allow somebody
14 not to work just because there's an allegation.
15 BY MR. MURDOCK:
16 Q. Just because there's an allegation of abuse
17 of a patient, you're not going to let somebody not
18 work?
19 MR. VOGEL: Hold on. I object.
20 Misstates testimony. She said focused on a patient.
21 Go ahead.
22 BY MR. MURDOCK:
23 Q. Well, the allegation that you determined to
24 be the allegation you described in your document was
25 "abuse of a patient."

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1 So what I'm getting at is, the
2 allegation was "abuse of a patient." You had your
3 side of the story. I got that. You got Steven's
4 side.
5 But the investigation was not
6 complete at Rawson-Neal, and you still sent him out
7 to another hospital knowing that, correct?
8 A. He was staffed at other facilities. He was
9 not DNR'd at all facilities. He was DNR'd at
10 Southern Nevada Adult Mental Health. So yes, he
11 worked at other facilities.
12 Q. Okay. So Centennial needs a CNA.
13 You got the contract, right? You
14 were the one who actually went out and got the
15 contract with Centennial, didn't you?
16 A. It was signed by our corporate office.
17 Q. Right, it was signed by, but you were the
18 one who referred it and got it set up, right?
19 A. Yes.
20 Q. Okay. And as a matter of fact, Centennial
21 at some point I guess told you they needed a CNA,
22 right?
23 A. That's how it would work, yes.
24 Q. Would they make a phone call? Or how would
25 that work?

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1 A. Different ways. I'm not a hundred percent
2 certain if Centennial did this or not, because I
3 wasn't directly involved in the staffing process each
4 day.
5 But sometimes they would fax over
6 a list of their needs. Some facilities did that. Or
7 else the staffing office would call us directly and
8 say, "Do you have an ICU? We need a CNA for here."
9 It just depends.
10 Q. Why would you even think about sending over
11 a nurse that had been DNR'd for what you described as
12 abuse of a patient -- possible abuse of a patient?
13 A. Alleged abuse of a patient. However, like
14 I stated, this was at a psych facility, where it
15 happens. I mean patients get fixated. This is a
16 focus fixated on an individual sometimes. It does
17 happen.
18 Q. Do patients also get --
19 MR. VOGEL: Hold on. Let her finish.
20 MR. MURDOCK: She was finished.
21 MR. VOGEL: No, she was not finished.
22 MR. MURDOCK: How do you know? She
23 didn't say "but" this time. I thought that was the
24 sign.
25 MR. VOGEL: Let her finish. You had

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1 asked her, "Why did you let him go back?"
2 MR. MURDOCK: Actually I wasn't
3 finished with my question. But go ahead.
4 MR. VOGEL: You asked her, "Why did you
5 let him go back?" She was explaining that.
6 BY MR. MURDOCK:
7 Q. Go ahead.
8 A. With a CNA with an excellent history with
9 us, we felt that -- I mean it was just not something
10 that we would say if anybody has a DNR against them,
11 they're not going to be able to work somewhere else.
12 It's just not something we followed.
13 Q. But again, there's DNRs and then there's
14 DNRs. There's a DNR for bad hair, piercings, et
15 cetera.
16 There's another DNR for possible
17 abuse. And don't you think, as clinical director of
18 clinical operations, you had a duty to where you sent
19 him to, to at least let them know that he had been
20 DNR'd from Rawson-Neal for an allegation -- even if
21 it was an allegations -- about this? Didn't you
22 think that you had that duty?
23 MR. VOGEL: I object to form.
24 THE WITNESS: It's not something we
25 would do, unless in the credentialing process the

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1 facility asked the nurse, "Have you ever been DNR'd
2 from a facility before," or something like that.
3 BY MR. MURDOCK:
4 Q. So you believe it's their responsibility?
5 A. No, no, no. I'm saying in some contracts
6 they'll ask the nurse, "Have you ever been DNR'd," in
7 the application process.
8 But as far as our end goes, we
9 wouldn't necessarily say a nurse had been DNR'd
10 somewhere. We're not going to tarnish their -- you
11 know, it's not necessarily something we would
12 automatically do.
13 Q. Yeah, but what if it was true? You didn't
14 even know at this point whether it was true or not,
15 and you still sent him out. The investigation wasn't
16 complete.
17 MR. VOGEL: I object to form and
18 foundation.
19 MR. McBRIDE: Join.
20 THE WITNESS: All I can say is that on
21 this issue I got advice from my corporate office as
22 well.
23 BY MR. MURDOCK:
24 Q. Who told you that it was okay to send him
25 out, at your corporate office?

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1 A. Who I've spoken to about this has been
2 three people. Connie Brown, Johnette Spellman, and
3 Carla. Those three people were aware of what was
4 happening with this whole investigation.
5 Q. Okay. So ANS decided on a corporate level
6 that it was okay to send him out, even though there
7 was this allegation out there that still had not been
8 fully investigated; is that correct?
9 MR. VOGEL: I object to form.
10 THE WITNESS: I'm not going to say
11 that. Corporately I cannot remember if I talk to
12 Connie or Carla or Johnette, but I know I spoke with
13 somebody about it. And everything I usually document
14 is in the staffing system that we did.
15 BY MR. MURDOCK:
16 Q. I don't have it, so I'm working kind of
17 blind here.
18 A. Well, I can't remember every single word
19 and every single documentation that I've done in four
20 years either. And I know this is an important case,
21 but honestly, I don't have that in front of me.
22 Q. Do you believe that there's more
23 documentation than I've shown you here today?
24 A. The only other documentation that I've
25 done, like I said, is in our TSS software system.

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1 That's where I documented.
2 MR. MURDOCK: Why don't we take a break
3 and come back here at -- how's 1:00 o'clock?
4 MR. VOGEL: How much longer do you
5 have? Because we've got another depo at 3:00.
6 MR. MURDOCK: I will try my best to get
7 you out.
8 (Lunch recess.)
9 BY MR. MURDOCK:
10 Q. Ms. Simmons, ultimately you received
11 information from Rawson-Neal allowing Mr. Farmer to
12 return to work; is that correct?
13 A. Yes.
14 Q. And that was -- in fact, I believe there's
15 a memorandum to the file dated March 20, 2008 from
16 Mary Jo Solon advising of this.
17 Are you aware of that?
18 A. I'm aware of the memo. I'm not aware of
19 the exact date.
20 MR. MURDOCK: Let's mark this as the
21 next exhibit.
22 (Plaintiff's Exhibit 10 marked.)
23 BY MR. MURDOCK:
24 Q. Showing you what's been marked as Exhibit
25 10, does that refresh your recollection?

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1 A. Yes.
2 Q. Have you ever seen that document before?
3 A. Yes.
4 Q. When have you seen that document?
5 A. Well, it was dated March 20th, but it was
6 in Steven Farmer's file.
7 Q. It was in Steven Farmer's file?
8 A. Yes.
9 Q. How do you know that?
10 A. I remember reviewing this document.
11 Q. You remember it?
12 A. I remember this document.
13 Q. You have an actual memory of reviewing that
14 document. Is that what you're saying?
15 A. I remember his DNR being reversed, yes, I
16 do.
17 Q. I'm not asking you that. I'm asking you
18 whether you remember seeing the document.
19 A. It looks like the document that I recall,
20 yes.
21 Q. How did you get the document?
22 A. The document I believe was -- I don't know
23 if it was faxed over or emailed over, but it came
24 over from Mary Jo Solon.
25 Q. So you think there might be an email from

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1 Mary Jo Solon to you?
2 A. I'm not sure. I'm not sure how this came
3 over.
4 Q. Did you have regular email contact between
5 you and Ms. Solon?
6 A. No.
7 Q. If you had a fax -- I'm just wondering why
8 there's no fax stamp on here. Can you tell me that?
9 A. I don't know why.
10 Q. Okay. Well, are you sure that was in the
11 file, or was that created after the fact, ma'am?
12 A. No, it was not created after the fact.
13 Q. It wasn't?
14 A. No.
15 Q. So in other words, it's your testimony --
16 just so I'm clear -- you had this document,
17 Plaintiff's Exhibit 10, in your file, or in the file
18 of Steven Farmer, prior to May of 2008.
19 Is that what your testimony is
20 here today?
21 MR. VOGEL: I object to form.
22 THE WITNESS: Prior to May of 2008?
23 BY MR. MURDOCK:
24 Q. Yeah. Was this document in your file?
25 A. I'm not sure exactly what day it went into

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1 our file.
2 Q. This is March. This is dated March 20th.
3 What I'm asking you is -- and you
4 can't tell me, apparently -- whether or not this was
5 in your file before May of 2008. Is that correct?
6 MR. VOGEL: I object to form.
7 THE WITNESS: I can't say exactly what
8 day.
9 BY MR. MURDOCK:
10 Q. Why can't you say that?
11 A. Because I don't remember the exact date.
12 Q. I'm not asking for an exact date. I'm
13 asking you two months down the line, and you can't
14 tell me that?
15 MR. VOGEL: I object to form.
16 Argumentative.
17 BY MR. MURDOCK:
18 Q. Is that what your testimony is here today?
19 A. I'm telling you that I do recall that
20 document. I'm not sure exactly when it went into the
21 file.
22 Q. Okay. So you would agree with me then that
23 it's possible that it came into the file after May of
24 2008?
25 MR. VOGEL: I object to form.

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1 THE WITNESS: I'm not sure exactly. I
2 can't remember when it went into our file.
3 BY MR. MURDOCK:
4 Q. And again, I'll ask you the same question.
5 Is it possible that it came in
6 after mid May 2008?
7 MR. VOGEL: I object to form.
8 THE WITNESS: I don't see why.
9 BY MR. MURDOCK:
10 Q. I'm not asking you why. I'm asking you, is
11 it possible?
12 MR. VOGEL: I object to form.
13 THE WITNESS: I don't know. I can't
14 remember the exact date. I don't know.
15 BY MR. MURDOCK:
16 Q. Now, again, I'm not asking you for exact
17 dates. All I'm asking you is whether or not you had
18 this document in Steve Farmer's file before he got
19 arrested.
20 MR. McBRIDE: Asked and answered.
21 MR. MURDOCK: No. This is a very
22 specific question.
23 BY MR. MURDOCK:
24 Q. Did you have this document in American
25 Nursing's files before Steven Farmer got arrested?

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1 MR. VOGEL: I object to form.
2 THE WITNESS: I don't know the exact
3 date it came through. I don't remember.
4 BY MR. MURDOCK:
5 Q. Okay. So it's possible then that this
6 document came and was put in Steven Farmer's file
7 after Steven Farmer was arrested, correct?
8 MR. VOGEL: I object to form.
9 THE WITNESS: After he was arrested? I
10 feel like I just don't know. I'm not sure. I'm not
11 sure when it was put in the file.
12 BY MR. MURDOCK:
13 Q. Okay. Now, when did you first meet Mary Jo
14 Solon?
15 A. That was years ago. She wasn't the first
16 director of nursing that was there when we started
17 working out there, but she came in later.
18 So it was probably the later end
19 of -- I don't know exactly what date. It's hard to
20 remember that. But it's not that I had daily contact
21 with her or anything.
22 Q. Have you ever gone out socially with her?
23 A. No.
24 Q. Have you ever gone out professionally with
25 her?

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1 A. No.
2 Q. In other words, did you take her out to
3 lunch, take her out to dinner, anything like that?
4 A. No.
5 Q. Did you go out as friends together?
6 A. No.
7 Q. Did you talk on the phone together?
8 A. No.
9 Q. Outside of professional relationships, do
10 you talk on the phone?
11 A. Outside of professional relationships with
12 her?
13 Q. Yeah, with her.
14 A. No.
15 Q. In other words, are you friends with her?
16 A. I'm not friends with her.
17 Q. Okay. Let me ask you, why didn't
18 Mr. Farmer go back to Rawson-Neal at the end of March
19 2008?
20 MR. VOGEL: I object to form.
21 THE WITNESS: I believe he was working
22 so much at Centennial. They were requesting him so
23 much.
24 BY MR. MURDOCK:
25 Q. Did you get nurse agency evaluations from

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1 Centennial regarding Mr. Farmer?
2 A. I don't know if we have any in our file. I
3 can't recall.
4 Q. Okay.
5 A. It was mostly verbal. Usually if a
6 facility likes somebody they would request them.
7 Q. Okay. Now, did you actually read this
8 memorandum, or did you just put it in the file when
9 you got it, whatever date you got it?
10 A. No, I read it.
11 Q. So you're aware then that the staffing
12 coordinator -- that's Cindy, right, over at
13 Rawson-Neal?
14 A. Yes.
15 Q. Cindy does not recall any conversations
16 with Mr. Farmer about the patient being fixated.
17 You recall that, right, that she
18 said that in here?
19 MR. VOGEL: I object to form.
20 THE WITNESS: Okay.
21 BY MR. MURDOCK:
22 Q. Well, does that comport with what Steve
23 Farmer told you?
24 MR. VOGEL: I object to form.
25 MR. McBRIDE: Join.

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1 BY MR. MURDOCK:
2 Q. Regardless of the second paragraph, does
3 that comport with it?
4 MR. VOGEL: I object to form.
5 MR. McBRIDE: Join.
6 THE WITNESS: Okay. That's what Mary
7 Jo wrote in that.
8 BY MR. MURDOCK:
9 Q. Let me do it this way.
10 Mary Jo wrote this memorandum
11 allegedly on March 20, 2008, okay? And allegedly you
12 received it at some point, you just don't know when.
13 Now, Mary Jo writes in here,
14 "Mr. Farmer stated he communicated his concern
15 regarding this patient's fixation. However, the
16 staffing coordinator" -- that's Cindy, right?
17 A. At Southern Nevada Adult Mental Health,
18 yes.
19 Q. -- "does not recall any conversation with
20 Mr. Farmer about this topic."
21 A. Okay.
22 Q. You're aware that it says that, right?
23 A. If that's what it says, that's what it
24 says.
25 Q. Well, just take a look. I don't want you

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1 to say I'm putting words in your mouth. That is what
2 it says, isn't it?
3 A. Yes.
4 Q. Okay. Now, when you got that, did you go
5 back and look at the statement that he gave you,
6 wherein he stated that he told Cindy all about this?
7 A. I do recall him telling me that.
8 Q. But did you go back and look at the
9 document?
10 A. I don't know for sure.
11 Q. Why didn't you go back?
12 MR. VOGEL: I object to form.
13 MR. McBRIDE: Join.
14 THE WITNESS: I don't know. I don't
15 know for sure why. I can't recall if I went back or
16 not.
17 BY MR. MURDOCK:
18 Q. Wouldn't that be part of your investigation
19 of your employee, as opposed to their investigation?
20 MR. VOGEL: I object to form.
21 BY MR. MURDOCK:
22 Q. In other words, going back and saying what
23 their employees say, and comparing it to what your
24 employee says? Isn't that part of your
25 investigation?

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1 MR. VOGEL: I object to form.
2 THE WITNESS: I went by what Steven had
3 told me, and this is obviously stating that he can
4 come back.
5 BY MR. MURDOCK:
6 Q. I don't care about whether he can come back
7 or not. What I'm asking you is whether or not the
8 first paragraph -- the first paragraph says Cindy
9 didn't remember anything.
10 Didn't that ring a bell in your
11 head, or something like that, saying, "Hey, something
12 is up here maybe?"
13 MR. VOGEL: I object to form.
14 BY MR. MURDOCK:
15 Q. As to your employee?
16 MR. VOGEL: I object to form.
17 THE WITNESS: No. No. I mean he's
18 never lied to me. He's always been very upfront
19 about everything.
20 BY MR. MURDOCK:
21 Q. Well, do you think he lied to you here?
22 MR. VOGEL: Hold on. Hold on. I
23 object to form. Lied to you here about what?
24 BY MR. MURDOCK:
25 Q. Do you think he lied to you --

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1 MR. VOGEL: Hold on. You're showing
2 her Exhibit 10 saying, "Did he lie to you here?"
3 MR. MURDOCK: I'll restate it.
4 BY MR. MURDOCK:
5 Q. Do you think he lied to you about Cindy --
6 about what he allegedly told Cindy?
7 MR. McBRIDE: I object to form.
8 MR. VOGEL: I object to form.
9 BY MR. MURDOCK:
10 Q. Cindy doesn't remember it.
11 MR. VOGEL: I object to form.
12 MR. McBRIDE: Join.
13 THE WITNESS: Cindy doesn't remember,
14 but Steven told me that he did speak with her.
15 BY MR. MURDOCK:
16 Q. So you took Steven at his word, right?
17 A. I did at that time.
18 Q. And you took Steven at his word because he
19 had been a model employee of yours, right?
20 A. Correct.
21 Q. No issues at all, right?
22 A. He's been a very good employee, yes.
23 Q. Did he have any issues?
24 A. Not that I recall.
25 Q. In fact, you have glowing recommendations,

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1 right?
2 A. (No response.)
3 Q. Is that right?
4 MR. VOGEL: I object to form.
5 THE WITNESS: Yes, he's had several
6 very positive evaluations.
7 BY MR. MURDOCK:
8 Q. Did you have any negative ones?
9 A. Not that I remember.
10 Q. So what you did is you took his word for
11 it, right?
12 MR. VOGEL: I object to form.
13 THE WITNESS: I went with what Steven
14 had told me, and I don't recall -- that says she
15 doesn't remember, but I mean that's Mary Jo's
16 investigation with her employee, in speaking with her
17 employee.
18 BY MR. MURDOCK:
19 Q. And you believed your employee?
20 A. And I believed my employee.
21 Q. Okay. So at that point what did you do?
22 MR. VOGEL: I object to form.
23 THE WITNESS: At that point?
24 BY MR. MURDOCK:
25 Q. With Mr. Farmer.

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1 A. We reinforced his boundaries.
2 Q. How did you do that?
3 A. We had him do just an appropriate boundary
4 test again.
5 Q. Where is that?
6 MR. VOGEL: I object to form.
7 THE WITNESS: I don't recall where
8 that -- I don't know if you have the document or not
9 have the document, but I know we went through that.
10 BY MR. MURDOCK:
11 Q. Have you looked at all the American Nursing
12 documents in this case?
13 A. I don't have everything.
14 Q. Have you been provided them by counsel?
15 MR. VOGEL: I object to form. Hold on.
16 Don't answer that. Attorney-client privilege.
17 BY MR. MURDOCK:
18 Q. Have you reviewed them at all?
19 A. I don't have all the documents.
20 Q. So you're telling me there should be a
21 document out there where Mr. Farmer was given another
22 boundary test?
23 MR. VOGEL: I object to form.
24 Misstates testimony.
25 THE WITNESS: All I'm saying, we

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1 reviewed the tests that he had previously done. I
2 don't know if there's another.
3 BY MR. MURDOCK:
4 Q. Wait a minute. Wait a minute.
5 You just testified, not two
6 minutes ago, that you gave him another test.
7 A. I believe we --
8 MR. VOGEL: Hold on.
9 BY MR. MURDOCK:
10 Q. Let me finish my question.
11 A. Sorry.
12 Q. You just testified that way.
13 And then you just testified, "No,
14 we just went over the same test." Which is it?
15 MR. VOGEL: Hold on. I object to form.
16 It misstates testimony. Go ahead and provide your
17 answer.
18 MR. McBRIDE: Argumentative.
19 MR. VOGEL: I'll join that.
20 THE WITNESS: Our instruction by this
21 facility, after they had done their investigation,
22 stated that we needed to reinforce appropriate
23 boundaries with him.
24 "However, this memorandum serves
25 as a written request to American Nursing Services to

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1 reinforce appropriate boundaries with Mr. Farmer, as
2 well as to report in writing and verbally any
3 inappropriate patient fixation."
4 So I discussed that with him. I
5 don't remember, but I know we went over appropriate
6 boundaries together. I know we did that. And part
7 of that was in the appropriate boundaries exam that
8 he had to do.
9 BY MR. MURDOCK:
10 Q. So you didn't give him another test?
11 MR. VOGEL: I object to form.
12 Misstates testimony. Go ahead.
13 THE WITNESS: I can't recall.
14 BY MR. MURDOCK:
15 Q. You can't recall now?
16 A. I can't recall. I know that we had done
17 that before when he originally went out there, but I
18 know that we went over it.
19 Q. You had done what before, when he
20 originally went out there?
21 A. We had had him do the appropriate
22 boundaries, which you had shown me as --
23 Q. As an exhibit?
24 A. As an exhibit.
25 Q. Okay. We went over that one.

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1 A. Correct.
2 Q. And then did you give him another one, or
3 didn't you give him another one? I don't understand.
4 MR. VOGEL: I object to form.
5 THE WITNESS: I'm not a hundred percent
6 sure.
7 BY MR. MURDOCK:
8 Q. Well, did he answer all the questions this
9 time, as opposed to the last time?
10 A. I'm not a hundred percent sure.
11 Q. Who went over it with him?
12 MR. VOGEL: I object to form.
13 THE WITNESS: That would have been my
14 responsibility.
15 BY MR. MURDOCK:
16 Q. Did you go over it with him? I realize it
17 might be your responsibility, but did you go over it
18 with him?
19 MR. VOGEL: I object to form. Asked
20 and answered.
21 THE WITNESS: I believe -- I don't know
22 a hundred percent. I mean I can't remember. It's
23 been a long time.
24 BY MR. MURDOCK:
25 Q. If you went over it with him, wouldn't you

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1 have put a note in his file?
2 A. I would have put a note either in our
3 computer staffing software or in his file.
4 Q. Now, when was the last time that you looked
5 at your computer staffing software?
6 A. When the company filed bankruptcy.
7 Q. And do you recall ever seeing a note like
8 that?
9 A. I don't remember.
10 Q. And if there isn't a note like that, does
11 that mean you didn't do it, you didn't go over it
12 with him?
13 A. Not necessarily. I try to be thorough,
14 especially with something like this. I would
15 document it somewhere.
16 But you know, this was a DNR. I
17 mean I'm going to follow up. I'm going to, you know,
18 talk with the employee about what the facility is
19 expecting of him and of us, before we would ever send
20 him out there again.
21 Q. Now, while this was going on -- this was
22 March 20th remember -- he had already been working at
23 Centennial for over a month.
24 You're aware of that, right?
25 A. Yes.

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1 Q. Did you call Centennial and say, "Hey, you
2 know, I need to know if there's any boundary issues,
3 because we've had this prior instance?"
4 A. No.
5 Q. Why not?
6 A. I didn't.
7 Q. Why not?
8 A. I just didn't. We were getting positive
9 feedback from him, so why would I even bring that up?
10 Q. Well, because wouldn't you want to put them
11 on notice so there's no harm to patients?
12 MR. VOGEL: I object to form.
13 THE WITNESS: No. I mean we were
14 getting positive feedback from him. Why would I want
15 to --
16 BY MR. MURDOCK:
17 Q. Where is the positive feedback, by the way?
18 A. The evaluations.
19 Q. Where are they? I haven't seen any
20 evaluations from Centennial Hospital, so where are
21 they?
22 A. I'm talking verbally. I don't know if he
23 got anything. I don't know if there's anything in
24 writing from Centennial, but the staffing
25 coordinator -- they would request him all the time.

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1 They loved him in the ER and they wanted him back.
2 Q. And of course there's some documentation to
3 that effect in the American Nursing Files, correct?
4 A. I don't know if there is or not.
5 Q. Well, why wouldn't there be?
6 MR. VOGEL: I object to form.
7 THE WITNESS: I don't know if there is
8 or not. I don't remember every little thing.
9 BY MR. MURDOCK:
10 Q. You were the head of the office in Las
11 Vegas, correct?
12 A. Correct.
13 Q. Now, it was your decision to send him to
14 Centennial Hills, correct?
15 A. Along with the advice from the corporate
16 office that it was okay to staff him.
17 Q. And you and your office decided to staff
18 him at Centennial Hills, knowing that there was an
19 investigation continuing; is that correct?
20 A. He was allowed to work elsewhere, yes.
21 Q. And you did not inform Centennial Hills,
22 did you, that there was an investigation pending?
23 A. Not at that time.
24 Q. When did you inform them?
25 A. We did not inform them, no.

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1 Q. Well, then why did you say "not at that
2 time?"
3 MR. VOGEL: I object to form.
4 Argumentative.
5 THE WITNESS: We did not. We did not
6 inform them, no.
7 BY MR. MURDOCK:
8 Q. Well, I want to make sure. Was there a
9 time that you actually did inform them?
10 A. No. We did not inform them.
11 Q. You did not inform them?
12 A. No.
13 Q. Didn't you think you had a duty to inform
14 them, to let them make a decision as to whether or
15 not they wanted a guy who was under investigation?
16 MR. VOGEL: I object to form.
17 BY MR. MURDOCK:
18 Q. Wasn't that their decision?
19 MR. VOGEL: I object to form.
20 THE WITNESS: I followed along with the
21 direction that I got from HR, from corporate
22 compliance, and there was nothing -- he wasn't
23 guilty. It was ongoing. How could we prevent
24 somebody from working? It was an allegation.
25

<p>1 BY MR. MURDOCK: Page 141</p> <p>2 Q. It was a serious allegation, again.</p> <p>3 MR. VOGEL: Hold on. I object to form.</p> <p>4 Argumentative.</p> <p>5 BY MR. MURDOCK:</p> <p>6 Q. It was a serious allegation, wasn't it?</p> <p>7 MR. VOGEL: Same objection.</p> <p>8 THE WITNESS: I mean we take -- like I</p> <p>9 think I've stated before, every complaint we have on</p> <p>10 an employee we're going to take seriously, one way or</p> <p>11 the other. There's extremes. This is an extreme</p> <p>12 allegation.</p> <p>13 BY MR. MURDOCK:</p> <p>14 Q. How did you take this one seriously?</p> <p>15 A. By doing everything that we've done.</p> <p>16 Q. What did you do? All I understand that you</p> <p>17 did is you took a statement from the guy. What else</p> <p>18 did you do?</p> <p>19 A. That was part --</p> <p>20 MR. VOGEL: Hold on. I object to form.</p> <p>21 Misstates prior testimony. Foundation.</p> <p>22 Go ahead and answer.</p> <p>23 THE WITNESS: I felt like we did what</p> <p>24 is expected of us as an agency.</p> <p>25 I took Steven's statement. I</p>	<p>1 A. Well -- Page 143</p> <p>2 MR. VOGEL: I object to form.</p> <p>3 THE WITNESS: Let me read this just</p> <p>4 really quickly.</p> <p>5 I honestly haven't seen this</p> <p>6 Incident Report in four years. I have not seen this,</p> <p>7 so I'm just taking time to read it over.</p> <p>8 BY MR. MURDOCK:</p> <p>9 Q. Take as much time as you want. I don't</p> <p>10 care.</p> <p>11 A. Okay.</p> <p>12 Q. Could you read it in your handwriting for</p> <p>13 us, please?</p> <p>14 A. Yeah.</p> <p>15 Q. I understand the top part. You don't have</p> <p>16 to read that. But why don't you start with the</p> <p>17 "Description of exactly what happened" -- that</p> <p>18 paragraph. Why don't you read that?</p> <p>19 A. "At 11:30 a.m., 5/16/08, Amy Bochemek, ER</p> <p>20 Manager of Centennial Hills Hospital, called to</p> <p>21 report an incident that occurred this morning with</p> <p>22 our employee, Steven Farmer, CNA. Amy stated that a</p> <p>23 patient has reported to them that Steven had</p> <p>24 allegedly exchanged phone numbers with this patient.</p> <p>25 This occurred approximately at 0400 this morning</p>
<p>1 presented it to the facility. The facility conducted Page 142</p> <p>2 their investigation.</p> <p>3 We did not staff Steven at that</p> <p>4 facility at the time, and then eventually he was</p> <p>5 cleared from -- he was allowed to go back.</p> <p>6 MR. MURDOCK: Let's mark this as the</p> <p>7 next exhibit.</p> <p>8 (Plaintiff's Exhibit 11 marked.)</p> <p>9 BY MR. MURDOCK:</p> <p>10 Q. Ma'am, I'm showing you what's been marked</p> <p>11 as Plaintiff's Exhibit 11. Have you ever seen that</p> <p>12 document before?</p> <p>13 A. Yes.</p> <p>14 Q. Did you create it?</p> <p>15 A. Did I create it? This is my writing, yes.</p> <p>16 Q. So you created the document, right?</p> <p>17 A. Yes.</p> <p>18 Q. Now, in that document does it state</p> <p>19 anything about the prior incident at all?</p> <p>20 A. No, I don't believe so. I'd have to read</p> <p>21 it.</p> <p>22 Q. Did you take Steven's statement?</p> <p>23 A. I think he was under arrest at that time.</p> <p>24 They had arrested him.</p> <p>25 Q. So once they arrested him, what did you do?</p>	<p>1 while CNA transferred patient from ER to med-surg Page 144</p> <p>2 floor."</p> <p>3 Q. Now, just stop there for a second and let</p> <p>4 me ask you a few questions about that line.</p> <p>5 Now, it's talking about Steven</p> <p>6 Farmer exchanging phone numbers, correct?</p> <p>7 A. Yes.</p> <p>8 Q. You're aware, aren't you, that that's what</p> <p>9 he was alleged to have done -- at least he made phone</p> <p>10 calls and things like that -- in the Rawson-Neal</p> <p>11 matter. Correct?</p> <p>12 MR. VOGEL: I object to form.</p> <p>13 Misstates evidence.</p> <p>14 MR. McBRIDE: Join.</p> <p>15 THE WITNESS: I believe so.</p> <p>16 BY MR. MURDOCK:</p> <p>17 Q. So when you heard that from Amy -- and</p> <p>18 again, we're talking just a couple of months later --</p> <p>19 did that ring a bell with you and say something like,</p> <p>20 "Uh-oh, is this happening again with Steven?"</p> <p>21 MR. VOGEL: I object to form.</p> <p>22 MR. McBRIDE: Join.</p> <p>23 THE WITNESS: I was pretty shocked by</p> <p>24 what we heard, sure.</p> <p>25</p>

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1 BY MR. MURDOCK:
2 Q. Go ahead. Read the next part.
3 A. "At that time patient alleged that Steven
4 stated that he would return later that morning to see
5 her. At approximately 0700 to 0730 this morning Amy
6 stated that patient alleged that Steven came back to
7 her room, and she had mentioned that oral sex and
8 finger fondling had occurred. A male nurse entered
9 the room around that time and reported that he had
10 seen Steven in the room at that time, but reported
11 nothing else. The house supervisor spoke with
12 patient and Metro Police Department was called. At
13 approximately 11:45 p.m. I called Steven and spoke
14 with him telling him that he is a DNR at Centennial
15 Hills and there is a very serious allegation that
16 they are investigating concerning a patient reporting
17 sexual abuse. I asked him if he had any recollection
18 or had any memory of any issues or could this be
19 misinterpreted. Steven was very quiet for several
20 second and then stated that he did exchange phone
21 numbers with patient. At the same time" --
22 BY MR. MURDOCK:
23 Q. Let's stop there for a second.
24 Now, so Steven admitted to you
25 that he had exchanged phone numbers with the patient,

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1 is that correct?
2 A. Yes.
3 Q. You said that he waited a few seconds
4 before answering the question?
5 A. He was quiet for several seconds, yes.
6 Q. Why did you write that?
7 A. I don't know. Because I think that's what
8 happened. I mean I was just writing down what
9 exactly happened.
10 Q. In other words, he didn't yell out, "No,
11 that didn't happen," correct?
12 A. No. He was quiet, and then he stated he
13 did exchange phone numbers.
14 Q. And when he said to you he exchanged phone
15 numbers -- well, first of all, did you tell him
16 exactly what was alleged to have occurred?
17 A. I just said there was a very serious
18 allegation they were investigating concerning a
19 patient reporting sexual abuse.
20 Q. Okay. You didn't tell him specifically
21 what she had alleged, is that correct?
22 A. This is exactly what I stated to him.
23 Q. You stated just "sexual abuse?"
24 A. "Reporting sexual abuse."
25 Q. You didn't mention "fondling," correct, to

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1 him?
2 A. No.
3 Q. You didn't mention "oral sex," correct?
4 A. No, I didn't mention that.
5 Q. You just mentioned "sexual abuse?"
6 A. "Sexual."
7 Q. Why did you do that? Why didn't you
8 mention "fondling" and "oral sex?"
9 A. I mean that's all included. I mean it's
10 sexual in nature. It's sexual.
11 Q. Okay. So he admitted to you that he had
12 exchanged phone numbers, right?
13 A. He stated that he did exchange phone
14 numbers with the patient, yes.
15 Q. And after he admitted to you that he
16 exchanged phone numbers, what did you tell him?
17 A. He stated he did exchange phone numbers
18 with the patient, and then after that I told him that
19 I was going to call our HR department.
20 And at the same time -- do you
21 want me to continue with what I'm reading?
22 Q. You said you were going to call the HR
23 department. How long did this phone call last?
24 A. With Steven?
25 Q. Yeah.

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1 A. I don't remember how many minutes it
2 lasted. I didn't tape it or anything. Because at
3 the same time I was speaking with the Metro Police
4 officer on the line.
5 Q. So the Metro Police officer was on the line
6 with you when you called Steven?
7 A. At the same time I was speaking with
8 Steven, Metro PD was on the line requesting from us
9 his local address.
10 Q. Well, that's two different things.
11 I assume American Nursing had more
12 than one line?
13 A. Right.
14 Q. So in other words, Metro was not listening
15 into your phone call.
16 A. No, no, no.
17 Q. Okay. So what was happening is, you had
18 the phone call with Steven, and you were talking with
19 Steven, and then Metro called?
20 A. I believe so.
21 Q. Now, so when you were on the phone call
22 with Steven, how long did that phone call last? Can
23 you give me an estimate?
24 A. I think it was pretty quick, but I don't
25 know exactly.

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1 Q. Well, all we have here in your statement
2 is, "I told about sexual abuse, he admitted to
3 exchanging phone numbers." That would be about 15
4 seconds.
5 A. It was quick. Because he was upset, too,
6 and --
7 Q. How do you know he was upset?
8 A. The tone of his voice.
9 Q. What did he say?
10 A. I don't remember what he said, but I just
11 remember that. I just remember anxiety.
12 Q. I want you to go backwards in time. I want
13 you to think about the phone call.
14 You decided to call Steven. First
15 of all, why did you decide to call Steven?
16 A. He's our employee and this is obviously a
17 complaint against him.
18 Q. But don't you think it's a criminal matter,
19 because of sexual abuse?
20 A. He's our employee. I mean that's something
21 we're going to do. We're going to follow up. He's
22 still our employee. He was out there on our behalf.
23 Q. Okay. So you called Steven, and did you
24 say, "Steven, I have something very upsetting to
25 discuss with you?" Or how did you start the phone

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1 call?
2 A. All I can remember is what I documented.
3 It's four years ago.
4 Q. I know it's four years ago.
5 A. I'm going to go by what I documented. It's
6 hard to remember that.
7 Q. I'm trying to figure out why it's so hard
8 to remember a phone call that one would think would
9 be somewhat engrained.
10 Are you on any medication today?
11 MR. VOGEL: I object to form.
12 Argumentative.
13 BY MR. MURDOCK:
14 Q. Are you on any medication?
15 A. I am on medication.
16 Q. What medication are you on?
17 A. Progesterone.
18 Q. Does that affect your memory in any way?
19 A. It's actually helping my memory a little
20 bit, but yes.
21 Q. Okay.
22 A. I'm sorry, it was four years ago, and it is
23 hard for me to remember.
24 Q. But four years ago -- how many phone calls
25 have you had discussing with employees alleged sexual

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1 abuse? How many phone calls?
2 A. Honestly --
3 Q. Answer that question, and then you can go
4 on and answer whatever you're going to answer.
5 How many phone calls have you had
6 with employees discussing alleged sexual abuse?
7 A. This is the one.
8 Q. Okay. Now, you're telling me, even though
9 it's four years ago, you don't remember the phone
10 call?
11 MR. VOGEL: Hold on. I object to form.
12 Misstates her testimony. Go ahead and answer.
13 MR. McBRIDE: Join.
14 THE WITNESS: I do not. That's why I
15 do write things down, to help me remember when
16 something happens, and then I can refer to it later.
17 I mean that's what I'm trained as
18 as a nurse. I'm not always perfect at it all the
19 time, but that's how I try to remember things.
20 BY MR. MURDOCK:
21 Q. Because with nursing notes you want to be
22 exact, because other people may be looking at those
23 notes later on. Is that correct? That's why you
24 write things down, as a nurse?
25 MR. VOGEL: I object to form.

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1 THE WITNESS: You try to document as
2 best you can, yes.
3 BY MR. MURDOCK:
4 Q. So again, getting back to the phone call,
5 outside of this one admission by Mr. Farmer that,
6 "Yes, I exchanged phone numbers," you don't remember
7 anything else about the phone call; is that correct?
8 MR. VOGEL: I object to form.
9 Misstates testimony.
10 THE WITNESS: That's all I can
11 remember, is what I documented.
12 BY MR. MURDOCK:
13 Q. Did you tell him he was DNR'd in that phone
14 call?
15 MR. VOGEL: I object to form. You can
16 answer.
17 THE WITNESS: It says, "Steven
18 apologized and told me that he assumes he's on
19 suspension. I told him that I would inform my
20 compliance department and HR department of these
21 allegations. Notified Johnette Spellman in HR."
22 And that's what I told him. He
23 assumed he's on suspension, but I mean he was DNR'd.
24 BY MR. MURDOCK:
25 Q. Why would he assume he was on suspension?

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1 Do you know? Did he tell you why?
2 A. He didn't tell me why.
3 Q. What did he say about the sexual abuse?
4 A. He didn't say anything about the sexual
5 abuse.
6 Q. Did he deny it?
7 A. What he stated was he exchanged phone
8 numbers with the patient. He didn't say anything
9 more about anything else.
10 Q. Let's go back. I just want to be crystal
11 clear about this.
12 He did admit that he exchanged
13 phone numbers with the patient, correct?
14 A. Yes.
15 Q. And after that, what did he do? What did
16 he say and what did you say?
17 MR. VOGEL: I object to form.
18 THE WITNESS: I said that I will need
19 to clarify with our HR department first, and then
20 would give Steven -- oh, that's when I was talking to
21 Metro, like I stated, around the same time.
22 But I spoke with Steven and gave
23 him Metro PD's phone number. Steven apologized and
24 told me that he assumes he's on suspension. I told
25 him that I would inform my compliance department and

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1 HR department of these allegations. That's what I
2 did.
3 BY MR. MURDOCK:
4 Q. Okay. Did you have two phone calls with
5 Steven? In other words, did you hang up the phone,
6 and then did you speak with Metro, and then you gave
7 Steven the Metro number?
8 A. I'm not sure about that. I don't know if
9 it was -- it was all at the same time, but I don't
10 remember if it was two separate phone calls with him.
11 Q. But Steven did apologize?
12 A. He apologized.
13 Q. What did he apologize for?
14 A. I don't know specifically. He was upset.
15 He was like, "I'm sorry. I'm just sorry."
16 I don't think he said specifically
17 what. He just was upset.
18 Q. But at no time in the phone call with
19 Steven -- at no time did he ever say, "I did not
20 sexually abuse anybody." Is that correct?
21 MR. McBRIDE: I object to form. Lack
22 of foundation.
23 THE WITNESS: I'm not sure if he denied
24 it or not.
25 MR. MURDOCK: Can you tell me exactly

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1 what's wrong with the question? Because I want to
2 make sure that question is right.
3 MR. McBRIDE: It lacks foundation.
4 BY MR. MURDOCK:
5 Q. You were talking to Steven on the phone, is
6 that correct?
7 A. Yes.
8 Q. Did you know it was Steven on the phone?
9 A. Yes.
10 Q. You dialed his number, correct?
11 A. Yes.
12 Q. And at any time during the phone call did
13 Steven say to you, "I did not sexually abuse anyone?"
14 A. I don't recall if he said that or not.
15 Q. If he would have said that, do you think
16 you might have written that down?
17 MR. VOGEL: I object to form.
18 BY MR. MURDOCK:
19 Q. Do you think that might have been that
20 important, that you would have written that down?
21 MR. VOGEL: I object to form.
22 THE WITNESS: I asked him if he had a
23 recollection -- and I'm reading exactly what I recall
24 the conversation to be. I can say that this is what
25 I wrote.

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1 BY MR. MURDOCK:
2 Q. At any point in the conversation -- since
3 you didn't write it -- can we assume that he didn't
4 say, "I did not sexually abuse anybody?"
5 A. I don't recall him saying that. I don't
6 recall it.
7 Q. Now, Metro calls you. You speak to Metro.
8 Tell me about that conversation
9 with Metro.
10 A. I spoke with a Sergeant Pence, and he
11 requested his address from us, and I know I had to
12 call corporate regarding that.
13 Q. Okay. And who did you speak to at
14 corporate?
15 A. I notified Johnette Spellman in HR.
16 Q. And Johnette asked you for all of the
17 places where he worked?
18 A. She can access all that, I'm sure. She
19 could have accessed all that, but I don't recall
20 exactly what she asked for.
21 Q. Now, on the fourth page of the document,
22 ANS00243, there appears to be some writing under
23 "Corporate Compliance." Do you see that?
24 A. Yes, I do.
25 Q. And there also appears to be a signature

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1 where it says "Corporate Compliance." Do you see
2 that?
3 A. Yes.
4 Q. Whose signature is that?
5 A. It looks like -- it's not mine, so I don't
6 know exactly. I sent this to Johnette Spellman.
7 Q. Who would it be? If it wasn't Johnette
8 Spellman, who would it be?
9 A. The only other person would be Connie
10 Brown.
11 Q. Okay. Whose handwriting is under
12 "Corporate Compliance?"
13 A. I don't remember the handwriting. I don't
14 know whose that is exactly. I can't say with a
15 hundred percent certainty whose that is.
16 Q. Okay.
17 A. The signature is not printed, so I'm not a
18 hundred percent sure.
19 Q. Now, it looks like this says, "JS notified
20 corporate clinical compliance." Is that correct?
21 That's the first line?
22 A. Yes.
23 Q. Then it says underneath that, "M. Simmons -
24 Place on hold pending investigation." Correct?
25 A. Yes.

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1 Q. Now, while he was on hold during this
2 investigation, would you have sent him out to another
3 facility?
4 MR. VOGEL: I object to form. It calls
5 for speculation.
6 BY MR. MURDOCK:
7 Q. Well, would there be any reason why you
8 wouldn't send him out? He's a good employee, isn't
9 he?
10 A. I mean this -- no, we did not send him out.
11 Q. Would you have sent him out?
12 MR. VOGEL: I object to form.
13 BY MR. MURDOCK:
14 Q. In other words, if he wasn't arrested and
15 all you had is this, would you have sent him out
16 to -- I don't know, Sunrise Hospital?
17 MR. McBRIDE: I object to form.
18 Incomplete hypothetical.
19 MR. VOGEL: Foundation. Argumentative.
20 THE WITNESS: I followed the
21 recommendation of the HR.
22 BY MR. MURDOCK:
23 Q. I understand what you did.
24 What I'm asking you is, would you
25 have?

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1 A. That's what I did.
2 Q. As clinical director of clinical
3 operations, and basically branch manager -- if this
4 is all you had, you didn't have the arrest -- would
5 you have sent him out to another hospital the next
6 day?
7 MR. VOGEL: I object to form.
8 Foundation. Calls for speculation.
9 THE WITNESS: Again, he's on hold
10 pending investigation. That's what I was directed to
11 do.
12 BY MR. MURDOCK:
13 Q. Why was he on hold pending this
14 investigation, if he wasn't on hold pending the other
15 investigation in January?
16 MR. VOGEL: I object to form.
17 Foundation.
18 BY MR. MURDOCK:
19 Q. What's the difference?
20 MR. VOGEL: I object to form.
21 Foundation.
22 THE WITNESS: Well, I mean it was a
23 second -- it was another incident.
24 BY MR. MURDOCK:
25 Q. So for the first incident he gets a free

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1 pass? Is that what you're saying?
2 A. No.
3 MR. VOGEL: I object to form.
4 Argumentative.
5 BY MR. MURDOCK:
6 Q. So what are you saying?
7 A. No, it wasn't that.
8 Q. Well, what was it? If he doesn't get a
9 free pass, what is it?
10 MR. VOGEL: I object to form.
11 THE WITNESS: I mean we wouldn't have
12 sent him out to another facility. We wouldn't have
13 sent him out.
14 BY MR. MURDOCK:
15 Q. Why?
16 A. We just wouldn't.
17 Q. Why?
18 A. I'm just going to say I wouldn't have sent
19 him out, based on this being another incident, and --
20 Q. And what?
21 A. Well, and just on advice from our -- I did
22 what my corporate office wanted me to do.
23 Q. But what was the difference between this
24 incident and the first incident? Why did you send
25 him back?

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1 MR. VOGEL: I object to form.
2 BY MR. MURDOCK:
3 Q. Again, if he doesn't get a free pass, what
4 is it?
5 MR. VOGEL: Objection to form.
6 Foundation. Asked and answered.
7 THE WITNESS: I don't know how to
8 answer that question.
9 This is still shocking to me, too,
10 even. Because even though this obviously is very,
11 very serious -- I mean just our history with Steven
12 was he was a very good employee. Everyone liked him.
13 BY MR. MURDOCK:
14 Q. Well, was it because the first one involved
15 a psychiatric hospital, and the second one wasn't a
16 psychiatric hospital? Did that have something to do
17 with it?
18 A. No. I didn't even think of it that way,
19 honestly. I mean a patient is a patient. I mean I
20 don't think of that.
21 Q. And you would agree with me, wouldn't you,
22 that psychiatric patients can be sexually assaulted?
23 There's no reason why not, correct?
24 A. Anybody could.
25 Q. Sure. And psychiatric patients, whether or

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1 not they have psychiatric diagnoses or not, can still
2 be sexually assaulted, correct?
3 A. I mean I suppose it could happen anywhere.
4 Q. Right. And you know certainly it does
5 happen in hospitals. You're aware of that, correct,
6 that sexual assaults do occur?
7 A. Absolutely. I'm sure it happens.
8 Q. And you were aware of that back in 2008,
9 that these things do occur?
10 A. But nothing was found of that incident.
11 Q. But what I'm saying is, just in general
12 they do occur. You were aware of that back in 2008,
13 before he was arrested, and even let's say in 2007,
14 going backwards.
15 You were aware that sexual
16 assaults do occur in hospitals, psychiatric
17 hospitals, and facilities like that, correct?
18 A. Sexual assaults can happen anywhere, yes.
19 Q. Including hospitals and --
20 A. Including hospitals and anywhere.
21 Q. And in fact, you're aware of that happening
22 even in Las Vegas at various hospitals. Aren't you
23 aware of that?
24 A. I don't know of anything in particular, but
25 I'm sure it happens.

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1 Q. Were you aware of it happening at
2 Rawson-Neal? There was a whole bunch of allegations
3 about sexual misconduct in 2007.
4 You're aware of that, aren't you?
5 A. No.
6 Q. Now, did you ever ask whether or not you
7 could have the statements of the nurses at
8 Rawson-Neal -- to see them?
9 A. I think they were sent over with all the --
10 MR. MURDOCK: Well, let me mark these.
11 (Plaintiff's Exhibits 12 & 13 marked.)
12 BY MR. MURDOCK:
13 Q. Showing you what's been marked as Exhibit
14 12 and Exhibit 13, these are the two statements from
15 the nurses.
16 It's your belief that those were
17 sent over by Rawson-Neal, is that correct?
18 A. I have seen these, yes; and they were, yes.
19 I don't remember how they came over, but I have seen
20 these documents before.
21 Q. And in fact you had these documents prior
22 to March 20, 2008, is that correct?
23 A. I don't know if that's correct or not, but
24 I have seen these documents.
25 Q. Nevertheless, they were in American Nursing

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1 Services' possession, is that correct?
2 A. We have copies of this in his file, yes.
3 Q. And so would you agree with me that it's
4 more likely than not that you had these Exhibits 12
5 and 13 in the file of Mr. Farmer prior to May 18th --
6 or May 16th, 2008?
7 A. I'm not sure about when they came in the
8 file.
9 Q. Would you expect that they came in before
10 he was arrested?
11 A. I'm not sure when they came into the file
12 actually. There's no facts. There's nothing to show
13 when they were actually put into the file.
14 Q. In other words, similar to Plaintiff's
15 Exhibit 10; is that correct?
16 A. Like I think I stated, I'm not sure exactly
17 when this was put into the file. To say the exact
18 date and time, it's hard for me to know that.
19 Q. All right. All I'm asking you is, is it
20 before a certain date, but before he was arrested?
21 He wasn't working for you anymore at that point.
22 So what I'm saying is, I would
23 assume the documents are in the file, Exhibits 12 and
24 13, prior to him being arrested, correct?
25 A. I believe so, but I'm not --

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1 Q. Is it more likely than not?
2 A. More likely than not.
3 Q. Thank you.
4 Have you ever attempted to speak
5 with any of the women who were sexually assaulted?
6 MR. VOGEL: I object to form.
7 Allegedly sexually assaulted.
8 MR. MURDOCK: Okay.
9 I don't have anything further at
10 this time.
11 MR. McBRIDE: No questions.
12 MR. BEMIS: I don't have any questions.
13 MR. VOGEL: You're done.
14 MR. MURDOCK: Michele, thank you very
15 much.
16
17 (The deposition concluded at 1:45 p.m.)
18
19
20
21
22
23
24
25

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1 REPORTER'S CERTIFICATE
2 STATE OF NEVADA)
3) ss.
4 COUNTY OF CLARK)
5 I, Carol O'Malley, Nevada Certified Court
6 Reporter 178, do hereby certify:
7 That I reported the taking of the deposition
8 of MICHELE SIMMONS, RN on November 15, 2012
9 commencing at the hour of 9:30 a.m.
10 That prior to being examined, the witness was by
11 me duly sworn to testify to the truth, the whole
12 truth, and nothing but the truth;
13 That I thereafter transcribed my said
14 shorthand notes into typewriting and that the
15 typewritten transcription of said deposition is a
16 complete, true, and accurate transcription of my said
17 shorthand notes taken down at said time. Review of
18 the transcript was requested.
19 I further certify that I am not a relative or
20 employee of an attorney or counsel involved in said
21 action, nor financially interested in said action.
22 IN WITNESS WHEREOF, I have hereunto set my hand
23 in my office in the County of Clark, State of Nevada,
24 this 2nd day of December, 2012.
25 Carol O'Malley, CCR No. 178

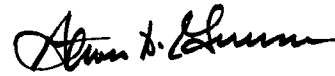
Page 167

1 DEPOSITION ERRATA SHEET
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3 File No. 42138
4 Case Caption: Doe vs. Valley Health System, et al.
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8 DECLARATION UNDER PENALTY OF PERJURY
9
10 I declare under penalty of perjury that I have
11 read the entire transcript of my deposition taken in
12 the captioned matter or the same has been read to me,
13 and the same is true and accurate, save and except
14 for changes and/or corrections, if any, as indicated
15 by me on the DEPOSITION ERRATA SHEET hereof, with the
16 understanding that I offer these changes as if still
17 under oath.
18
19 Signed this day of , 20 .
20
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22 MICHELE SIMMONS, RN
23
24
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25	MICHELE SIMMONS, RN	



CLERK OF THE COURT

1 **OPP**

2 MICHAEL E. PRANGLE, ESQ.

3 Nevada Bar No. 8619

4 JOHN F. BEMIS, ESQ.

5 Nevada Bar No. 9509

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12 *Attorneys for Defendants*

13 *Centennial Hills Hospital and*

14 *Universal Health Services, Inc.*

DISTRICT COURT

CLARK COUNTY, NEVADA

15 MISTY PETERSON, AS SPECIAL
16 ADMINISTRATOR OF THE ESTATE OF
17 JANE DOE,

18 Plaintiff,

19 vs.

20 VALLEY HEALTH SYSTEM LLC, a Nevada
21 limited liability company, d/b/a CENTENNIAL
22 HILLS HOSPITAL MEDICAL CENTER;
23 UNIVERSAL HEALTH SERVICES, INC., a
24 Delaware corporation; AMERICAN NURSING
25 SERVICES, INC., a Louisiana corporation;
26 STEVEN DALE FARMER, an individual; DOES I
27 through X, inclusive; and ROE CORPORATIONS I
28 through X, inclusive,

Defendants.

CASE NO. A595780
DEPT NO. II

DEFENDANTS CENTENNIAL HILLS HOSPITAL AND UNIVERSAL HEALTH SERVICES, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT RE: LIABILITY AND JOINDER TO DEFENDANT STEVEN DALE FARMER'S LIMITED OPPOSITION

COMES NOW, Defendants, CENTENNIAL HILLS HOSPITAL and UNIVERSAL HEALTH SERVICES, INC., by and through their attorneys of record, the law firm of HALL,

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1 PRANGLE & SCHOONVELD LLC, and provides their Opposition to Plaintiff's Motion for
2 Summary Judgment Re: Liability and Joinder to Defendant Steven Dale Farmer's Limited
3 Opposition.

4 This Opposition/Joinder is made and based upon the pleadings on file, the Memorandum
5 of Points and Authorities that follow, and any oral argument of counsel that may be heard at the
6 time of hearing of this motion.
7

8 DATED this 14th day of October, 2014.

9 HALL PRANGLE & SCHOONVELD, LLC

10
11 By: 

12 MICHAEL E. PRANGLE, ESQ.

13 Nevada Bar No. 8619

14 JOHN F. BEMIS, ESQ.

15 Nevada Bar No. 9509

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17 1160 North Town Center Drive, Suite 200

18 Las Vegas, NV 89144

19 Attorneys for Defendants

20 Centennial Hills Hospital and

21 Universal Health Services, Inc.

22 A.

23 **FACTUAL STATEMENT/INTRODUCTION**

24 **1. The Parties.**

25 Jane Doe is a single woman with adult children. She was hospitalized at Centennial Hills
26 Hospital from May 14, 2008 until May 19, 2008. Approximately one month prior to her
27 hospitalization, she suffered a brain injury that caused her to experience seizures. She was
28 brought to CHH after experiencing a seizure on our about May 14, 2008. Plaintiff committed
suicide on July 10, 2013.

1 American Nursing Services, Inc., was a supplemental staffing agency that provided the
2 alleged perpetrator of the assault, Steven Farmer, to Centennial Hills Hospital. Since the time of
3 the incident, ANS has declared bankruptcy.

4 Broadlane Inc., is a non-party "middleman" who connected Centennial Hills Hospital
5 with American Nursing Services, Inc., to supply supplemental staffing. There is no direct
6 contract between American Nursing Services, Inc and Centennial Hills Hospital. Instead, there
7 is a contract between American Nursing Services, Inc and Broadlane and Broadlane and
8 Centennial Hills Hospital. Broadlane is not a party to the instant litigation.

9 Steven Farmer is the alleged assailant and a former employee of American Nursing
10 Services, Inc. On June 2, 2014, a Judgment of Conviction was filed in the criminal case against
11 Mr. Farmer. See Plaintiff's MSJ, Exhibit 2.

12 Centennial Hills Hospital is the facility where the alleged assault occurred.

13
14
15 **2. The Incident.**

16 Plaintiff was brought to Centennial Hills Hospital on or about May 14, 2008. Plaintiff
17 was brought to the hospital due to having a seizure at the grocery store. Plaintiff alleges that
18 while she was a patient, a nurse named Steven came in and improperly touched her on several
19 occasions. Plaintiff did not come forward with her story until about 1 – 1 ½ months after her
20 discharge. Mr. Farmer was convicted of sexual assault on Plaintiff.

21
22 **3. Joinder to Defendant Steven Dale Farmer's Limited Opposition.**

23 That Defendants CENTENNIAL HILLS HOSPITAL and UNIVERSAL HEALTH
24 SERVICES, INC. adopt, and incorporate as if fully set forth herein, the points and authorities,
25 and arguments contained in Defendant Steven Dale Farmer's Limited Opposition to Plaintiff's
26 Motion for Summary Judgment Re: Liability.
27
28

1 WHEREFORE, Defendants CENTENNIAL HILLS HOSPITAL and UNIVERSAL
2 HEALTH SERVICES, INC., pray that Plaintiff's Motion for Summary Judgment Re: Liability in
3 the above-entitled action be DENIED.

4 B.

5 ARGUMENT

6 Plaintiff seeks summary adjudication against Steven Farmer, American Nursing Services
7 and Centennial Hills Hospital. In Nevada, conviction of a crime may be introduced as
8 conclusive proof of all facts necessary to sustain a conviction. See NRS 41.133. In this case, Mr.
9 Farmer was convicted of, amongst other crimes, sexual assault of Plaintiff. Through her Motion,
10 Plaintiff seeks to apply strict liability to Centennial Hills Hospital. The conviction can be
11 introduced against all Defendants. This Opposition does not seek to address whether the assault
12 occurred. Rather this Opposition shows that there is no authority for Plaintiff's request for strict
13 liability against Centennial Hills. As completely shown below, there is no authority to support
14 finding Centennial Hills strictly liable for the acts of Mr. Farmer.

15 As this Court is aware, NRS 41.745 provides:

16 Liability of employer for intentional conduct of employee; limitations.

17 1. An employer is not liable for harm or injury caused by the intentional conduct of
18 an employee if the conduct of the employee:

- 19 (a) Was a truly independent venture of the employee;
20 (b) Was not committed in the course of the very task assigned to the employee;
21 and

22 (c) Was not reasonably foreseeable under the facts and circumstances of the case
23 considering the nature and scope of his or her employment.

24 -For the purposes of this subsection, conduct of an employee is reasonably foreseeable if a
25 person of ordinary intelligence and prudence could have reasonably anticipated the conduct and
26 the probability of injury.

27 2. **Nothing in this section imposes strict liability on an employer for any**
28 **unforeseeable intentional act of an employee.** (emphasis added)

1 Thus, in order to establish liability for the conduct of an employee, Plaintiff must
2 establish that the act was not a truly independent venture, the act was committed in the course of
3 the task assigned to the patient, and that the act was reasonably foreseeable. Plaintiff's Motion
4 wholly neglects the topic of whether the instant act was reasonably foreseeable.

5 As further discussed below, Defendant, Centennial Hills cannot be held liable for Steven
6 Farmer's intentional conduct as his conduct was a truly independent venture. Additionally, Mr.
7 Farmer's actions weren't reasonably foreseeable under the facts and circumstances of the case.
8 Moreover, the finding of liability pursuant to NRS 41.745 is a question of fact for the jury. As
9 such, Plaintiff's Motion should be denied as to Centennial Hills.
10

11 **1. The Alleged Assault is a Truly Independent Venture.**

12 Initially, the alleged assault was a truly independent venture of Mr. Farmer. Both before
13 and after the passage of N.R.S. 41.745, the Nevada Supreme Court has spoken numerous times
14 as to how to determine whether acts fall within the course and scope of one's employment. For
15 example, to determine course and scope, the Nevada Supreme Court looks to:
16

17 a. whether the employee was "acting on behalf of" or "out of any sense of
18 duty owed to" the employer, or "furthering the business interests", *Wood v.*
19 *Safeway, Inc.*, 121 Nev. 724, 37-738, 121 P.3d 1026, 1035, *Burnett v.*
20 *C.B.A. Sec. Service, Inc.*, 107 Nev. 787, 789, 820 .2d 750, 751-752
21 (1991); and
22

23 b. whether the employer "exercise[d] control over," or "received a
24 benefit," from the employee's conduct, *Kornton v. Conrad, Inc.*, 119 Nev.
25 123, 123, 67 P.3d 316, 317 (2003).
26
27
28

1 In the instant matter, it is patently clear that sexual assaults are outside the course and scope
2 of certified nurse assistant's job. This much is admitted in Plaintiff's Motion. The Nevada State
3 Board of Nursing provides a CNA Skills Guidelines which itemizes a list of specific skills for
4 CNA scope of practice. See Nevada State Board of Nursing CNA Skills Guidelines attached
5 hereto as Exhibit A. In reviewing said exhibit, there is no reference to molestation, digital
6 insertion of fingers into a patient's vagina, rectum or groping of breasts, and legs. See Exhibit A.
7 In fact, there are no skills listed on the CNA Skills Guidelines that could be considered sexual in
8 nature. *Id.*

10 Additionally, taking a look at the Centennial Hills Job Description/Performance Review
11 for CNA's, there is no reference to molestation, digital insertion of fingers into a patient's
12 vagina, rectum or groping of breasts, and legs. See Centennial Hills Job Description attached
13 hereto as Exhibit B. Specifically, the Description/Purpose of Position states:

15 Responsible for assisting the planning, organizing, implementing and evaluating
16 the activities occurring in the nursing unit by performing clerical and receptionist
17 duties, and performing patient care/service activities/procedures as outlined by the
18 state board of nursing and within the Nevada Nurse Practice Act. Performs
assigned duties under the supervision of licensed nursing staff. *Id.*

19 Again, nothing in this description could possibly be interpreted to advocate or endorse the sexual
20 assault of patients. In fact, this premise has been clearly admitted by Plaintiff. See Motion for
21 Summary Judgment at 10:15-16.

22 Moreover, in *Wood v. Safeway*, the Nevada Supreme Court held that the repeated sexual
23 assaults of a mentally retarded employee by a janitor hired to clean the store was clearly outside
24 the course and scope of employment of the janitor and liability could not be extended to the
25 employer. 121 Nev. at 739. In *Wood*, Safeway Stores, Inc. hired a mentally retarded individual,
26 Doe, to work as a part-time courtesy clerk. Doe was hired through the store's special hiring
27
28

1 program, where job coaches were provided by Doe's high school. Doe also received assistance
2 from a job coach at Easter Seals and the state provided a vocational rehabilitation counselor.
3 Prior to beginning employment, Doe attended a daylong orientation session for new employees
4 where she received specific training for her job duties. The orientation also covered Safeway's
5 employment policies, including its policies on sexual harassment in the workplace. Doe was
6 accompanied to the orientation by one of her job coaches, to ensure she understood all the
7 materials and information.
8

9 During her employment, Doe met Ronquillo-Nino, who was employed by Action
10 Cleaning, and was contracted to work as a nighttime janitor at the Safeway store. On three
11 separate occasions Ronquillo-Nino sexually assaulted Doe while she was at work. The assaults
12 occurred in a cleaning supply room, and also outside behind a trash dumpster while Doe was
13 collecting shopping carts from the parking lot. As a result of the assaults, Doe became pregnant
14 and gave birth to a healthy child. Doe filed a Complaint against both Safeway and Action
15 Cleaning based upon the multiple sexual assaults. Safeway brought a Motion for Summary
16 Judgment based upon the Nevada Industrial Insurance Act providing the sole and exclusive
17 remedy for injuries arising out of the course and scope of employment. Action Cleaning brought
18 a Motion for Summary Judgment based upon NRS 41.745, claiming that it cannot be held liable
19 for the intentional torts of its employee. The district court granted both motions, and denied
20 Doe's Motion for Reconsideration. Thereafter, the Nevada Supreme Court upheld the summary
21 adjudication.
22
23
24

25 The Nevada Supreme Court held that because Ronquillo-Nino was not acting out of any
26 sense of duty owed to Action Cleaning, the multiple sexual assaults against Doe were an
27 independent venture and outside the course and scope of his employment. *See Wood*, 121 Nev.
28

1 at 739. Based upon the assaults being an independent venture by Ronquillo-Nino, the Nevada
2 Supreme Court held that Doe's argument must fail. *Id.*

3 Likewise, in the instant matter, there is absolutely no possible scenario that alleged sexual
4 assault can be considered within the course and scope of Mr. Farmer's employment. As such,
5 the alleged sexual assault must be considered a truly independent venture of Mr. Farmer. Based
6 upon Mr. Farmer's alleged sexual assault being a truly independent venture, Centennial Hills
7 cannot be held liable for the intentional tort allegations.
8

9 **2. There is Absolutely No Clear Notice of a Propensity for the Type of Action**
10 **that is Alleged to Have Occurred.**

11 Most importantly, the alleged sexual assault committed by Mr. Farmer was completely
12 unforeseeable under the facts and circumstances of the case considering the nature and scope of
13 his employment. In order to hold an employer liable for the intentional torts of an employee,
14 NRS 41.745 requires that the action of the employee was reasonably foreseeable under the facts
15 and circumstances of the case considering the nature and scope of his employment. Moreover,
16 NRS 41.745 states "for the purposes of this subsection, conduct of an employee is reasonably
17 foreseeable if a person of ordinary intelligence and prudence could have reasonably anticipated
18 the conduct and the probability of injury." The Nevada Supreme Court has held that if an action
19 is not reasonably foreseeable, the court does not need to look at the other two elements of NRS
20 41.745(1). *Vaughan v. Harrah's Las Vegas Inc.*, 2008 WL 6124455, 2, attached hereto as
21 Exhibit C.
22

23
24 The Nevada Supreme Court determined that whether an intentional act is reasonably
25 foreseeable depends on whether one has reasonable cause to anticipate such act and the
26 probability of injury resulting therefrom. *See Rockwell v. Sun Harbor Budget Suites*, 112 Nev.
27 1217, 925 P.2d 1175 (1996) (citing *Thomas v. Bokelman*, 86 Nev. 10, 462 P.2d 1020 (1970)).
28

1 The Nevada Supreme Court has quoted, with approval, the California Court of Appeal in
2 explaining foreseeability in the context of respondeat superior as follows:

3 Foreseeability, as a test for respondeat superior merely means that in the context of
4 the particular enterprise an employee's conduct is not so unusual or startling that it
5 would seem unfair to include the loss resulting from it among other costs of the
6 employer's business. In other words, where the question is one of vicarious liability,
7 the inquiry should be whether the risk was one 'that may fairly be regarded as typical
8 of or broadly incidental' to the enterprise undertaken by the employer.

9 Under the modern rationale for respondeat superior, the test for determining whether
10 an employer is vicariously liable for the tortious conduct of his employee is closely
11 related to the test applied in workers' compensation cases for determining whether an
12 injury arose out of or in the course of employment. See *Wood*, 121 Nev. at 740
13 (citing *Rodgers v. Kemper Construction Co.*, 50 Cal.App.3d 608, 124 Cal.Rptr. 143,
14 148-49 (1975)).

15 In *Wood*, the Nevada Supreme Court concluded that the because the assailant had no prior
16 criminal record in the United States or Mexico, and because there was no prior complaints
17 against the assailant for sexual harassment, that it was not reasonably foreseeable that the
18 assailant would sexually assault a Safeway employee. 121 Nev. at 740. In *Vaughan*, the Nevada
19 Supreme Court held that based on a lack of a criminal record and no worker complaints of
20 violent assault, Harrah's could not be held liable for its employee assaulting a patron in the
21 bathroom. *Exhibit C*, 2008 WL 6124455, 2.

22 In the instant situation, there were absolutely no known prior acts by Mr. Farmer that
23 could potentially put Centennial Hills on notice that Mr. Farmer would assault a patient. Prior
24 to the alleged incident, Steven Farmer was a certified nurses' assistant in California and Nevada.
25 Mr. Farmer went through a background check to receive his certification in both states.
26 Centennial Hills was provided with a criminal background check, proof of negative drug test and
27 employment background information prior to booking shifts with Mr. Farmer. Thereafter,
28 Centennial Hills performed a primary source verification with the Nevada State Board of
Nursing prior to hiring Mr. Farmer. Further, in reviewing Mr. Farmer's employment file at

1 Centennial Hills Hospital, there are absolutely no reports of ill character. *See* Centennial Hills
2 Employee File of Steven Farmer attached hereto as Exhibit D.

3 Plaintiff will allege that Centennial Hills was on notice of Mr. Farmer's nefarious
4 background based upon an allegation of "patient abuse" that occurred at Rawson Neal Hospital.
5 Mr. Farmer was placed on "Do Not Return" status that the facility, but was cleared of any
6 wrongdoing. There was no report to the Nevada Board of Nursing. Rather, Rawson Neal and
7 American Nursing Services conducted separate investigations into the matter. Both
8 investigations cleared Mr. Farmer of wrongdoing. American Nursing Services did not provide
9 any information regarding the Rawson Neal Hospital accusations to Centennial Hills. As such,
10 there is no way that Centennial Hills had prior knowledge of any prior improper conduct of Mr.
11 Farmer.
12

13
14 The former clinical director of American Nursing Services' Las Vegas branch, Michelle
15 Simmons, was deposed on November 15, 2012. Ms. Simmons is a former employee due to
16 American Nursing Services declaring bankruptcy and closing business. Ms. Simmons testified
17 that before sending an employee for an assignment, ANS would ensure that the individual was
18 proper for whatever job they were booked. *See* Deposition of Michelle Simmons attached hereto
19 as Exhibit E, 26:2-5. This included verifying credentialing, references, background check. *Id.* at
20 26:6-21 Additionally, Ms. Simmons would follow up with the facilities on how the patients
21 were doing when on assignment. *Id.* at 27:1-28:3
22

23
24 Ms. Simmons did recall incident related to Mr. Farmer at Rawson Neal Hospital. *Id.* At
25 59:2-60:1. Mr. Farmer was placed on "Do Not Return" status at Rawson Neal pending the
26 outcome of an internal investigation. On, or about, January 25, 2008, Rawson Neal Hospital
27 informed American Nursing Services that Mr. Farmer was "Do Not Return" status. *Id.* At 74:5-
28

1 10. Despite being on "Do Not Return" status at Rawson Neal, Mr. Farmer was booked at other
2 facilities. *Id.* 115:5-11. Ms. Simmons testified that she did not inform Centennial Hills of the
3 "Do Not Return" status or ongoing investigation at Rawson Neal. *Id.* CITE. American Nursing
4 Services did not inform Centennial Hills of the investigation into the alleged patient abuse at
5 Rawson Neal. *Id.* At 140:1-25. Ms. Simmons stated that American Nursing Services prevented
6 her from informing Centennial Hills of the investigation. *Id.*
7

8 Clearly, there is no evidence that Centennial Hills Hospital had reasonable cause to
9 anticipate the alleged conduct and the probability of injury resulting therefrom. Accordingly,
10 pursuant to the *Wood* and *Vaughan* cases, this Honorable Court must deny Plaintiff's Motion.
11

12 **3. Whether NRS 41.745 Liability Exists, Is a Question of Fact for the Jury.**

13 Establishing liability for intentional conduct of an employee or agent is similar, but more
14 onerous than establishing ostensible agency. With regard to ostensible agency, the Supreme
15 Court of Nevada first addressed the issue of agency in a medical setting in *Oehler v. Humana*,
16 105 Nev. 348, 775 P.2d 1271 (1989). Plaintiff Beverly Oehler filed a Complaint against Humana
17 Hospital Sunrise and numerous physicians alleging that Humana Hospital Sunrise and numerous
18 physicians were liable under a negligent supervision theory (*respondeat superior*) and a vicarious
19 liability (agency) theory. Discovery was conducted and Humana Hospital Sunrise filed a Motion
20 for Summary Judgment which was granted and Plaintiff appealed.
21

22 The *Oehler* Court found that there was not a genuine issue of material fact regarding the
23 vicarious liability (agency) theory. The Court found that agency did not exist as a matter of law,
24 stating that "[a] hospital is not vicariously liable for acts of physicians who are neither
25 employees nor agents of the hospital." *Id.* at 351, citing *Gasbarra v. St. James Hospital*, 406
26 N.E.2d 544 (III. App. 1980); *Cooper v. Curry*, 589 P.2d 201 (N.M. 1978).
27
28

The most recent Nevada case to address the agency theory is *Schlotfeldt*, where the Court looked to other jurisdictions as a guide for establishing the presence of agency between a doctor and hospital and evoking vicarious liability. *Schlotfeldt v. Charter Hospital of Las Vegas*, 112 Nev. 42, 48 (1996). Looking to *Hill v. St. Clare's Hospital*, 67 N.Y.2d 72; 490 N.E.2d 823, 827 (1986), the Court found that "absent an employment relationship, a doctor's mere affiliation with a hospital is not sufficient to hold a hospital vicariously liable for the doctor's negligent conduct." See also, *Ruane v. Niagara Falls Memorial Medical Center*, 60 N.Y.2d 908, 458 N.E.2d 1253 (1983). A physician or surgeon who is on a hospital's staff is not necessarily liable for his tortuous acts. *Evans v. Bernhard*, 533 P.2d 721, 725, 23 Ariz. App. 413 (1975). A hospital does not generally expose itself to vicarious liability for a doctor's actions by merely extending staff privileges to that doctor. *Moon v. Mercy Hospital*, 373 P.2d 944, 946; 150 Colo. 430 (1962); *Hundt v. Proctor Community Hospital*, 284 N.E.2d 676, 678; 5 Ill. App. 3d 987.

In Footnote 3 of *Schlotfeldt*, the Court pointedly stated that their holding did not disturb *Oehler* and the cases were distinguishable because:

Determining the existence of agency is quite different than determining the absence of agency. First, concluding agency exists requires an affirmative finding on all the elements of agency. Concluding agency does not exist requires only the negation of one element of the agency relationship. Second, the legal consequences of concluding that agency exists are much different from concluding the opposite. One defendant's liability can become inextricably linked to the tortuous acts of another defendant through the conclusion of agency. On the other hand, refusing to find agency merely requires a plaintiff to prove a case against each defendant individually.

Analyzing *Oehler* and *Schlotfeldt* together, a judge may determine that agency does not exist as a matter of law; as concluding that agency does not exist requires only the negation of one element of the agency relationship. In contrast, concluding agency does exist requires an affirmative finding on all the elements of agency and is a question of fact for the jury to decide.

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1 Likewise, this Court can conclude that NRS 41.745 liability does not exist as a matter of law.
2 Such a conclusion only requires the negation of one of the three elements. However, this Court
3 cannot conclude that NRS 41.745 liability is established, as that requires an affirmative finding
4 of all three elements. Such a finding is a question of fact for a jury. Accordingly, Plaintiff's
5 Motion as to Centennial Hills must be denied.
6

7 C.

8 CONCLUSION

9 Based on the foregoing, Defendant respectfully requests that Plaintiff's Motion for
10 Summary Judgment Re: Liability be DENIED.
11

12 DATED this 14th day of October, 2014.

13 HALL PRANGLE & SCHOONVELD, LLC

14 By: 

15 MICHAEL E. PRANGLE, ESQ.

16 Nevada Bar No. 8619

17 JOHN F. BEMIS, ESQ.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 14th day of October, 2014, I served a true and correct copy of the foregoing DEFENDANTS CENTENNIAL HILLS HOSPITAL AND UNIVERSAL HEALTH SERVICES, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT RE: LIABILITY AND JOINDER TO DEFENDANT STEVEN DALE FARMER'S LIMITED OPPOSITION via E-Service on Wiznet pursuant to mandatory NEFCR 4(b) to the following parties:

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Steven Dale Farmer*

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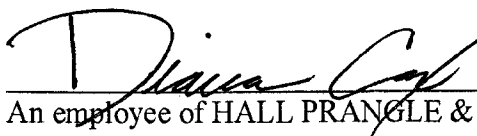

An employee of HALL PRANGLE & SCHOONVELD, LLC

EXHIBIT “A”

Nevada State Board of **NURSING**

CNA Skills Guidelines

The following list of skills is to be used as a guideline for CNA scope of practice. If you need further information on specific skills, please put your request in writing to the Board office. All procedures must be performed under the direction and supervision of a licensed nurse and according to agency policy. Some limitations may be placed by the employing agency.

The Role and Responsibility of the Nursing Assistant

- Understands the role and responsibility of a nursing assistant
- Performs as a health team member

Communication and Interpersonal Relationships

- Understands the importance of verbal and non-verbal communication
- Understands the purpose and use of the patient plan of care
- Understands patient rights
- Observes and reports changes in condition, abnormal signs, symptoms, and care provided to a licensed nurse.
- Reports and records incidents
- Observe patients with IVs

Safety and Infection Control

- Answers call lights
- Performs hand washing appropriately
- Uses standard precautions
- Uses good body mechanics
- Maintains neat/orderly patient room
- Uses fire, disaster and accident prevention/safety procedures
- Apply, release and monitor restraints and protective devices, e.g. Geri-chairs, hand, wrist and ankle restraints, roll belts, side rails, etc.
- Apply, release and monitor sites for leather restraints in acute care and psychiatric settings upon additional training and under the direction of an RN or physician
- CPR and abdominal thrusts
- CPR and Automated External Defibrillation*

Personal Care Procedures

- Bed making
- Skin care
 - Apply dry sterile dressing*
 - Apply non-medicated over-the-counter (OTC) ointments such as Vaseline, A&D, Bag Balm, Desitin, Ben Gay, Mineral Ice, Zinc Oxide or like products
 - Care for, apply and remove established prosthetic devices, immobilizers and braces
 - Back rub, perineal care, incontinent care
 - Bathing - partial or complete bed bath, tub bath, shower, whirlpool, perineal care
 - Shave with razor
- Mouth care—unconscious and conscious resident, including brushing, flossing and denture care
- Hair care—shampoo, brush and comb
- Dressing and undressing
- Nail care
- Apply elastic stockings

Vital Signs

- TPR, BP, apical, brachial and radial pulses, oral, axillary and rectal temps, use of automatic vital signs devices, respirations, tympanic temperatures
- Perform EKG*, apply monitor leads

Nutritional Requirements and Techniques

- Measure and record intake and output
- Prepare patients for meals
- Feed patients
- Serve meal trays, understand types/purpose of modified diets

Admission and Discharge Procedures

- Admission and discharge
- Measure height and weight

Exercise and Activity

- Ambulate patients—use of cane, walker or gait belt
- Assist a patient: to dangle, to a wheelchair, to a chair, to a gurney
- Transport of patients by wheelchair or gurney
- Care of a client who has fallen
- Basic range of motion (ROM) passive and active
- Position and provide comfort measures—supine, prone, side-lying, Fowlers and Sims positions
- Use of a turn sheet
- Move client up in bed

Elimination Procedures

- Urinary Bladder Elimination
 - Place and remove bedpan and urinal
 - Assist patient to bathroom/commode
 - Emptying a urinary drainage bag
 - Bladder scan*
 - Catheter care
 - Assist with bladder retraining
- Bowel Elimination
 - Administer enemas
 - Colostomy care, change the bag
 - Care of an established stoma on the abdomen: change pouch, provide skin care
 - Digital stimulation
 - Assist with bowel retraining
- Collection of Specimens
 - Collection of non-manipulated, non-induced, non-invasive specimens, including the following:
 - Urine, clean catch urine, 24-hour urine, stool and sputum specimens using current CDC standard precautions

Unsterile Warm and Cold Applications

- Apply a K-pad (moist or dry warm application)
- Apply an ice pack

Clients with Special Needs

- Mental health conditions/suicide prevention
- Cognitive impairment
 - Reality orientation
- Grieving, dying
 - Post mortem care
- Confused client
- Disabilities
- Conditions of nervous system
- Respiratory disease
 - Adjust oxygen flow rate*
 - Oxygen conversion
 - Applies pulse oximetry and report to nurse

*CNAs wishing to perform these tasks that were not included in their original training must receive further training and demonstrate competency before they can perform them. Contact your facility's nursing education or staff development direction for additional information.

EXHIBIT “B”

Employee Name: _____

Review Period: _____



Review Type:

- ☐ Initial
☐ Interim
☐ Annual

Job Description/Performance Review			
Title	Unit Coordinator/C N A	Revised	01/20/06
Department		Grade	N17
Eval Prepared by		Status	Non-Exempt
Reports To	Nurse Manager	Effective Date	03/01/03

Description/Purpose of Position	
Responsible for assisting the planning, organizing, implementing and evaluating the activities occurring in the nursing unit by performing clerical and receptionist duties, and performing patient care/service activities/procedures as outlined by the state board of nursing and within the Nevada Nurse Practice Act. Performs assigned duties under the supervision of licensed nursing staff..	

Minimum Qualifications:	
Education	High school diploma or equivalent. Completion of an approved Certified Nursing Assistant program and certification.
Experience	
Technical Skills	Basic PC knowledge and medical terminology.
License/Certification	Current C N A license in the State of Nevada. Current BLS Certification required.
Other	Must be able to demonstrate the knowledge and skills necessary to provide service appropriate to the age of the patients served on the assigned unit/department.

Supervision	mark one per line					
	N/A	0 - 5	6 - 10	11 - 20	21 - 50	50+
Number of direct reports	X					
Number of indirect reports	X					

Age Specific mark all that apply	
Infant: Birth <1 yr	Adolescents: 13<18 yrs
Toddler: <2 ½ yrs	Adults: 18 <65 yrs
Pre-School: 2 < 4 ½ yrs	Older Adult: 65+
School Age: 4 ½ <13 yrs	Not Applicable

Contacts mark all that apply	
<input checked="" type="checkbox"/> Patients	<input checked="" type="checkbox"/> Vendors
<input checked="" type="checkbox"/> Staff	<input checked="" type="checkbox"/> Health Agencies
<input checked="" type="checkbox"/> Providers	<input checked="" type="checkbox"/> Health Advocates
<input checked="" type="checkbox"/> Guests	<input checked="" type="checkbox"/> Other

Blood-borne Pathogen Exposure Category mark one	
<input checked="" type="checkbox"/> Category I Job usually involves contact with patients or patient specimens. Exposure to blood, body fluids, non-intact skin or tissue specimens, is possible.	
<input type="checkbox"/> Category II Job may expose incumbent occasionally or in emergency situations to blood, body fluids, non-intact skin or tissue specimens.	
<input type="checkbox"/> Category III Job does not involve exposure to blood, body fluids, non-intact skin or tissue specimens. Incumbent does not perform or help in emergency medical care or first aid as part of job.	

Unit Coord/C N A -1

Employee Name: _____

Essential Functions and Working Conditions (mark all that apply)							
Technical/Motor Skills				Mental Abilities			
	Heavy	Moderate	Light		Heavy	Moderate	Light
Inputting Data/Typing			X	Calculations			
Copying			X	Manipulating Numbers			
Calibrating Equipment			X	Interpreting Numbers/Data			
Speaking Clearly	X			Analyzing			
Answering Telephones		X		Forecasting			
Eye/Hand/Foot Coordination	X			Assessing/Evaluating			X
Fingering/Fine Dexterity	X			Explaining/Teaching			X
Precise Manipulation	X			Critical Thinking			X
Handling/Gripping		X		Attention to Detail/Accuracy	X		
Speed Movement/Velocity		X		Memory		X	
Other				Problem Solving/Reasoning			
Physical Requirements				Sensory Requirements			
	Heavy	Moderate	Light		Heavy	Moderate	Light
Lifting/ Carrying:				Spatial/Form Perception			
Sedentary: 10 lbs. max	X			Reading	X		
Light: 20 lbs. max	X			Other			
Medium: 60 lbs. max		X					
Heavy: 100 lbs. max		X		Ability to See	X		
Very Heavy: >100 lbs.			X	Ability to Hear	X		
Pushing/Pulling:				Ability to Feel	X		
Sedentary: 10 lbs. max	X			Ability to Taste/Smell		X	
Light: 20 lbs. max	X			Verbal Communication	X		
Medium: 60 lbs. max	X			Distinguish Colors		X	
Heavy: 100 lbs. max	X			Interpret Symbols		X	
Very Heavy: >100 lbs.		X		Planning			
Climbing			X	Directing Others			
Balancing		X		Other			
Stooping		X		Working Conditions			
Kneeling		X			Heavy	Moderate	Light
Crouching/Squatting		X		Inside	X		
Crawling		X		Outside			X
Reaching		X		Extreme Cold			
Flexing/Positioning/Twisting		X		Extreme Heat			
Standing	X			Temperature Changes			X
Holding		X		Humidity			X
Ambulating/Mobility	X			Extreme Noise		X	
Cardio-Respiratory Endurance		X		Fumes/Odors			X
Restraining			X	Toxic Materials			X
Repetitive Activity		X		Dust			
Static Holding			X	Poor Ventilation			
Walking	X			Exposure/Use of Sharps			
Sitting			X	Blood/Body Fluid Tissue	X		
Other				Dangerous Equipment			
				Wet		X	
				Dry		X	
				Gloves	X		
				Heights			X
				Other			

Heavy - More than 60% of time at work
 Moderate - 31-60% of time at work
 Light - 0-30% of time at work

The above analysis is for the sole purpose of complying with "The Americans with Disabilities Act" and is not to be construed to include all employees in each job classification. The Employer reserves the right to change the requirements of each job analysis as changes in business and/or technology dictate. All weights, distances and measurements cited in this analysis are approximations.

Employee Name: _____

Job Description/Performance Review

Section I (Includes Position Specific, Department Specific and Classification Specific Requirements)

Position Specific Requirements	Proficient			Comments/Goals/Action Plan
	Yes	No	N/A	
Current Nevada State C N A License. Exp. Date: _____				
Performs responsibilities consistent with hospital safety policies.				
Knows and applies infection control policies and processes when handling and disposing of blood and body fluids.				
Understands the role of the C N A				
Reports using medical terminology; changes in condition and abnormal signs/symptoms and records care given.				
Refers to the interdisciplinary care plan.				
Maintains standard precautions and isolation as directed.				
Maintains neat/orderly patient room / environment.				
Answers call lights promptly.				
Maintains safety measures: applies side rails, proper application of restraints.				
Assists with admission and discharge.				
Accurately measures/records height and weight.				
Accurately measures/records intake and output.				
Assists patients with elimination needs.				
Assists with bowel and bladder restraining.				
Empties/measures urinary drainage bag contents.				
Assists patients during meals.				
Performs catheter care.				
Performs mouth care as needed.				
Performs hair care.				
Performs preventative skin care.				
Assists with bathing needs.				
Assists with shaving needs, using safety razor.				
Assist patient to dress/undress.				
Observes patients with IV's, reports problems to RN/LPN.				
Obtains/records vital signs accurately.				
Assists patient to maintain position of comfort or as ordered.				
Assists patients during transfer: to dangle, to a wheelchair, to a gurney.				
Assists with ambulation.				
Performs simple range of motion.				
Administers enemas as directed.				
Performs care of an established colostomy.				
Obtains urine specimen and transports to lab as directed.				
Obtains stool specimen.				
Applies warm/cold-moist/dry K-pad or Ice pack as directed.				
Assists with cardiac arrest resuscitation procedures as directed. Performs CPR and Heimlich maneuver as directed.				
Assists with patient transport.				
Assists with clerical duties as appropriate.				
Performs clerical functions such as transcription of				

Unit Coord/C N A -3

Employee Name:

physician orders to appropriate areas and confers with the Nurse Manager regarding scheduling patient activities and tests.

Job Description/Performance Review

Position Specific Requirements (cont.)	Proficient			Comments/Goals/Action Plan
	Yes	No	N/A	
Answers phones and intercom, takes messages and communicates messages to the appropriate person, while maintaining a courteous and positive tone of voice.				
Assists patients and visitors in nursing units as needed.				
Performs clerical duties relating to admissions, discharge and transfer of patients.				
Compiles new charts, maintains current charts and enters patient information on the charts and Kardex.				
Prepares and keeps current census sheet, TPR sheets, dietary requisitions and other forms; delivers to the proper department if necessary.				
Assists in patient room assignment as needed.				
Orders supplies and equipment, receives and places items in their proper storage area. Assists in the charging process.				
Maintains patient charts.				
Knowledge and utilization of Poets on computer system.				

Classification Specific Requirements	Proficient			Comments/Goals/Action Plan
	Yes	No	N/A	
Employees in positions involving patient charting and related functions, must possess competency in use of technology and computers.				
Helps maintain department in a neat and organized condition.				
Demonstrates and takes a team effort in helping the department reach goals and meet deadlines.				
Helps out in other areas when needed.				
Ensures proper filing, typing and organization of all paperwork.				
Demonstrates ability by performing assignments independently without close supervision.				
Adjusts appropriately to volume of work to complete tasks in a timely manner, without interfering with quality of work.				
Responds well to instruction and training, applying new knowledge to duties.				
Current BLS Certification.				
Exp. Date:				
Age Specific Competencies (see below):				

Age Specific Competencies

	Neonate/ Infant			Pediatric			Adolescent			Adult			Geriatric		
Demonstrates the following knowledge/skills/and abilities	Y	N	N/A	Y	N	N/A	Y	N	N/A	Y	N	N/A	Y	N	N/A
Oversees and implements department age specific safety plans and implements accident prevention/safety measures.															
Demonstrates effective communication skills															

Unit Coord/C N A -4

Employee Name:

appropriate to ages of patients.

Section I Comments**Section I Rating**

Comments:

Job Description/Performance Review**Section II (represents System Wide Requirements only)***(For positions requiring competency documentation, information is retained in Education Records)*

System Wide Requirements	Proficient			Comments/Goals/Action Plan
	Yes	No	N/A	
Has demonstrated an awareness and implementation of National Patient Safety Goals as applicable in their area of practice.				
Knows, understands, and adheres to system/hospital/department policies and procedures.				
Follows established system/hospital/department safety policies.				
Adheres to system/hospital/department policies regarding confidentiality.				
Adheres to hospital/department attendance policy.				
Has # of occurrences.				
Attends mandatory in-services and pertinent seminars.				
Completes mandatory annual education requirements.				
Date completed:				
Makes suggestions/recommendations for improved operations.				
Effectively communicates both orally and in writing in English.				
Adheres to system/hospital/department policies regarding cultural/spiritual diversity.				
Follows hospital/department infection control policies.				

Section II Comments**Section II Rating**

Employee Name:

Comments:

Job Description/Performance Review

Section III *(represents Service Excellence Requirements only)*

Service Excellence Requirements	Rating					Comments/Goals/Action Plan
	SE	E	C	RI	U	
Makes a positive first impression.						
Treats others as guests.						
Is an effective communicator.						
Turns negative service into positive attitude.						
Is professional in image.						
Practices teamwork.						
Projects a positive attitude.						
Strives for excellence in all endeavors.						
Comments						
Section III Rating						

Employee Name:

Comments:

Unit Coord/C NA -7

Employee Name: _____

Job Description/Performance Review**Rating**

Section I Rating (about 40% weight in overall rating) —includes Position Specific, Department Specific and Classification Specific Requirements	
Section II Rating (about 20% weight in overall rating) —represents System Requirements	
Section III Rating (about 40% weight in overall rating) —represents Service Excellence Requirements	

Performance Highlights

Does this employee meet the "Exceeds Requirements" standard as described in the rating scale?	Yes	No
--	------------	-----------

If yes, please list highlights of strengths or accomplishments

Does this employee meet the "Significantly Exceeds Requirements" standard as described in the rating scale?	Yes	No
--	------------	-----------

If yes, please list highlights of strengths or accomplishments

Overall Comments**Rating**

Approvals	Signature	Title	Date
1 st Level			
2 nd Level			
Human Resources			
CEO (If over \$75,000)			

Personal Development Plan/Goals

Minimum of 1 goal is required (max=5). Please utilize additional form for follow up.

Employee Comments

I have reviewed and discussed my job description, criteria specific rating, and this evaluation summary with my manager. This includes what is expected of me on my job and the Performance Review and Development Plan. My signature acknowledges only that I had this discussion and that I have agreed to work toward achievement of the Personal Development Plan stated above.

Employee			
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EXHIBIT “C”

124 Nev. 1515, 238 P.3d 863, 2008 WL 6124455 (Nev.)
(Table, Text in WESTLAW), Unpublished Disposition
(Cite as: 124 Nev. 1515, 2008 WL 6124455 (Nev.))

H

Supreme Court of Nevada.

Douglas VAUGHAN, Individually, and as Personal
Representative of Kathleen Vaughan, Deceased and
Jared Shafer, Personal Representative of Kathleen
Vaughan, Deceased, Appellants,

v.

HARRAH'S LAS VEGAS, INC., a Nevada Corpora-
tion d/b/a Harrah's Las Vegas; and Sharon Afflerback,
Respondents.

No. 46821.

July 7, 2008.

Background: Alleged assault victims brought personal injury action against casino and its employee, alleging respondeat superior liability, negligent hiring, negligent training, supervision and retention, and assault and battery. The Eighth Judicial District Court, Clark County, Sally L. Loehrer, J., granted casino judgment as a matter of law, and, following a jury trial, entered judgment on jury verdict for employee, and alleged victims appealed.

Holdings: The Supreme Court held that:

- (1) alleged assault was not reasonably foreseeable;
- (2) casino did not negligently hire employee;
- (3) casino did not breach its duty to exercise reasonable care in training, supervising, and retaining employee;
- (4) court could trifurcate trial into liability, compensatory damages, and punitive damages phases;
- (5) error in excluding alleged assault victim's hospital emergency room medical records and testimony from victim's treating physician was harmless;
- (6) employee's prior employment records were inadmissible extrinsic evidence; and
- (7) probative value of employee's psychiatric records

was substantially outweighed by the danger of unfair prejudice.

Affirmed.

West Headnotes

[1] Labor and Employment 231H 3056(2)

231H Labor and Employment

231HXVIII Rights and Liabilities as to Third
Parties

231HXVIII(B) Acts of Employee

231HXVIII(B)1 In General

231Hk3054 Intentional Acts

231Hk3056 Assault and Battery

231Hk3056(2) k. Particular cases.

Most Cited Cases

Casino employee's alleged assault of victims in bathroom was not reasonably foreseeable to casino in light of the nature and scope of her employment as a casino porter, and thus casino was not liable under respondeat superior theory for employee's conduct; employee did not have a prior criminal history, and casino had not received any customer or co-worker complaints of past violent assault. West's NRSA 41.745(1).

[2] Labor and Employment 231H 3041

231H Labor and Employment

231HXVIII Rights and Liabilities as to Third
Parties

231HXVIII(B) Acts of Employee

231HXVIII(B)1 In General

231Hk3039 Negligent Hiring

231Hk3041 k. Dangerous propensi-
ties. Most Cited Cases

124 Nev. 1515, 238 P.3d 863, 2008 WL 6124455 (Nev.)
(Table, Text in WESTLAW), Unpublished Disposition
(Cite as: 124 Nev. 1515, 2008 WL 6124455 (Nev.))

Casino did not negligently hire employee who allegedly committed assaults in bathroom, although employee was written-up at casino for sticking her tongue out at a supervisor and refusing to clean a certain area, where casino conducted a reasonable background check which did not reveal any potentially dangerous propensities because employee did not have a criminal record, and employee's prior work history did not include any violent altercations.

[3] Labor and Employment 231H ⚡3042

231H Labor and Employment

231HXVIII Rights and Liabilities as to Third Parties

231HXVIII(B) Acts of Employee

231HXVIII(B)1 In General

231Hk3042 k. Negligent retention. Most Cited Cases

Labor and Employment 231H ⚡3043

231H Labor and Employment

231HXVIII Rights and Liabilities as to Third Parties

231HXVIII(B) Acts of Employee

231HXVIII(B)1 In General

231Hk3043 k. Negligent training and supervision. Most Cited Cases

Casino did not breach its duty to exercise reasonable care in training, supervising, and retaining porter employee who allegedly committed assault in bathroom, where employee had over 20 years of experience in the hospitality industry, and there was no evidence that employee improperly performed her daily tasks or was inadequately supervised while performing her assignments.

[4] Trial 388 ⚡3(5.1)

388 Trial

388I Notice of Trial and Preliminary Proceedings

388k3 Separate Trials in Same Cause

388k3(5) Particular Issues, Separate Trial of

388k3(5.1) k. In general. Most Cited Cases

Trial court could trifurcate assault and battery trial into liability, compensatory damages, and punitive damages phases; court's decision was conducive to expedition and economy because it saved weeks of medical testimony about victim's surgeries and subsequent paraplegia, decision avoided prejudicing defendants because victim's quadriplegia could readily distract the jury from the issue of liability and unreasonably impassion them, and victim's injuries were not inextricably interrelated with defendants' liability because her alleged back and thumb injuries could have been sustained from a variety of different sources both before and after the alleged altercation. NRCP 42(b).

[5] Evidence 157 ⚡146

157 Evidence

157IV Admissibility in General

157IV(D) Materiality

157k146 k. Tendency to mislead or confuse. Most Cited Cases

Alleged assault victim's hospital emergency room medical records and testimony from victim's treating physician were relevant and not unduly prejudicial and thus were admissible in assault and battery action against casino employee. West's NRSA 48.015, 48.025(1), 48.035.

[6] Appeal and Error 30 ⚡1056.1(10)

30 Appeal and Error

30XVI Review

30XVI(J) Harmless Error

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 (Table, Text in WESTLAW), Unpublished Disposition
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30XVI(J)11 Exclusion of Evidence
 30k1056 Prejudicial Effect
 30k1056.1 In General
 30k1056.1(4) Particular Actions
 or Issues
 30k1056.1(10) k. Negligence
 and torts in general. Most Cited Cases

Appeal and Error 30 1056.1(11)

30 Appeal and Error
 30XVI Review
 30XVI(J) Harmless Error
 30XVI(J)11 Exclusion of Evidence
 30k1056 Prejudicial Effect
 30k1056.1 In General
 30k1056.1(11) k. Particular types
 of evidence. Most Cited Cases

Error in excluding alleged assault victim's hospital emergency room medical records and testimony from victim's treating physician was harmless error in assault and battery action against casino employee, as evidence carried little probative value; medical records and proffered testimony essentially repeated victim's statements to casino's employees after the alleged altercation, and the proffered evidence did not reveal a unique or substantial injury that victim may have neglected to report to casino's employees. West's NRSA 48.025(1).

[7] Witnesses 410 336

410 Witnesses
 410IV Credibility and Impeachment
 410IV(B) Character and Conduct of Witness
 410k334 Witnesses Who May Be Impeached as to Character
 410k336 k. Party as witness in civil action or proceeding. Most Cited Cases

Casino employee's prior employment records

were inadmissible extrinsic evidence in alleged victim's assault and battery action against employee, although the records may have been relevant, as victim attempted to introduce them to attack employee's credibility and the records were not a criminal conviction. West's NRSA 50.085.

[8] Evidence 157 373(1)

157 Evidence
 157X Documentary Evidence
 157X(D) Production, Authentication, and Effect
 157k369 Preliminary Evidence for Authentication
 157k373 Form and Sufficiency in General
 157k373(1) k. In general. Most Cited Cases

Casino employee's prior employment records lacked an adequate foundation for admission, as alleged assault victim did not introduce any evidence showing who authored disciplinary notation or exactly when it was entered, and thus records were inadmissible in victim's assault and battery action against employee even though they may have been relevant.

[9] Witnesses 410 331.5

410 Witnesses
 410IV Credibility and Impeachment
 410IV(A) In General
 410k331.5 k. Competency of impeaching evidence in general. Most Cited Cases

Probative value of casino employee's psychiatric records was substantially outweighed by the danger of unfair prejudice such that records were inadmissible in alleged victim's assault and battery action against employee, even though records may have been relevant to impeach employee's competence and memory;

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(Table, Text in WESTLAW), Unpublished Disposition
(Cite as: 124 Nev. 1515, 2008 WL 6124455 (Nev.))

psychiatric records were highly prejudicial because the jury could have been misled to find employee liable for the battery based upon their emotional reaction to her mental illness. West's NRSA 48.035.

[10] Labor and Employment 231H 3109

231H Labor and Employment

231HXVIII Rights and Liabilities as to Third Parties

231HXVIII(B) Acts of Employee

231HXVIII(B)2 Actions

231Hk3109 k. Costs and attorney fees.
Most Cited Cases

Casino and casino employee who prevailed on plaintiffs' claims arising out of alleged assault and battery by employee were entitled to recover their attorney's fees and costs. West's NRSA 18.010(2).

Richard Harris Law Firm

Ranalli & Zaniel, LLC

Smith Currie & Hancock LLP/Las Vegas

Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC

ORDER OF AFFIRMANCE

*1 Appeal from district court judgment as a matter of law, judgment on a jury verdict in a personal injury action, and post-judgment orders awarding attorney fees and costs. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

Appellants Kathleen and Douglas Vaughan (collectively, Vaughan) filed this personal injury action against respondents Harrah's Las Vegas, Inc. (Harrah's) and Sharon Afflerback. Vaughan alleges that she was assaulted and battered by Afflerback, a Harrah's employee. Based upon this allegation, Vaughan

sued Harrah's for respondeat superior liability, negligent hiring, and negligent training, supervision and retention. Vaughan sued Afflerback for assault and battery. At trial, the district court granted Harrah's judgment as a matter of law on all of Vaughan's claims. The district court allowed Vaughan's assault and battery claim against Afflerback to go to the jury, and they concluded that Afflerback was not liable.

Vaughan raises five issues on appeal. First, Vaughan contends that the district court erred when it granted Harrah's judgment as a matter of law on her respondeat superior, negligent hiring, and negligent training, supervision and retention claims. Second, Vaughan argues that the district court abused its discretion when it trifurcated the trial into liability, compensatory damages, and punitive damages phases because the issues of liability and damages were inextricably intertwined. Third, Vaughan asserts that the district court abused its discretion when it excluded the following three pieces of evidence: (1) her Sunrise Hospital emergency room records and the testimony of her treating physician, (2) Afflerback's prior employment records, and (3) Afflerback's psychiatric records. Fourth, Vaughan contends that the district court manifestly abused its discretion when it granted, in part, Harrah's and Afflerback's motions for attorney fees and costs. Fifth, Vaughan argues that the district court abused its discretion when it denied her new trial motion. For the following reasons, we conclude that all of Vaughan's contentions lack merit except for her argument concerning the erroneous exclusion of her Sunrise Hospital medical records and the proffered testimony of her treating physician. While we conclude that the district court abused its discretion when it excluded this evidence, we hold that the error was harmless. The parties are familiar with the facts of this case, and we recount them only as necessary to explain our decision.

Granting judgment as a matter of law to Harrah's

Vaughan contends that the district court erred when it granted Harrah's judgment as a matter of law

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on her following claims: (1) respondeat superior, (2) negligent hiring, and (3) negligent training, supervision, and retention. We disagree.

This court reviews de novo a district court's grant of judgment as a matter of law.^{FN1} The district court improperly grants a judgment as a matter of law "[i]f there is conflicting evidence on a material issue, or if reasonable persons could draw different inferences from the facts, [because] the question is one of fact for the jury and not one of law for the court."^{FN2} In determining whether the district court properly granted a judgment as a matter of law, this court will view all the facts in the light most favorable to the nonmoving party, and draw all reasonable inferences in his or her favor.^{FN3}

FN1. *Nelson v. Heer*, 123 Nev. 26, —, 163 P.3d 420, 425 (2007).

FN2. *Broussard v. Hill*, 100 Nev. 325, 327, 682 P.2d 1376, 1377 (1984).

FN3. *Id.*

1. *Respondeat superior*

*2 [1] NRS 41.745 governs employer liability for intentional torts by an employee. Under NRS 41.745(1), an employer is not liable for an employee's intentional tort unless the plaintiff proves all three of the following requirements: (a) the employee's conduct was not an independent venture, (b) the employee's conduct was committed in the course of his or her assigned tasks, and (c) the employee's conduct was reasonably foreseeable in light of the nature and scope of his or her employment. An employee's conduct was reasonably foreseeable "if a person of ordinary intelligence and prudence could have reasonably anticipated the conduct and the probability of injury."^{FN4}

FN4. NRS 41.745(1); see *Wood v. Safeway, Inc.*, 121 Nev. 724, 740, 121 P.3d 1026,

1036–37 (2005) (concluding that a sexual assault by an employee of an independent contractor against a store employee was not reasonably foreseeable to the perpetrator's employer because the perpetrator did not have a prior criminal history, and the employer had not received any customer or co-worker complaints of past improper sexual advances by the perpetrator or any other of its employees in the past ten years).

Foreseeability

After viewing all the facts in Vaughan's favor and assuming arguendo that respondent Sharon Afflerback assaulted Vaughan in the bathroom, we conclude that the district court did not err when it found that Afflerback's conduct was not reasonably foreseeable in light of the nature and scope of her employment as a casino porter. The record on appeal indicates that Afflerback did not have a prior criminal history and had not received any customer or co-worker complaints of past violent assault. Accordingly, we do not need to reach the remaining two elements of NRS 41.745(1) and conclude that the district court did not err in granting Harrah's judgment as a matter of law on the Vaughan's respondeat superior claim.^{FN5}

FN5. See *Wood*, 121 Nev. at 740, 121 P.3d at 1036–37.

2. *Negligent hiring*

[2] "The tort of negligent hiring imposes a general duty on an employer to conduct a reasonable background check on a potential employee to ensure that" he or she is suitable for the position.^{FN6} "An employer breaches this duty when it hires an employee even though the employer knew, or should have known, of that employee's dangerous propensities."^{FN7}

FN6. *Burnett v. C.B.A. Security Service*, 107 Nev. 787, 789, 820 P.2d 750, 752 (1991).

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FN7. *Hall v. SSF, Inc.*, 112 Nev. 1384, 1392,
930 P.2d 94, 98 (1996).

After viewing all the facts in Vaughan's favor, we conclude that the district court did not err when it found that Harrah's conducted a reasonable background check on Afflerback for a casino porter position. According to the record on appeal, the background check did not reveal any potentially dangerous propensities because she did not have a criminal record, and her prior work history did not include any violent altercations. While the record indicates that Afflerback was written-up at Harrah's for sticking her tongue out at a supervisor and refusing to clean a certain area, this incident did not involve violence. Accordingly, we conclude that the district court did not err in granting Harrah's judgment as a matter of law on the Vaughan's negligent hiring claim.

3. Negligent training, supervision, and retention

[3] An employer has a general duty to exercise reasonable care to ensure that an employee is properly trained and supervised in the performance of his or her position.^{FN8}

FN8. *Id.* at 1393, 930 P.2d at 99.

After viewing all the facts in Vaughan's favor, we conclude that the district court did not err when it found that Harrah's did not breach its general duty to exercise reasonable care in training and supervising Afflerback. Vaughan failed to introduce any evidence that Afflerback received insufficient training. The record indicates that Afflerback had over 20 years of experience in the hospitality industry, and there is no evidence that Afflerback improperly performed her daily tasks or was inadequately supervised while performing her assignments. Accordingly, we conclude that the district court did not err in granting Harrah's judgment as a matter of law on the Vaughan's negligent training, supervision, and retention claim.

Trifurcating the trial

*3 [4] Vaughan contends that the district court abused its discretion when it trifurcated the trial into liability, compensatory damages, and punitive damages phases, because the issues of liability and damages were inextricably intertwined. We disagree.

This court reviews a district court's decision to bifurcate the liability and damages phases of a trial for an abuse of discretion.^{FN9} NRCP 42(b) governs whether a district court should separate a trial into distinct phases. Under NRCP 42(b), "[t]he court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim." A district court may not bifurcate a trial if the plaintiffs damages are inextricably interrelated with the defendant's liability.^{FN10}

FN9. *Verner v. Nevada Power Co.*, 101 Nev. 551, 554, 706 P.2d 147, 150 (1985).

FN10. *Id.* at 553–54, 706 P.2d at 149–50.

We conclude that the district court did not abuse its discretion when it separated the liability and damages phases under NRCP 42(b). The district court's decision was conducive to expedition and economy because it saved weeks of medical testimony about Vaughan's surgeries and subsequent paraplegia. The decision also avoided prejudicing the respondents because Vaughan's quadriplegia could readily distract the jury from the issue of liability and unreasonably impassion them. Lastly, Vaughan's injuries were not inextricably interrelated with respondents' liability because her alleged back and thumb injuries could have been sustained from a variety of different sources both before and after the alleged altercation.^{FN11}

FN11. *Cf. id.* (concluding that the district court abused its discretion when it bifurcated a trial because the issues of liability and

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damages were inextricably intertwined in a case where a plaintiff fell off an electric pole and was severely burned).

different result might reasonably have been expected").

Evidentiary issues

Vaughan contends that the district court abused its discretion when, over her objection, it excluded the following evidence from the liability phase of the trial: (1) her emergency room medical records and the proffered testimony from her emergency room treating physician, (2) Afflerback's prior employment records, and (3) Afflerback's psychiatric records. While we agree that the district court abused its discretion when it barred testimony from Vaughan's treating physician and her emergency room medical records, we conclude that its error was harmless. We further conclude that Vaughan's remaining two arguments lack merit.

This court reviews a district court's decision to admit or exclude evidence for abuse of discretion.^{FN12} If a district court abuses its discretion in allowing or excluding certain evidence or testimony, this court will not reverse a verdict and remand for a new trial unless the error affected the petitioning party's substantial rights.^{FN13} In determining whether an error affected the party's substantial rights, this court will review the entire record to determine whether the petitioner satisfied his or her burden of showing that a different verdict could reasonably be expected.^{FN14}

FN12. *State ex rel. Dep't Hwys. v. Nev. Aggregates*, 92 Nev. 370, 376, 551 P.2d 1095, 1098 (1976).

FN13. NRS 178.598; NRCP 61.

FN14. *Boyd v. Pernicano*, 79 Nev. 356, 359, 385 P.2d 342, 343 (1963); see *Morrison v. Air California*, 101 Nev. 233, 237, 699 P.2d 600, 603 (1985) ("Appellant must show that but for the error in excluding the evidence, a

NRS Chapter 48 et seq. governs the general admissibility of evidence, and NRS 50.085 governs questioning a witness about their character or past conduct. NRS 48.015 states that " 'relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence." Under NRS 48.025(1), a district court must generally admit all relevant evidence unless an exclusionary rule applies. Once such rule, NRS 48.035, empowers a district court to exclude evidence that is unduly prejudicial, wastes time, or is needlessly cumulative. Another exclusionary rule, NRS 50.085(3), bars a party from introducing extrinsic evidence of a witness' past conduct to support his or her credibility unless the evidence concerns a criminal conviction. Under NRS 50.085(3), a party may cross-examine a witness about his or her prior conduct if the act is relevant to his or her truthfulness.

1. The proffered testimony of Vaughan's treating physician and Vaughan's emergency room records

*4 [5][6] We agree with Vaughan that the district court abused its discretion when it excluded testimony from her treating physician and her Sunrise Hospital emergency room medical records because the evidence was relevant and not unduly prejudicial. While we conclude that the district court abused its discretion by excluding this evidence, the error was harmless because the evidence carried little probative value. The medical records and proffered testimony essentially repeated Vaughan's statements to Harrah's employees after the alleged altercation. Moreover, the proffered evidence did not reveal a unique or substantial injury that Vaughan may have neglected to report to Harrah's employees. After reviewing the entire record, we conclude that the error was harmless because Vaughan failed to satisfy her burden of showing that a different verdict could have reasonably

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been expected if the medical evidence had been admitted.

2. Afflerback's prior employment records

[7][8] While we agree with Vaughan that Afflerback's prior employment records may have been relevant to proving Vaughan's claims, we conclude that the records were inadmissible for two reasons. First, the records were inadmissible extrinsic evidence under NRS 50.085 because Vaughan attempted to introduce them to attack Afflerback's credibility and the records were not a criminal conviction. Second, the records lacked an adequate foundation because Vaughan did not introduce any evidence showing who authored the disciplinary notation or exactly when it was entered.

3. Afflerback's psychiatric records

[9] While we agree with Vaughan that Afflerback's psychiatric records may have been relevant to impeach her competence and memory,^{FN15} we conclude that the district court did not abuse its discretion when it excluded the records under NRS 48.035. The psychiatric records were highly prejudicial because the jury could have been misled to find Afflerback liable for the battery based upon their emotional reaction to her mental illness. Thus, the probative value of the psychiatric records was substantially outweighed by the danger of unfair prejudice.

FN15. See *Lobato v. State*, 120 Nev. 512, 518, 96 P.3d 765, 770 (2004) (concluding that the collateral fact rule never bars a party from impeaching a witness' competence to testify with extrinsic evidence of his or her defective perception or memory).

The district court did not abuse its discretion when it granted attorney fees and costs

[10] Vaughan contends that the district court abused its discretion when it granted attorney fees and costs to Harrah's and costs to Afflerback because they

would not have prevailed if the district court had not repeatedly abused its discretion. We disagree.

This court reviews a district court's decision to award attorney's fees for a "manifest abuse of discretion."^{FN16} Under NRS 18.010(2), the court may award a prevailing party attorney fees if either of the following occurred: (a) he or she recovered less than \$20,000, or (b) the opposing party brought his or her claim without reasonable grounds.

FN16. *Nelson v. Peckham Plaza Partnerships*, 110 Nev. 23, 26, 866 P.2d 1138, 1139 (1994).

We conclude that the district court did not manifestly abuse its discretion when it awarded attorney fees and costs to Harrah's and costs to Afflerback because they both prevailed at trial, and they did not recover more than \$20,000.

The district court did not abuse its discretion when it denied Vaughan's new trial motion

*5 Vaughan contends that the district court abused its discretion when it denied her new trial motion. We disagree.

This court reviews the district court's ruling on a new trial motion for abuse of discretion.^{FN17} A petitioning party is entitled to a new trial under NRCP 59(a) if the district court erred, the party objected, and the error materially affected the party's substantial rights. NRCP 61 reiterates that a new trial is warranted only if the error affects the petitioning party's substantial rights.

FN17. *Krause Inc. v. Little*, 117 Nev. 929, 933, 34 P.3d 566, 569 (2001).

We conclude that the district court did not abuse its discretion when it denied Vaughan's new trial motion because, as discussed above, the exclusion of her

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medical records did not affect her substantial rights and her remaining arguments lack merit.

Conclusion

In summation, we reach five conclusions in this order. First, the district court did not err when it granted Harrah's judgment as a matter of law on Vaughan's respondeat superior and negligence claims. Second, the district court did not abuse its discretion when it trifurcated the trial because the liability and damages issues were not inextricably intertwined. Third, the district court did not abuse its discretion when it excluded Afflerback's prior employment records and her psychiatric records. While we conclude that the district court abused its discretion when it excluded Vaughan's Sunrise Hospital emergency room records and the testimony of her treating physician, we hold that the error was harmless because Vaughan failed to satisfy her burden of showing that a different verdict could reasonably have been expected if the evidence had been admitted. Fourth, the district court did not manifestly abuse its discretion when it granted, in part, Harrah's and Afflerback's motions for attorney fees and costs. Fifth, the district court did not palpably abuse its discretion when it denied Vaughan's new trial motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Nev., 2008.

Vaughan v. Harrah's Las Vegas, Inc.

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(Nev.)

END OF DOCUMENT

EXHIBIT “D”

CENTENNIAL HILLS
AGENCY FILE REQUIREMENTS
JOB CLASS:
AGENCY:
2008

Farmer, Steven *CNA* *American Nurse*

SECTION #	FILE REQUIREMENTS	EXPIRATION DATES	COMMENTS
1	APPLICATION / 2 REFERENCES <i>red</i>	<i>OK</i>	
	BACKGROUND CHECK	<i>OK</i>	
	SIGNED JOB DESCRIPTION - AGENCY	<i>OK</i>	
2	SKILLS COMPETENCY CHECKLIST	<i>OK</i>	
	IV CERTIFICATION (LPNS ONLY)		
3	CERTIFICATIONS: Front / back signed		
	NEVADA NURSING LICENSE	<i>CNA 3/16/09</i>	<i>CNA021509 PS</i>
	CPR/BLS	<i>10/30/09</i>	
	ACLS (ICU, IMC, ER)	<i>NA</i>	
	NRP (2ND FLR)	<i>N/A</i>	
	PALS (ER, PICU)	<i>N/A</i>	
	NALS Level 2 & 3 req	<i>N/A</i>	
4	PHYSICAL	<i>done 9/21/09</i>	
	DRUG TEST (URINE TOX. SCREEN)	<i>done 10/21/07</i>	
	MANTOUX (ANNUALLY)	<i>done 10/29/07</i>	
	CHEST XRAY (TB SURVEILLANCE) ANNUALLY	<i>NA</i>	
5	*DEPARTMENT ORIENTATION		
	VHS ORIENTATION SHEET		
6	*ANNUAL REVIEW		
	MED TEST / RN / LPN		
	*CURRENT EVALUATIONS		

* = FOR HOSPITAL USE ONLY

624-1677

Steven Farnce, C.N.A.

CENTENNIAL HILLS
AGENCY FILE REQUIREMENTS
JOB CLASS: CNA
AGENCY:
2008

American Nursing Services

SECTION #	FILE REQUIREMENTS	EXPIRATION DATES	COMMENTS
1	APPLICATION	N/A	
	BACKGROUND CHECK	done 7/29/07	
	SIGNED JOB DESCRIPTION - AGENCY	NA	
	SIGNED JOB DESCRIPTION - HOSPITAL		
2	SKILLS COMPETENCY CHECKLIST	6/26/08	
	IV CERTIFICATION (LPN'S ONLY)	NA	
3	NEVADA NURSING LICENSE	3/16/09	
	CERTIFICATIONS:	N/A	
	CPR/CLS CARD (ALL PAT. CAREGIVERS)	6/27/09	
	ACLS (ICU, INICU)	N/A	
	PALS (ER, PICU)	N/A	
	NALS Level 2 & 3 only	N/A	
4	PHYSICAL	9/21/08	
	DRUG TEST (URINE TOX SCREEN)	done 6/26/07	
	TB/ CHEST X-RAY (EVERY YRS.)	6-26-08	
	VARICELLA DOCUMENTATION	data 9/14/05	
	HEPATITIS VACCINE & FOLLOW UP	Completed 6/15/06	
	FIT TEST	done 2-5-08	
	LATEX ALLERGY	2/5/08	
5	DEPARTMENT ORIENTATION		
	VHS ORIENTATION SHEET	2/5/08 - done	
6	ANNUAL REVIEW		
	MED TEST	N/A	
	CURRENT EVALUATIONS		



American Nursing Services INC.
PROFESSIONALS WHO CARE

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American Health Care Recruiters INC.

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Anchorage, AK (907) 343-5919
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Baton Rouge, LA (225) 761-6996
Dallas, TX (214) 987-3366
Gulfport, MS (228) 896-7001

Jackson, MS (601) 321-0599
Lafayette, LA (337) 593-8600
Las Vegas, NV (702) 638-1200
Lexington, KY (859) 299-2339
Mandeville, LA (985) 951-8283

Miami, FL (305) 629-2657
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Rochester, NY (585) 244-0010
San Antonio, TX (210) 614-8009
Santa Rosa, CA (707) 527-0700

Shreveport, LA (318) 425-2641
Tampa, FL (813) 288-1977
Tyler, TX (903) 526-6877

APPLICATION CURRICULUM VITAE

Today's Date 10/04/2005 Social Security Number [REDACTED]

Name FARMER STEVEN DALE
Last First Middle

Present Address [REDACTED]
Street City State/Province Zip/Postal Code

Present Phone [REDACTED] Work () SAME

Permanent Address [REDACTED]
Street City State/Province Zip/Postal Code

Permanent Phone () [REDACTED] Work () [REDACTED]

E-Mail Address [REDACTED] Best Time to Reach You X a.m. 5 p.m.

Are you legally eligible for employment in the United States? Yes YES No [REDACTED]

Were you previously employed by this company? Yes [REDACTED] No NO

If Yes, give position(s) and date(s) worked [REDACTED]

Have you ever worked or are you presently working with any traveling nurse companies? [REDACTED]
If so, give name [REDACTED]

*Have you ever been convicted of a Felony? Yes [REDACTED] No NO

If yes, attach separate sheet with explanation.

REFERRAL SOURCE: Journal Ad [REDACTED] Newspaper Ad [REDACTED]
Name Name

Convention [REDACTED] Individual [REDACTED]
Name Name

Other [REDACTED]
Name

PERSONAL REFERENCES

PLEASE GIVE THREE REFERENCES, EXCLUDING RELATIVES AND FORMER EMPLOYERS, WHOM YOU HAVE KNOWN AT LEAST ONE YEAR.

NAME	ADDRESS	PHONE	OCCUPATION	YEARS KNOWN
1. <u>ANDY CARR</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>NURSE (RN)</u>	<u>[REDACTED]</u>
2. <u>KAY ROLE</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>NURSE (RN)</u>	<u>[REDACTED]</u>
3. <u>LESLIE HELMS</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>CNA (PRN)</u>	<u>[REDACTED]</u>

*Conviction of a crime will not result in automatic disqualification
American Nurse Santa Rosa

707 638 8522 P.01

EMPLOYMENT PREFERENCE

POSITION CNA DATE AVAILABLE TO BEGIN WORK 10/04/2005
 PERMANENT PLACEMENT X SHORT TERM ASSIGNMENT X NUMBER WEEKS DESIRED _____
 CLINICAL AREA OF NURSING IN WHICH YOU HAVE WORKED (LISTING MOST RECENT FIRST):
 1. _____ YEARS OF EXPERIENCE _____
 2. _____ YEARS OF EXPERIENCE _____
 3. _____ YEARS OF EXPERIENCE _____
 SHIFT PREFERENCE: 1. _____ 2. _____ 3. _____
 DESIRED GEOGRAPHICAL LOCATION OR FACILITY: 1. _____
 2. _____ 3. _____

LICENSURE

List all states in which you are currently licensed or have been licensed. Please attach photocopies of all current licenses.
 STATE LICENSE # EXP. DATE STATE LICENSE # EXP. DATE

LIST ANY INACTIVE LICENSES YOU MAY HAVE _____

HAS YOUR NURSING LICENSE EVER BEEN SUSPENDED, REVOKED, OR INVESTIGATED? YES _____ NO _____

IF YES, ATTACH SEPARATE SHEET WITH EXPLANATION.

MALPRACTICE INSURANCE

DO YOU HAVE MALPRACTICE INSURANCE? YES _____ NO X

IF YES, MALPRACTICE INSURANCE POLICY NO. _____

COMPANY _____

EXPIRATION DATE OF POLICY _____

ENCLOSE COPY OF POLICY.

EDUCATION

EDUCATION	NAME AND ADDRESS OF SCHOOL	YEARS ATTENDED	YEARS COMPLETED	DO YOU GRADUATE	DEGREE RECEIVED	DIPLOMA
HIGH SCHOOL	CITY STATE	FROM	1 2	YES	DEGREE	
		TO	3 4	NO	MAJOR	
COLLEGE OR SCHOOL OF NURSING	CITY STATE	FROM	1 2	YES	DEGREE	
		TO	3 4	NO	MAJOR	
GRADUATE SCHOOL	CITY STATE	FROM	1 2	YES	DEGREE	
		TO	3 4	NO	MAJOR	
OTHER (RECOPY)	CITY STATE	FROM	1 2	YES	DEGREE	
		TO	3 4	NO	MAJOR	

CONTINUING EDUCATION / CERTIFICATION

CONTINUING EDUCATION (PLEASE ENCLOSE COPIES) _____

CRITICAL CARE COURSE _____

EXG COURSE YES _____ NO _____

ARE YOU CPR/BCLS CERTIFIED? YES X NO _____ DATE TAKEN: OCT 2002 EXPIRATION DATE: OCT 2005

PLEASE ENCLOSE COPIES OF CPR CERTIFICATION. YOU MUST HAVE CURRENT CPR PRIOR TO ASSIGNMENT.

SPECIALTY CERTIFICATION (CCRN, CEN etc.) PLEASE ENCLOSE COPIES _____

EMPLOYMENT HISTORY

List most recent employment first.
All employment must be recorded; use additional sheets as necessary.

Any breaks in employment must be explained.
Explanations, if necessary:

Employer _____	Dept. / Unit / Floor _____
Immediate Supervisor _____	Phone () _____
Address _____	Dates Employed (Mo./Day/Yr.): From _____ To _____
City / State / Province / Zip _____	Duties _____
Position Held _____	Charge Experience _____
Specialty _____	Number and Title of Employees Supervised _____
Number of beds _____	Reason For Leaving _____
Type of Nursing (Primary, etc.) _____	Was this a travel assignment? Yes _____ No _____
Average No. Hours per week _____	

Employer _____	Dept. / Unit / Floor _____
Immediate Supervisor _____	Phone () _____
Address _____	Dates Employed (Mo./Day/Yr.): From _____ To _____
City / State / Province / Zip _____	Duties _____
Position Held _____	Charge Experience _____
Specialty _____	Number and Title of Employees Supervised _____
Number of beds _____	Reason For Leaving _____
Type of Nursing (Primary, etc.) _____	Was this a travel assignment? Yes _____ No _____
Average No. Hours per week _____	

Employer _____	Dept. / Unit / Floor _____
Immediate Supervisor _____	Phone () _____
Address _____	Dates Employed (Mo./Day/Yr.): From _____ To _____
City / State / Province / Zip _____	Duties _____
Position Held _____	Charge Experience _____
Specialty _____	Number and Title of Employees Supervised _____
Number of beds _____	Reason For Leaving _____
Type of Nursing (Primary, etc.) _____	Was this a travel assignment? Yes _____ No _____
Average No. Hours per week _____	

Employer _____	Dept. / Unit / Floor _____
Immediate Supervisor _____	Phone () _____
Address _____	Dates Employed (Mo./Day/Yr.): From _____ To _____
City / State / Province / Zip _____	Duties _____
Position Held _____	Charge Experience _____
Specialty _____	Number and Title of Employees Supervised _____
Number of beds _____	Reason For Leaving _____
Type of Nursing (Primary, etc.) _____	Was this a travel assignment? Yes _____ No _____
Average No. Hours per week _____	

Employer _____	Dept. / Unit / Floor _____
Immediate Supervisor _____	Phone () _____
Address _____	Dates Employed (Mo./Day/Yr.): From _____ To _____
City / State / Province / Zip _____	Duties _____
Position Held _____	Charge Experience _____
Specialty _____	Number and Title of Employees Supervised _____
Number of beds _____	Reason For Leaving _____
Type of Nursing (Primary, etc.) _____	Was this a travel assignment? Yes _____ No _____
Average No. Hours per week _____	

employment history continued on next page...

employment history continued ...

HAVE YOU EVER BEEN DISCHARGED FROM A JOB OR FORCED TO RESIGN? YES _____ NO X
IF YES, PLEASE EXPLAIN _____MAY WE CONTACT YOUR PRESENT AND FORMER EMPLOYER(S)? YES X NO _____**EMERGENCY**

Please notify in case of emergency

1) Name TRAY FARMER Relationship BROTHER
Address _____ City/State/Zip _____
Phone _____ Phone _____

2) Name SANDRA FARMER Relationship SISTER
Address _____ City/State/Zip _____
Phone _____ Phone _____

I certify that all answers to questions in this application are true. I understand that any false or misleading information or omissions in this application shall result in ineligibility for employment or immediate dismissal. I further understand and agree American Nursing Services, Inc./American Health Care Recruiters, Inc., will require a health assessment prior to my employment and periodically thereafter as a condition of employment. I authorize American Nursing Services, Inc./American Health Care Recruiters, Inc., its agents, servants and employees to investigate all statements made in this application and to contact former employers, educational institutions, licensing and any and all other institutions, persons or agencies, and hereby authorize American Nursing Services, Inc./American Health Care Recruiters, Inc., its agents, servants, and employees, and said herein before-identified organizations and persons to release any and all records, documents, and information relative to such inquiries, and I further hereby release any and all of said parties from any liability or responsibility in connection therewith. I agree that my references and/or a copy of my application may be disclosed to an authorized representative from a client hospital/institution of American Nursing Services, Inc./American Health Care Recruiters, Inc. as required by JOAHO requirements.

The Civil Rights Act of 1964 prohibits discrimination in employment because of race, color, religion, sex or national origin. Federal law also prohibits discrimination on the basis of age with respect to certain individuals. The laws of most States also prohibit some or all of the above types of discrimination as well as some additional types such as discrimination based upon ancestry, marital status or physical or mental handicap or disability.

DATE 10/04/2005 SIGNATURE St. J. Farmer
DATE 10/19/06 INTERVIEWER West

New CNA grad - working PT thru HTH
@ Henderson Senior Living
(3) mths 1st choice
of acute experience!!

Steve Farmer

Objective

Secure a position as a CNA in a positive and caring community that allows me to use my diverse skills and experience.

5 YR Work Experience

Healdsburg District Hospital

11-2005 to Present

Sub-acute Med-Surg: Under the direction of an RN/LVN provided basic nursing care in a manner that promoted safety, comfort and maintained a healing environment, communicated to RN/LVN observations regarding patient conditions. I cared for patients with tracheotomy, colostomies, Foleys, G-tubes; in post-vegetative states, with brain tumors, strokes, dementia, diabetes, Alzheimer's, multiple heart attacks, and spinal cord injuries. I worked as Telly-Technician, hooked-up EKG leads, monitored heart rates and rhythms for patients. I also worked as a ward clerk building files, printing labels, processed admission papers work from ER, submitting MD orders to the pharmacy, entering information and orders into computer for appointments to OT, PT, labs, diets, activity levels and allergies.

Skilled Nursing

American Nursing and At Home Nursing (both registries)

9-2005 to 11-2005

Under the direction of an RN/LVN did total care for patients with conditions ranging from stroke, COPD, dementia, hip replacements, age related fall risk, wheelchair bound, obesity, dementia, diabetes, Alzheimer's; multiple heart attacks and other skilled nursing related illnesses. I also worked patients with spinal cord injuries Paraplegic and Quadriplegic.

In Home Support Services

11-2001 to 11-2004

Worked with patients in homes under the supervision of an RN/ LVN took care of patient for 4 years with multiple strokes, diabetes (took blood sugars and monitored levels 4 times daily), multiple heart attacks, dysphasia, depression, de-cubits, assisted with all ADL's, transfers and prepared meals. I participated in patient education, included dietary and medication interactions, implemented programs and planned activities that supported speech therapy, PT, OT, handwriting skills, and other motor skills. Multiple strokes impeded recovery from hip replacement; provided motivation and training in use of a walker to minimize fall risk for patient recovery.

Prior related experience

1988 - 1989

Under the supervision of an RN/ LVN worked with patient with inoperative terminal brain tumors. Including complete patient care for all ADL's and outings until death.

Capabilities and Skills

CPR and First Aid Instructor for Red Cross. Strong motivation for assisting others in loving the life they are living. Dedicated and mature with a professional attitude and willing to work. Work extremely well independently and as a team member, flexible and willing to assist where needed in situations of overload, remain calm and work well under demanding conditions. I am able to focus despite distractions and changing priorities, multi-task and coordinate projects to meet deadlines. Worked with people with diverse cultures and backgrounds, I have supervised and keep schedules for 15 + people. Tact and listening when asked for or when confronted with judgments concerning sensitive matters. Demonstrate communications skills both written and orally. I have excellent confidentiality and patient skills.

Education

Santa Rosa Jr College	2006
Red Cross CNA School	2005
Red Cross Home Health Aide	2005
Red Cross Acute Care Training	2005
Red Cross CPR and First Aide Instructor	2005
Certified Masseuse	1996
Chaffey High School (Grad)	1970
Chaffey Jr College	1973

Employment History

From:	11/05	Company Name:	Healdsburg District Hospital	May we contact:	No	Contact Person:	Isabel
To:	Present	& Address:	1300 University Ave Healdsburg, CA 95413	Phone #:	(707) 431-6300	Reason For Leaving:	Relocating to Las Vegas

From:	09/05	Company Name:	American Nursing	May we contact:	Yes	Contact Person:	Kelly Scott
To:	Present	& Address:	1260 Dutton St. Ste# Santa Rosa, CA 95403	Phone #:	(707) 527-0700	Reason For Leaving:	They have an office in Las Vegas, Transferring

From:	09/05	Company Name:	At Home Nursing	May we contact:	Yes	Contact Person:	Human Resources
To:	Present	& Address:	2227 Capricorn Way Ste#110b Santa Rosa, CA 95407	Phone #:	(707) 546-8773	Reason For Leaving:	Inactive

From:	01/05	Company Name:	Red Cross School	May we contact:	Yes	Contact Person:	
To:	08/05	& Address:	5297 Aero Drive Santa Rosa, CA 95403	Phone #:	(707) 577-7600	Reason For Leaving:	Graduated

From:	12/00	Company Name:	In-Home Support Services	May we contact:	Yes	Contact Person:	
To:	11/04	& Address:	2280 Northpoint Pkwy Santa Rosa, CA 95403	Phone #:		Reason For Leaving:	Patient Passed and want to school

From:	1990	Company Name:	Self Employed (Real Estate)	May we contact:		Contact Person:	
To:	Oct-00	& Address:	San Diego, CA 92008	Phone #:		Reason For Leaving:	

ACXION

Date: 7/29/2007

Client: AMERICAN NURSING SERVICES
 1 GALLERIA BLVD., #2200
 METAIRIE LA 70001
 Attention: LISA LAMBERT

Subscriber Code E8123303
 Reference #:
 Location: LAS VEGAS
 Mailbox:

CAUTION

Information contained herein should not be the sole determining factor in evaluation of the individual. This report is submitted in STRICT CONFIDENCE, and except where required by law, no information provided in this report may be revealed directly or indirectly to any person except to one whose official duties require them to pass on the transaction in relation to which this report was ordered. This report is prepared for purposes pursuant to personal and/or agent selection, and human error in compiling this information is possible. County felony criminal records are checked at the court of general jurisdiction only. Felony records are typically housed in one location; however, jurisdictional variations may occur.

Note: Pre and Post notification requirements under the Fair Credit Reporting Act are required. If any information contained in the report will be used for an adverse action, please discuss that information with the applicant. If the applicant disputes the information, please contact us with additional identification on the applicant so we can further verify the item before any adverse action is taken.

Applicant Name: FARMER, STEVEN
 Social Security No: [REDACTED]
 Phone: ()
 Maiden Name/Alas:
 Address: [REDACTED]

Control # 12416903
 Ordered By LISA LAMBERT

Applicant's Status: Complete
Services Ordered:

National Access Search	C		Clear
TRUSS	C	FARMER, STEVEN	Informational
Global Terrorist Watchlist Search	C		Clear
FACTS	C	FARMER, STEVEN	Informational
County Record Check	C	SAN DIEGO, CA	Clear
County Record Check	C	RIVERSIDE, CA	Clear
County Record Check	C	DENVER, CO	Clear
County Record Check	C	CHAMPAIGN, IL	Clear

National Access Search

Search Performed On 07/26/2007

CLEAR

The search criteria submitted did not find any matching offenders in the National Criminal Access Database. Acxion Information Security Services recommends that the NCA search be used as an adjunct to the county/state criminal record searches. The information amassed in this database is compiled from numerous government agencies and may not contain information that is available in the public record through other sources. Agencies providing information to this database may change without notice. For a complete listing of jurisdictions covered please contact customer service.

EU EP AMERICAN NURSING S TRANSUNION ID REPORT

<FOR> <SUB NAME> <MKT SUB> <INFILE> <DATE> <TIME>

Page: 1 of 3.

Applicant Name: FARMER, STEVEN
(I) E AFS123303 AMER NURSING

12 SD 5/76 07/25/07 15:51CT

Control Number: 12416903

<SUBJECT>

FARMER, STEVEN DALE

<ALSO KNOWN AS>

DIESEL, STEVEN

ARMER, STEVEN

<CURRENT ADDRESS>

<FORMER ADDRESS>

*** BEST MATCH ***

<SSN>

<TELEPHONE>

<DATE RPTD>

3/00

2/94

SPECIAL MESSAGES

ADDRESS ALERT: CURRENT INPUT ADDRESS DOES NOT MATCH FILE ADDRESS (ES)

**** 0002 INQUIRIES ON FILE ***

ID REPORT SERVICED BY:

TRANSUNION

800-888-4213

2 BALDWIN PLACE, P. O. BOX 1000, CHESTER, PA. 19022

END OF TRANSUNION REPORT

Global Terrorist Watchlist Search

Global Terrorist Watch List

*** CLEAR ***

No Match was found in the Global Terrorist Watchlist
FACIS

FACIS DATABASE SEARCHED

NO RECORD FOUND

Verified By: FRAUD AND ABUSE CONTROL INFORMATION SYSTEM

County Record Check

Felony/Misdemeanor Record Check *** CLEAR ***

Jurisdiction: SAN DIEGO, CA

Records Were Checked For a Minimum of Seven Years

The above court was checked and no Felony/Misdemeanor records were found.
This search includes Misdemeanors found at the county court level.

County Record Check

Felony/Misdemeanor Record Check *** CLEAR ***

Jurisdiction: RIVERSIDE, CA

Records Were Checked For a Minimum of Seven Years

The above court was checked and no Felony/Misdemeanor records were found.
This search includes Misdemeanors found at the county court level.

County Record Check

County Criminal Record Check

*** CLEAR ***

Applicant Name: FARMER, STEVEN
Jurisdiction: DENVER, CO

SSN: ***-**-1676

Control Number: 12416903

Records Were Checked For a Minimum of Seven Years

The above court was checked and no Felony records were found
County Record Check

County Criminal Record Check

*** CLEAR ***

Jurisdiction: CLARK, NV

Records Were Checked For a Minimum of Seven Years

The above court was checked and no Felony records were found

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American Nursing Services INC.

P. R O F E S S I O N A L S W H O C A R E

JOB DESCRIPTIONS: CERTIFIED NURSING ASSISTANT

DEFINITION:

American's certified nursing assistant is a highly competent, valuable member of the professional health care team, who through clinical experience and education, performs with a high level of sophistication.

POSITION SUMMARY:

Under the direct supervision of a Registered Nurse and or a Licensed Practical/Vocational Nurse, performs duties related to specific clerical, organizational, and patient focused activities. The patient focused tasks will be supportive in nature and delegated and supervised by a licensed nurse. These tasks include transportation of patients, observation of behavior, and information gathering to be reported to the nurse. The organizational responsibilities include the collection and distribution of unit materials, and the orderliness and cleanliness of the unit and required equipment. Clerical responsibilities include serving as a receptionist for the unit, answering the phone, requesting and obtaining items for patient care, and assisting with maintenance of records.

QUALIFICATIONS:

1. Current license to practice as a certified nursing assistant within the state of practice.
2. High school diploma or GED and passed a Nursing Assistant program
3. Patient care experience in an acute care hospital is preferred, knowledge of the hospital environment is required.
4. Must have the physical and mental ability to perform the skills on the skill checklist and the tasks of the position summary.
5. Works in a modern, smoke free, temperature controlled facility. Must adapt to rapidly changing work loads and frequent interruptions. May be required to stand, walk, and lift on a daily basis. May be exposed to body fluids and infectious disease.
6. Must successfully complete the pre-employment/post job off health screening and the annual screening each year thereafter as an employee. Must be willing to float to other units as needed.

FUNCTIONS:

1. Assists with the admission, transfer and discharge of patients. Completes pertinent documents
2. Assures that all patient belongings accompany the patient to the new unit or home at time of discharge
3. Safely transports stable patients as required.
4. Cleans, procures, and returns equipment and supplies.
5. Runs errands for the unit as required.
6. Assists licensed personnel in providing a safe and comfortable environment at all times; replenishes patient room with water, linen, towels, as appropriate.
7. Performs unit specific patient care task in accordance with skills checklist and documents on the flowsheet, (i.e. vital signs, pain screen, I&O, weights, ADL's)
8. Identifies obvious changes in the patient's condition and takes responsibility for reporting those changes promptly to the nurse in charge.
9. Assists with the ordering and maintenance of stock items according to established inventory, when needed. Keeps unit supplies in an organized and orderly fashion.
10. Responds appropriately to emergencies.
11. Communicates effectively with other team members during own and between shifts
12. Responds to phone calls and patient call lights
13. Demonstrates competence to perform assigned patient care responsibilities in a manner that meets the age specific and developmental needs of patients served by the department
14. Appropriately adapts assigned patient assessment, treatment, and/or care methods to accommodate the unique physical, psychosocial, cultural, spiritual, age specific and other developmental needs of each patient served
15. Performs other duties as assigned.

I have read and understand the above description.

St. John
Signature

10/04/05
Date

**Personal Information**

Name: Steven Farmer

Overall Competency Score:

3.0

Overall Proficiency Score: 2.5

Overall Frequency Score: 3.5

Skills Checklist Information

Date Completed: 06/26/2007
Skills Checklist Name: CNA
Company: American Nursing Services Inc.
Assessment ID: 265682260712590

Legend

Proficiency:

- 1 = theory; no practical
- 2 = less than one year experience
- 3 = 1-2 years experience
- 4 = more than 2 years experience

Frequency:

- 1 = never observed only
- 2 = < 5 times/year
- 3 = 1-2 times/month
- 4 = daily or weekly

Skills Checklist (Show Details v)

Certified Nursing Assistant

Proficiency: 2.5

Frequency: 2.5

Patient Care

Proficiency: 3.5

Frequency: 4.0

Age Specific:

Proficiency:

Frequency:

Years Experience in Clinical Specialty:

Most recent facility worked at:

Agreement:

☒ I certify that the information provided above accurately reflects education received and my experience in each of the clinical areas identified.

Checked by Steven Farmer on 06/26/2007

Latex Allergy Test
Answer Sheet

Name: STEVEN DALE FARMER

Grade: Pass X Fail

1. D

2. D

3. D

4. B

5. A

6. D

7. D

Employee Signature: [Signature]

Date: 2/5/08

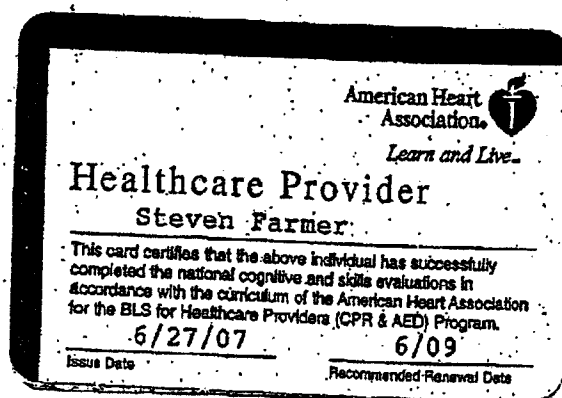
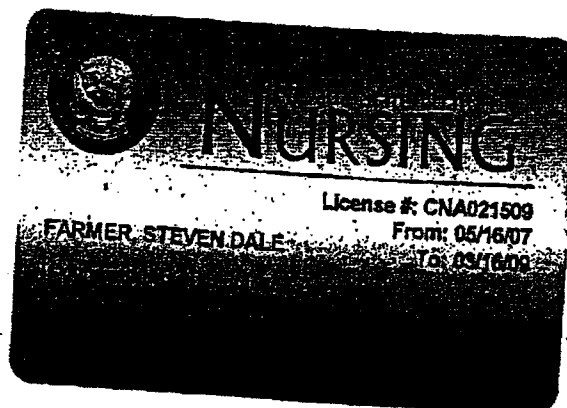
License/Certificate Verification Results

Name	License / Certificate	Issue Date	Description	Expiration Date
STEVEN DALE FARMER	CNA021509	05/16/2007	ACTIVE	03/16/2009

● [Search Again](#)● [Return to the NSBN Home Page](#)

Offices of the Nevada State Board of Nursing		
Functions	RN/LPN Licensure CNA Certification Education Continuing Education	Administration Investigations and Discipline RN/LPN/CNA Renewals Advanced Practice Certification Practice Questions
Address	2500 W. Sahara Ave., Suite 207 Las Vegas, NV 89102-4392	5011 Meadowood Mall Way, Suite 300 Reno, Nevada 89502-6547
Telephone	(702) 486-5800 1-888-590-6726 (toll free)	(775) 688-2620 1-888-590-6726 (toll free)
FAX	(702) 486-5803	(775) 688-2628
Email	nursingboard@nsbn.state.nv.us	nursingboard@nsbn.state.nv.us

PP
2/29/08



PP
2/18/08

AHA WESTERN STATES AFFILIATE
Region SUNRISE HOSPITAL & MED. CNTR.
Community SUNRISE CHILDRENS HOSPITAL
Training Center LAS VEGAS, NV: 89109
Training Site LIFESAVERS C.P.R. 236-9094

Instructor LYNN PRESCOTT

Holder's
Signature

Stan Hill Turner
00000 American Heart Association Tampering with this card will alter its appearance. 70-0216

Stan Hill Turner
Signature

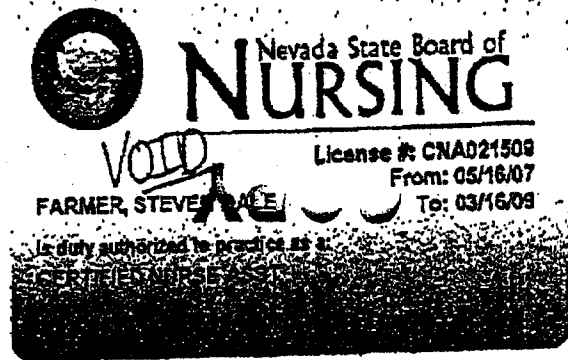
NSBN WEB SITE
www.nursingboard.state.nv.us

LICENSEE

You are required by law to only practice with a current active license. The law also requires you to inform the Board in writing of any address change.

EMPLOYER

Always verify current licensure status.



Steve Farmer
Signature

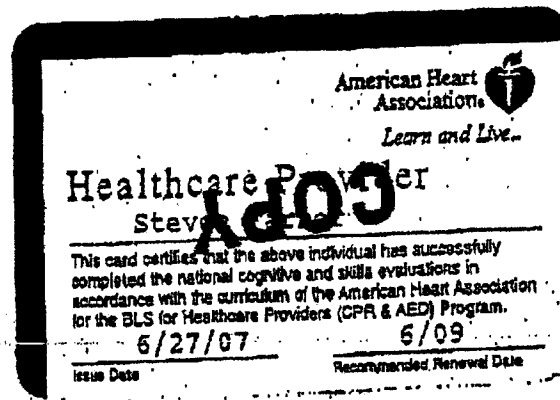
NSBN WEB SITE
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LICENSEE

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EMPLOYER

Always verify current licensure status.



WESTERN STATES AFFILIATE
Region **SUNRISE HOSPITAL & MED. CNTR.**
Community **SUNRISE CHILDRENS HOSPITAL**
Training Center **LAS VEGAS, NV. 89109**
Training Site **LIFESAVERS C.P.R. 236-9094**

Instructor **LYNN PRESCOTT**

Holder's
Signature

[Handwritten Signature]

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CLERK OF THE COURT

Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its)
Special Administrator, Misty Petersen,)
)
Plaintiff,)
)
vs.)
)
VALLEY HEALTH SYSTEM LLC, a Nevada)
limited liability company, d/b/a CENTENNIAL)
HILLS HOSPITAL MEDICAL CENTER;)
UNIVERSAL HEALTH SERVICES, INC., a)
Delaware corporation; AMERICAN NURSING)
SERVICES, INC., a Louisiana corporation;)
STEVEN DALE FARMER, an individual; DOES I)
through X, inclusive; and ROE CORPORATIONS)
I through X, inclusive,)
)
Defendants.)

CASE NO. 09-A-595780-C
DEPT. NO. II

**PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
RE: LIABILITY**

**DATE:
TIME:**

COMES NOW Plaintiff Estate of Jane Doe, by and through its Special Administrator,
Misty Petersen, by and through its attorneys of record, Murdock & Associates, Chtd., and Eckley
M. Keach, Chtd., and hereby submits its Motion for Summary Judgment as follows.

1 This Motion is made and based upon the papers and pleadings on file herein, the attached
2 Points and Authorities, Affidavit of Robert E. Murdock, Esq. and any oral argument as may be
3 had by this Court.

4 DATED this 29th day of September, 2014.

5 MURDOCK & ASSOCIATES, CHTD.
6 ECKLEY M. KEACH, CHTD.

7 /s/ Robert E. Murdock
8 Robert E. Murdock Bar No. 4013
9 Eckley M. Keach Bar No. 1154
10 521 South Third Street
11 Las Vegas, NV 89101
12 Attorneys for Plaintiff

13
14 **NOTICE OF MOTION**

15 TO: ALL INTERESTED PARTIES

16 PLEASE TAKE NOTICE that on the 3rd day of November, 2014 at
17 9:00 a.m. in Department II of the District Court of Clark County, Nevada, Plaintiff will
18 bring the foregoing Motion for Summary Judgment before this Court for hearing.

19 DATED this 29th day of September, 2014.

20 MURDOCK & ASSOCIATES, CHTD.
21 ECKLEY M. KEACH, CHTD.

22 /s/ Robert E. Murdock
23 Robert E. Murdock Bar No. 4013
24 Eckley M. Keach Bar No. 1154
25 521 South Third Street
26 Las Vegas, NV 89101
27 Attorneys for Plaintiff
28

1 **POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 This is a motion for partial summary judgment on the issue of liability. NRS 41.133 says a
4 "judgment of conviction is conclusive evidence of all facts necessary to impose civil liability for
5 the injury." Farmer sexually assaulted the deceased victim. He was convicted of this crime. The
6 judgment of conviction is conclusive evidence of "all facts" necessary to establish civil liability
7 for the injuries resulting from this crime. Furthermore, since the facts necessary to impose civil
8 liability for the decedent's injuries have been conclusively established, partial summary judgment
9 on the issue of liability must be found as to Farmer, ANS his direct employer, and Centennial Hills
10 who hired ANS to provide certified nursing assistants, like Farmer, to service its patients.
11 Accordingly, the only remaining issue is what damages were proximately caused by the sexual
12 assault. The Court will see there are no genuine issues of material facts that would prevent a
13 finding of liability as to any defendant based upon the judgment of conviction. The law on this
14 point is explicit, incontestable, and decisive.

15 Litigation in this multi-defendant case was initiated on July 23, 2009. This case concerns
16 the battery by Mr. Farmer against Jane Doe. Jane Doe has testified that Farmer committed a
17 battery against her while she was a patient at Centennial Hills Hospital and was suffering from the
18 effects of seizure activity. Mr. Farmer, a CNA employed by American Nursing and working at
19 Centennial Hills, pinched and rubbed her nipples, placed his thumb in her anus, and placed his
20 finger inside her vagina.

21 As this Court knows, at various points in time, there was a stay of this case due to the
22 criminal case against Mr. Farmer. However, in an Order dated May 20, 2013, Commissioner
23 Bulla lifted the stay allowing all discovery to move forward. While Mr. Farmer asserted the Fifth
24 Amendment during his deposition, now that he has been convicted, his testimony (or refusal to
25 provide thereof) is meaningless.

26 A six (6) week jury trial in the criminal case against Mr. Farmer commenced on February
27 3, 2014. On January 20, 2012, prior to said jury trial, Jane Doe provided cross-examined
28 testimony in the criminal case in order to preserve her testimony. The entire testimony is attached

hereto as Exhibit 1 for the Court's convenience.¹ Her testimony is clear and absolute: Farmer committed a battery upon Jane Doe. It also details how she felt and how she was damaged.

On June 2, 2014, a Judgment of Conviction was filed in the criminal case against Mr. Farmer, which is attached hereto as Exhibit 2. In particular, Mr. Farmer was found guilty on all six (6) counts alleged against him by Jane Doe as reflected in the following table:

SECOND AMENDED INFORMATION	JUDGMENT OF CONVICTION
Count 10 – Sexual Assault Digital penetration, by inserting his finger(s) into the anal opening of Jane Doe, against her will, or under conditions in which Farmer knew, or should have known, that Jane Doe was mentally or physically incapable of resisting or understanding the nature of Farmer's conduct.	Count 10 – Sexual Assault (F – Category A) in violation of NRS 200.364, 200.366 Life with a minimum parole eligibility of Ten (10) Years in NDC
Count 11 – Open or Gross Lewdness Touching and/or rubbing the genital opening of Jane Doe with his hand(s) and/or finger(s).	Count 11 – Open or Gross Lewdness (GM) in violation of NRS 201.210 Twelve (12) Months in CCDC (Concurrent with Counts 13, 14, 15)
Count 12 – Sexual Assault Digital penetration, by inserting his finger(s) into the genital opening of Jane Doe, against her will, or under conditions in which Farmer knew, or should have known, that Jane Doe was mentally or physically incapable of resisting or understanding the nature of Farmer's conduct.	Count 12 – Sexual Assault (F – Category A) in violation of NRS 200.364, 200.366 Life with a minimum parole eligibility of Ten (10) Years in NDC (Concurrent with Counts 10, 11)
Count 13 – Open or Gross Lewdness Touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of Jane Doe with his hand(s) and/or finger(s).	Count 13 – Open or Gross Lewdness (GM) in violation of NRS 201.210 Twelve (12) Months in CCDC (Concurrent with Counts 11, 14, 15)

///

¹ Plaintiff has redacted Jane Doe's name throughout.

Count 14 – Open or Gross Lewdness	Count 14 – Open or Gross Lewdness (GM) in violation of NRS 201.210
Touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of Jane with his hand(s) and/or finger(s).	Twelve (12) Months in CCDC (Concurrent with Counts 11, 13, 15)
Count 15 – Indecent Exposure	Count 15 – Indecent Exposure (GM) in violation of NRS 201.220
Deliberately lifting the hospital gown of Jane Doe to look at her genital opening and/or anal opening and/or breast(s).	Twelve (12) Months in CCDC (Concurrent with Counts 11, 13, 14)

UNCONTESTED FACTS

1. In May of 2008, Jane Doe was a patient at Centennial Hills Hospital. ANS Admission Number 1 (1st Set). Centennial Admission Number 1 (5th Set).
2. In May of 2008, Centennial Hills Hospital had a contractual agreement whereby American Nursing Services would provide certain hospital staff, which included Certified Nursing Assistants (CNA). Simmons Deposition at 115. Broadlane00001-50.
3. In May of 2008, Defendant Steven Farmer was an agency CNA working at Centennial Hills Hospital through American Nursing Services. Centennial Admission Number 2 (5th Set).
4. In May of 2008, Farmer wore an employee badge that had his name, American Nursing Services, and Centennial Hills Hospital written on it. Sparacino Deposition at 7- 8.
5. There was nothing on the badge to indicate to a patient that Farmer was not an employee of Centennial Hills Hospital. Id. at 8.
6. There was nothing about his clothing, his job performance, his duties, or anything he did that would indicate to a patient that Farmer was not an employee of Centennial Hills Hospital. Id. at 8.
7. At around 21:30 hours on May 14, 2008, Farmer was moved from the ER to the Sixth Floor to work by Centennial. Centennial Documents Staff00001; CHH00323; CHH Interrogatory Response No. 1 (7th Set).

1 8. On May 14, 2008, Jane Doe was in Room 614 at Centennial Hills Hospital.
2 Centennial Hills Chart.

3 9. On May 14, 2008, in the course and scope of his employment with American
4 Nursing Services as a CNA and in the course and scope of working at Centennial Hills Hospital,
5 Farmer would enter patients' rooms on the Sixth Floor of Centennial Hills Hospital. In fact, that
6 was his very task. CNA Skills Guidelines (Nevada State Board of Nursing); Centennial Hills
7 Skills Competency Checklist.

8 10. On May 14, 2008, Farmer entered Jane Doe's room, Room 614 at Centennial Hills
9 Hospital. Testimony of Jane Doe at 8-14.

10 11. Having contact with a patient, in the patient's room on the Sixth Floor of
11 Centennial Hills Hospital, was in the course and scope of Farmer's employment with American
12 Nursing Services as a CNA on May 14, 2008.

13 12. Farmer had contact with Jane Doe in her room on the Sixth Floor of Centennial
14 Hills Hospital. Testimony of Jane Doe at 8-14.

15 13. Jane Doe suffers from seizures where she is completely aware of what is going on
16 outside of her but cannot talk and move for up to 24 hours after. Testimony of Jane Doe at 3-4.

17 14. Jane Doe woke up to find Steven Farmer pinching and rubbing her nipples. *Id.* at
18 8-9.

19 15. Farmer lifted up her hospital gown. *Id.* at 10-11.

20 16. Farmer told her that she had some feces, and lifted up her leg. *Id.* at 12.

21 17. Cleaning feces of patients is part of the job duties of a CNA such as Farmer.

22 18. But, he did not change the pad beneath her. *Id.* at 13.

23 19. Jane Doe felt Farmer's thumb enter her anus. *Id.* at 13.

24 20. This was painful to Jane Doe. *Id.* at 13.

25 21. Farmer then placed his finger inside her vagina. *Id.* at 14.

26 22. As a result of these actions, Jane Doe felt pain, humiliation and embarrassment.
27 She couldn't move or scream; she just had to lay there. *Id.* at 14.

28

1 23. Steven Farmer digitally penetrated Jane Doe's anus, vagina, and pinched and
2 rubbed her nipples against the will of Jane Doe and while Jane Doe was physically unable to
3 resist. Id at 8-14; Judgment of Conviction.

4 24. Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada,
5 in Case Number 08C245739, in Count 10 of Sexual Assault (F – Category A) in violation of NRS
6 200.364, 200.366 for the digital penetration, by inserting his finger(s) into the anal opening of Jane
7 Doe, against her will, or under conditions in which Farmer knew, or should have known, that Jane
8 Doe was mentally or physically incapable of resisting or understanding the nature of Farmer's
9 conduct. Judgment of Conviction.

10 25. Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada,
11 in Case Number 08C245739, in Count 12 of Sexual Assault (F – Category A) in violation of NRS
12 200.364, 200.366 for the digital penetration, by inserting his finger(s) into the genital opening of
13 Jane Doe, against her will, or under conditions in which Farmer knew, or should have known, that
14 Jane Doe was mentally or physically incapable of resisting or understanding the nature of Farmer's
15 conduct. Judgment of Conviction

16 26. Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada,
17 in Case Number 08C245739, in Count 11 of Open or Gross Lewdness (GM) in violation of NRS
18 201.210 for touching and/or rubbing the genital opening of Jane Doe with his hand(s) and/or
19 finger(s). Judgment of Conviction

20 27. Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada,
21 in Case Number 08C245739, in Count 13 of Open or Gross Lewdness (GM) in violation of NRS
22 201.210 for touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of Jane Doe
23 with his hand(s) and/or finger(s). Judgment of Conviction

24 28. Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada,
25 in Case Number 08C245739, in Count 14 of Open or Gross Lewdness (GM) in violation of NRS
26 201.210 for touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of Jane Doe
27 with his hand(s) and/or finger(s). Judgment of Conviction

28 29. Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada,
in Case Number 08C245739, in Count 15 of Indecent Exposure (GM) in violation of NRS 201.220

1 for deliberately lifting the hospital gown of Jane Doe to look at her genital opening and/or anal
2 opening and/or breast(s). Judgment of Conviction

3 LAW AND ARGUMENT

4 Plaintiff files the instant Motion for Summary Judgment against Defendants on the issue of
5 liability as provided in NRCP 56. NRCP 56 states, in pertinent part: "A summary judgment,
6 interlocutory in character, may be rendered on the issue of liability alone although there is a
7 genuine issue as to the amount of damages."

8 Rule 56 is designed to allow summary judgment on the issue of liability. This means, the
9 Legislature envisioned cases where liability was not conceded and where a defendant continued to
10 contest liability, yet where the facts of the case are such that no "rational trier of fact could return a
11 verdict for the nonmoving party." **Wood v. Safeway, Inc.**, 121 P.3d 1026, 121 Nev. 724 (2005) at
12 731. The instant matter is exactly the kind of case imagined when Rule 56 was written to include
13 the language that summary judgment is an appropriate method for determining liability.

14 Since our Court's decision in **Wood v. Safeway, Inc.**, 121 P.3d 1026, 121 Nev. 724 (2005),
15 the standard for granting summary judgment has been changed. Now, summary judgment must be
16 granted unless there is a genuine dispute as to a material fact. Simply showing "there is some
17 metaphysical doubt as to the operative facts in order to avoid summary judgment being entered in
18 the moving party's favor" will no longer suffice. 121 Nev. at 732.

19 The non-moving party "must, by affidavit or otherwise, set forth specific facts
20 demonstrating the existence of a genuine issue for trial or have summary judgment
21 entered against him." The non-moving party "is not entitled to build a case on the
gossamer threads of whimsy, speculation, and conjecture."

22 **Id.**

23 There are four elements in a negligence case: duty, breach of duty, proximate cause, and
24 damages. See **Scialabba v. Brandise Constr. Co.**, 112 Nev. 965 at 968, 921 P.2d 928 at 930
25 (1996) ("To prevail on a negligence theory, a plaintiff must generally show that: (1) the defendant
26 owed a duty of care to the plaintiff; (2) the defendant breached that duty; (3) the breach was the
27 legal cause of the plaintiff's injury; and (4) the plaintiff suffered damages.").

28 As this Honorable Court is aware, the Nevada statutes make clear that the conviction of a
crime is conclusive evidence for liability:

1 **NRS 41.133 Conviction of crime is conclusive evidence of facts necessary to**
2 **impose civil liability for related injury.** If an offender has been convicted of the
3 crime which resulted in the injury to the victim, the judgment of conviction is
4 conclusive evidence of all facts necessary to impose civil liability for the injury.

5 Hence, if the defendant is convicted of the crime which forms the basis for the civil claim,
6 summary judgment on liability should be granted. The facts have been proved; there is nothing at
7 issue.

8 The Nevada Supreme Court has made such clear. "We conclude that the language of NRS
9 41.133 establishes a conclusive presumption of liability when an offender has been convicted of
10 the crime that resulted in the injury to the victim." **Cromer v. Wilson**, 225 P.3d 788, 790 (Nev.
11 2010).

12 NRS 41.133 "mandates that conviction of a crime resulting in injury to the victim is
13 conclusive evidence of civil liability for the injury." **Langon v. Matamoros**, 121 Nev. 142, 143,
14 111 P.3d 1077, 1077 (2005).

15 Importantly, this Court must not only grant summary judgment against Mr. Farmer, but
16 also, against Centennial and ANS. There are no facts at issue here as against any of the parties.
17 The reason is simple: one cannot have different facts established in a case against different
18 parties. That would make no sense. **The facts are the facts.** Now, that may be hard to swallow
19 for ANS and Centennial², but, if the Court were to allow different facts to be found, inconsistent
20 verdicts would be a possibility. The law does not allow this.

21 And, the Nevada Supreme Court illustrates the issue. In **Desert Cab v. Marino**, 108 Nev.
22 32 (Nev. 1992), the Court had before it a situation where Edwards, an employee of Desert Cab,
23 was convicted of assault and battery. The District Court admitted the conviction per NRS 41.133.
24 The Nevada Supreme Court upheld the District Court and found that though the conviction
25 mandated liability as against Edwards, Desert Cab could still argue that the actions were not in the
26
27
28

² ANS and Centennial know this and that is why they both helped out in the criminal defense of Mr. Farmer to the point of even providing Farmer clothing for his trial.

1 course and scope per NRS 41.130. But, importantly, the facts of the assault and battery were
2 still conclusively proved as to both the employee and employer.³

3 The language of NRS 41.133 also makes this clear: "If an offender has been convicted of
4 the crime which resulted in the injury to the victim, the judgment of conviction is **conclusive**
5 **evidence of all facts** necessary to impose civil liability **for the injury.**" The facts are proven via
6 the statute. The statute, by its own words, does not limit the finding to the offender—it is "for the
7 injury." This makes sense because one cannot have different findings of fact for different parties.

8 In addition, how could there be a finding that Jane Doe was sexually assaulted in a
9 criminal case where the standard is beyond a reasonable doubt, but in a civil case, Jane Doe could
10 be found to not have been sexually assaulted? It cannot happen. The seminal defense of ANS and
11 Centennial has been that Jane Doe was not sexually assaulted. A criminal finding has been made
12 that she was. That is the end of the story. Otherwise, we would be allowing different findings
13 where the higher standard resulted in the initial finding.⁴

14 Clearly, as the direct employer of Farmer, ANS is liable for his tortious acts committed
15 within the course and scope of his employment. **Wood v. Safeway, Inc.** Even though raping a
16 patient is not in Farmer's list of job duties, that is not the appropriate inquiry.
17 Rather, as long as the misconduct giving rise to the injury was committed while the employee is
18 performing the task assigned to him, liability will be found as to the employer. This is exactly
19 what the court explained in **Wood v. Safeway, Inc.** There, a security guard raped a customer.
20 Here, a CNA, who is authorized to enter patients' rooms and perform certain medical related
21 functions, which require physical contact with the patient, sexually assaulted the patient. This is
22 exactly what **Wood v. Safeway, Inc.** says is they type of conduct that will impose liability on the
23 employer. It is consistent with Nevada law.

24
25
26 ³ While "comparative fault" would also still be an issue because such relates to damages and not liability (**Cromer v.**
27 **Wilson**, 225 P.3d 788, 790 (Nev. 2010)). Jane Doe was a patient laying in her hospital bed. There can be no
comparative fault as a matter of law. See **Buck v. Greyhound**, 105 Nev. 756, 783 P.2d 437 (1989).

28 ⁴ Assuming the civil case was heard first, a finding of liability would be irrelevant in the criminal case because there is
a lower standard of proof. But, here, since there is a higher level of proof in the criminal case and the jury found that
Farmer was guilty of sexual assault, that means that Jane Doe was sexually assaulted. ANS or Centennial cannot
argue otherwise.

1 In **Prell v. Antonacci**, 86 Nev. 390, (1970), a guest of the Aladdin Hotel and Casino was
2 knocked unconscious by a "blackjack" dealer in the course of a game. The guest was knocked
3 unconscious and subsequently sued the casino. Plaintiff was an invited guest of the Aladdin Hotel
4 and Casino where he was playing "21" at the time of the incident. During the game, Plaintiff was
5 served several free drinks to encourage his continued presence and participation in gaming. When
6 Plaintiff lost his money, he became angered and called the dealer a nasty name. The dealer dealt
7 one card to each player all the way round, and then hit Plaintiff spontaneously, and with no
8 warning whatsoever. The dealer did not leave his position behind the "21" table to accomplish the
9 assault and battery. The Court then held that if the employee's tort is truly an independent venture
10 of his own and *not* committed in the course of the very task assigned to him, the employer is not
11 liable. **However, the Court held that where the willful tort is committed in the course of the**
12 **very task assigned to the employee, liability may be extended to the employer.**

13 As to Centennial Hills Hospital, they are the principal of ANS. "A principal is bound by
14 acts of its agent while acting in the course of his employment, and a principal is liable for those
15 acts within the scope of the agent's authority." **Nevada Nat'l Bank v. Gold Star Meat Co.**, 89
16 Nev. 427, 429 (Nev. 1973)(internal citations omitted). So, because ANS is an agent of Centennial,
17 Centennial holds vicarious liability for the actions of ANS and its employees.

18 But, also, Farmer was working at Centennial Hills Hospital doing the very job assigned to
19 him...he was directed to the Sixth Floor and was in a hospital room of Jane Doe as part of his job.
20 As such, Centennial holds the exact same liability as ANS for the conduct of Farmer. Even if
21 Farmer was not Centennial's direct employer, he was an indirect employee of Centennial. See
22 **Richards v. Republic Silver State Disposal, Inc.**, 122 Nev. 1213, 1215 (Nev. 2006). And, the
23 same **Prell v. Antonacci**, *supra*, analysis is done. Even if one wants to argue about whether
24 Farmer was "this or that" type of employee, the fact is, he was acting as an agent for Centennial.
25 Centennial allowed him into its hospital. Centennial ordered him to complete certain tasks.
26 Centennial ordered him to the sixth floor and allowed him to be in patient rooms. As long as the
27 **willful tort is committed in the course of the very task assigned to the employee, liability may**
28 **be extended to the employer.** Centennial directed Farmer to be on the sixth floor and his duties
included being in patient rooms. Hence, Farmer's intentional tort was completed in the very task

1 assigned to him by Centennial. Under employer-employee, or principal-agent, Centennial is
2 vicariously liable for the actions of Farmer. See **Rockwell v. Sun Harbor Budget Suites**, 112
3 Nev. 1217 (Nev. 1996).

4 While there are additional issues regarding apparent or ostensible authority and other
5 issues, including, but not limited to ANS and Centennial's own liability outside of vicarious
6 liability, at this point in the litigation, they are not necessary. One finding of liability is sufficient.
7 As a matter of law, Farmer is liable. As a matter of law, ANS is liable for the torts of Farmer. As
8 a matter of law, Centennial is liable for the torts of Farmer. Summary judgment should be
9 granted.

10 Liability has been conclusively established. The **only** thing left for trial is damages.

11 Respectfully submitted,

12 MURDOCK & ASSOCIATES, CHTD.
13 ECKLEY M. KEACH, CHTD.

14 /s/ Robert E. Murdock
15 Robert E. Murdock Bar No. 4013
16 Eckley M. Keach Bar No. 1154
17 521 South Third Street
18 Las Vegas, NV 89101
19 Attorneys for Plaintiff
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AFFIDAVIT OF ROBERT E. MURDOCK

STATE OF NEVADA }
COUNTY OF CLARK } ss.

ROBERT E. MURDOCK, being first duly sworn deposes and says:

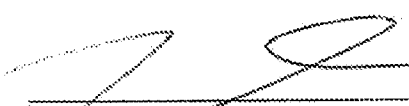
1. I am an attorney duly licensed to practice law in the State of Nevada and, along with Eckley M. Keach, am the attorney for Plaintiff in the captioned action.

2. I have personal knowledge of the facts set forth herein and am capable and willing to testify to same if called upon to do so.

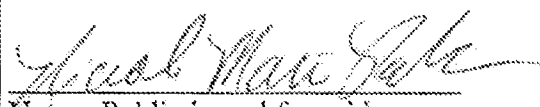
3. Attached hereto as Exhibit 1 is a true and correct copy of the testimony of Plaintiff Jane Doe on January 20, 2012 in the case of *State v. Farmer*, Case No. C245739.

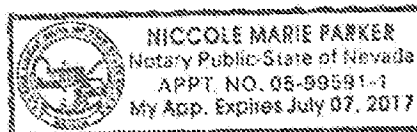
4. Attached hereto as Exhibit 2 is a true and correct certified copy of the June 2, 2014 Judgment of Conviction.

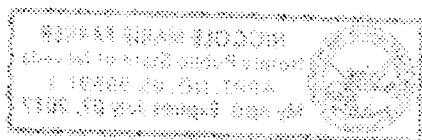
FURTHER YOUR AFFIANT SAYETH NAUGHT.


ROBERT E. MURDOCK

Subscribed and sworn to before
me this 29th day of September, 2014.


Notary Public in and for said
County and State





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EXHIBIT 1



CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

9

Plaintiff,

CASE#: C245739

10

vs.

DEPT. V

11

STEVEN DALE FARMER,

12

Defendant.

13

14

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE
FRIDAY, JANUARY 20, 2012

15

16

RECORDER'S TRANSCRIPT OF PROCEEDINGS
HEARING: PRESERVATION OF WITNESS TESTIMONY

17

18

APPEARANCES:

19

For the State:

WILLIAM JAKE MERBACK, ESQ.
Chief Deputy District Attorney

20

For the Defendant:

JEFFREY S. MANINGO ESQ.
AMY FELICIANO, ESQ.
Deputy Public Defenders

21

22

23

24

25

RECORDED BY: LARA CORCORAN, COURT RECORDER

1 FRIDAY, JANUARY 20, 2012 AT 10:11 A.M.

2
3 THE COURT: All right. Case number C245739, State of Nevada versus
4 Steven Dale Farmer. We are here to havr a hearing to preserve the witness
5 testimony in this case. Is the State ready to proceed?

6 MR. MERBACK: We are Judge,

7 THE COURT: Proceed.

8 MR. MERBACK: Thank you. Does the Court want to swear in the witness?

9 THE COURT: Yes, of course.

10 MR. MERBACK: Okay.

11 THE COURT CLERK: Raise your right.

12 THE COURT: You're calling -- what's the witness's name?

13 MS. MERBACK: I'm sorry. The State's going to call [REDACTED] Judge.

14 THE COURT: [REDACTED].

15 [REDACTED]
16 [having been called as a witness and being first duly sworn, testified as follows:]

17 THE COURT CLERK: Thank you. Could you please state your name and
18 spell it for the record?

19 THE WITNESS: [REDACTED]

20 THE COURT: Thank you. Proceed.

21 MR. MERBACK: Thank you, Your Honor.

22 **DIRECT EXAMINATION**

23 BY MR. MERBACK:

24 Q Ms. [REDACTED], can you tell the Court something about your current
25 medical condition?

1 A I didn't hear your last part.

2 Q What is your current medical condition? Do you have any medical
3 issues right now?

4 A Yeah. I suffered brain trauma and its left me with seizures and
5 uncontrollable sensory overload so my senses don't connect correctly any longer.

6 Q Okay. And is that condition a result of the brain trauma that you
7 suffered?

8 A Yes.

9 Q Do you when it was when you suffered that brain trauma?

10 A March 12th of '08.

11 Q Of 2008 you said? Could you repeat that?

12 THE MARSHAL: Excuse me, counsel. Court's indulgence, Your Honor,
13 please.

14 THE COURT: There you go.

15 THE WITNESS: March 12th of '08.

16 MR. MERBACK: Is that better? Okay.

17 BY MR. MERBACK:

18 Q And as a result of your condition you said that sometimes you'll have
19 seizures; is that correct?

20 A Yes.

21 Q What kinds of things trigger you to have these seizures?

22 A Loudness, loud noises, riding in cars. I can't filter out the motion.
23 When the car stops my brain doesn't -- I keep feeling the motion and being startled;
24 things outside the norm of my world.

25 Q When you have a seizure, are you aware of how long they normally

1 last?

2 A No.

3 Q Okay. Will you normally just have one seizure at a time or will you have
4 multiple seizures?

5 A I have clonic-tonic style seizures and what that is is that I contract up,
6 all of my body contracts up. So, my hands curl up, my arms curl up. I can seize --
7 we've counted and I can seize anywhere from like minimum of maybe three times
8 up to 42 times.

9 Q Okay. Now you indicated that that's your current medical condition.
10 Now was that your condition as well back in 2008 after you had the brain trauma?

11 A It started with my hospitalization in May. That's when the seizures
12 started.

13 Q Okay. Now after you've had a seizure, what condition is your body in
14 after the seizure is over?

15 A I can't talk and I can't move for up to 24 hours.

16 Q Now when you're in that state, are you conscious? Can you -- do you
17 know what's going on around you or are you completely unconscious?

18 A No, I'm aware of everything going on around me. I just can't participate
19 in any of it.

20 Q Okay. Now are there times in that period after you had a seizure where
21 you will come in and out of sleep?

22 A Yes, uh-huh.

23 Q Okay. But when you're awake, you indicated that you're aware of
24 what's going on around you?

25 A Yes.

1 Q Now you talked about a hospitalization in May. Do you recall -- I'm
2 going to call your attention to May 13th of 2008. Were you admitted to Centennial
3 Hills Hospital on that day?

4 A Yes.

5 Q Okay.

6 A But I think I went there the 12th. I was admitted the 13th.

7 Q Okay. So, you went on the 12th and were admitted on the 13th?

8 A I believe so.

9 Q Okay. Is that Centennial Hills Hospital here in Las Vegas, Clark
10 County, Nevada?

11 A Yes, I believe so.

12 Q Why did you go to Centennial Hills Hospital on that day? What
13 occurred that caused you go there?

14 A I've been grocery shopping at Smith's and went out and felt funny. And
15 I called my son and actually started having a seizure in the parking lot and
16 Centennial is just down the parking lot from Smith's. And they called an ambulance
17 and that's where I was taken.

18 Q Do you recall how long you stayed or how you were admitted to
19 Centennial Hills Hospital on that occasion?

20 A I think it was about ten days.

21 Q If I said that you were there until May 20th, would that sound about
22 right?

23 A May 20th, 23rd, somewhere in there.

24 Q Okay. Now did something happen to you during that stay at the
25 hospital that causes you to be here in Court today?

1 A Yes.

2 Q What was that?

3 A Do you want me to --

4 Q What generally happened to you that causes you to be here today?

5 A I was assaulted by -- I believed him to be a nurse, nurse aide there.

6 Q Okay. Did you know the name of that person that assaulted you?

7 A He introduced himself as Steven.

8 Q Do you see that person here in this courtroom today?

9 A Yes.

10 Q Could you point to that person and describe something that they are

11 wearing?

12 A The white hair, and he's wearing red, and white beard and he's wearing

13 black glasses.

14 MR. MERBACK: Judge, can the record reflect the identification of the

15 Defendant?

16 THE COURT: Yes, it will.

17 BY MR. MERBACK:

18 Q Now, Ms. [REDACTED], you indicated that the Defendant introduced himself

19 as Steve; is that correct?

20 A Yes.

21 Q What, if anything else, did he say to you when he introduced himself to

22 you?

23 A He said: Hi, I'm Steve and I've been assigned to you tonight. So, I'll be

24 looking in on you.

25 Q Could you repeat that last phrase for me? I'm sorry.

1 A He said: So, I'll be looking in on you. That was the first thing he said.
2 He came back one other time, that my heart was in A-fib at that time and there were
3 a lot of people in my room.

4 Q Okay. Let's go back --

5 A Okay.

6 Q -- I'm just going to go back to that first time when he introduced himself.
7 When he said that to you that he was going to check in on you, what was your
8 condition at that point?

9 A I'd had a seizure the night before so I couldn't talk to him or move or
10 acknowledge him.

11 Q So, you could not speak or move at that point?

12 A No.

13 Q Okay. But you were able to hear and understand what he was saying?

14 A Yes.

15 Q And you said you believed him to be a nurse; is that correct?

16 A Yes.

17 Q Now you indicated that you were, I think you used the word attacked, by
18 the Defendant. Can you describe for the Court any of those instances -- actually let
19 me ask you this. Was there just one instance or were there multiple instances?

20 A Multiple.

21 Q Okay. Can you --

22 MR. MANINGO: Excuse me. Judge, may we approach for a moment?

23 [Bench conference -- not recorded]

24 THE COURT: Okay. The record will reflect that the exclusionary rule has
25 been invoked and a witness is leaving the courtroom.

1 BY MR. MERBACK:

2 Q Ms. [REDACTED], you indicated that there were multiple instances. Can
3 you describe one of those instances that you remember for the Court?

4 A One of -- I woke up and I was aware that my nipples were being
5 pinched, and I looked straight into his face because he was that close to me, and he
6 said: Oh, one the leads has come off on your heart monitor. But the thing about my
7 heart or the telemetry buttons that they put on, it makes a noise if one becomes
8 detached so that telemetry is advised as well. That was one instance.

9 Q Let me go back and ask you a few questions about that. You said the
10 Defendant said your leads were off. Do you recall where your leads were located
11 on your body at that point in time?

12 A Yes; they're not on my nipples.

13 Q Do you recall where they were?

14 A They have like one here and they have numerous ones underneath the
15 abdomen.

16 MR. MERBACK: And, Judge, for the record, she's pointing to it looks like
17 about the middle of her chest, kind of in the middle of her sternum, I would say.

18 THE COURT: Towards the right, yes, on her upper chest well above her
19 breasts.

20 THE WITNESS: And then underneath.

21 MR. MERBACK: And then he also has indicated -- I think she showed both
22 sides well beneath her breasts on kind of the side of her torso.

23 THE COURT: Correct; approximately at waist level.

24 BY MR. MERBACK:

25 Q Now could you feel or did you notice if any of the leads were actually off

1 of your body?

2 A No, I could not physically feel it and I couldn't move to, you know, to
3 find out but, again I didn't hear the beeping sound that, you know, that the telemetry
4 machine makes when a lead is off.

5 Q Okay. You've been in the hospital before; is that correct?

6 A Yes.

7 Q Have you had leads come off before and actually heard that sound?

8 A Yes.

9 Q And you didn't hear it this time?

10 A No.

11 Q You indicated that he was -- and I'll have you say it. What exactly was
12 he doing to your nipples?

13 A He was pinching them, rubbing them.

14 Q Had you had people, nurses or doctors place leads on your body
15 before?

16 A Yes.

17 Q Have you ever had anyone touch you in the same way that the
18 Defendant did on this occasion?

19 A No, never, never.

20 Q And do you recall was he touching -- was he pinching both of your
21 nipples or just one of them; do you recall?

22 A He pinched both.

23 Q When he was doing this, was it over your clothes or under your
24 clothes?

25 A Under.

1 Q Do you recall what you were wearing at the time?

2 A Just a hospital nightgown.

3 Q And do you know how -- could you tell how it was that his hands had
4 gotten underneath your nightgown?

5 A No.

6 Q Could you speak or move at this point in time?

7 A No, still not.

8 Q Do you recall whether the Defendant said anything to you besides that
9 your leads had come off?

10 A Nothing.

11 Q Do you recall about how long that lasted that he was pinching your
12 nipples?

13 A No.

14 Q And do you recall what if anything that caused him to stop doing it?

15 A I think me continually looking at him and me becoming awake.

16 Q And you continued to look at him, is that what you said?

17 A Yes, because like I said, I woke up and he was doing it.

18 Q Now was the only time, the only occasion on which he touched your
19 nipples or your chest in that way or were there other occasions?

20 A I'm sorry?

21 Q You just talked about an incident where he was pinching your nipples?

22 A Yes.

23 Q Was that the only time that you recall that happened or do you recall
24 whether there was other times that that occurred?

25 A That that specific pinching of my nipples occurred?

1 Q Or did he pinch your nipples on any other occasion?

2 A No, I believe that was -- I believe that was the one time.

3 Q Okay. Now were there any other instances that you can tell the Court
4 about besides when he pinched your nipples?

5 A Yes. I woke up and he was walking around the left side of my bed and
6 he pulled the sheets down off of me, and all I had on was my gown, and he lifted my
7 gown up. You know how you go to billow something, you know, a sheet, but he kept
8 it up high so that it was -- if I was laying down it was up high like that.

9 Q Now are you talking about the sheet or your gown?

10 A The sheet. He'd already pulled off of me my gown; he had lifted up
11 high enough to see my entire body.

12 MR. MERBACK: And, Judge, for the record, she made a hand movement
13 where she indicated with one hand her body would be laying flat and the other hand
14 where the gown would maybe like -- I don't know -- a forty-five degree angle or
15 based upon her hand movement.

16 THE COURT: Probably more like fifty-five degrees but, yes.

17 MR. MERBACK: That's why I'm lawyer because I don't do math; right?

18 THE WITNESS: You know, right like that. He brought it up like that.

19 MR. MERBACK. Thank you.

20 THE COURT: Okay.

21 BY MR. MERBACK:

22 Q Now when he lifted your gown like that, were you wearing anything
23 underneath?

24 A No.

25 Q You didn't have a bra on?

1 A No.

2 Q you didn't have any underwear on?

3 A No. He did it more than once, lifting my nightgown up and down.

4 Q Did he tell you at that point why he was taking up the sheets or what he
5 was doing? Did he say anything to you?

6 A No, not at that point. But he then walked around to my right, to the right
7 side of my bed and he said: Oh, you have some feces, and he took my right leg and
8 instead of rolling me to my side he took my right leg and brought it all the way up
9 and -- he had nothing to clean me with. He had not gotten new pads to put under
10 me or wipes or anything. And that's when I became aware of a very uncomfortable
11 feeling and realization that he had his thumb in my anus.

12 MR. MERBACK: Okay. Your Honor, for the record, she made a motion with
13 her finger showing the Defendant lifting her leg, about a 90 degree angle I would
14 say.

15 THE COURT: That's correct.

16 BY MR. MERBACK:

17 Q Now you said that he had indicated to you that there was some feces
18 on you?

19 A That's what he said.

20 Q But he had not done anything to change anything?

21 A Correct.

22 Q Is that correct? Was there a pad or anything of that nature that you had
23 in case you had a bowel movement?

24 A Yeah, a pad underneath me 'cause I also had a catheter so -- in case,
25 you know, there's a leak of any sort, I had a blue pad underneath me.

1 Q This blue pad, did he do anything to change that pad?
2 A No.
3 Q Were you wearing any underwear at the time?
4 A No.
5 Q Do he do anything to change your hospital gown?
6 A No.
7 Q Now you indicated that you felt his thumb go into your anus; is that
8 correct?
9 A Yes.
10 Q Was it just his thumb or was there fingers as well; do you recall?
11 A How many I couldn't tell you but -- is that what you're asking me.
12 Q You indicated that his thumb went into your anus.
13 A Right.
14 Q I'm asking did any of his fingers also go into your anus or was it just his
15 thumb?
16 A I couldn't -- I can't -- couldn't look down there but -- so I would have to
17 say it was his thumb.
18 Q Okay. Could you tell how far into your anus his thumb went?
19 A Probably as far as his thumb is long.
20 Q Okay. And how did it feel when he did that? Did you have any pain or
21 anything like that?
22 A Yes, it hurt and my -- him holding my leg as he was hurt and the next
23 thing he said to me -- one thing during this because then I felt pressure on my
24 vagina. And he said he was checking my catheter. But from knowledge, a catheter
25 is not inside your vagina, it's above it. But the pressure I was feeling was inside my

1 vagina.

2 Q When you felt this pressure on your vagina, was your leg still up or
3 brought your leg down?

4 A It was still up.

5 Q Did you feel whether or not -- do you know what was causing the
6 pressure on your vagina?

7 A Yes, I knew it was his hands, his fingers.

8 Q Do you know whether or not his hands stayed on the outside of your
9 vagina or did it ever go inside of your vagina?

10 A It was inside.

11 Q What part of his hands was inside your vagina?

12 A A finger.

13 Q His finger. Was there one finger, more than one finger; could you tell?

14 A No, I can't tell. I couldn't tell you that.

15 Q And could you tell how far his finger went inside your vagina?

16 A Maybe up to this knuckle.

17 MR. MERBACK: And, Judge, for the record, she's indicating it looks like the
18 second knuckle on one of her fingers.

19 THE COURT: Correct.

20 BY MR. MERBACK:

21 Q And I know this is a difficult question, but I'm going to have to ask you
22 again. What did you feel when that happened? Did it hurt? How did you feel?

23 A Yes, I felt pain. I felt a multitude of feeling, one feeling being that there
24 was absolutely nothing I could do. I couldn't ring the bell, I couldn't scream, I
25 couldn't move. I couldn't -- I just had to lay there. I was humiliated, I was

1 embarrassed. I was shocked that I'm in a hospital being taken care of and I'm
2 having things like this done to me and at the point in time I can't tell anybody.

3 Q Did you actually have a catheter in at that point?

4 A Yes.

5 Q And you indicated previously that as you have had previously, the
6 catheter was much higher on your body than where your vagina is located; is that
7 correct?

8 A Well, yes, it's right above. You don't have anything to do with the
9 vagina to put in a catheter.

10 Q When this whole incident occurred that you've talked about where he
11 lifted your gown and penetrated your anus and then penetrated your vagina, was
12 there anyone else in the room during that point in time?

13 A No.

14 Q Okay. And your condition, you indicated already, was the same that
15 you could not speak and you could not move; is that correct?

16 A Yes.

17 Q Now you had previously been to the hospital on multiple occasions; is
18 that correct?

19 A Yes.

20 Q Prior to this incident?

21 A You mean that year?

22 Q Yeah, in your life, you'd been to the hospital a number of times?

23 A Yes.

24 Q And you've been to the hospital a number of times since then?

25 A Yes.

1 Q Okay. Have you ever had anything like this occur to you on other
2 occasions at the hospital?

3 A Never.

4 Q Have you ever had a nurse or a doctor or anyone else do the things
5 you're talking about to you under these conditions in a hospital?

6 A No, never.

7 Q And this might be a difficult question to answer, but since that point in
8 time since this incident in May of 2008, how many times do you think you've been to
9 the hospital since then; can you guess?

10 A I was hospitalized every month May through December of '08 due to my
11 seizures and sometimes I was there for three days, sometimes ten days. I was in
12 the hospital just the night before last night for seizures. I was in the hospital
13 probably -- now it's down to maybe once, twice a year because I just stay home for
14 my seizures now.

15 Q You talk -- you just mentioned this, but just to talk about it briefly, so the
16 last time you actually had a seizure was two nights ago; is that correct?

17 A Yes, Wednesday night, Wednesday night.

18 Q And between then and now you've spent the time recovering in
19 preparation for testifying today; is that right?

20 A Yes.

21 Q Now let's go back to your stay in the hospital in May of 2008. Did there
22 come a point in time during that stay when you gained back the ability to speak?

23 A Yes, later -- later that morning.

24 Q So, there was a morning that you gained the ability to speak?

25 A Yeah, I believe it was morning.

1 Q Once you had ability to speak, did you tell anyone about what had
2 occurred?

3 A No, I didn't really have a chance 'cause my heart went into A-fib and
4 immediately they had me rushed down to a different floor because my heart was in
5 A-fib. While all that activity was going on though in my room, he stopped inside the
6 door and said: I'm not assigned to you today but I just wanted to see how you were
7 doing, and I thought was very bizarre.

8 Q That what you're talking about where he stopped and said that to you,
9 that was after these incidents that you've talked about occurred; is that right?

10 A Yes.

11 Q Okay. But before you moved to the other room?

12 A Right.

13 Q Now when you were moved to this other room because of your heart,
14 did you see the Defendant again at any point after that?

15 A No, I was on a different floor.

16 Q Did you eventually -- were you eventually able to tell anyone about the
17 things that had happened?

18 A I had told my two sons as soon as I could talk, but it was probably
19 another good 24 hours before my heart came out of A-fib. But as soon as it did, that
20 was the very first thing I told them, that there was a nurse on the other floor, his
21 name was Steve, he had white hair, and that he had put his thumb in my rectum and
22 he had been pinching my nipples. I did not tell them the rest because they're my
23 sons so --

24 Q Now your sons, what are their names?

25 A Marshall and Micah [phonetic] Petersen, both.

1 Q Did you tell anyone at the hospital about what had happened?

2 A No.

3 Q And why didn't you do that?

4 A Because it was kind of like not knowing who to trust or who to -- you go
5 to a hospital because you need to and your one expectation is to be safe and to be
6 treated humanly and decently and that had been taken away. And so I didn't trust
7 this hospital anymore. I didn't trust --

8 Q Now I'm going to call your attention to about a month later to sometime
9 in June of 2008. Actually strike that. Let me go back. You said you didn't tell
10 anyone at the hospital. Did you at that point in May call the police?

11 A No, because at that point in time, the start of those -- of that -- the
12 seizures in May, I seized, they told me, I think it was like nine times in the
13 ambulance from the Smith's parking lot to the hospital, which is just through the
14 parking lot, I seized nine times. And that started a series of seizures to where some
15 months I was seizing like every two days.

16 Q Now you didn't call the police at that point, but did there come a point in
17 time later on when the police were called?

18 A Yes.

19 Q Okay. Was that about a month later in June?

20 A Sounds right, yes.

21 Q So, if I said June 15th of 2008, would that sound about right to you?

22 A Yes, because my son had seen him on -- the Defendant, I guess, on TV
23 and he came and told me about it and that there are multiple women and at that
24 point in time, I said I have to do this no matter what my health is doing, I have to do
25 this. Of course, I didn't foresee -- I didn't foresee how bad my health would actually

1 get but, yes.

2 Q Who called the police? Was it you or was it someone else?

3 A I did.

4 Q Now you talked about your son seeing something about the Defendant
5 on the news. Did you also see something on the news or was it just your son told
6 you about it?

7 A He told me about it.

8 Q So, you personally didn't see it? Is that a no?

9 A No -- yeah, no.

10 Q And then a few days later after you called the police, did a detective
11 come out and interview you?

12 A Yes, somebody from the Sexual Crime Unit.

13 Q I'm going to go back just briefly. The incidents that you've talked about
14 that the Defendant did to you at the hospital, did you want him to do any of those
15 things to you?

16 A No.

17 Q Okay. Did you ever do anything to indicate to him that it was okay to do
18 any of those things to you?

19 A There'd be no way for me to indicate that, no.

20 Q I'm going to ask you -- I'm going to give you some names and I want to
21 know whether or not you know any of these people. Do you know an individual by
22 the name of Ledahlia Spurlock?

23 A No.

24 Q Do you know a people named Heather Shank?

25 A No.

1 Q Do you know a person named Denise Hanna?

2 A No.

3 Q Do you know a person named Roxanne Cagnina?

4 A No.

5 Q Are you aware of whether or not any of these individuals were at the
6 hospital around the same time you were?

7 A No.

8 Q Have you ever spoken with any of these people about the Defendant or
9 the things he did to you?

10 A No.

11 MR. MERBACK: Court's indulgence. Your Honor, I have no further questions
12 at this time.

13 MR. MANINGO: Judge, would the Court or counsel have any objection if I
14 were to remain seated during my examination.

15 THE COURT: Well would you be able to see him if he's sitting?

16 MR. MANINGO: I'll just slide over this way. I don't want to get in the way of
17 any cameras or anything.

18 THE COURT RECORDER: The camera's locked on the witness so we can't
19 see anyone.

20 THE COURT: No, I just want her to be able to see him.

21 THE COURT RECORDER: Oh, okay. If he stands, if he stands up, he's
22 going to be in the way and blocks her.

23 THE COURT: I know --

24 MR. MANINGO: Right. That's why it be best if I --

25 THE COURT RECORDER: Phil, can you move those two things out of the

1 way and then she can see him.

2 **CROSS-EXAMINATION**

3 BY MR. MANINGO:

4 Q Hello, Ms. [REDACTED]. My name is Jeff Maningo and I'm just going to ask
5 you some questions to follow-up on what Mr. Merback was talking about; okay?

6 A Okay.

7 Q During the time period of May of 2008, you were having a lot of seizure
8 activity at that time; correct?

9 A It started May 12th.

10 Q Okay. During that time though you were having a lot of seizures;
11 correct?

12 A During what time? I don't --

13 Q May of 2008.

14 THE COURT: Her answer was it started May 12th, counsel.

15 MR. MANINGO: All right.

16 THE WITNESS: I guess I don't understand the timeframe. They started May
17 12th.

18 BY MR. MANINGO:

19 Q Now you were having seizures before May 12th, though; correct?

20 A No. I had seizures like five years ago. I hadn't had any seizures up
21 until I hit my head.

22 Q And you hit your head in March; correct?

23 A And then I had no seizures until in May 12th.

24 Q Okay.

25 A And that's when they started and everything else came with it.

1 Q Okay. Once they did start, was it common to have several seizures in a
2 single day?

3 A Explain what you mean.

4 Q Would you have more than one seizure in a day?

5 A Maybe I should explain my seizures again. Can I do that?

6 THE COURT: Yes.

7 THE WITNESS: Okay. I get an aura and a taste and then I know that a
8 seizure's coming. I will seize up, my whole body seizes up. I stop breathing while
9 I'm having one. My legs curl up, my arms curl up, and then I'll relax and then I'll curl
10 up again. But if what you're asking me is will I have this happen in the morning and
11 then maybe happen in the afternoon and the evening, no. I may have a seizure, you
12 know, in the morning and then I'm done for that entire day. I have to go to sleep and
13 take medicine and sleep because I'm in pain.

14 BY MR. MANINGO:

15 Q Okay. When you would have one of these seizures it would be very
16 traumatic for you; correct?

17 A Yes.

18 Q Okay. As you explained just a few minutes ago, you would seize up
19 and then relax and then seize up again and that could happen, you said I think, up
20 to 42 times?

21 A Yes.

22 Q Okay. And each time that you would seize up, you would be -- you
23 would become unaware of what was happening; is that fair to say?

24 A No. From the very -- from when I -- when I get that aura, I have like five
25 minutes and then as soon as the seizing starts, I'm not there.

1 Q Okay.

2 A So, even when I relax I will seize. I'm still not there until I come all the

3 way out of it and then I'll just start blinking and licking and -- my lips and looking

4 around and then I'm back.

5 Q Okay. But for the duration then while you're seizing, you're blacked

6 out?

7 A Right.

8 Q Okay. And then after the seizing stops and you start to come back from

9 that, it takes time to recover; correct?

10 A Yes.

11 Q And you have to rest?

12 A I normally have to go to sleep.

13 Q Okay. And you have to take medication, you said?

14 A Yes.

15 Q Okay. And when you first come out of it you said, you start blinking and

16 it takes a while to sort of realize where you're at; is that fair to say? Yes?

17 A Yes.

18 Q Okay. And so when you're first coming out of one of these episodes,

19 you're confused; correct?

20 A I can't say that.

21 Q Well you're certainly not thinking clearly right after you get done having

22 one of these seizure episodes; are you?

23 A Right, right.

24 Q Okay.

25 A For the first few seconds as they lay there and blink, I realize I've had a

1 seizure. And then as I look around, I know where I am. It's not like -- it doesn't take
2 me three hours to remember or to know.

3 Q Okay.

4 A I mean --

5 Q Okay.

6 A Only a matter of minutes.

7 Q Okay. Thank you. During the episode, you lose time though; correct?

8 A Right.

9 Q Okay. And when you're recovering from one of the episodes, you'll be
10 in and out of consciousness. You'll fall asleep and then wake up and fall asleep
11 easily again; correct?

12 A Well, yes, yes.

13 Q You're in and out of it?

14 A Normally if I'm at home I just pretty much sleep straight 12 hours
15 through.

16 Q Okay. Is it fair to say though that during recovery though you're in and
17 out of consciousness?

18 A In and out of sleep, yes.

19 Q Okay. Do you remember speaking to a detective about this case?

20 A Back in '08?

21 Q Yes.

22 A Yes.

23 Q Okay. And the words you used were in and out of consciousness?

24 A Okay.

25 Q Okay. So, is that fair to use?

1 A Yes.

2 Q Okay. Now you said that part of the recovery after you have one of
3 these seizures is that you have to take medication; correct?

4 A Correct.

5 Q And during the week of May 13th to May 20th, 2008 when you were in
6 Centennial Hills Hospital, you were on a number of different medications; correct?

7 A I believe so. I mean, my medications have changed since then so --

8 Q Would you be surprised to learn that based on your own medical
9 records, you are on Prozac, an anti-depressant; does that sound right?

10 A Yes.

11 Q Okay. You are also on Benzodiazapenes which is -- the most common
12 source would be like Valium; does that sound correct?

13 A I [Inaudible response].

14 Q You are also on sedatives; does that sound correct?

15 A Well to mean -- no.

16 Q Okay. So, if that's on your medical report and on your charts that the
17 doctors filled out. Do you think it's correct?

18 A Well, yes, I would.

19 Q Okay And you were also on an anti-seizure medication called Dilantin;
20 correct?

21 A Yes, they started me on that, yes.

22 Q Okay. And you're aware that with the anti-depressants such as Prozac
23 that it affects your brain chemistry; correct?

24 A Uh-hm.

25 Q Okay. And you also know that Dilantin will also affect your brain

1 chemistry?

2 A Dilantin is for epileptic seizures.

3 Q Yes.

4 A Yes, I didn't stay on Dilantin.

5 Q I'm asking about the time period though of May 13th to May 20th while
6 you were at Centennial Hills Hospital. At that time you were on Dilantin.

7 A Okay.

8 Q Are you aware that one of the side affects of Dilantin is confusion?

9 A No.

10 Q Are you aware that one of the side affects of Dilantin is delirium?

11 A No.

12 Q Besides being on the drugs I've already listed, you were also being
13 given doses of morphine; correct?

14 A It's the only pain medication I can take.

15 Q Okay. And you understand that morphine is a very strong narcotic?

16 A Yes.

17 Q Okay. And morphine can certainly cause a change in someone's
18 awareness; would you agree?

19 A No.

20 Q No?

21 A No.

22 Q So, you think that it would be okay for someone to drive while on
23 morphine?

24 A I take -- I can no longer drive because of the brain trauma.

25 Q That wasn't my question though. My question is: Do you think it's okay

1 for someone to drive then if they're taking seven doses of morphine in five days?

2 A It depends on the doses.

3 Q Okay. Do you think it makes any difference that the morphine is being
4 mixed with Prozac, Valium and Xanax?

5 MR. MERBACK: Judge, at this point, I'm going to object. I think the
6 questions are going beyond the scope of her knowledge. I mean, these are
7 questions that are for a doctor or someone of that nature to answer.

8 MR. MANINGO: Well it's going towards the witness's ability to perceive.

9 THE COURT: Right. Well you're asking her now her opinion as to the affects
10 of drugs, and she can't offer that kind of opinion testimony. She's not qualified as an
11 expert witness. I'll sustain the objection. Move on.

12 BY MR. MANINGO:

13 Q During this time then, you do realize that a number of different drugs
14 were being mixed together? You were taking more than one drug?

15 A When you say during this time, are you saying while I'm in the hospital?

16 Q Yes. Still talking about the hospital, May 13th to May 20th, 2008.

17 A Okay.

18 Q And do you remember that period of time that you were on more than
19 just one medication?

20 A Yes. What all medications I was on, no I couldn't tell you.

21 Q Okay.

22 A And especially since then, it took quite a while for them to actually dial
23 in the medications I actually needed.

24 Q Okay. Thank you. During this week long period at Centennial Hills in
25 2008, you spent that entire week recovering from the seizures; correct?

1 A And?

2 Q Is that correct?

3 A No. I spent most of the time -- I should say I spent more time

4 recovering from the A-fib.

5 Q Okay. And that happened while you were in the hospital recovering

6 from the seizures?

7 A Correct.

8 Q Okay. And also during this week long period, you were on a number of

9 different medications?

10 A Yes.

11 Q Okay. And it's from this one week period where you were covering

12 from the seizures, your heart went into A-fib, and you were on a number of different

13 medications that these allegations against Mr. Farmer come from, that one week

14 period; correct?

15 A Yes.

16 Q Okay. You discussed on your direct examination an incident where Mr.

17 Farmer he lifted up your gown?

18 A Yes.

19 Q Was that the first time that you met Mr. Farmer?

20 A Yes.

21 Q Okay. And he introduced himself to you?

22 A Yes.

23 Q Okay. And he told you what his name was?

24 A Yes.

25 Q Okay. He -- as it turned out he gave you the correct name; right? He

1 didn't give you a fake name or anything like that?

2 A Okay; yes.

3 MR. MERBACK: Actually, Judge, I'm going to object to that question. It's
4 beyond the scope of her knowledge. I mean, she doesn't know his name beyond
5 what he told her so I think that that's -- that question to her is objectionable.

6 MR. MANINGO: I'll re-ask.

7 THE COURT: Your objection is assumes facts not in evidence?

8 MR. MERBACK: Correct.

9 THE COURT: All right. Sustained.

10 BY MR. MANINGO:

11 Q Did he tell you that his name was Steve?

12 A Yes.

13 Q Okay.

14 A I believe he said Steven.

15 Q Steven. Okay. Now at that point you said he lifted up your gown;
16 correct? Is that correct?

17 A At some point, yes, he lifted up my gown.

18 Q Okay. And you had a catheter at that point; correct?

19 A Yes.

20 Q Okay. You also at this point in time you were unable to move?

21 A Yes.

22 Q Okay. Now you've -- I think you told Mr. Merback you've had quite a bit
23 of experience spending time in hospitals?

24 A Unfortunately.

25 Q Okay. Have you ever heard the term intimate care?

1 A No.

2 Q Okay. You do understand that nurses are asked to take care of
3 personal hygiene tasks at certain points?

4 A Yes.

5 Q Okay. You understand that nurses are asked to clean up any leaks or
6 bowel movements, that's part of their job; you know that?

7 A Yes.

8 Q Okay. You know that nurses are asked to check on a patient's catheter
9 if they have one?

10 A Yes.

11 Q Okay. During this incident where Mr. Farmer, you say, he lifted up your
12 gown, at this point you're also on medications; correct?

13 A Yes.

14 Q Okay. And one of the medications that you're on at that point is
15 Morphine?

16 A Yes.

17 Q You discussed another incident where you said Mr. Farmer had told
18 you that you had feces on you?

19 A Yes.

20 Q And that he lifted your leg up?

21 A Yes.

22 Q And his hand moved from your leg to your rectum?

23 A Yes.

24 Q Okay. Mr. Farmer explained to you that he was cleaning you?

25 A No.

1 Q No? Did he explain to you that he was checking your catheter?
2 A At one point he said that.
3 Q And you still had a catheter at that point --
4 A Yes.
5 Q -- during that incident?
6 A Yes.
7 Q Okay. You were still unable to move at that point?
8 A Yes.
9 Q You couldn't look down and see what was going on?
10 A No.
11 Q Okay. You couldn't look down to see if, you know, what Mr. Farmer
12 was doing; correct?
13 A Correct.
14 Q Okay.
15 A But I could feel that he was not wiping me. I could feel that nothing --
16 Q That wasn't my question, Ms. [REDACTED]. We'll get to that. Thank you.
17 Because of your inability to move you couldn't sit up and see anything either
18 obviously; is that correct?
19 A Correct, but I was not laying flat.
20 Q Okay. So, you were at an angle?
21 A Yes.
22 Q Okay. Was -- at that point as he had your leg up, you had a gown on;
23 correct?
24 A Yes.
25 Q And you couldn't see past the gown; correct?

1 A See past --

2 Q You have a gown on and he lifts your leg up?

3 A Right.

4 Q Okay. You're not able to see what was going on?

5 A That's if you're assuming that he had the gown with my leg while it was

6 up, which it was not. The gown was across my lap.

7 Q Well actually I'm just assuming from you already testified to which is

8 you weren't able to see what was going on. You've already said that.

9 THE COURT: Counsel, you testifying? I don't hear a question

10 MR. MANINGO: My question is: Would you like to now change your testify?

11 MR. MERBACK: Objection, Judge, it's argumentative.

12 THE COURT: All right. So, I'm sustaining her -- the objection because you're

13 mischaracterizing her previous testimony. So, if you'd let her answer.

14 MR. MANINGO: Judge, her previous testimony is that she was not able to

15 see what was going on. I asked that direct question and that was her answer. Now

16 she's saying, well, the gown was down. So, I'm asking her again were you able to

17 see what was going on.

18 THE COURT: Rephrase the question and don't give me a narrative response

19 and argue with me about the testimony.

20 BY MR. MANINGO:

21 Q Ms. [REDACTED], were you able to see what was going on when Mr.

22 Farmer said he was checking your catheter?

23 A No.

24 Q Okay. Thank you. He had told you that you had a bowel movement or

25 that there was fecal matter?

1 A Yes.

2 Q Okay. You didn't notice any wipes or pads?

3 A No.

4 Q Okay. You didn't feel any -- you didn't feel yourself go to the bathroom?

5 A Right; no, I did not.

6 Q Okay. But before Mr. Farmer had come in to check it, you were

7 sleeping; correct?

8 A Off and on, yes.

9 Q You woke up and Mr. Farmer was already there?

10 A Yes.

11 Q And you were still on your medications during this incident, correct, to

12 the best of your knowledge?

13 A I would assume so if, I mean, I had just taken some, no, I don't believe I

14 did.

15 Q Do you remember?

16 A I don't remember taking any during this time, no. But some medications

17 I had through the IV as well.

18 Q Okay. But you had just awoken as Mr. Farmer was already there?

19 A Yes.

20 Q Okay. Based on your experience that you've talked about from being a

21 patient in hospitals you know that they will check patients who cannot move

22 themselves for bed sores; right?

23 A Yes.

24 Q Okay. And you know that date they look at different factors with

25 patients to see if you're at risk for bed sores such as whether or not you can feel

1 pain or discomfort; are you aware of that?

2 A Not so much, no.

3 Q Okay. Are you aware of the fact that your doctor noted that you have a
4 very limited ability to feel pain or discomfort during that time that you were there?

5 MR. MERBACK: Judge, I'll actually object to that question on a number of
6 reasons. I think it calls for a hearsay response because it's the statement of -- it's
7 an out of court statement of another witness and also it would be -- I guess that
8 would be my main objection at this point.

9 THE COURT: Well it also lacks foundation and assumes facts not in
10 evidence so I'll sustain it on those grounds.

11 BY MR. MANINGO:

12 Q Well let me ask you this, Ms. [REDACTED]. Did you feel like you had full
13 feeling in your body that you could feel discomfort normally?

14 A Could I feel pain?

15 Q Well pain or discomfort.

16 A Yes.

17 Q Okay. I mean, on a normal level.

18 A I don't know how to answer that because -- I mean, on a normal level if
19 you feel discomfort or pain -- you know, like if your shoulder is getting tight, well you
20 move it; right? You move so you can get comfortable. I can't move, but I can feel
21 the discomfort. I just can't do anything about. So, I don't know how to answer your
22 question.

23 Q Now you mentioned one other incident, I believe. You said that there
24 was -- Mr. Farmer had come in and pinched your nipples?

25 A Yes.

1 Q Okay. And did you testify that that happened, how many times, once?
2 Once or more than once?

3 A Explain.

4 Q How many times did that happen where Mr. Farmer came in and
5 pinched your nipples or touched your nipples?

6 A I'm aware of him pinching my nipples a total of four times, two times
7 each.

8 Q I'm sorry. I'm not sure I understand.

9 MR. MERBACK: Judge, I think the question's vague. I mean, is the issue
10 that how many times he pinched her nipples on this one occasion or were there
11 multiple occasions and I think that's where the confusion's coming from so my
12 objection is vague.

13 MR. MANINGO: How many incidents.

14 THE COURT: Well I'll sustain that and let you rephrase.

15 BY MR. MANINGO:

16 Q How many incidents occurred where Mr. Farmer touched your breasts?

17 THE COURT: He's talking about separate incidents.

18 THE WITNESS: Like at the --

19 THE COURT: Not each touching at one time. He's asking you was there
20 more than one occurrence.

21 THE WITNESS: Two.

22 BY MR. MANINGO:

23 Q Two? Okay. Each of those times he stated that he was adjusting the
24 heart monitor leads?

25 A Yes.

1 Q Okay. Now you had approximately eight leads placed across your
2 torso; correct?

3 A I don't know if that's correct.

4 Q Okay. Was it -- did you have only one lead?

5 A I had more than one, but I don't know that I had eight; I didn't count.

6 Q Did you have more than two; do you remember?

7 A Yes, I know I had more than two. I just can't see that -- yes, I had
8 exactly eight.

9 Q Okay. And I just want to get an approximation. So, was it more than
10 four?

11 A Yes, probably.

12 Q Okay. Could it be more than eight?

13 A That's what I'm saying. I can't -- you said you had eight leads; did you
14 know that. Well, no, I don't know that. I don't know exactly how many I had.

15 Q Okay. I'm just asking you what you do remember. Do you remember if
16 there were more than five?

17 A No, I'm sure there were.

18 Q Okay. I'm sorry, Ms. [REDACTED]. I'm just asking how many there were on
19 your body. It's not -- I'm not trying to trick you.

20 A You're asking me though a question that -- when these are put on me,
21 I'm in a seizure state. So, I can't -- I'm not around to count 'em. Does that make
22 sense to you? It's like being in a seizure --

23 Q It does make sense to me. However, you did speak to a detective and
24 told the detective quite easily without all this extra argument that it was seven to
25 eight leads on your chest; do you remember saying that to the detective?

1 A No.

2 Q Okay. You said that you know he wasn't adjusting the leads on your
3 chest because you didn't hear any beeping?

4 A Right.

5 Q Okay.

6 MR. MERBACK: Objection. That's misstates her testimony. She said she
7 knew the leads didn't come off because she didn't hear the beeping.

8 MR. MANINGO: I'm sorry. What did I say?

9 MR. MERBACK: You said you knew he wasn't adjusting the leads which is
10 different than what she testified to.

11 THE COURT: Well restate the question because she had answered so --

12 MR. MANINGO: I think --

13 THE COURT: Yeah.

14 MR. MANINGO: -- I think she understood.

15 BY MR. MANINGO:

16 Q Ms. [REDACTED], You believed that none of your leads had come loose
17 from your body because you didn't hear any alarm go off; correct?

18 A Correct.

19 Q Okay. Are you aware of the fact that at Centennial Hills Hospital in the
20 room that you were in the telemetry monitors are actually at the nursing station in
21 the hall and that's where the alarms go off; did you know that?

22 A I --

23 Q Were you aware of that?

24 A No.

25 Q Okay. It was your understanding that the -- there would be a telemetry

1 monitor and an alarm in your room; correct?

2 A Yes, from my recollection there was.

3 Q Okay. And so if I told you that there are pictures taken and research
4 done showing that the monitors aren't even the room, they're in the hallway so that
5 the patient wouldn't hear the alarm go off; could that change any of your testimony?

6 A No.

7 Q Okay.

8 A Because when my heart went into A-fib there was a machine by my bed
9 that did start going off and did when the all the nurses came running in, turned it
10 off --

11 Q Okay.

12 A -- and this machine actually went up to the room I went to for my A-fib.

13 Q When you said that Mr. Farmer was adjusting the leads on your chest,
14 before you noticed him doing that you had been asleep; correct?

15 A Yes.

16 Q And then you started to wake up?

17 A I woke up, yes.

18 Q Okay. And you were looking at him you said?

19 A Yes.

20 Q Okay. But before he had come in you were out if it, you were asleep?

21 A I was asleep.

22 Q Okay. So, you were not aware of him coming in in the first place?

23 A No.

24 Q Okay.

25 A You mean did I hear him walk in, you mean? No.

1 Q During the time of this incident you were still on your medications;
2 correct?

3 A I don't know. I mean, was I still being given medications; is that what
4 you mean?

5 Q Yes.

6 A Yes.

7 Q Okay. And you were still being given morphine?

8 A I think so. I mean, I honestly don't know what the medications all were
9 at that time, but I live on morphine every day of my life.

10 Q Okay. Now I know this sounds very obvious, but why you were at
11 Centennial Hills Hospital that week there were other people in the hospital around;
12 correct? You weren't the only patient obviously?

13 A I don't think so.

14 Q Okay. And you saw other staff members besides Mr. Farmer?

15 A Yes.

16 Q And there were doctors, nurses coming in and out of the room?

17 A Yes.

18 Q Okay. And what you testified to is that all these incidents that took
19 place with Mr. Farmer happened in a location where anyone would have walked into
20 your room and caught Mr. Farmer doing what he was doing; that was possible?

21 A Possible.

22 Q Nobody did that as far as you know?

23 A As far as I know.

24 Q Okay. And all the incidents that you described took place in a location
25 where someone else could have seen Mr. Farmer doing something inappropriate;

1 correct?

2 A I don't know if that's correct or not. I mean -- because what happened
3 was I was rushed down to another room after my heart went in A-fib and I'd been in
4 a seizure prior so, no, I don't know that -- I don't know the lay of the hospital floor no,
5 I don't. I don't know where the room was located or anything.

6 Q To the best of your knowledge though no one else saw Mr. Farmer do
7 anything inappropriate to you?

8 A I don't know if anybody saw or not.

9 Q No one's come to said: Ms. [REDACTED], I saw this happen?

10 A No, nobody's done that.

11 Q You did not come forward with any of these allegations until a month
12 after being released from the hospital; correct?

13 A Correct.

14 Q After this happened to you, the very first incident, when this happened
15 to you in the hospital, you didn't tell your doctors what had happened; did you?

16 A No.

17 Q Okay. And you didn't tell any of the other nurses what had happened?

18 A No.

19 Q Okay. You didn't ask to speak with the police or for the police to be
20 called and come to your room?

21 A No. I didn't even -- I didn't -- didn't -- didn't -- didn't --didn't -didn't --

22 THE MARSHAL: Your Honor.

23 THE COURT: Do you need to take a short rest, a recess? Yes?

24 THE WITNESS: Yes, yes, yes, yes, yes.

25 THE COURT: Okay. Court will be in recess for five minutes.

1 [Recess taken at 11:28 p.m.]

2 [Proceedings resumed at 12:03 p.m.]

3 THE COURT: All right. Are we ready to go back on the record? All right.
4 We're back on the record. Go ahead with your cross.

5 MR. MANINGO: Thank you.

6 BY MR. MANINGO:

7 Q [REDACTED], let's get this finished up now.

8 A Okay.

9 Q Do you remember what we were just talking about a minute ago?

10 A A lot of things.

11 Q That's true. I had asked you about the fact that you did not come
12 forward with any of these allegations until about a month after you were released
13 from the hospital?

14 A Correct.

15 Q Okay. And while you were still in the hospital between the dates of May
16 13th and May 20th of 2008, you didn't speak to any doctors at the hospital about what
17 happened with Mr. Farmer; correct?

18 A Correct.

19 Q Okay. And you did not speak with any of the other nurses about what
20 had happened; correct?

21 A Correct.

22 Q Okay. And did you not ask for the police to come to your room and
23 speak to them; correct?

24 A Correct.

25 Q Okay. Now earlier when you were speaking with Mr. Merback, you said

1 the reason you didn't talk to anybody from the hospital was because you didn't trust
2 the hospital anymore; right?

3 A Correct.

4 Q And do you remember saying that earlier?

5 A Yes.

6 Q Okay. However, do you remember that you went back to that same
7 hospital on June 19th, 2008 for an emergency room visit?

8 A Yes.

9 Q Do you remember that?

10 A Yes.

11 Q Okay. And then you also went back to that same hospital that you said
12 you no longer trust on June 24th of 2008 and stayed for a couple of days; do you
13 remember that?

14 A Yes, I was taken by ambulance both times and had no say in where
15 they would take me.

16 Q Okay.

17 A I asked to be taken to UMC and they would not take me. My -- both my
18 sons requested I be taken to UMC.

19 Q Okay.

20 A And the ambulance drivers did not do it.

21 Q Okay. Now do you remember speaking to the detective about this case
22 back in '08; correct?

23 A Yes.

24 Q Okay. And the detective asked you why you didn't tell anyone at the
25 hospital; do you remember that?

1 A Not specifically. We talked about a lot of things.

2 Q Okay. Do you remember telling the detective that the reason you didn't
3 tell anyone was because you couldn't speak?

4 A Which is true. At the time it was happening I could not speak.

5 Q Right. But during your visit you were able to speak?

6 A Right, and I told my sons.

7 Q Okay. After you told your sons, they did not report it to the hospital staff
8 as far as you know; correct?

9 A Correct.

10 Q And they did not call the police; correct?

11 A As far as my knowledge, no.

12 Q Okay. After you told your sons about what had happened, you still
13 remained in that hospital for the duration of your stay; correct?

14 A Correct; I believe I did, yes.

15 Q Okay. What I'm asking, I guess, Ms. [REDACTED], is your sons allowed
16 you to remain in Centennial Hills Hospital after you told them what happened with
17 Mr. Farmer; correct?

18 A Correct.

19 Q Okay. Now after May 20th you were released from Centennial Hills; is
20 that right?

21 A I believe so, yes.

22 Q Okay. And you went back home at that time?

23 A Yes.

24 Q Okay. Once you got home you still didn't contact the police, correct,
25 right away I should say? You didn't call the police right away when you got home?

1 A Correct.

2 Q All right. And you didn't call the hospital to inform them of what had
3 happened; correct?

4 A Correct. Part of the reason I didn't call the hospital is I had been in
5 Centennial previously for the flu and had several items stolen and making phone
6 calls to get resolution got me nowhere.

7 Q Okay. And, Ms. [REDACTED], I'm sorry, I didn't mean to interrupt. You
8 have to answer just from the questions I ask otherwise it gets confusing. And so
9 you did answer me and I appreciate it. Now once you did get home after May 20th
10 you were able to at least speak and communicate; correct?

11 A Yes.

12 Q And you were able to make phone calls if you needed to; correct?

13 A Yes.

14 Q Okay. But at that time you still chose not to contact anyone about what
15 had happened?

16 A At that time my body started experiencing -- when I hit my head and got
17 the brain trauma, all the sudden I could do Suduko in like two minutes; finish a
18 puzzle which was totally abnormal for me. And then when the seizure started in
19 May it's like all the sudden I was down the chute of a rollercoaster. I started
20 experiencing high blood pressure. All my --

21 Q Ms. [REDACTED], I'm going to interrupt you just for a second. I'm sorry,
22 Your Honor, but I think this is all non-responsive.

23 A No, I'm answering why I didn't call right away because my health
24 started deteriorating so fast that that was on the front burner at the time. I started
25 having seizures like every other day. I started experiencing uncontrollable sensory

1 overload and I had things happening I've never experienced before and my body
2 and health was just going down a sieve and that was my top priority at that point in
3 time.

4 Q You weren't concerned that if Mr. Farmer had assaulted you that he
5 may continue assaulting somebody else at the hospital?

6 MR. MERBACK: I object as to argumentative and not relevant.

7 THE COURT: Yeah, I think that's argumentative so I'll sustain that.

8 BY MR. MANINGO:

9 Q Well let me rephrase, Ms. [REDACTED]. Once you got home from the
10 hospital, were you concerned that anyone else might get hurt at the hospital?

11 A Of course.

12 Q Yes?

13 A Yes, of course.

14 Q And yet you still didn't call and report anything about Mr. Farmer even
15 though you were concerned about that?

16 A Right.

17 Q Okay.

18 A But --

19 Q You answered the question. Thank you.

20 THE COURT: Well I'm going to allow her to explain her answer.

21 MR. MANINGO: Judge, I --

22 THE COURT: Are you trying to finish your answer?

23 THE WITNESS: Yes.

24 MR. MANINGO: Judge, I'm going to object because she answered the
25 question and now we're giving her free reign to make these narratives.

1 THE COURT: All right. The District Attorney can follow up if he wants to. Go
2 ahead.

3 BY MR. MANINGO:

4 Q It was a month later after release from the hospital around June 15th,
5 you were still concerned about your health at that point; correct?

6 A Yes.

7 Q It was still a priority for you; correct?

8 A Yes.

9 Q Okay. But at that time your son saw Mr. Farmer on the television;
10 right?

11 A Yes.

12 Q And it was seeing Mr. Farmer on the television that prompted you to
13 make the phone call to the police; correct?

14 A It was the story associated with him being on TV that prompted it; to
15 find out that I was not the only one.

16 Q Knowing that that was your nurse, that he was your nurse at the
17 hospital also?

18 A And the story went on to say that there were more victims than just one.

19 Q Uh-hm.

20 A So, at that point in time, yes, I called.

21 Q Okay. And you were -- you had the physical capacity to make the
22 phone call to the police yourself; correct?

23 A Yes.

24 Q Okay. You didn't have to have somebody else call for you?

25 A No.

1 Q Okay. And you could have made that phone call weeks earlier if you
2 wanted to? I mean, you were physically capable of making that phone call?
3 A I was capable --
4 Q Okay.
5 A -- physically.
6 Q Okay.
7 A But medically not so much.
8 Q Earlier you said that you -- that because of your medical condition you
9 live with Morphine every day?
10 A Yes.
11 Q Okay. Are you on morphine today?
12 A Yes.
13 Q Okay. What kind of dosage did you take today?
14 A My normal dosage. I take 7.5 milligrams three times a day.
15 Q Three times a day?
16 A Yes.
17 Q Okay. And at this point, how many doses -- how many 7.5 milligram
18 doses have you had?
19 A One.
20 Q One. And then you'll take one midday and then another one in the
21 evening?
22 A Yes.
23 Q Okay. While you were in the hospital, do you remember how many
24 times your doctor saw you?
25 A No.

1 Q Okay. Do you remember how many times the nurses came through to
2 check on you?

3 A No.

4 Q The incidents that you described to Mr. Merback, the incident where
5 you said Mr. Farmer had pinched your nipples, did that happen -- what time of the
6 day did that happen; do you remember?

7 A I believe it was nighttime.

8 Q Okay. Are you sure about that or --

9 A No.

10 Q Okay.

11 A Because it was dark in my room whether it was because the lights were
12 out or because it was nighttime. I do believe it was nighttime though because the
13 next morning when the day shift nurses came on is when my heart, I believe, went
14 into A-Fib.

15 Q Okay. Now do you remember how many days you were at the hospital
16 before you told your sons about Mr. Farmer?

17 A Well like I said earlier, it happened and I believe what he did to me was
18 at night. The next morning, my heart went into A-Fib. It took 24 hours for it to out of
19 A-Fib and the very first thing I said when I came to or came out of the A-Fib that was
20 the first thing I told my boys, the very first thing.

21 Q Okay. So, how many days was that -- how many days had you been in
22 the hospital at that point when you came out of A-Fib; do you remember?

23 A I had seizures on the second -- I mean, the 12th; I got admitted the 13th
24 and it's either the 14th or the 15th. I'm not quite certain.

25 Q Okay. [REDACTED], you currently have a pending lawsuit against

1 Centennial Hills Hospital regarding these allegations against Mr. Farmer; correct?

2 A Yes.

3 Q I'm sorry?

4 A Yes.

5 Q Okay. And that was filed in July of '09, July 23rd of 2009?

6 A Okay. Somewhere in there.

7 Q And in the lawsuit what you're seeking is money; correct?

8 MR. MERBACK: Your Honor, I would object to this point beyond -- I mean,
9 it's one thing -- I think it's not relevant at this point. It's one thing to ask the question
10 about the lawsuit, but questions beyond that aren't relevant.

11 THE COURT: Beyond the scope of direct.

12 MR. MANINGO: And, Judge, I think it goes directly towards motive and bias
13 especially if a witness has a financial motive regarding her testimony. I think it's
14 definitely -- and which my co-counsel is explaining -- is covered under *Chavez*
15 *versus* -- v. *State* -- that it does not need to be within the scope of the direct when
16 you're talking about the motive and bias of a witness.

17 THE COURT: Okay. So, the objection's overruled. Proceed.

18 BY MR. MANINGO:

19 Q Ms. [REDACTED] the question was are you aware that -- excuse me let me
20 rephrase that -- by filing a lawsuit what you're looking to accomplish is to receive
21 money damages form the hospital; correct?

22 A From --

23 Q From Centennial Hills Hospital?

24 A From this lawsuit here?

25 Q Because of what happened with Mr. Farmer you're suing the hospital?

1 A Right.

2 Q Okay. And you're suing the hospital for money; right?

3 A Right.

4 Q Okay.

5 A My attorney is.

6 Q And you're aware that a conviction in this criminal case will help the
7 lawsuit?

8 MR. MERBACK: Objection, Judge. That's clearly beyond her -- lack of
9 foundation. It's beyond her scope of knowledge and it's not relevant.

10 THE COURT: Lacks foundation and assumes facts not in evidence. It's
11 sustained.

12 MR. MANINGO: Court's indulgence.

13 BY MR. MANINGO:

14 Q Ms. [REDACTED] we're just about finished. You had started to mention a
15 situation where Centennial Hills Hospital, you had property stolen from you while
16 you were there?

17 A Yeah.

18 Q And did you ever file any kind of a complaint or anything with the
19 hospital?

20 A Yes.

21 Q Okay. And you did not receive any satisfaction from them regarding
22 that?

23 A No.

24 Q And did you pursue it by calling the police or just by contacting the
25 hospital?

1 A The hospital and their security department. I believe I did paperwork
2 with them.

3 Q Okay. And nothing ever came of it. You never found out anything or
4 received your property?

5 A No.

6 Q And that happened -- that all happened before any incidents with Mr.
7 Farmer?

8 A Yes.

9 MR. MANINGO: Okay. Thank you, Ms. [REDACTED]. Pass the witness.

10 THE COURT: Redirect.

11 MR. MERBACK: No questions, Judge.

12 THE COURT: All right. May the witness then be excused?

13 MR. MERBACK: Yes, Your Honor.

14 THE COURT: Thank you. You're excused.

15 MR. MERBACK: Your Honor, can I slip out and get her son; is that okay?

16 THE COURT: Yes.

17 THE WITNESS: Do I have a chance to say anything or no?

18 THE COURT: No, you have to just answer questions of counsel so --

19 THE WITNESS: Okay.

20 THE COURT: -- you can speak to the District Attorney or anybody that you
21 wish to about this, but you don't have to speak to anybody that you do not wish to.

22 MR. MANINGO: Judge, actually -- are we on the record still?

23 THE COURT: Yes.

24 MR. MANINGO: Okay. Thanks. We're asking the Court to advise the
25 witness that this is actually trial testimony at this point and that the witness is not

1 allowed to discuss her testimony with anybody else or what went on here because
2 there are other potential witnesses, in particular her family members and her sons.
3 So --

4 THE COURT: Let me admonish her. All right.

5 MR. MANINGO: Yes, please.

6 THE COURT: All right. So, Ms. [REDACTED], because what we did today is in
7 order to preserve your testimony for trial and later your testimony will be played for
8 the jury. The reason your son was asked to step out into the hall and wait there was
9 because he will be a witness in the trial and so don't discuss your testimony here
10 today with your son. It's important that we maintain that exclusion of the witness
11 and so don't discuss your testimony with your son or other members of your family
12 who might be trial witnesses in this matter. All right.

13 THE WITNESS: Okay.

14 THE COURT: Thank you.

15 Anything further?

16 MR. MANINGO: Oh, no, Judge. Thank you.

17 THE COURT: Thank you. Court is adjourned.

18 MR. MERBACK: Thank you, Your Honor.

19
20 [Proceedings concluded at 12:24 p.m.]

21
22 ATTEST: I do hereby certify that I have truly and correctly transcribed the
23 audio/video proceedings in the above-entitled case to the best of my ability.
24
25

Patricia Slattery

EXHIBIT 2


CLERK OF THE COURT

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

STEVEN DALE FARMER
#2679879

Defendant.

CASE NO.
C245739 / C249693

DEPT. NO. V

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNTS 1, 2, 4, 8, 9, 11, 13 & 14 – OPEN OR GROSS LEWDNESS (Gross Misdemeanor) in violation of NRS 201.210; COUNTS 3 & 15 – INDECENT EXPOSURE (Gross Misdemeanor) in violation of NRS 201.220, and COUNTS 5, 6, 7, 10 & 12 – SEXUAL ASSAULT (Category A Felony) in violation of NRS 200.364, 200.366 ; and the matter having been tried before a jury and the Defendant having been found guilty of all counts **OTHER THAN COUNTS - 3 & 7** whereas Defendant was found NOT GUILTY; thereafter, on the 28TH day of May, 2014, the Defendant was present in court for sentencing with his counsels JEFFREY MANINGO and RYAN BASHOR, Deputy Public Defenders, and good cause appearing,

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
2 addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee
3 including testing to determine genetic markers, the Defendant is sentenced as follows:
4 As to COUNTS 1, 2, 4, 8, 9, 11, 13, 14 & 15 - TWELVE (12) MONTHS in the Clark
5 County Detention Center (CCDC) as to each count with each count running
6 CONCURRENT with each other; as to COUNT 5 - LIFE with a MINIMUM parole
7 eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC), Count
8 5 to run CONCURRENT with Counts 1, 2 and 4; as to COUNT 6 - LIFE with a
9 MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of
10 Corrections (NDC), Count 6 to run CONSECUTIVE to Count 5; as to COUNT 10 -
11 LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department
12 of Corrections (NDC), Count 10 to run CONSECUTIVE to Count 6; and as to COUNT
13 12 - LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada
14 Department of Corrections (NDC), Count 12 to run CONCURRENT with Counts 1, 2,
15 4, 6, 8, 10 & 11; with TWO THOUSAND TWO HUNDRED FOUR (2,204) days Credit
16 for Time Served.

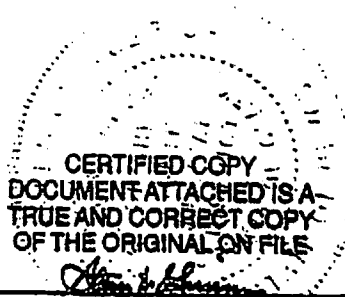
20 FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION
21 is imposed to commence upon release from any term of imprisonment, probation or
22 parole. In addition, before the Defendant is eligible for parole, a panel consisting of
23 the Administrator of the Mental Health and Development Services of the Department
24 of Human Resources or his designee; the Director of the Department of Corrections or
25 his designee; and a psychologist licensed to practice in this state; or a psychiatrist
26
27
28


1 licensed to practice medicine in Nevada must certify that the Defendant does not
2 represent a high risk to re-offend based on current accepted standards of assessment.

3
4 ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender
5 in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any
6 release from custody.

7
8 DATED this 30th day of May, 2014.

9
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12 CAROLYN ELLSWORTH
13 DISTRICT JUDGE
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OF THE ORIGINAL ON FILE


CLERK OF THE COURT

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IN THE SUPREME COURT OF THE
STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC, a
Delaware limited liability company,
d/b/a CENTENNIAL HILLS
HOSPITAL MEDICAL CENTER and
UNIVERSAL HEALTH SERVICES,
INC., a Delaware corporation,

Petitioners,

vs.

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, and THE
HONORABLE RICHARD F.
SCOTTI,

Respondents,

and

AMERICAN NURSING SERVICES,
INC., a Louisiana corporation;
ESTATE OF JANE DOE, by and
through its Special Administrator,
Misty Peterson; STEVEN DALE
FARMER, an individual; DOES I
through X, inclusive; and ROE
CORPORATIONS I through X,
inclusive,

Real Parties in Interest.

Supreme Court Case

No. _____ Electronically Filed
Apr 29 2015 08:42 a.m.
District Court No. Tracie K. Lindeman
09-A-595780-C Clerk of Supreme Court

Dept. II

PETITIONERS' APPENDIX
TO THE PETITION FOR
WRIT OF MANDAMUS
AND/OR WRIT OF
PROHIBITION

VOLUME 1 of 4

MICHAEL E. PRANGLE, ESQ.

Nevada Bar No. 8619

JOHN F. BEMIS, ESQ.

Nevada Bar No. 9509

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1160 N. Town Center Drive, Suite 200

Las Vegas, Nevada 89144

Attorneys for Petitioners

*Valley Health System, LLC, d/b/a Centennial Hills Hospital Medical Center and
Universal Health Services, Inc.*

**ALPHABETICAL INDEX TO PETITIONERS' APPENDIX TO THE
PETITION FOR WRIT OF MANDAMUS AND/OR WRIT OF
PROHIBITION**

<u>DOCUMENT TITLE</u>	<u>VOL.</u>	<u>PAGE NO(S).</u>
Amended Complaint (August 21, 2009)	I	WA0007 - WA0012
American Nursing Services, Inc.'s Answer to Amended Complaint (September 23, 2009)	I	WA0036 - WA0041
American Nursing Services, Inc.'s Opposition to Plaintiffs' Motion for Summary Judgment Re: Liability (October 15, 2014)	II	WA0246 - WA0500
American Nursing Services, Inc.'s Sur-Reply Brief in Opposition to Plaintiff's Motion for Partial Summary Judgment (December 10, 2014)	IV	WA0732 - WA0761
Complaint (July 23, 2009)	I	WA0001 - WA0006
Defendant Centennial Hills Hospital's Answer to Plaintiff's Amended Complaint (September 10, 2009)	I	WA0013 - WA0022
Defendants Centennial Hills Hospital and Universal Health Services, Inc.'s Opposition to Plaintiff's Motion for Summary Judgment Re: Liability and Joinder to Defendant Steven Dale Farmer's Limited Opposition (October 14, 2014)	I	WA0125 - WA0245
Defendants Centennial Hills Hospital and Universal Health Services, Inc.'s Errata to Their Opposition to Plaintiff's Motion for Summary Judgment Re: Liability and Joinder to Defendant Steven Dale Farmer's Limited Opposition (October 16, 2014)	III	WA0501 - WA0504

ORIGINAL

36

1 **COMP**

2 Robert E. Murdock, Esq.

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10 **ECKLEY M. KEACH, CHTD.**

11 520 South Fourth Street

12 Las Vegas, NV 89101

13 702-384-5563

14 Attorneys for Plaintiff

FILED

JUL 23 11 25 AM '09

Ed Baird
CLERK OF THE COURT

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 **JANE DOE,**

18 Plaintiff,

19 vs.

20 **CENTENNIAL HILLS HOSPITAL MEDICAL**
21 **CENTER AUXILIARY, a Nevada corporation;**
22 **VALLEY HEALTH SYSTEM LLC, a Nevada**
23 **limited liability company; UNIVERSAL HEALTH**
24 **SERVICES FOUNDATION, a Pennsylvania**
25 **corporation; AMERICAN NURSING SERVICES,**
26 **INC., a Louisiana corporation; STEVEN DALE**
27 **FARMER, an individual; DOES I through X,**
28 **inclusive; and ROE CORPORATIONS I through**
X, inclusive,

Defendants.

CASE NO. **A-09-595780-C**
DEPT. NO. **II**

COMPLAINT

A-09-595780-C
268834



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CLERK OF THE COURT
JUL 23 2009

1 COMES NOW Plaintiff Jane Doe, by and through her attorneys of record, Murdock &
2 Associates, Chtd. and Eckley M. Keach, Chtd., and for her cause of action, alleges as follows:

3 1. This action is instituted for damages, attorney's fees, costs of suit and pre-
4 judgment interest.

5 2. At all times mentioned herein, Plaintiff Jane Doe was and is a resident of Las
6 Vegas, Clark County, Nevada.¹

7 3. At all times mentioned herein, Defendant Centennial Hills Hospital Medical
8 Center Auxiliary ("Centennial Hills") was a Nevada corporation, now dissolved, duly licensed
9 in the State of Nevada, and conducting business in Las Vegas, Clark County, Nevada.

10 4. At all times mentioned herein, Defendant Valley Health System LLC
11 ("Valley Health") was and is a Delaware limited liability company, duly licensed in the State of
12 Nevada, and conducting business in Las Vegas, Clark County, Nevada.

13 5. At all times mentioned herein, Universal Health Services Foundation ("UHS")
14 was and is a Pennsylvania non-profit corporation, duly licensed in the State of Nevada, and
15 conducting business in Las Vegas, Clark County, Nevada.

16 6. At all times mentioned herein, Defendant American Nursing Services, Inc.
17 ("American Nursing") was and is a Louisiana corporation, duly licensed in the State of Nevada,
18 and conducting business in Las Vegas, Clark County, Nevada.

19 7. At all times mentioned herein, Defendant Steven Farmer was and is a resident of
20 Las Vegas, Clark County, Nevada.

21 8. The true names and capacities, whether individual, corporate, associate, or
22 otherwise, of Defendants Does I through X are unknown to Plaintiff, who therefore sues said
23 Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that
24 each of the Defendants designated herein as a Doe is negligently responsible in some manner
25 for the events and happenings herein referred to and negligently caused injury and damages
26 proximately thereby to Plaintiff as herein alleged. Plaintiff will ask leave of court to amend this
27 Complaint to insert the true names and capacities of said Doe Defendants when same have been
28

¹ Plaintiff is using the fictitious name of Jane Doe because of the nature of the allegations. Under confidential arrangements, Plaintiff will furnish her true names to the Court and to Defendants.

1 ascertained by Plaintiff, together with the appropriate charging allegations, and to join such
2 Defendants in this action.

3 9. The true names and capacities, whether individual, corporate, associate, or
4 otherwise, of Defendants Roe Corporations I through X are unknown to Plaintiff, who therefore
5 sues said Defendants by such fictitious names. Plaintiff is informed and believes and thereon
6 alleges that each of the Defendants designated herein as a Roe Corporation is negligently
7 responsible in some manner for the events and happenings herein referred to and negligently
8 caused injury and damages proximately thereby to Plaintiff as herein alleged. Plaintiff will ask
9 leave of court to amend this Complaint to insert the true names and capacities of said Roe
10 Corporation Defendants when same have been ascertained by Plaintiff, together with the
11 appropriate charging allegations, and to join such Defendants in this action.

12 **FIRST CAUSE OF ACTION**

13 10. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
14 10 as though fully set forth herein at length.

15 11. In or around May 2008, when Plaintiff was a patient at Centennial Hills Hospital,
16 Jane Doe was sexually assaulted, and otherwise injured and terrorized by Farmer. Upon
17 information and belief, prior to the attack on Jane Doe, Mr. Farmer sexually assaulted and/or
18 molested other patients

19 12. In or around May 2008, Plaintiff Jane Doe was a patient at Centennial Hills
20 Hospital. Plaintiff Jane Doe was recovering from seizures which were quite severe in nature.
21 Steven Farmer entered her room and sexually assaulted Jane Doe. Jane Doe could not scream
22 out because of the damages from the seizures. However, she was conscious, terrorized, in fear,
23 and in severe pain and shock.

24 13. At all relevant times, Plaintiff Jane Doe exercised due care and caution for her
25 own safety.

26 14. The Defendants, as the owner, affiliate and/or operator of Centennial Hills
27 Hospital, owed a duty to Plaintiff and to all others lawfully upon the premises to maintain the
28 premises in a safe and secure fashion so that Plaintiff and others lawfully upon the premises

1 would not be subject to injury from perils known or unknown.

2 15. With regard to all of the actions leading up to, contributing to, and proximately
3 causing the injury to Plaintiff, each of the named Defendants and all of the Doe/Roe Defendants
4 acted as agents of one another and in concert with each other.

5 16. The corporate Defendants, and each of them individually and in their corporate
6 capacities, and through their agents, servants and employees, maintained the premises in a
7 negligent manner.

8 17. As a direct and proximate result of the negligent acts or omissions, more fully set
9 forth herein, of the corporate Defendants, and each of them individually, and by and through
10 their agents, servants, and employees, Plaintiff was sexually assaulted by Farmer.

11 18. The corporate Defendants are responsible for the acts and omissions of their
12 employees consistent with the doctrine of *respondeat superior* and pursuant to Nevada statute.

13 19. As a direct and proximate result of the corporate Defendants' negligence as
14 herein alleged, Plaintiff was injured in and about her head, neck, back, body, limbs, organs and
15 nervous system and was otherwise injured and caused to suffer great pain of body and mind, all
16 of which conditions may be permanent and disabling in nature, all to her general damage in an
17 amount in excess of \$10,000.00.

18 20. Plaintiff's injuries were caused by the negligence, and gross negligence,
19 recklessness, willfulness and wantonness of the corporate Defendants in that the corporate
20 Defendants failed to properly provide adequate security, failed to maintain the premises in a
21 safe condition, and failed to provide safe premises for its patients, despite the well known
22 foreseeability of an event such as this occurring.

23 21. As a further and direct and proximate result of the corporate Defendants'
24 negligence as herein alleged, Plaintiff has incurred expenses for medical care and treatment and
25 expenses incidental thereto, all to her damage in a sum according to proof at trial; Plaintiff is
26 informed and believes and thereon alleges that such expenses will continue in the future, all to
27 her damage and in a presently unascertainable amount, and in this regard, Plaintiff prays leave
28 of Court to insert all damages herein when the same have been fully ascertained.

1 22. As a further direct and proximate result of the negligence of the corporate
2 Defendants as described herein, Plaintiff has suffered physical and emotional injuries as herein
3 set forth which has damaged Plaintiff in that she has suffered a loss of enjoyment of life;
4 Plaintiff is informed and believes and thereon alleges that such expenses will continue in the
5 future, all to her general damage in an amount in excess of \$10,000.00.

6 23. It has become necessary for Plaintiff to retain the services of an attorney to
7 prosecute this action, and Plaintiff is therefore entitled to attorney's fees and costs of suit.

8 **SECOND CAUSE OF ACTION**

9 24. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
10 23 as though fully set forth herein at length.

11 25. The corporate Defendants, and each of them, in their corporate capacities,
12 individually, and by and through their agents, servants, and employees, knew or should have
13 known of the substantial risk of harm which existed to persons lawfully upon the premises as
14 patients. As a result of the acts and omissions of the corporate defendants, and each of them, in
15 their corporate capacities, individually, and by and through their agents, servants and
16 employees, harm and injury was certain to come to patients. The corporate Defendants, and
17 each of them, consciously disregarded their duty of care which they owed to all patients with
18 the sure knowledge of the consequences of such conscious disregard of the substantial injury to
19 patients which would necessarily and certainly flow from such acts and omissions of the
20 corporate Defendants, and each of them, in their corporate capacities, individually, and by and
21 through their agents, servants and employees. Additionally, in so acting, the corporate
22 Defendants acted with a conscious disregard for the rights of others, which constitutes an act
23 subjecting Plaintiff to cruel and unjust hardship. Such willful, malicious and oppressive
24 conduct gives rise to a cause of action for exemplary damages and an exemplary damage award
25 appropriate to such conduct and deemed sufficient to punish the corporate Defendants, and each
26 of them, for acting with such callous disregard for the health and safety of their patients and to
27 deter others in the future from acting in a similar fashion is an amount in excess of \$10,000.00.

28 //

THIRD CAUSE OF ACTION

26. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 25 as though fully set forth herein at length.

27. In or around May 2008, Defendant Farmer sexually assaulted Plaintiff.


28. As a direct and proximate result thereof, Plaintiff was severely injured thereby.

29. It has become necessary for Plaintiff to retain the services of an attorney to prosecute this action, and Plaintiff is therefore entitled to attorney's fees and costs of suit.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as set forth below:

1. For general damages in an amount in excess of \$10,000.00;
2. For punitive damages in the amount in excess of \$10,000.00;
3. For all medical, hospitalization and incidental expenses incurred and to be incurred by Plaintiff in an amount in excess of \$10,000.00;
4. For damages for loss of enjoyment of life in an amount in excess of \$10,000.00;
5. For attorney's fees, costs incurred and interest; and
6. For such other and further relief as the Court deems just and proper.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.



Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
520 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

ORIGINAL

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ACOM
Robert E. Murdock, Esq.
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Attorneys for Plaintiff

FILED

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E. J. Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

A-09-595780-C
343898



JANE DOE,

Plaintiff,

CASE NO. A-09-595780-C
DEPT. NO. II

vs.

AMENDED COMPLAINT

VALLEY HEALTH SYSTEM LLC, a Nevada
limited liability company, d/b/a CENTENNIAL
HILLS HOSPITAL MEDICAL CENTER;
UNIVERSAL HEALTH SERVICES, INC., a
Delaware corporation; AMERICAN NURSING
SERVICES, INC., a Louisiana corporation;
STEVEN DALE FARMER, an individual; DOES I
through X, inclusive; and ROE CORPORATIONS
I through X, inclusive,

Defendants.

COMES NOW Plaintiff Jane Doe, by and through her attorneys of record, Murdock &
Associates, Chtd. and Eckley M. Keach, Chtd., and for her cause of action, alleges as follows:

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AUG 21 2009
CLERK OF THE COURT

1 1. This action is instituted for damages, attorney's fees, costs of suit and pre-
2 judgment interest.

3 2. At all times mentioned herein, Plaintiff Jane Doe was and is a resident of Las
4 Vegas, Clark County, Nevada.¹

5 3. At all times mentioned herein, Defendant Valley Health System LLC
6 ("Valley Health") was and is a Delaware limited liability company, duly licensed in the State of
7 Nevada, and conducting business in Las Vegas, Clark County, Nevada, as Centennial Hills
8 Hospital Medical Center.

9 4. At all times mentioned herein, Universal Health Services, Inc. ("UHS") was and
10 is a Delaware corporation, duly licensed in the State of Nevada, and conducting business in Las
11 Vegas, Clark County, Nevada.

12 5. At all times mentioned herein, Defendant American Nursing Services, Inc.
13 ("American Nursing") was and is a Louisiana corporation, duly licensed in the State of Nevada,
14 and conducting business in Las Vegas, Clark County, Nevada.

15 6. At all times mentioned herein, Defendant Steven Farmer was and is a resident of
16 Las Vegas, Clark County, Nevada.

17 7. The true names and capacities, whether individual, corporate, associate, or
18 otherwise, of Defendants Does I through X are unknown to Plaintiff, who therefore sues said
19 Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that
20 each of the Defendants designated herein as a Doe is negligently responsible in some manner
21 for the events and happenings herein referred to and negligently caused injury and damages
22 proximately thereby to Plaintiff as herein alleged. Plaintiff will ask leave of court to amend this
23 Complaint to insert the true names and capacities of said Doe Defendants when same have been
24 ascertained by Plaintiff, together with the appropriate charging allegations, and to join such
25 Defendants in this action.

26 8. The true names and capacities, whether individual, corporate, associate, or
27 otherwise, of Defendants Roe Corporations I through X are unknown to Plaintiff, who therefore
28

¹ Plaintiff is using the fictitious name of Jane Doe because of the nature of the allegations. Under confidential arrangements, Plaintiff will furnish her true names to the Court and to Defendants.

1 sues said Defendants by such fictitious names. Plaintiff is informed and believes and thereon
2 alleges that each of the Defendants designated herein as a Roe Corporation is negligently
3 responsible in some manner for the events and happenings herein referred to and negligently
4 caused injury and damages proximately thereby to Plaintiff as herein alleged. Plaintiff will ask
5 leave of court to amend this Complaint to insert the true names and capacities of said Roe
6 Corporation Defendants when same have been ascertained by Plaintiff, together with the
7 appropriate charging allegations, and to join such Defendants in this action.

8 **FIRST CAUSE OF ACTION**

9 9. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 8
10 as though fully set forth herein at length.

11 10. In or around May 2008, when Plaintiff was a patient at Centennial Hills Hospital,
12 Jane Doe was sexually assaulted, and otherwise injured and terrorized by Farmer. Upon
13 information and belief, prior to the attack on Jane Doe, Mr. Farmer sexually assaulted and/or
14 molested other patients

15 11. In or around May 2008, Plaintiff Jane Doe was a patient at Centennial Hills
16 Hospital. Plaintiff Jane Doe was recovering from seizures which were quite severe in nature.
17 Steven Farmer entered her room and sexually assaulted Jane Doe. Jane Doe could not scream
18 out because of the damages from the seizures. However, she was conscious, terrorized, in fear,
19 and in severe pain and shock.

20 12. At all relevant times, Plaintiff Jane Doe exercised due care and caution for her
21 own safety.

22 13. The Defendants, as the owner, affiliate and/or operator of Centennial Hills
23 Hospital, owed a duty to Plaintiff and to all others lawfully upon the premises to maintain the
24 premises in a safe and secure fashion so that Plaintiff and others lawfully upon the premises
25 would not be subject to injury from perils known or unknown.

26 14. With regard to all of the actions leading up to, contributing to, and proximately
27 causing the injury to Plaintiff, each of the named Defendants and all of the Doe/Roe Defendants
28 acted as agents of one another and in concert with each other.

1 15. The corporate Defendants, and each of them individually and in their corporate
2 capacities, and through their agents, servants and employees, maintained the premises in a
3 negligent manner.

4 16. As a direct and proximate result of the negligent acts or omissions, more fully set
5 forth herein, of the corporate Defendants, and each of them individually, and by and through
6 their agents, servants, and employees, Plaintiff was sexually assaulted by Farmer.

7 17. The corporate Defendants are responsible for the acts and omissions of their
8 employees consistent with the doctrine of *respondeat superior* and pursuant to Nevada statute.

9 18. As a direct and proximate result of the corporate Defendants' negligence as
10 herein alleged, Plaintiff was injured in and about her head, neck, back, body, limbs, organs and
11 nervous system and was otherwise injured and caused to suffer great pain of body and mind, all
12 of which conditions may be permanent and disabling in nature, all to her general damage in an
13 amount in excess of \$10,000.00.

14 19. Plaintiffs injuries were caused by the negligence, and gross negligence,
15 recklessness, willfulness and wantonness of the corporate Defendants in that the corporate
16 Defendants failed to properly provide adequate security, failed to maintain the premises in a
17 safe condition, and failed to provide safe premises for its patients, despite the well known
18 foreseeability of an event such as this occurring.

19 20. As a further and direct and proximate result of the corporate Defendants'
20 negligence as herein alleged, Plaintiff has incurred expenses for medical care and treatment and
21 expenses incidental thereto, all to her damage in a sum according to proof at trial; Plaintiff is
22 informed and believes and thereon alleges that such expenses will continue in the future, all to
23 her damage and in a presently unascertainable amount, and in this regard, Plaintiff prays leave
24 of Court to insert all damages herein when the same have been fully ascertained.

25 21. As a further direct and proximate result of the negligence of the corporate
26 Defendants as described herein, Plaintiff has suffered physical and emotional injuries as herein
27 set forth which has damaged Plaintiff in that she has suffered a loss of enjoyment of life;
28 Plaintiff is informed and believes and thereon alleges that such expenses will continue in the

1 future, all to her general damage in an amount in excess of \$10,000.00.

2 22. It has become necessary for Plaintiff to retain the services of an attorney to
3 prosecute this action, and Plaintiff is therefore entitled to attorney's fees and costs of suit.

4 **SECOND CAUSE OF ACTION**

5 23. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
6 22 as though fully set forth herein at length.

7 24. The corporate Defendants, and each of them, in their corporate capacities,
8 individually, and by and through their agents, servants, and employees, knew or should have
9 known of the substantial risk of harm which existed to persons lawfully upon the premises as
10 patients. As a result of the acts and omissions of the corporate defendants, and each of them, in
11 their corporate capacities, individually, and by and through their agents, servants and
12 employees, harm and injury was certain to come to patients. The corporate Defendants, and
13 each of them, consciously disregarded their duty of care which they owed to all patients with
14 the sure knowledge of the consequences of such conscious disregard of the substantial injury to
15 patients which would necessarily and certainly flow from such acts and omissions of the
16 corporate Defendants, and each of them, in their corporate capacities, individually, and by and
17 through their agents, servants and employees. Additionally, in so acting, the corporate
18 Defendants acted with a conscious disregard for the rights of others, which constitutes an act
19 subjecting Plaintiff to cruel and unjust hardship. Such willful, malicious and oppressive
20 conduct gives rise to a cause of action for exemplary damages and an exemplary damage award
21 appropriate to such conduct and deemed sufficient to punish the corporate Defendants, and each
22 of them, for acting with such callous disregard for the health and safety of their patients and to
23 deter others in the future from acting in a similar fashion is an amount in excess of \$10,000.00.

24 **THIRD CAUSE OF ACTION**

25 25. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through
26 24 as though fully set forth herein at length.

27 26. In or around May 2008, Defendant Farmer sexually assaulted Plaintiff.


28 27. As a direct and proximate result thereof, Plaintiff was severely injured thereby.

1 28. It has become necessary for Plaintiff to retain the services of an attorney to
2 prosecute this action, and Plaintiff is therefore entitled to attorney's fees and costs of suit.

3 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them,
4 jointly and severally, as set forth below:

- 5 1. For general damages in an amount in excess of \$10,000.00;
6 2. For punitive damages in the amount in excess of \$10,000.00;
7 3. For all medical, hospitalization and incidental expenses incurred and to be
8 incurred by Plaintiff in an amount in excess of \$10,000.00;
9 4. For damages for loss of enjoyment of life in an amount in excess of \$10,000.00;
10 5. For attorney's fees, costs incurred and interest; and
11 6. For such other and further relief as the Court deems just and proper.

12 MURDOCK & ASSOCIATES, CHTD.
13 ECKLEY M. KEACH, CHTD.

14 
15 _____
16 Robert E. Murdock Bar No. 4013
17 Eckley M. Keach Bar No. 1154
18 520 South Fourth Street
19 Las Vegas, NV 89101
20 Attorneys for Plaintiff


CLERK OF THE COURT

ANAC
MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
DAVID P. FERRAINOLO, ESQ.
Nevada Bar No. 8452
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Phone: 702-889-6400
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mprangle@hpslaw.com
dferrainolo@hpslaw.com
Attorneys for Defendants
Centennial Hills Hospital

DISTRICT COURT
CLARK COUNTY, NEVADA

JANE DOE,

Plaintiff,

CASE NO. A595780
DEPT NO. II

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada
limited liability company, d/b/a CENTENNIAL
HILLS HOSPITAL MEDICAL CENTER;
UNIVERSAL HEALTH SERVICES, INC., a
Delaware corporation; AMERICAN NURSING
SERVICES, INC., a Louisiana corporation;
STEVEN DALE FARMER, an individual; DOES I
through X, inclusive; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

**DEFENDANT CENTENNIAL HILLS HOSPITAL'S
ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

Hearing Date: N/A

Hearing Time: N/A

Defendant Valley Health System, LLC., d/b/a Centennial Hills Hospital Medical Center
(hereinafter "Centennial Hills Hospital") by and through its attorneys, Hall Prangle &
Schoonveld, LLC, respectfully submits its Answer and Affirmative Defenses to Plaintiff's

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
LAS VEGAS, NEVADA 89107
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

Complaint:

1. There are no allegations contained in paragraph 1 directed at this answering Defendant. To the extent that it is determined that there are allegations contained in paragraph 1 of Plaintiff's Amended Complaint directed at this Answering Defendant this Answering Defendant denies those allegations.

2. In answering Paragraphs 2, 5, 6, 7 and 8 of Plaintiff's Amended Complaint, this answering Defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

3. In answering Paragraph 3 of Plaintiff's Amended Complaint, this answering Defendant admits that Valley Health System LLC., d/b/a Centennial Hills Hospital Medical Center is a business entity duly licensed, incorporated and/or regularly conducting business in the State of Nevada.

4. In answering paragraph 4 of Plaintiff's Amended Complaint, this answering Defendant denies the allegations contained therein.

FIRST CAUSE OF ACTION

5. In answering paragraph 9 of Plaintiff's Amended Complaint, this answering Defendant repeats and repleads its answers to paragraphs 1 through 8 of Plaintiff's Amended Complaint as though fully set forth herein.

6. In answering Paragraphs 10, 11, 12, 14 and 18 of Plaintiff's Amended Complaint, this answering Defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

...

...

1 7. In answering paragraph 13 of Plaintiff's mended Complaint, this answering
2 Defendant admits those duties imposed by the laws and statutes of the State of Nevada. To the
3 extent that the allegations contained in paragraph 13 differ, this answering Defendant denies.

4 8. In answering paragraphs 15, 16, 17, 19, 20, 21 and 22 of Plaintiff's Amended
5 Complaint, this answering Defendant denies the allegations contained therein.
6

7 **SECOND CAUSE OF ACTION**

8 9. In answering paragraph 23 of Plaintiff's Amended Complaint, this answering
9 Defendant repeats and repleads its answers to paragraphs 1 through 22 of Plaintiff's Amended
10 Complaint as though fully set forth herein.

11 10. In answering paragraph 24 of Plaintiff's Amended Complaint, this answering
12 Defendant denies the allegations contained therein.
13

14 **THIRD CAUSE OF ACTION**

15 11. In answering paragraph 23 of Plaintiff's Amended Complaint, this answering
16 Defendant repeats and repleads its answers to paragraphs 1 through 22 of Plaintiff's Amended
17 Complaint as though fully set forth herein.
18

19 12. In answering Paragraphs 26 and 27 of Plaintiff's Amended Complaint, this
20 answering Defendant is without sufficient information to form a belief as to the truth of the
21 allegations contained therein and therefore denies the same.

22 13. In answering paragraph 28 of Plaintiff's Amended Complaint, this answering
23 Defendant denies the allegations contained therein.
24

25 **FIRST AFFIRMATIVE DEFENSE**

26 Plaintiff's Complaint on file herein fails to state a claim against this Defendant upon
27 which relief can be granted.
28

SECOND AFFIRMATIVE DEFENSE

The injuries, if any, complained of by Plaintiff in her Complaint were proximately caused by the acts or omissions of unknown third parties, or other persons over whom this Defendant exercised no control, and over whom this Defendant has no right or duty to control, nor ever has had a right or duty to exercise control.

THIRD AFFIRMATIVE DEFENSE

Plaintiff did not exercise ordinary care, caution or prudence in the conduct of her affairs relating to the allegations of the Complaint for damages herein in order to avoid the injuries or damages of which Plaintiff complains, and said injuries or damages, if any, were directly and proximately contributed to or caused by the fault, carelessness and negligence of the Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

The risks and consequences, if any, attendant to the recommendations and treatment proposed by this Defendant, were fully explained to the Plaintiff who freely consented to such treatment and thereby assumed risks involved in such matter.

FIFTH AFFIRMATIVE DEFENSE

The damages, if any, alleged by Plaintiff, were not the result of any acts of omission, or commission, or negligence, but were the results of known risks which was consented to by the Plaintiff, such risks being inherent in the nature of the care rendered, and such risks were assumed by the Plaintiff when she consented to the treatment.

SIXTH AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P. 11, as amended, all possible Affirmative Defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon

1 the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend its
2 Answer to allege additional Affirmative Defenses, if subsequent investigation warrants.

3 **SEVENTH AFFIRMATIVE DEFENSE**

4 In all medical attention rendered by this Defendant to Plaintiff, this Defendant possessed
5 and exercised that degree of skill and learning ordinarily possessed and exercised by the
6 members of its profession in good standing, practicing in similar localities, and that at all times
7 this Defendant used reasonable care and diligence in the exercise of its skills and the application
8 of its learning, and at all times acted according to their best judgment; that the medical treatment
9 administered by this Defendant was the usual and customary treatment for the physical condition
10 and symptoms exhibited by Plaintiff, and that at no time was this Defendant guilty of negligence
11 or improper treatment; that, on the contrary, this Defendant did perform each and every act of
12 such treatment in a proper and efficient manner, and in a manner most thoroughly approved and
13 followed by the medical profession generally and under the circumstances and conditions as they
14 existed when such medical attention was rendered.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 The injuries complained of in the Complaint, if any, were not the result of willful,
17 malicious or deliberate conduct on the part of this answering Defendant.

18 **NINTH AFFIRMATIVE DEFENSE**

19 That it has been necessary for this Defendant to employ the services of an attorney to
20 defend this action, and a reasonable sum should be allowed Defendants for attorneys' fees,
21 together with costs of suit incurred herein.

22 ...

23 ...

TENTH AFFIRMATIVE DEFENSE

Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave of Court to amend its Answer to specifically assert the same. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

ELEVENTH AFFIRMATIVE DEFENSE

This Defendant is liable for only that portion of the Plaintiff's claims that represents the percentage of negligence, if any, attributed to it.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff has failed to plead any acts or omissions of this answering Defendant sufficient to constitute gross negligence or punitive damages.

THIRTEENTH AFFIRMATIVE DEFENSE

By operation of NRS 41.745, Centennial Hills Hospital cannot be held liable for the intentional torts of any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

Any actions undertaken by any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants were truly independent ventures.

...

...

...

FIFTEENTH AFFIRMATIVE DEFENSE

Any actions undertaken by any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants were not committed in the course of the very task assigned to the employee.

SIXTEENTH AFFIRMATIVE DEFENSE

Any actions undertaken by any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants as alleged in Plaintiff's Amended Complaint were not reasonably foreseeable under the facts and circumstances considering the nature and scope of the employment.

SEVENTEETH AFFIRMATIVE DEFENSE

The facts alleged by Plaintiff do not state a cause of action for punitive damages; such damages are limited or prohibited by the Nevada Revised Statutes and the United States Constitution.

EIGHTEENTH AFFIRMATIVE DEFENSE

Centennial Hills Hospital hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Centennial Hills Hospital reserves the right to seek leave of Court to amend this Answer to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense.

NINETEENTH AFFIRMATIVE DEFENSE

Centennial Hills Hospital is entitled to a limitation on any damages pursuant to Nevada Law including but not limited to Nevada Revised Statute 41A.035.

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff take nothing by virtue of her Complaint;
2. For reasonable attorney's fees and costs of suit incurred herein; and
3. For such other and further relief as the Court deems just and proper.

Dated this 10TH day of September, 2009.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/: David P. Ferrainolo, Esq.

MICHAEL E. PRANGLE, ESQ.

Nevada Bar No. 8619

DAVID P. FERRAINOLO, ESQ.

Nevada Bar No. 8452

777 North Rainbow Blvd., Ste. 225

Las Vegas, Nevada 89107

Attorneys for Defendant

Centennial Hills Hospital

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
LAS VEGAS, NEVADA 89107
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 10th day of September, 2009, I served a true and correct copy of the foregoing **DEFENDANT CENTENNIAL HILLS HOSPITAL'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT** in a sealed envelope, via US Mail, first class postage pre-paid to the following parties at their last known address:

Robert E. Murdock, Esq.
Murdock & Associates, Chtd.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

Eckley M. Keach, Esq.
Eckley M. Keach, Chtd.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Brent Vogel, Esq.
Lewis Brisbois Bisgaard & Smith
400 South Fourth Street, Ste. 500
Las Vegas, Nevada 89101
Attorneys for American Nursing Services, Inc.

Robert C. McBride, Esq.
Nevada Bar No. 7082
Mandelbaum Schwarz Ellerton & McBride
2012 Hamilton Lane
Las Vegas, Nevada 89106
Attorneys for Defendant
Steven Dale Farmer

/s/: Audrey Ann Stephanski
An employee of HALL PRANGLE & SCHOONVELD, LLC

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **DEFENDANT CENTENNIAL HILLS HOSPITAL'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT** filed in District Court Case No. A595780

X Does not contain the social security number of any person

-OR-

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

A. A specific state or federal law, to wit:

(State Specific Law)

-or-

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

/s/: David P. Ferrainolo

Signature

September 10, 2009

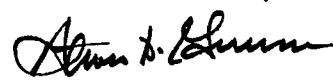
Date

David P. Ferrainolo

Print Name Nevada Bar No. 8452

Attorney

Title



CLERK OF THE COURT

0056

MICHAEL E. PRANGLE, ESQ.

Nevada Bar No. 8619

DAVID P. FERRAINOLO, ESQ.

Nevada Bar No. 8452

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Facsimile: 702-384-6025

mprangle@hpslaw.com

dferrainolo@hpslaw.com

Attorneys for Defendants

Universal Health Services, Inc.

DISTRICT COURT
CLARK COUNTY, NEVADA

JANE DOE,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada
limited liability company, d/b/a CENTENNIAL
HILLS HOSPITAL MEDICAL CENTER;
UNIVERSAL HEALTH SERVICES, INC., a
Delaware corporation; AMERICAN NURSING
SERVICES, INC., a Louisiana corporation;
STEVEN DALE FARMER, an individual; DOES I
through X, inclusive; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

CASE NO. A595780

DEPT NO. II

**DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S MOTION TO DISMISS FOR
LACK OF PERSONAL JURISDICTION**

Hearing Date: OCTOBER 12, 2009

Hearing Time: 9:00 AM

COME NOW Defendants UNIVERSAL HEALTH SERVICES, INC., by and through its
attorneys of the law firm of HALL PRANGLE & SCHOONVELD, LLC, hereby files this

HALL PRANGLE & SCHOONVELD, LLC

RAINBOW CORPORATE CENTER

777 NORTH RAINBOW BLVD., STE. 225

LAS VEGAS, NEVADA 89107

TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

1 Motion to Dismiss pursuant to Nevada Rules of Civil Procedure 12(b)(2), for lack of jurisdiction
2 of the person.

3 This Motion is made and based upon the pleadings, the Memorandum of Points and
4 Authorities that follows, and any oral argument of counsel that may be heard at the time of
5 hearing of this motion.
6

7 DATED this 10th day of September, 2009.

8 HALL PRANGLE & SCHOONVELD, LLC

9 /s/: David P. Ferrainolo

10 DAVID P. FERRAINOLO, ESQ.

11 Nevada Bar No.: 8452

12 MICHAEL E. PRANGLE, ESQ.

13 Nevada Bar No.: 8619

14 777 North Rainbow Blvd., Ste. 225

15 Las Vegas, Nevada 89107

16 Attorneys for Defendants

17 *Universal Health Services, Inc.*

18 **NOTICE OF MOTION**

19 PLEASE TAKE NOTICE that the Defendant UNIVERSAL HEALTH SERVICES, INC.,
20 will bring the foregoing **DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S**
21 **MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION** for hearing on the
22 1st day of OCT, 2009, in the above-entitled Court at the hour of 9 : 00am., or as soon
23 thereafter as counsel may be heard.

24 DATED this 10th day of September, 2009.

25 HALL PRANGLE & SCHOONVELD, LLC

26 /s/: David P. Ferrainolo

27 DAVID P. FERRAINOLO, ESQ.

28 Nevada Bar No.: 8452

DAVID P. FERRAINOLO, ESQ.

Nevada Bar No.: 8619

777 North Rainbow Blvd., Ste. 225

Las Vegas, Nevada 89107

Attorneys for Defendants

Universal Health Services, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

The allegations contained within Plaintiff's Amended Complaint arise out of an alleged sexual assault that occurred at Centennial Hills Hospital. Plaintiff now brings this matter in District Court asserting allegations against several Defendants. In addition to including VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL, the correct corporate entity, Plaintiff has also included UNIVERSAL HEALTH SERVICES, INC., as a Defendant.

UNIVERSAL HEALTH SERVICES, INC. is a Delaware Corporation that does not have contacts with this jurisdiction sufficient enough to be sued in this Court. VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL, is a separate, domestic Nevada company and the correct corporate entity based on the allegations and has filed an Answer to Plaintiff's Amended Complaint.

II.

ARGUMENT

A. Defendant must request dismissal for lack of personal jurisdiction prior to further pleading pursuant to NRCP 12(b).

This is Defendant UNIVERSAL HEALTH SERVICES, INC.'s initial response to Plaintiff's Amended Complaint. While Plaintiff filed an original Complaint, she filed an Amended Complaint prior to any pleadings from the Defendants being filed. Nevada Rules of Civil Procedure 12(b) requires that "[a] motion making any of these defenses shall be made before pleading if a further pleading is permitted." The listed defenses include lack of jurisdiction over the person. Defendant UNIVERSAL HEALTH SERVICES, INC., hereby files this motion to

1 dismiss based on lack of personal jurisdiction timely and in accordance with Nevada Rule of
2 Civil Procedure 12 (b).

3 **B. Plaintiff has the burden to produce evidence of all facts necessary to establish a**
4 **prima facie showing of personal jurisdiction.**

5 In this case, the corporate entity, defendant UNIVERSAL HEALTH SERVICES, INC., has
6 been sued in connection with an alleged incident that based on Plaintiffs own Amended
7 Complaint occurred at Centennial Hills Hospital in May 2008. None of the parties allegedly
8 involved in that incident were employees or agents of UNIVERSAL HEALTH SERVICES,
9 INC. (See Exhibit A, Affidavit of Matthew Klein., Vice President and General Counsel for
10 UNIVERSAL HEALTH SERVICES, Inc.) Indeed, UNIVERSAL HEALTH SERVICES, INC. is
11 a Delaware Corporation, with its principle place of business in King of Prussia, Pennsylvania, is
12 not formed under the laws of the State of Nevada, is not doing business in Nevada, is a separate
13 and distinct corporation and maintains a separate corporate existence from its subsidiaries, does
14 not have any employees in the state of Nevada that were involved in the events relevant to
15 Plaintiff's action, and has not committed any tort within the State of Nevada. *Id.*

16
17
18 "When a challenge to personal jurisdiction is made, the plaintiff has the burden of
19 introducing competent evidence of essential facts which establish a prima facie showing that
20 personal jurisdiction exists." *Trump v. District Court*, 109 Nev. 687, 692, 857 P.2d 740, 743
21 (1993)(quoting *Abbot-Interfast v. District Court*, 107 Nev. 871, 873, 821 P.2d 1043, 1044
22 (1991)). Further, the plaintiff must produce evidence to support all the necessary facts and may
23 not rely on the allegations contained in the complaint. *Id.* The burden of proof never shifts to
24 the party challenging jurisdiction." *Id.* The Amended Complaint must be dismissed if Plaintiffs
25 fail to introduce "competent evidence of essential facts which establish a prima facie showing
26 that personal jurisdiction exists." *Trump* 692, 744.
27
28

1 **C. To obtain personal jurisdiction Plaintiff must show that the UNIVERSAL**
2 **HEALTH SERVICES, INC. had sufficient contacts with Nevada to meet the**
3 **requirements of due process, which she cannot do.**

4 “To obtain jurisdiction over a non-resident defendant, a plaintiff must show: (1) that the
5 requirements of the state’s long-arm state have been satisfied, and (2) that due process is not
6 offended by the exercise of jurisdiction.” *Id.*, at 698, 857 P.2d at 747 (citations omitted).
7 Nevada’s long-arm statute provides, “A court of this state may exercise jurisdiction over a party
8 to a civil action on any basis not inconsistent with the constitution of this state or the
9 Constitution of the United States.” NRS 14.065(1). Since the Nevada Supreme Court has stated
10 that Nevada’s long-arm statute extends “to the outer reaches of due process,” the two-step
11 personal jurisdiction analysis collapses into one, a due process analysis. *Trump* at 698, 857 P.2d
12 at 747 (citing *Certain-Teed Prods. v. District Court*, 87 Nev. 18, 23, 479 P).2d 781, 784 (1971)).

13
14 Due process requires “minimum contacts” by the defendant with the forum state “such that
15 the maintenance of the suit does not offend ‘traditional notions of fair play and substantial
16 justice.’” *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945) (quoting *Milliken v.*
17 *Meyer*, 311 U.S. 457, 463 (1940)). The defendant’s contacts with the forum should be sufficient
18 for the defendant to “reasonably anticipate being haled into court there.” *Emeterio v. Clint Hurt*
19 *and Assoc.*, 114 Nev. 1031, 1035, 967 P.2d 432, 435 (1998) (quoting *World-Wide Volkswagen*
20 *Corp. v. Woodson*, 444 U.S. 286, 297 (1980)). “[A]dditionally, the exercise of jurisdiction must
21 be reasonable.” *Judas Priest v. District Court*, 104 Nev. 424, 426, 760 P.2d 137, 138 (1988)
22 (citations omitted).
23

24
25 The Nevada Supreme Court has divided personal jurisdiction into two types, general and
26 specific. See *Trump* at 699, 847 P.2d at 748. “General personal jurisdiction exists where the
27 defendant’s activities in the forum state are so substantial or continuous and systematic that it
28

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1 may be deemed present in the forum and hence subject to suit over claims unrelated to its
2 activities there.” *Firouzabadi v. District Court*, 110 Nev. 1348, 1352, 885 P.2d 616, 619 (1994)
3 (citations omitted). When there are not sufficient contacts for general jurisdiction, “specific
4 personal jurisdiction ‘may be established only where the cause of action arises from the
5 defendant’s contacts with the forum.’” *Id.* At 1352-53, 885 P.2d at 619 (quoting *Budget Rent-A-*
6 *Car*, 108 Nev. 483, 485, 835 P.2d 17, 19 (1992)).
7

8 In this case, it is unclear what type of personal jurisdiction Plaintiff is asserting, general or
9 specific, but either way, Defendant UNIVERSAL HEALTH SERVICES, INC. contends that it
10 did not have sufficient minimum contacts with Nevada for either to be present. (See Exhibit A)
11 As previously provided, UNIVERSAL HEALTH SERVICES, INC., is a Delaware Corporation.
12 It was not formed under the laws of Nevada and is not doing business in Nevada. It is a separate
13 and distinct corporation and maintains a separate corporate existence from its subsidiaries.
14 UNIVERSAL HEALTH SERVICES, INC. is not the employer of any of the persons involved in
15 the incident with Plaintiff. UNIVERSAL HEALTH SERVICES, INC. has not committed any
16 tort, in whole or in part, within the State of Nevada. Contrary to the allegations contained in
17 Plaintiff’s Amended Complaint, UNIVERSAL HEALTH SERVICES, INC. is not licensed to do
18 business in Nevada and is not doing business in the State of Nevada.
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27 ...
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III.

CONCLUSION

Because Defendant Universal Health Services, Inc., a Delaware Corporation, does not have sufficient minimal contacts for personal jurisdiction in Nevada, UNIVERSAL HEALTH SERVICES, Inc. respectfully request that this Court dismiss UNIVERSAL HEALTH SERVICES, Inc., from this matter.

Dated this 10TH day of September, 2009.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/: David P. Ferrainolo, Esq.
MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
DAVID P. FERRAINOLO, ESQ.
Nevada Bar No. 8452
777 North Rainbow Blvd., Ste. 225
Las Vegas, Nevada 89107
Attorneys for Defendant
Universal Health Services, Inc.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 10th day of September, 2009, I served a true and correct copy of the foregoing **DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION** in a sealed envelope, via US Mail, first class postage pre-paid to the following parties at their last known address:

Robert E. Murdock, Esq.
Murdock & Associates, Chtd.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

Eckley M. Keach, Esq.
Eckley M. Keach, Chtd.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

Brent Vogel, Esq.
Lewis Brisbois Bisgaard & Smith
400 South Fourth Street, Ste. 500
Las Vegas, Nevada 89101
Attorneys for American Nursing Services, Inc.

Robert C. McBride, Esq.
Nevada Bar No. 7082
Mandelbaum Schwarz Ellerton & McBride
2012 Hamilton Lane
Las Vegas, Nevada 89106
*Attorneys for Defendant
Steven Dale Farmer*

/s/: Audrey Ann Stephanski
An employee of HALL PRANGLE & SCHOONVELD, LLC

EXHIBIT A

HALL PRANGLE & SCHOONVELD, LLC
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AFFIDAVIT

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Facsimile: 702-384-6025
mprangle@hpslaw.com
dferrainolo@hpslaw.com
Attorneys for Defendant
Desert Springs Hospital and Medical Center

DISTRICT COURT

CLARK COUNTY, NEVADA

JANE DOE, Individually,

Plaintiffs,

v.

UNIVERSAL HEALTH SERVICES, INC., a
Delaware Corporation; NC-DSH, INC., a
Nevada Corporation; VALLEY HEALTH
SYSTEMS, LLC, a Delaware Limited
Liability Corporation d/b/a DESERT
SPRINGS HOSPITAL MEDICAL CENTER;
DOE I through X; and DOE
CORPPORATION I through X;

Defendants.

CASE NO. A591420
DEPT NO. VII

COME NOW Defendant UNIVERSAL HEALTH SERVICES, INC., by and through its
attorneys of the law firm of HALL PRANGLE & SCHOONVELD, LLC, hereby files the
Affidavit of Matthew Klein in support of its Motion to Dismiss pursuant to Nevada Rules of
Civil Procedure 12(b)(2) for lack of jurisdiction of the person and 12(b)(5) failure to state a claim
upon which relief can be granted.

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
LAS VEGAS, NEVADA 89107
TELEPHONE: 702-489-6400 FACSIMILE: 702-384-6025

AFFIDAVIT OF MATTHEW KLEIN

STATE OF PENNSYLVANIA)
) ss.
COUNTY OF MONTGOMERY)

Matthew Klein being of lawful age, and after having been first duly sworn, upon his oath deposes and says:

1. My name is Matthew Klein. I am Vice President and General Counsel for Universal Health Services UHS of Delaware, Inc. I am competent to make this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
2. Universal Health Services, Inc., is a Delaware corporation with its principal and only place of business in King of Prussia, Pennsylvania. It was not formed under the laws of the State of Nevada; it is not doing business in Nevada; nor has it consented in any way to be sued in Nevada.
3. Universal Health Services, Inc., is a separate and distinct corporation and maintains a separate corporate existence from its subsidiaries.
4. According to Plaintiff's Complaint, the alleged events that caused Plaintiff's losses occurred solely in the State of Nevada. Universal Health Services, Inc., has no director, employee, or business in either the State of Nevada, or any employee or business that performs or has performed any function for it in Nevada at any time relevant and material to Plaintiff's action.
5. Universal Health Services, Inc., does not and did not own, possess, control, or operate any real property or business of any kind in the State of Nevada at any time relevant and material to Plaintiff's action.
6. Universal Health Services, Inc., has not filed or sought to file Articles of Incorporation or qualifications to do business within the State of Nevada at anytime relevant and material to Plaintiff's action.
7. Universal Health Services, Inc., maintains no books or records in Nevada, and pays no taxes in Nevada nor did it at any time relevant and material to Plaintiff's action.
8. Universal Health Services, Inc., does not and did not maintain any bank or savings and loan accounts in the State of Nevada at any time relevant to Plaintiff's action.

HALL PRANGLE & SCHOONVELD, LLC
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LAS VEGAS, NEVADA 89107
TELEPHONE: 702-389-6000 FACSIMILE: 702-384-6025

1 9. Universal Health Services, Inc., has not committed any tort, in whole or in part,
2 within the State of Nevada.

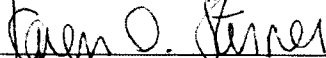
3 10. Universal Health Services, Inc., does not provide medical services anywhere in
4 the State of Nevada.

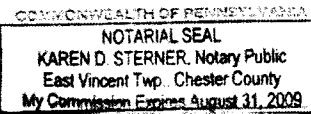
5 FURTHER YOUR AFFIANT SAYETH NOT.

6 
7 MATTHEW KLEIN

8 SUBSCRIBED and SWORN to before me

9 on this 1st day of July, 2009.

10 
11 NOTARY PUBLIC in and for
12 County of Montgomery, State of Pennsylvania



HALL PRANGLE & SCHOONVELD, LLC
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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION** filed in District Court Case No. A595780

X Does not contain the social security number of any person

-OR-

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

A. A specific state or federal law, to wit:

(State Specific Law)

-or-

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

/s/: David P. Ferrainolo

Signature

September 10, 2009

Date

David P. Ferrainolo

Print Name Nevada Bar No. 8452

Attorney

Title

ORIGINAL

8

223

1 ANAC
2 S. BRENT VOGEL
3 Nevada Bar No. 006858
4 LEWIS BRISBOIS BISGAARD & SMITH LLP
5 400 South Fourth Street, Suite 500
6 Las Vegas, Nevada 89101
7 702.893.3383 - Main
8 702.893.3789 - Facsimile
9 bvogel@lbbslaw.com
10 Attorneys for American Nursing Services, Inc.

FILED

SEP 23 2009

Alvin L. Shuman
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

12 JANE DOE,

13 Plaintiff,

14 v.

15 VALLEY HEALTH SYSTEM LLC, a Nevada
16 Limited Liability Company, d/b/a
17 CENTENNIAL HILLS HOSPITAL
18 MEDICAL CENTER; UNIVERSAL
19 HEALTH SERVICES, INC., a Delaware
20 Corporation; AMERICAN NURSING
21 SERVICES, INC., a Louisiana Corporation;
STEVEN DALE FARMER, an Individual;
DOES I through X, inclusive; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

CASE NO. A-09-595780-C
DEPT NO.: II

AMERICAN NURSING SERVICES,
INC.'S ANSWER TO AMENDED
COMPLAINT

A-09-595780-C
414331



RECEIVED

SEP 23 2009

CLERK OF THE COURT

Defendant, American Nursing Services (hereinafter "ANS"), by and through its attorneys of record, LEWIS BRISBOIS BISGAARD & SMITH, LLP, in response to Plaintiff's Amended Complaint ("Complaint") on file herein, admits, denies and alleges as follows:

1. Answering Paragraphs 1, 2, 3, 4, 6, 7 and 8 of Plaintiff's Complaint on file herein, Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained therein, and therefore denies same.

LEWIS
BRISBOIS
& SMITH LLP
ATTORNEYS AT LAW

- 1 2. Answering Paragraph 5 of Plaintiff's Complaint on file herein, Defendant admits it is a
2 Louisiana corporation authorized to conduct business and conducting business in Nevada.

3 **FIRST CAUSE OF ACTION**

- 4 3. Answering Paragraph 9 of Plaintiff's Complaint on file herein, Defendant incorporates by
5 reference each response in Paragraphs 1 through 2 above as though fully set forth herein.
6 4. Answering Paragraphs 10, 11, 12 and 17 of Plaintiff's Complaint on file herein, Defendant is
7 without knowledge or information sufficient to form a belief as to the truth or falsity of the
8 allegations contained therein, and therefore denies same.
9 5. Answering Paragraphs 13 of Plaintiff's Complaint on file herein, Defendant denies it was or is
10 the owner, affiliate and/or operator of Centennial Hills Hospital, and is without knowledge or
11 information sufficient to form a belief as to the truth or falsity of the remaining allegations
12 contained therein, and therefore denies same.
13 6. Answering Paragraphs 14, 15, 16, 18, 19, 20, 21 and 22 of Plaintiff's Complaint on file herein,
14 Defendant denies the allegations contained therein.

15 **SECOND CAUSE OF ACTION**

- 16 7. Answering Paragraph 23 of Plaintiff's Complaint on file herein, Defendant incorporates by
17 reference each response in Paragraphs 1 through 6 above as though fully set forth herein.
18 8. Answering Paragraph 24 of Plaintiff's Complaint on file herein, Defendant denies the
19 allegations contained therein.

20 **THIRD CAUSE OF ACTION**

- 21 9. Answering Paragraph 25 of Plaintiff's Complaint on file herein, Defendant incorporates by
22 reference each response in Paragraphs 1 through 8 above as though fully set forth herein.
23 10. Answering Paragraphs 26 and 27 of Plaintiff's Complaint on file herein, Defendant is without
24 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations
25 contained therein, and therefore denies same.
26 11. Answering Paragraph 28 of Plaintiff's Complaint on file herein, Defendant denies the
27 allegations contained therein.
28

CONCLUDING ANSWER TO ALL ALLEGATIONS

12. All allegations not specifically addressed above due to the nature of the language and/or construction of the allegations, or for any other reason, are specifically denied.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint on file herein fails to state a claim against this Defendant upon which relief can be granted.
2. Plaintiff's Complaint on file herein is barred by the applicable statute of limitations.
3. Plaintiff was comparatively at fault; her recovery, if any, should be reduced in proportion to her own fault, or in the event her fault exceeds that of all of the defendants, she is not entitled to any recovery.
4. The injuries, if any, allegedly suffered by Plaintiff as set forth in her Complaint were caused in whole or in part by the negligence of a third party or third parties over which this Defendant had no control.
5. The damages, if any, alleged by Plaintiff were not the result of any acts of omission, commission, or negligence, but were the result of a known risk, which was consented to by the Plaintiff.
6. Pursuant to NRS 41A.110 Defendant is entitled to a conclusive presumption of informed consent.
7. The damages, if any, incurred by Plaintiff were not attributable to any act, conduct, or omission on the part of Defendant. This Defendant denies that it was negligent or otherwise culpable in any matter or in any degree with respect to the matters set forth in Plaintiff's Complaint.
8. Plaintiff did not exercise ordinary care, caution or prudence in the conduct of his affairs relating to the allegations of the Complaint herein for damages in order to avoid the injuries or damages of which Plaintiff complained and said injuries or damages, if any, were directly and proximately contributed to or caused by the fault, carelessness or negligence of Plaintiff.
9. Plaintiff failed to mitigate damages, if any.

- 1 10. By operation of NRS 41.745, this Defendant cannot be held liable for the intentional torts of
2 its employees.
- 3 11. Any actions undertaken by any employee of this Defendant as alleged in Plaintiff's Complaint
4 were truly independent ventures.
- 5 12. Any actions undertaken by any employee of this Defendant as alleged in Plaintiff's Complaint
6 were not committed in the course of the very task assigned to the employee.
- 7 13. Any actions undertaken by any employee of this Defendant as alleged in Plaintiff's Complaint
8 were not reasonably foreseeable under the facts and circumstances considering the nature and
9 scope of the employment.
- 10 14. The facts alleged by Plaintiff do not state a cause of action for punitive damages; such
11 damages are limited or prohibited by Nevada law and the United States Constitution.
- 12 15. This Defendant is not guilty of fraud, oppression or malice, express or implied, in connection
13 with the care rendered to Plaintiff.
- 14 16. That it has been necessary for Defendant to employ the services of an attorney to defend this
15 action and a reasonable sum should be allowed Defendant for attorneys' fees, together with
16 costs of suit incurred herein.
- 17 17. Pursuant NRS 41A.035 Plaintiff's non-economic damages, if any, may not exceed
18 \$350,000.00.
- 19 18. Defendant is not jointly liable with any other entities that may or may not be named in this
20 action, and will only be severally liable for that portion of Plaintiff's claim that represents the
21 percentage of negligence attributable to Defendant, if any.
- 22 19. Defendant hereby incorporates by reference those Affirmative Defenses enumerated in NRCP
23 8 as if fully set forth herein. In the event further investigation or discovery reveals the
24 applicability of such defenses, Defendant reserves the right to seek leave of the court to amend
25 its Answer to assert the same. Such defenses are incorporated herein by reference for the
26 purpose of not waiving the same.
- 27 20. Pursuant to NRCP 11, as amended, all possible Affirmative Defenses may not have been
28 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the

1 filing of this Answer, and therefore, Defendant reserves the right to amend the Answer to
2 allege additional Affirmative Defenses if subsequent events so warrant.

3 WHEREFORE, Defendant prays for judgment as follows:

- 4 1. That Plaintiff takes nothing by way of the Complaint on file herein;
5 2. For reasonable attorneys' fees and costs of suit incurred herein;
6 3. For trial by jury, and;
7 4. For such other and further relief as the Court may deem just and proper in the premises.

8 Dated this 22 day of September, 2009.

9 LEWIS BRISBOIS BISGAARD & SMITH LLP

10
11 By 

12 S. Brent Vogel, Esq.
13 Nevada Bar No. 006858
14 400 South Fourth Street
15 Suite 500
16 Las Vegas, Nevada 89101
17 Attorneys for American Nursing Services, Inc.
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CERTIFICATE OF SERVICE

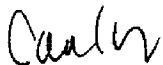
Pursuant to NRCP 5(b), I certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP and that on this 2nd day of September, 2009, I did cause a true copy of AMERICAN NURSING SERVICES, INC.'S ANSWER TO AMENDED COMPLAINT to be placed in the United States Mail, with first class postage prepaid thereon, and addressed as follows:

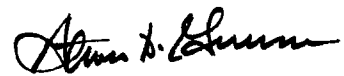
Robert E. Murdock, Esq.
MURDOCK & ASSOCIATES, CHTD.
520 S. Fourth St.
Las Vegas, NV 89101
-and-

Eckley M. Keach, Esq.
ECKLEY M. KEACH, CHTD.
520 S. Fourth St.
Las Vegas, NV 89101
Attorneys for Plaintiff

David P. Ferrainolo, Esq.
HALL PRANGLE & SCHOONVELD, LLC
777 N. Rainbow Suite 225
Las Vegas, NV 89107
Attorneys for Defendant
Valley Health System, LLC d/b/a Centennial
Hills Hospital Medical Center

Robert C. McBride, Esq.
MANDELBAUM SCHWARZ ELLERTON & McBRIDE
2012 Hamilton Lane
Las Vegas, NV 89106
Attorneys for Steven Dale Farmer

By 
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



CLERK OF THE COURT

1 S. BRENT VOGEL
Nevada Bar No. 006858
2 AMANDA J. BROOKHYSER
Nevada Bar No. 11526
3 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
4 Las Vegas, Nevada 89118
702.893.3383
5 FAX: 702.893.3789

6 Attorneys for American Nursing Services, Inc.

7
8 DISTRICT COURT
9 CLARK COUNTY, NEVADA
10

11 JANE DOE,

12 Plaintiff,

13 vs.

14 VALLEY HEALTH SYSTEM, LLC, A
Nevada limited liability company, d/b/a
15 CENTENNIAL HILLS HOSPITAL
MEDICAL CENTER; UNIVERSAL
16 HEALTH SERVICES, INC., a Delaware
corporation; AMERICAN NURSING
17 SERVICES, INC., a Louisiana corporation;
STEVEN DALE FARMER, an individual;
18 DOES I through X, inclusive; and ROE
CORPORATIONS I through X, inclusive,
19

Defendant and Respondent.
20

CASE NO. 09-A-595780

Dept. No.: II

**SUGGESTION OF DEATH ON THE
RECORD**

21
22 COMES NOW AMERICAN NURSING SERVICES, INC. by and through its attorneys,
23 the law firm of Lewis Brisbois Bisgaard & Smith LLP, and hereby suggests the death of Plaintiff
24 Jane Doe on the record.
25
26
27
28

1 DATED this 10th day of September, 2013

2 LEWIS BRISBOIS BISGAARD & SMITH LLP

3
4
5 By 

6 S. BRENT VOGEL

7 Nevada Bar No. 006858

8 AMANDA J. BROOKHYSER

9 Nevada Bar No. 11526

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Tel. 702.893.3383

10 Attorneys for American Nursing Services, Inc.

11 **CERTIFICATE OF SERVICE**

12 Pursuant to NRCP 5(b), I certify that I am an employee of LEWIS BRISBOIS BISGAARD &
13 SMITH LLP and that on this 10 day of September, 2013, I did cause a true copy of
14 **SUGGESTION OF DEATH ON THE RECORD** to be placed in the United States Mail, with
15 first class postage prepaid thereon, and addressed as follows:

16 Robert E. Murdock, Esq.
17 MURDOCK & ASSOCIATES, CHTD.
18 520 South Fourth Street
19 Las Vegas, NV 89101
Attorneys for Plaintiff

Eckley M. Keach, Esq.
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

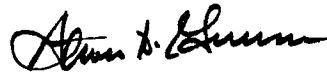
20 John F. Bemis, Esq.
21 HALL PRANGLE & SCHOONVELD, LLC
22 1160 N. Town Center Drive Suite 200
23 Las Vegas, NV 89144
*Attorneys for Valley Health System, LLC;
Centennial Hills Hospital
Medical Center; and Universal Health Services,
Inc.*

Robert C. McBride, Esq.
MANDELBAUM, ELLERTON & McBRIDE
2012 Hamilton Lane
Las Vegas, NV 89106
Attorneys for Steven Dale Farmer

24
25
26 By 

27 An Employee of

28 LEWIS BRISBOIS BISGAARD & SMITH LLP



CLERK OF THE COURT

ANS
MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
JOHN F. BEMIS, ESQ.
Nevada Bar No. 9509
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144
702-889-6400 – Phone
702-384-6025 – Facsimile
mprangle@hpslaw.com
jbemis@hpslaw.com
Attorneys for Defendants
Centennial Hills Hospital and
Universal Health Services, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

JANE DOE,

Plaintiff,

CASE NO. A595780
DEPT NO. II

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada
limited liability company, d/b/a CENTENNIAL
HILLS HOSPITAL MEDICAL CENTER;
UNIVERSAL HEALTH SERVICES, INC., a
Delaware corporation; AMERICAN NURSING
SERVICES, INC., a Louisiana corporation;
STEVEN DALE FARMER, an individual; DOES I
through X, inclusive; and ROE CORPORATIONS I
through X, inclusive,

Defendants.

DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S
ANSWER TO PLAINTIFF'S AMENDED COMPLAINT

COMES NOW, Defendant, UNIVERSAL HEALTH SERVICES, INC. (hereinafter
referred to as "UHS") by and through its counsel of record, the law office of HALL PRANGLE
& SCHOONVELD, LLC, and hereby answers Plaintiff's Amended Complaint as follows:

HALL PRANGLE & SCHOONVELD, LLC
1160 NORTH TOWN CENTER DRIVE
SUITE 200
LAS VEGAS, NEVADA 89144
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

1 1. In Answering paragraphs 1, 2, 5, 6, 7, and 8 of Plaintiff's Amended Complaint,
2 this answering Defendant states it is without sufficient information to form a belief as to the truth
3 of the allegations contained in said paragraphs of Plaintiff's Amended Complaint and therefore
4 denies the same.

5 2. In Answering paragraph 3 of Plaintiff's Amended Complaint, this answering
6 Defendant admits that at all times mentioned herein, Defendant, Valley Health System, LLC was
7 and is a Delaware limited liability company, duly licensed in the State of Nevada, and
8 conducting business in Las Vegas, Clark County, Nevada, as Centennial Hills Hospital Medical
9 Center.

10 3. In Answering paragraph 4 of Plaintiff's Amended Complaint, this answering
11 Defendant denies each and every allegation contained therein.

12 **FIRST CAUSE OF ACTION**

13 4. In Answering paragraph 9 of Plaintiff's Amended Complaint, this answering
14 Defendant repeats and repleads its answers to paragraphs 1 through 8 of Plaintiff's Amended
15 Complaint.

16 5. In Answering paragraphs 10, 11, and 12 of Plaintiff's Amended Complaint, this
17 answering Defendant states it is without sufficient information to form a belief as to the truth of
18 the allegations contained in said paragraphs of Plaintiff's Amended Complaint and therefore
19 denies the same.

20 6. In Answering paragraph 13 of Plaintiff's Amended Complaint, this answering
21 Defendant admits only to those duties imposed by Nevada law.
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1 7. In Answering paragraphs 14, 15, 16, 17, 18, 19, 20, 21, and 22 of Plaintiff's
2 Amended Complaint, this answering Defendant denies each and every allegation contained
3 therein.

4 **SECOND CAUSE OF ACTION**

5 8. In Answering paragraph 23 of Plaintiff's Amended Complaint, this answering
6 Defendant repeats and repleads its answers to paragraphs 1 through 22 of Plaintiff's Amended
7 Complaint.
8

9 9. In Answering paragraph 24 of Plaintiff's Amended Complaint, this answering
10 Defendant denies each and every allegation contained therein.
11

12 **THIRD CAUSE OF ACTION**

13 10. In Answering paragraph 25 of Plaintiff's Amended Complaint, this answering
14 Defendant repeats and repleads its answers to paragraphs 1 through 24 of Plaintiff's Amended
15 Complaint.
16

17 11. In Answering paragraphs 26 and 27 of Plaintiff's Amended Complaint, this
18 answering Defendant states it is without sufficient information to form a belief as to the truth of
19 the allegations contained in said paragraphs of Plaintiff's Amended Complaint and therefore
20 denies the same.

21 12. In Answering paragraph 28 of Plaintiff's Amended Complaint, this answering
22 Defendant denies each and every allegation contained therein.
23

24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiff's Amended Complaint on file herein fails to state a claim against this Defendant
26 upon which relief can be granted.
27
28 ...

SECOND AFFIRMATIVE DEFENSE

The injuries, if any, complained of by Plaintiff in her Amended Complaint were proximately caused by the acts or omissions of unknown third parties, or other persons over whom this Defendant exercised no control, and over whom this Defendant has no right or duty to control, nor ever has had a right or duty to exercise control.

THIRD AFFIRMATIVE DEFENSE

Plaintiff did not exercise ordinary care, caution or prudence in the conduct of her affairs relating to the allegations of the Amended Complaint for damages herein in order to avoid the injuries or damages of which Plaintiff complains, and said injuries or damages, if any, were directly and proximately contributed to or caused by the fault, carelessness and negligence of the Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

The risks and consequences, if any, attendant to the recommendations and treatment proposed by this Defendant, were fully explained to the Plaintiff who freely consented to such treatment and thereby assumed risks involved in such matter.

FIFTH AFFIRMATIVE DEFENSE

The damages, if any, alleged by Plaintiff, were not the result of any acts of omission, or commission, or negligence, but were the results of known risks which was consented to by the Plaintiff, such risks being inherent in the nature of the care rendered, and such risks were assumed by the Plaintiff when she consented to the treatment.

SIXTH AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P. 11, as amended, all possible Affirmative Defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon

1 the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend its
2 Answer to allege additional Affirmative Defenses, if subsequent investigation warrants.

3 **SEVENTH AFFIRMATIVE DEFENSE**

4 In all medical attention rendered by this Defendant to Plaintiff, this Defendant possessed
5 and exercised that degree of skill and learning ordinarily possessed and exercised by the
6 members of its profession in good standing, practicing in similar localities, and that at all times
7 this Defendant used reasonable care and diligence in the exercise of its skills and the application
8 of its learning, and at all times acted according to their best judgment; that the medical treatment
9 administered by this Defendant was the usual and customary treatment for the physical condition
10 and symptoms exhibited by Plaintiff, and that at no time was this Defendant guilty of negligence
11 or improper treatment; that, on the contrary, this Defendant did perform each and every act of
12 such treatment in a proper and efficient manner, and in a manner most thoroughly approved and
13 followed by the medical profession generally and under the circumstances and conditions as they
14 existed when such medical attention was rendered.
15
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18 **EIGHTH AFFIRMATIVE DEFENSE**

19 The injuries complained of in the Amended Complaint, if any, were not the result of
20 willful, malicious or deliberate conduct on the part of this answering Defendant.
21

22 **NINTH AFFIRMATIVE DEFENSE**

23 That it has been necessary for this Defendant to employ the services of an attorney to
24 defend this action, and a reasonable sum should be allowed Defendants for attorneys' fees,
25 together with costs of suit incurred herein.
26 ...
27 ...
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TENTH AFFIRMATIVE DEFENSE

Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave of Court to amend its Answer to specifically assert the same. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

ELEVENTH AFFIRMATIVE DEFENSE

This Defendant is liable for only that portion of the Plaintiff's claims that represents the percentage of negligence, if any, attributed to it.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff has failed to plead any acts or omissions of this answering Defendant sufficient to constitute gross negligence or punitive damages.

THIRTEENTH AFFIRMATIVE DEFENSE

By operation of NRS 41.745, Universal Health Services, Inc. cannot be held liable for the intentional torts of any employees, agents, ostensible agents or independent contractors, if any, including but not limited to any and all other Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

Any actions undertaken by any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants were truly independent ventures.

...

...

FIFTEENTH AFFIRMATIVE DEFENSE

Any actions undertaken by any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants were not committed in the course of the very task assigned to the employee.

SIXTEENTH AFFIRMATIVE DEFENSE

Any actions undertaken by any employees, agents, ostensible agents or independent contractors including but not limited to any and all other Defendants as alleged in Plaintiff's Amended Complaint were not reasonably foreseeable under the facts and circumstances considering the nature and scope of the employment.

SEVENTEENTH AFFIRMATIVE DEFENSE

The facts alleged by Plaintiff do not state a cause of action for punitive damages; such damages are limited or prohibited by the Nevada Revised Statutes and the United States Constitution.

EIGHTEENTH AFFIRMATIVE DEFENSE

Universal Health Services, Inc. hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Universal Health Services, Inc. reserves the right to seek leave of Court to amend this Answer to specifically assert any such defense. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense.

NINETEENTH AFFIRMATIVE DEFENSE

Universal Health Services, Inc. is entitled to a limitation on any damages pursuant to Nevada Law including but not limited to Nevada Revised Statute 41A.035.

TWENTIETH AFFIRMATIVE DEFENSE

This answering Defendant lacks the minimum contacts to subject itself to personal jurisdiction in the State of Nevada

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by virtue of their Complaint;
2. For reasonable attorney's fees and costs of suit incurred herein; and
3. For such other and further relief as the Court deems just and proper.

DATED this 11th day of September, 2013.

HALL PRANGLE & SCHOONVELD, LLC

 / 7205

MICHAEL E. PRANGLE, ESQ.

Nevada Bar No. 8619

JOHN F. BEMIS, ESQ.

Nevada Bar No. 9509

HALL PRANGLE & SCHOONVELD, LLC

1160 North Town Center Drive, Suite 200

Las Vegas, NV 89144

Attorneys for Defendants

Centennial Hills Hospital and

Universal Health Services, Inc.

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SUITE 200
LAS VEGAS, NEVADA 89144
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 11th day of September 2013, I served a true and correct copy of the foregoing **DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT** via facsimile and in a sealed envelope, via US Mail, first class postage pre-paid to the following parties at their last known address:

Robert E. Murdock, Esq.
Murdock & Associates, Chtd.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

Eckley M. Keach, Esq.
Eckley M. Keach, Chtd.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

S. Brent Vogel, Esq.
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6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118
*Attorneys for Defendant
American Nursing Services, Inc.*

Robert C. McBride, Esq.
MANDELBAUM ELLERTON &
MCBRIDE
2012 Hamilton Lane
Las Vegas, Nevada 89106
*Attorneys for Defendant
Steven Dale Farmer*


An employee of HALL PRANGLE & SCHOONVELD, LLC

4843-4399-4901, v. 1