

  
CLERK OF THE COURT

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STEPHEN H. ROGERS, ESQ.  
2 Nevada Bar No. 5755  
R. KADE BAIRD, ESQ.  
3 Nevada Bar No. 8362  
CHARLES MICHALEK, ESQ.  
4 Nevada Bar No. 5721  
ROGERS, MASTRANGELO, CARVALHO & MITCHELL  
5 300 South Fourth Street, Suite 710  
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Fax (702) 384-1460  
7 Attorneys for Defendants

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Jul 24 2015 11:55 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 CHRISTIAN CERVANTES-LOPEZ,  
an individual; MARIA AVARCA, an individual,

11 Plaintiffs,

12 vs.

13 EVANGELINA ORTEGA, an individual;  
MIRIAM PIZARRO-ORTEGA, an individual;  
14 DOES I through V, inclusive; and  
ROE CORPORATIONS I through V, inclusive,

15 Defendants.  
16

CASE NO.: A-12-667141-C

DEPT. NO.: XXIII

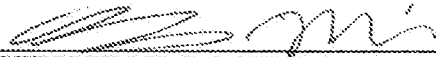
17 **NOTICE OF APPEAL**

18 Please take notice that Defendants, Evangelina Ortega and Miriam Pizarro-Ortega, hereby  
19 appeal to the Supreme Court of Nevada from:

- 20 1. The Denial of Defendants' Motion for New Trial, filed 03/27/15; Decision and Order  
21 Regarding the same, filed 07/08/15; Notice of Entry of Order Denying Defendants' Motion  
22 for Remittur and/or New Trial, filed 07/08/15.
- 23 2. Judgment for Plaintiff, filed 03/12/15 and Notice of Entry of said Judgment, filed 03/13/15;  
24 Amended Judgment, filed on 05/07/15 and Notice of Entry of which was served via electronic  
25 service on 05/08/15;
- 26 3. The Granting of Plaintiff's Motion for Attorneys Fees filed 03/16/15; Order Granting same  
27 filed on 05/07/15; Notice of Entry of which was filed and served via electronic service on  
28 05/08/15;

- 1 4. All judgments and Orders in this case; and  
2 5. All rulings and interlocutory orders made appealable by any of the foregoing.  
3 DATED this 21<sup>st</sup> day of July, 2015.

4 ROGERS, MASTRANGELO, CARVALHO &  
5 MITCHELL

6   
7 STEPHEN H. ROGERS, ESQ.  
8 Nevada Bar No. 5755  
9 R. KADE BAIRD, ESQ.  
10 Nevada Bar No. 8362  
11 CHARLES MICHALEK, ESQ.  
12 Nevada Bar No. 5721  
13 300 South Fourth Street, Suite 710  
14 Las Vegas, Nevada 89101  
15 Attorneys for Defendants  
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1 CERTIFICATE OF SERVICE

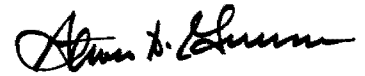
2 Pursuant to NRCp 5(a), and EDCR 7.26(a), I hereby certify that I am an employee of Rogers,  
3 Mastrangelo, Carvalho & Mitchell, and on the 21<sup>st</sup> day of July, 2015, a true and correct copy of  
4 the foregoing **NOTICE OF APPEAL** was served via Wiznet Electronic Service, upon the following  
5 counsel of record:

6  
7 Daniel S. Simon, Esq.  
8 Nevada Bar No: 4750  
9 SIMON LAW  
10 810 South Casino Center Blvd.,  
11 Las Vegas, NV 89101  
12 P: (702) 364-1650  
13 F: (702) 364-1655  
14 *Attorneys for Plaintiffs*

15 U Mandi Zambor  
16 An Employee of  
17 Rogers, Mastrangelo, Carvalho & Mitchell

18  
19  
20  
21 M:\Kade\Ortega adv. Cervantes-Lopez\Appeal\Notice of Appeal.wpd  
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**EXHIBIT “1”**



CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **ASHLEY M. FERREL, ESQ.**  
5 Nevada Bar #012207  
6 **SIMON LAW**  
7 810 S. Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 Telephone (702) 364-1650  
10 Attorney for Plaintiffs

6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

9 CHRISTIAN CERVANTES-LOPEZ and  
10 MARIA AVARCA,

11 Plaintiffs,

12 vs.

13 MIRIAM PIZARRO-ORTEGA,

14 Defendant.

Case No.: A667141  
Dept. No.: XXIII

15 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION FOR**  
16 **REMITTAR AND/OR NEW TRIAL**

17 **PLEASE TAKE NOTICE** that an Order Denying Defendant's Motion for Remittur and/or  
18 New Trial was duly entered in the above-entitled matter on the 8<sup>th</sup> day of July, 2015, a copy of which  
19 order is attached hereto.

20 Dated this 8<sup>th</sup> day of July, 2015.

21   
22 **DANIEL S. SIMON, ESQ.**

23 Nevada Bar #004750

24 **ASHLEY M. FERREL, ESQ.**

25 Nevada Bar #012207

26 **SIMON LAW**

27 810 South Casino Center Boulevard

28 Las Vegas, Nevada 89101

Attorney for Plaintiff

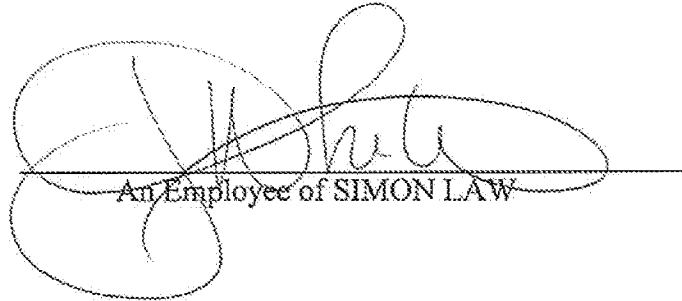
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**CERTIFICATE OF E-SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 8<sup>th</sup> day of July, 2015, I served the foregoing **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants



An Employee of SIMON LAW

  
CLERK OF THE COURT

1 **ORDR**  
2 DANIEL S. SIMON, ESQ.  
3 Nevada Bar #004750  
4 BENJAMIN J. MILLER, ESQ.  
5 Nevada Bar #010406  
6 SIMON LAW  
7 810 S. Casino Center Blvd.  
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9 Telephone (702) 364-1650  
10 Fax (702) 364-1655  
11 [dan@simonlawlv.com](mailto:dan@simonlawlv.com)  
12 Attorneys for Plaintiffs

13  
14 **DISTRICT COURT**  
15 **CLARK COUNTY, NEVADA**  
16

17 CHRISTIAN CERVANTES-LOPEZ,  
18 an individual,  
19 MARIA AVARCA, an individual

20 Plaintiffs,

21 vs.

22 EVANGELINA ORTEGA, an individual;  
23 MIRIAM PIZARRO-ORTEGA, an individual  
24 DOES I through V; inclusive  
25 and ROE CORPORATIONS I through V,  
26 inclusive

27 Defendants.  
28

Case No.: A667141  
Dept. No.: XXIII

29 **ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL**

30 THIS MATTER having come on for hearing pursuant to Defendant's Motion for Remittur  
31 and/or New Trial, on the 30<sup>th</sup> day of April and the 23<sup>rd</sup> day of June, with Plaintiffs represented by  
32 Daniel S. Simon, Esq., and Ashley M. Ferrel, Esq., of the law firm SIMON LAW, and Defendant  
33 represented by Kade Baird, Esq. and Charles Michaleck, Esq., of Rogers, Masterangelo, Carvalho &  
34 Mitchell.

35 Defendant asserts that she was denied a fair trial and deprived of a meaningful opportunity  
36 to present a defense during trial because the Court: (1) improperly permitted Plaintiffs to present  
37 future damages, because Plaintiffs failed to comply with NRCP 16.1(a)(1)(c); (2) excluded  
38 Defendant's expert on medical billing, Tami Rockholt, R.N.; (3) excluded evidence of liens; (4)  
39 excluded the surveillance video; (5) precluded Dr. Duke from testifying about secondary gain

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1 motives; and (6) Plaintiffs' counsel made improper arguments to the jury in violation of *Lioce v.*  
2 *Cohen*. Alternatively, Defendant requests remittitur of the future damages award.

3 The Court having reviewed the pleadings and papers on file herein and heard arguments of  
4 counsel made at the hearing, and other good cause appearing,

5 THE COURT HEREBY FINDS:

6 I.

7 FINDINGS OF FACT AND CONCLUSIONS OF LAW

8 1. Defendant's argument regarding Plaintiffs' failure to provide computation of future  
9 damages prior to trial, was overruled at the time of trial and the Court finds that Defendant's  
10 arguments do not warrant granting a new a new trial. Defendant was aware of Plaintiffs' claim of  
11 future damages prior to trial during the discovery phase and Plaintiffs' made their doctor's available  
12 for depositions. Defendant exercised her opportunity to depose Plaintiffs' doctor, but for strategic  
13 purposes chose not to question the doctor's regarding the cost of future damages at that time. Since  
14 the treatment, including, the future lumbar surgery for Christian Cervantes was contained in the  
15 medical records produced in discovery and was discussed at Dr. Kaplan's deposition, Defendant's  
16 were well aware of the future treatment. That further, the Court finds no prejudice as this information  
17 was provided to Dr. Duke, who practices in the same specialty as Dr. Kaplan, rendered opinions about  
18 the future treatment and surgery, as well as the cost of same.

19 2. Defendant's argument regarding the exclusion of Defendant's expert Tami Rockholt, R.N.,  
20 was discussed at length at the time of trial and the Court finds that Defendant's arguments do not  
21 provide a basis for a new trial. Ms. Rockholt's exclusion did not prevent Defendant from challenging  
22 the charges of Plaintiffs' medical bills, as Dr. Duke was given all of the findings of Ms. Rockholt and  
23 her conclusions. Dr. Duke then provided testimony regarding the reasonableness of the charges for  
24 all the medical providers, including the charges of Dr. Kaplan and the future cost of surgery.

25 3. Defendant's argument regarding the exclusion of evidence of liens was addressed at the  
26 time of trial and the court affirms its ruling and finds that evidence of liens its prejudicial effect  
27 outweighed any probative value, and is not a basis for a new trial. Plaintiff also argued it is a payment  
28 source that also invites questioning about insurance or the lack thereof.



1           4. Defendant's argument regarding the exclusion of the surveillance video is not a basis for  
2 a new trial because the Court finds that video was in the possession of the Defendant for  
3 approximately one year prior to its disclosure and long before the close of discovery and could have  
4 been disclosed, but Defendant chose not to do so for nearly one year and only produced it shortly  
5 before trial. The Court recognized that discovery was extended for new information to be produced  
6 for a short time, but Defendant could not provide a satisfactory explanation why the video  
7 surveillance was not produced prior to the close of discovery when it was in its possession for a year.  
8 Since the video surveillance is evidence created by the Defendant and could not have been obtained  
9 independently by Plaintiff, the prejudicial effect outweighs any probative value. The police report and  
10 pictures taken by the police department is substantially different as both parties had equal access to  
11 this information and the police report was disclosed in discovery. The pictures were a part of the  
12 police investigation at the scene of the accident. The Court finds there is no prejudice to either party  
13 to allow the pictures of the accident taken by the police at the scene of the accident.

14           5. Defendant's argument that Dr. Duke should have been permitted to testify regarding  
15 secondary gain was properly excluded and does not warrant granting a new trial. Dr. Duke had no  
16 basis for any testimony regarding secondary gain specific to these plaintiffs', because there was no  
17 evidence of secondary gain motives in this case. Further, Dr. Duke is not qualified as a neurosurgeon  
18 to testify to psychological issues regarding why people do or do not do certain things. Dr. Duke  
19 opined that both Plaintiffs' were truthful. His testimony about secondary gain would have been mere  
20 conjecture as to the Plaintiffs' in this case.

21           6. Defendant's argument that Plaintiffs' counsel made improper arguments during Opening  
22 and Closing Statements was properly addressed during each instance at the time of trial and the Court  
23 finds that Plaintiffs' Counsel's arguments do not rise to the level to warrant the granting of a new  
24 trial. The Court fully examined each improper argument pursuant to the seminal case in Nevada  
25 regarding attorney misconduct, *Lioce v. Cohen*, 124 Nev. 1, 23, 174 P.3d 970, 984 (2008) and also  
26 evaluated its possible cumulative effect on the outcome of the trial and finds as follows:

27           (i) The Duke "for sale" comment was sustained during Opening, because it was argument for  
28 closing, and not a violation of *Lioce*;

1 (ii) Dollar signs during Plaintiffs' opening PowerPoint were taken off the screen fairly quickly,  
2 and was not a violation of *Lioce*;

3 (iii) Statements regarding Duke's services for sale in Closing was not a violation of *Lioce*,  
4 because the Court permitted both parties to discuss the charges of the witnesses and Duke specifically  
5 testified during trial that his services were for sale in this case;

6 (iv) Statement during Opening that the verdict would affect the community were improper,  
7 but the statement was objected to, objection was sustained and the jury was admonished;

8 (v) Statement during Opening regarding Defendant avoiding responsibility was not made by  
9 Plaintiffs' counsel and the reading of the pleadings to the jury was not a violation of *Lioce*;

10 (vi) Statement in Closing about awarding damages on a per diem basis was not a violation of  
11 *Lioce* because the Court routinely permits it because it assists the jury; and

12 (vii) Statement in Closing that jury's verdict will send a message, did not violate *Lioce*  
13 because the Court asked Plaintiffs' counsel to re-direct the line of closing and Plaintiffs' counsel did.

14 7. The Court finds that the single improper argument made by Plaintiffs' counsel, taken in  
15 isolation, does not rise to the level to award Defendant a new trial, because Defendant has failed to  
16 demonstrate that the misconduct's harmful effect was not removed through the Court sustaining the  
17 objection and subsequent admonishment to the jury. The Court further finds that any possible  
18 cumulative effect from the above arguments would not have changed the outcome of the case.

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1 8. The Court also finds that there is insufficient evidence in the record to support the assertion  
2 by Defendant that the future damages award was excessive or improperly influenced by passion or  
3 prejudice. The jury did not disregard the evidence or the jury instructions, which is confirmed by the  
4 jury's award of zero for loss of enjoyment of life for both Plaintiffs. The jury also awarded much less  
5 than what the Plaintiffs' asked for in closing arguments. The record supports the jury's award, which  
6 was based on substantial evidence.


7 **II.**

8 **ORDER**

9 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that  
10 Defendant's Motion for Remittur and/or New Trial is DENIED.


11 **IT IS SO ORDERED.**

12 DATED this 2 day of July, 2015.

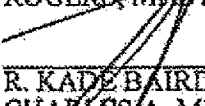
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15 DISTRICT JUDGE

JUDGE STEFANY A. MILEY

16 Submitted by:  
17 SIMON LAW

18   
19 DANIEL S. SIMON, ESQ.  
20 ASHLEY M. FERREL, ESQ.  
810 South Casino Center Boulevard  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs

21 Approved as to Form and Content:  
22 ROGERS, MASTERANGELO, CARVALHO & MITCHELL

23   
24 R. KADE BAIRD, ESQ.  
25 CHARLES A. MICHALEK, ESQ.  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendant

**EXHIBIT “2”**

  
CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **SIMON LAW**  
5 810 S. Casino Center Blvd.  
6 Las Vegas, Nevada 89101  
7 Telephone (702) 364-1650  
8 Attorney for Plaintiffs

9  
10  
11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 CHRISTIAN CERVANTES-LOPEZ and  
14 MARIA AVARCA,

15 Plaintiffs,

16 vs.

17 MIRIAM PIZARRO-ORTEGA,


18 Defendant.

Case No.: A667141  
Dept. No.: XXIII

19  
20 **NOTICE OF ENTRY OF JUDGMENT**

21 **PLEASE TAKE NOTICE** that a Judgment on Jury Verdict was duly entered in the above-  
22 entitled matter on the 12<sup>th</sup> day of March, 2015, a copy of which order is attached hereto.

23 Dated this 13<sup>th</sup> day of March, 2015.

24  
25  
26  
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28  
  
\_\_\_\_\_  
**DANIEL S. SIMON, ESQ.**  
Nevada Bar #004750  
**SIMON LAW**  
810 South Casino Center Boulevard  
Las Vegas, Nevada 89101  
Attorney for Plaintiff

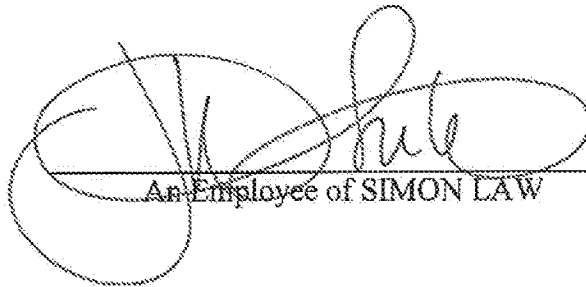
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Las Vegas, Nevada 89101  
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CERTIFICATE OF E-SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 13 day of March, 2015, I served the foregoing **NOTICE OF ENTRY OF JUDGMENT** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants



An Employee of SIMON LAW

ORIGINAL

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*Alvin D. Simon*

CLERK OF THE COURT

JDGMNT  
DANIEL S. SIMON, ESQ.  
Nevada Bar No. 4750  
810 South Casino Center Blvd.  
Las Vegas, Nevada 89101  
(702) 364-1650  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,  
an individual,  
MARIA AVARCA, an individual

Plaintiffs,

vs.

EVANGELINA ORTEGA, an individual;  
MIRIAM PIZARRO-ORTEGA, an individual  
DOES I through V; inclusive  
and ROE CORPORATIONS I through V,  
inclusive

Defendants.

Case No.: A667141  
Dept. No.: XXIII

**JUDGMENT ON JURY VERDICT**

WHEREAS, the above-entitled matter came on for trial on the 23rd day of February, 2015, before a jury, and on the 4th day of March, 2015 the jury returned a verdict in favor of the Plaintiff's CHRISTIAN CERVANTES-LOPEZ, individually and against the Defendant MIRIAM PIZARRO-ORTEGA, individually; in the total sum of \$112,930.45 as and for past damages and \$386,480.00 for future damages for a total verdict of \$499,410.45. The jury also returned a verdict in favor of MARIA AVARCA, individually and against the Defendant MIRIAM PIZARRO-ORTEGA, individually, in the total sum of \$77,266.47 as and for past damages and \$145,000.00 for future damages for a total verdict of \$222,266.47.

IT IS THEREFORE ORDERED THAT Judgment is hereby entered as of March 11, 2015 and that Plaintiff CHRISTIAN CERVANTES-LOPEZ, individually shall have and recover the sum of \$112,930.45 for past damages, with interest at the legal rate (5.25%) from December 11, 2012 thru March 11, 2015, in the amount of \$13,339.89 and the sum of \$386,480.00 for

The Law Office of Daniel S. Simon  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
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<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Disposed After Trial Start
<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Disposed After Trial Start
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<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other

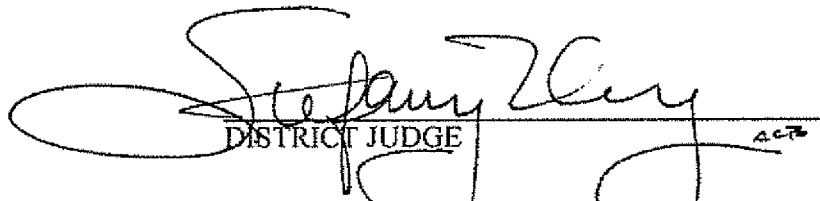
1 future damages for a total judgment in the sum of \$512,750.34.

2 **IT IS THEREFORE FURTHER ORDERED THAT** Judgment is hereby entered as of  
3 March 11, 2015 and that Plaintiff MARIA AVARCA, individually shall have and recover the sum  
4 of \$77,266.47 for past damages, with interest at the legal rate (5.25%) from December 11, 2012  
5 thru March 11, 2015, in the amount of \$9,127.08 and the sum of \$145,000.00 for future damages  
6 for a total judgment in the sum of \$231,393.55.

7 **IT IS FURTHER ORDERED** that interest on all of said judgment for CHRISTIAN  
8 CERVANTES LOPEZ will accrue from the date of March 12, 2015, and continue to accrue at the  
9 legal rate until paid in full at the daily rate of \$16.24.

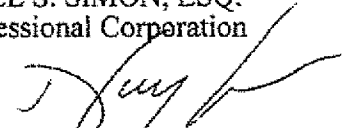
10 **IT IS FURTHER ORDERED** that interest on all of said judgment for MARIA  
11 AVARCA will accrue from the date of March 12, 2015, and continue to accrue at the legal rate  
12 until paid in full at the daily rate of \$11.11.

13 **DATED AND DONE** this 11th day of March, 2015.

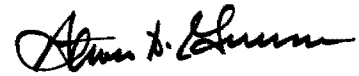
14  
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16   
DISTRICT JUDGE  
JUDGE STEFANY A. MILEY

17 Submitted by:

18 DANIEL S. SIMON, ESQ.  
19 A Professional Corporation

20 By   
21 DANIEL S. SIMON, ESQ.  
22 Nevada Bar #004750  
23 810 South Casino Center Boulevard  
24 Las Vegas, Nevada 89101  
25 Attorney for Plaintiff  
26  
27  
28





CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **BENJAMIN J. MILLER, ESQ.**  
5 Nevada Bar #010406  
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9 Telephone (702) 364-1650  
10 Attorney for Plaintiffs

6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

9 CHRISTIAN CERVANTES-LOPEZ and  
10 MARIA AVARCA,

11 Plaintiffs,

12 vs.

13 MIRIAM PIZARRO-ORTEGA,

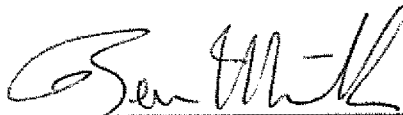
14 Defendant.

Case No.: A667141  
Dept. No.: XXIII

15 **NOTICE OF ENTRY OF AMENDED JUDGMENT ON JURY VERDICT**

16 **PLEASE TAKE NOTICE** that an Amended Judgment on Jury Verdict was duly entered in  
17 the above-entitled matter on the 7<sup>th</sup> day of May, 2015, a copy of which order is attached hereto.

18 Dated this 8 day of May, 2015.



19 **DANIEL S. SIMON, ESQ.**

20 Nevada Bar #004750

21 **BENJAMIN J. MILLER, ESQ.**

22 Nevada Bar #010406

23 **SIMON LAW**

24 810 South Casino Center Boulevard

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26 Attorney for Plaintiff

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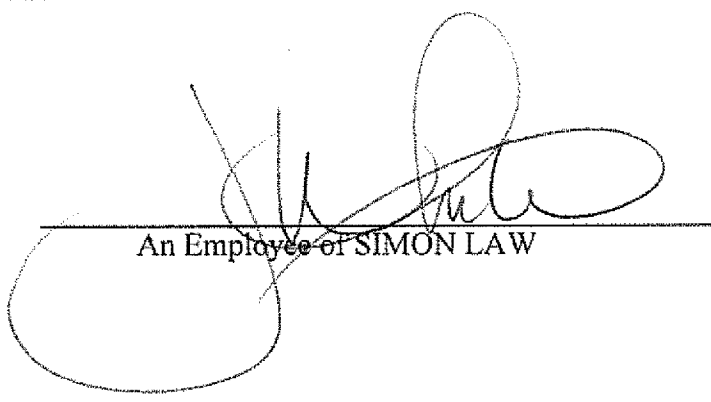
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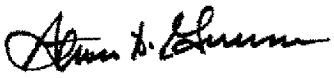
**CERTIFICATE OF E-SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 2 day of May, 2015, I served the foregoing **NOTICE OF ENTRY OF AMENDED JUDGMENT ON JURY VERDICT** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
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Attorneys for Defendants



An Employee of SIMON LAW

  
CLERK OF THE COURT

1 AMDJDGMNT  
2 DANIEL S. SIMON, ESQ.  
3 Nevada Bar No. 4750  
4 SIMON LAW  
5 810 South Casino Center Blvd.  
6 Las Vegas, Nevada 89101  
7 (702) 364-1650  
8 *Attorney for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

8 CHRISTIAN CERVANTES-LOPEZ,  
9 an individual,  
10 MARIA AVARCA, an individual  
11 Plaintiffs,

Case No.: A667141  
Dept. No.: XXIII

11 vs.

12 EVANGELINA ORTEGA, an individual;  
13 MIRIAM PIZARRO-ORTEGA, an individual  
14 DOES I through V; inclusive  
15 and ROE CORPORATIONS I through V,  
16 inclusive  
17 Defendants.

**AMENDED JUDGMENT ON JURY VERDICT**

17 **WHEREAS**, the above-entitled matter came on for trial on the 23rd day of February, 2015,  
18 before a jury, and on the 4th day of March, 2015, the jury returned a verdict in favor of the Plaintiffs  
19 CHRISTIAN CERVANTES-LOPEZ, individually and against the Defendant MIRIAM PIZARRO-  
20 ORTEGA, individually; in the total sum of \$112,930.45, as and for past damages and \$386,480.00  
21 for future damages for a total verdict of \$499,410.45. The jury also returned a verdict in favor of  
22 MARIA AVARCA, individually and against the Defendant MIRIAM PIZARRO-ORTEGA,  
23 individually, in the total sum of \$77,266.47, as and for past damages and \$145,000.00, for future  
24 damages for a total verdict of \$222,266.47.

25 Judgment was entered as of March 11, 2015, that Plaintiff CHRISTIAN CERVANTES-  
26 LOPEZ, individually shall have and recover the sum of \$112,930.45 for past damages, with interest  
27 at the legal rate (5.25%) from December 11, 2012 thru March 11, 2015, in the amount of \$13,339.89  
28

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 and the sum of \$386,480.00 for future damages for a total judgment in the sum of \$512,750.34.  
2 Additional interest accrued on the total judgment in the amount of \$4,425.10 thru May 11, 2015.

3 Judgment was entered as of March 11, 2015, and that Plaintiff MARIA AVARCA,  
4 individually shall have and recover the sum of \$77,266.47, for past damages, with interest at the legal  
5 rate (5.25%) from December 11, 2012, thru March 11, 2015, in the amount of \$9,127.08 and the sum  
6 of \$145,000.00 for future damages for a total judgment in the sum of \$231,393.55. Additional  
7 interest accrued on the total judgment in the amount of \$1,996.95 thru May 11, 2015.

8 On May1, 2015, the Court granted the Plaintiffs motions for attorneys fees and costs.  
9 Therefore, the Judgment shall be amended as follows:

10 **IT IS HEREBY ORDERED** that Judgment is hereby entered as of May11, 2015, that  
11 Plaintiff CHRISTIAN CERVANTES-LOPEZ, individually shall have and recover the sum of  
12 \$112,930.45 for past damages, with interest at the legal rate (5.25%) from December 11, 2012, thru  
13 March 11, 2015, in the amount of \$13,339.89, and the sum of \$386,480.00, for future damages, and  
14 additional interest accrued that accrued on the total judgment in the amount of \$4,425.10, from March  
15 11, 2015, thru May 11, 2015, as well as attorneys fees in the amount of \$205,100.13, and costs in the  
16 amount of \$12,880.74 (representing 50% of total costs awarded) for a **total judgment in the sum of**  
17 **\$735,156.31.**

18 **IT IS HEREBY ORDERED** that Judgment is hereby entered as of May 11, 2015, and that  
19 Plaintiff MARIA AVARCA, individually shall have and recover the sum of \$77,266.47, for past  
20 damages, with interest at the legal rate (5.25%) from December 11, 2012, thru March 11, 2015, in the  
21 amount of \$9,127.08 and the sum of \$145,000.00, for future damages and additional interest accrued  
22 on the total judgment in the amount of \$1,996.95, from March 11, 2015, thru May 11, 2015, as well  
23 as attorneys fees in the amount of \$92,557.42, and costs in the amount of \$12,880.74 (representing  
24 50% of total costs awarded) for a **total judgment in the sum of \$338,828.66.**

25 **IT IS FURTHER ORDERED** that interest on all of said judgment for CHRISTIAN  
26 CERVANTES LOPEZ will accrue from the date of May 11, 2015, and continue to accrue at the legal  
27 rate until paid in full.  
28

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Las Vegas, Nevada 89101

702-364-1650 Fax: 702-364-1655

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IT IS FURTHER ORDERED that interest on all of said judgment for MARIA AVARCA will accrue from the date of May 11, 2015, and continue to accrue at the legal rate until paid in full.


DATED AND DONE this 6 day of May, 2015.

  
DISTRICT JUDGE

JUDGE STEFANY A. MILEY

Submitted by:

SIMON LAW

  
DANIEL S. SIMON, ESQ.

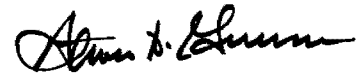
Nevada Bar No. 4750

810 South Casino Center Boulevard

Las Vegas, Nevada 89101

Attorneys for Plaintiffs

**EXHIBIT “3”**



CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **BENJAMIN J. MILLER, ESQ.**  
5 Nevada Bar #010406  
6 **SIMON LAW**  
7 810 S. Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 Telephone (702) 364-1650  
10 Attorney for Plaintiffs

11  
12 **DISTRICT COURT**  
13  
14 **CLARK COUNTY, NEVADA**

15 CHRISTIAN CERVANTES-LOPEZ and  
16 MARIA AVARCA,

17 Plaintiffs,

18 vs.

19 MIRIAM PIZARRO-ORTEGA,

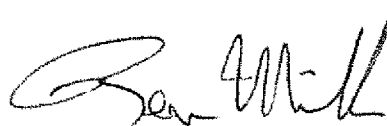
20 Defendant.

Case No.: A667141  
Dept. No.: XXIII

21 **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S**  
22 **MOTION FOR ATTORNEY'S FEES**

23 **PLEASE TAKE NOTICE** that an Order Granting Plaintiffs Motion for Attorney Fees was  
24 duly entered in the above-entitled matter on the 7<sup>th</sup> day of May, 2015, a copy of which order is  
25 attached hereto.

26 Dated this 8 day of May, 2015.



27 **DANIEL S. SIMON, ESQ.**

28 Nevada Bar #004750

**BENJAMIN J. MILLER, ESQ.**

Nevada Bar #010406

**SIMON LAW**

810 South Casino Center Boulevard

Las Vegas, Nevada 89101

Attorney for Plaintiff

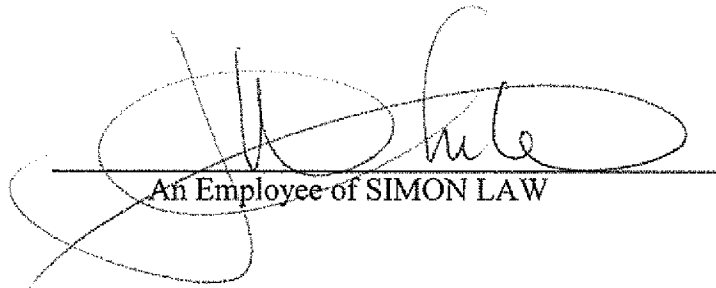
SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**CERTIFICATE OF E-SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 04<sup>th</sup> day of May, 2015, I served the foregoing **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFFS MOTION FOR ATTORNEYS FEES** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants



An Employee of SIMON LAW



  
 CLERK OF THE COURT

1 **ORDER**  
 2 DANIEL S. SIMON, ESQ.  
 Nevada Bar #004750  
 3 BENJAMIN J. MILLER, ESQ.  
 Nevada Bar #010406  
 SIMON LAW  
 4 810 S. Casino Center Blvd.  
 Las Vegas, Nevada 89101  
 5 Telephone (702) 364-1650  
 Fax (702) 364-1655  
 6 [dan@simonlawlv.com](mailto:dan@simonlawlv.com)  
 Attorneys for Plaintiffs

7  
 8 **DISTRICT COURT**  
 9 **CLARK COUNTY, NEVADA**

10 CHRISTIAN CERVANTES-LOPEZ,  
 an individual,  
 MARIA AVARCA, an individual

11 Plaintiffs,

12 vs.

13 EVANGELINA ORTEGA, an individual;  
 14 MIRIAM PIZARRO-ORTEGA, an individual  
 DOES I through V; inclusive  
 15 and ROE CORPORATIONS I through V,  
 16 inclusive.

17 Defendants.

Case No.: A667141  
 Dept. No.: XXIII

18 **ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEY'S FEES**

19 THIS MATTER having come on for hearing pursuant to Plaintiffs' Motion for Attorney's  
 20 Fees, on the 21<sup>st</sup> day of April, with Plaintiffs represented by Daniel S. Simon, Esq., and Ashley M.  
 21 Ferrel, Esq., of the law firm SIMON LAW, and Defendant represented by Kade Baird, Esq. and  
 22 Charles Michaleck, Esq., of Rogers, Masterangelo, Carvalho & Mitchell, the Court having reviewed  
 23 the pleadings and papers on file herein and heard arguments of counsel made at the hearing, and other  
 24 good cause appearing,

25 THE COURT HEREBY FINDS:

26 **I.**

27 **FINDINGS OF FACT**

28 1. On March 4, 2015, the jury found for the Plaintiffs and awarded damages in the amount

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 Las Vegas, Nevada 89101  
 702-364-1650 Fax: 702-364-1655

1 of \$499,410.45, for Christian Cervantes-Lopez and \$222,266.47, for Maria Avarca.

2 2. On October 14, 2015, prior to trial, Maria Avarca served an Offer of Judgment in the sum  
3 of \$100,000 on Defendant Miriam Pizarro-Ortega, which was ignored and thereby rejected pursuant  
4 to NRCP 68 and NRS 17.115. Christian Cervantes-Lopez also served an Offer of Judgment in the  
5 sum of \$100,000 on Defendant Miriam Pizarro-Ortega, which was ignored and thereby rejected  
6 pursuant to NRCP 68 and NRS 17.115.

7 3. That the Defendant, Mariam Pizarro-Ortega, by and through counsel, did not act  
8 reasonably in acknowledging the weakness of its defenses.

9 4. Taking into consideration the papers and pleadings on file herein, arguments set forth  
10 at the time of the hearings, as well as the factors set forth in *Beattie v. Thomas*, *Brunzell v. Golden*  
11 *Gate National Bank*, and *Shuette v. Beazer Homes Holdings Corp.*, the Court hereby further adopts  
12 the legal arguments set forth in Plaintiffs' Motion, which is incorporated herein by reference.

13 5. Upon review and application of the *Beattie* factors, the Court hereby finds: (1) Plaintiffs  
14 claims were brought in good faith, as presented by the evidence at trial; (2) Plaintiffs offers of  
15 judgment were reasonable in both timing and amount and served in good faith, as the evidence in this  
16 matter supported a probable verdict in excess of the offers of judgment and served after discovery in  
17 the matter closed, but prior to trial; (3) Defendant's decision to reject the offer and proceed to trial  
18 was unreasonable based on the evidence that liability was conceded and all of Plaintiff's treating  
19 physicians had already supported the case in their depositions prior to trial and the Plaintiffs' did not  
20 have any prior medical history, as well as the lack of opinion by the Defense expert Dr. Duke, who  
21 could not tell the jury the cause of the ongoing symptoms of both Plaintiffs; and (4) the fees sought  
22 are reasonable and justified in this matter as a contingency fee is nationally recognized and also  
23 approved by the State Bar of Nevada as a reasonable fee, as well as pursuant to the *Brunzell* factors,  
24 as set forth in Plaintiffs' Motion.

25 6. Pursuant to *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349(1969), the Court  
26 finds that Mr. Simon and his firm demonstrated the highest of qualities as an advocate supporting the  
27 award of attorney's fees, including, but not limited to, his ability, his training, education, experience,  
28 professional standing and skill. The court also considered: (1) the character of the work to be done:

1 its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the  
2 prominence and character of the parties where they affect the importance of the litigation; (2) the  
3 work actually performed by the lawyer: the skill, time and attention given to the work; and (3) the  
4 result: whether the attorney was successful and what benefits were derived. Here, there was  
5 substantial benefit derived from the quality of the work and advocacy.

6 7. On March 11, 2015, the Court ordered a Judgment on the Jury Verdict for Christian  
7 Cervantes-Lopez in the amount of \$512,750.34. The Court also ordered Judgment on the Jury Verdict  
8 for Maria Avarca in the amount of \$231,393.55.

9 8. That 100% of the attorneys fees were incurred and earned at the time of the verdict  
10 returned by the jury. Pursuant to *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 124 P.3d  
11 530 (2005), contingent fees are fully recoverable only tempered by reasonableness. Here, the Court  
12 finds that the contingency fees earned were reasonable.

13 9. That plaintiff shall have and recover the sum of TWENTY FIVE THOUSAND SEVEN  
14 HUNDRED SIXTY ONE AND FORTY EIGHT CENTS (\$25,761.48) as and for costs incurred  
15 by SIMON and prior counsel, Kristian Lavigne, Esq. pursuant to the memorandum of costs previously  
16 filed. The Defense did not file a motion to re-tax the costs and did not oppose the amount of costs  
17 contained in the motion for attorneys fees and costs. The Court finds the costs reasonable and  
18 necessary in the prosecution of this case.

19 II.

20 CONCLUSIONS OF LAW

21 1. NRS 17.115 states that a party who rejects an offer of judgment, and fails to obtain a more  
22 favorable judgment, may be ordered to pay interest on the judgment for the period from the date  
23 of service of the offer to the date of entry of the judgment and reasonable attorney's fees incurred  
24 by the party who made the offer for the period from the date of service of the offer to the date  
25 of entry of the judgment.

26 2. Similarly, NRCP 68(f) provides that, if the offeree rejects an offer and fails to obtain a more  
27 favorable judgment, the offeree shall pay the offeror's reasonable attorney's fees incurred by the  
28 offeror from the time of the offer.

1 3. The Nevada Supreme Court, in *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983), set  
2 forth four (4) factors to be considered in allowing fees pursuant to NRCP 68. Those factors include:

3 (1) Whether the claim was brought in good faith; (2) Whether the Offer of Judgment was  
4 reasonable and in good faith in both its timing and amount; (3) Whether the decision to reject  
5 the offer and proceed to trial was reasonable; and (4) Whether the fees sought are reasonable  
6 and justified in amount.

7 4. In Nevada, the method upon which a reasonable fee is determined is subject to the  
8 discretion of the court, and not limited to one specific approach; its analysis may begin with any  
9 method rationally designed to calculate a reasonable amount, including those based on contingency  
10 fee. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 124 P.3d 530 (2005).

11 5. In *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349(1969), the Nevada Supreme  
12 Court stated that the "basic elements" to be considered in determining the reasonable value of an  
13 attorney's services may be classified pursuant to four (4) factors: (1) the qualities of the advocate: his  
14 ability, his training, education, experience, professional standing and skill; (2) the character of the  
15 work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility  
16 imposed and the prominence and character of the parties where they affect the importance of the  
17 litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the  
18 work; (4) the result: whether the attorney was successful and what benefits were derived.

19 6. Therefore, taking into consideration the papers and pleadings on file herein, arguments set  
20 forth at the time of the hearings, as well as the factors set forth in *Beattie v. Thomas*, *Brunzell v.*  
21 *Golden Gate National Bank*, and *Shuette v. Beazer Homes Holdings Corp.*, the Court hereby further  
22 adopts the legal arguments set forth in Plaintiffs' Motion and orders attorneys fees.

23 7. Pursuant to NRS 18.005, the Plaintiff's costs are recoverable.

24 **III.**

25 **ORDER**

26 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that  
27 Plaintiffs' Motion for Attorneys Fees is GRANTED and Christian Cervantes-Lopez shall have and  
28 recover an additional sum of TWO HUNDRED FIVE THOUSAND ONE HUNDRED AND 13/100

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 DOLLARS (\$205,100.13) and Maria Avarca shall have and recover an additional sum of  
2 NINETY TWO THOUSAND FIVE HUNDRED FIFTY SEVEN AND 42/100 DOLLARS  
3 (\$92,557.42), which were incurred via the Contingency Fee Agreement Executed between the  
4 Plaintiff's and The Law Office of Daniel S. Simon.

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff shall  
6 have and recover the sum of TWENTY FIVE THOUSAND SEVEN HUNDRED SIXTY ONE AND  
7 FORTY EIGHT CENTS (\$25,761.48) as and for costs incurred by SIMON LAW and prior counsel,  
8 Kristian Lavigne, Esq. pursuant to the memorandum of costs.

9 DATED this 6 day of May, 2015.

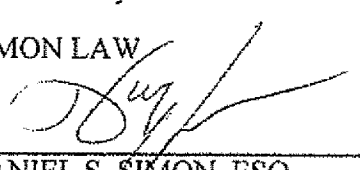
10  
11   
12 DISTRICT JUDGE

ACB

JUDGE STEFANY A. MILEY

13 Submitted by:

14 SIMON LAW

15   
16 DANIEL S. SIMON, ESQ.  
17 Nevada Bar No. 4750  
18 810 South Casino Center Boulevard  
19 Las Vegas, Nevada 89101  
20 Attorneys for Plaintiffs  
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CLERK OF THE COURT

ASTA  
STEPHEN H. ROGERS, ESQ.  
Nevada Bar No. 5755  
R. KADE BAIRD, ESQ.  
Nevada Bar No. 8362  
CHARLES MICHALEK, ESQ.  
Nevada Bar No. 5721  
ROGERS, MASTRANGELO, CARVALHO & MITCHELL  
300 South Fourth Street, Suite 710  
Las Vegas, Nevada 89101  
Phone (702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,	)	CASE NO.: A-12-667141-C
an individual; MARIA AVARCA, an individual,	)	
	)	DEPT. NO.: XXIII
Plaintiffs,	)	
	)	
vs.	)	
	)	
EVANGELINA ORTEGA, an individual;	)	
MIRIAM PIZARRO-ORTEGA, an individual;	)	
DOES I through V, inclusive; and	)	
ROE CORPORATIONS I through V, inclusive,	)	
	)	
Defendants.	)	

**CASE APPEAL STATEMENT**

1. Name of appellant(s) filing this case appeal statement:  
Defendants Evangelina Ortega and Miriam Pizarro-Ortega
2. Identify the judge issuing the decision, judgment or order appealed from:  
The Honorable Stephanie Miley
3. Identify each appellant and the name and address of counsel for each appellant:  
Evangelina Ortega and Miriam Pizarro-Ortega  
  
R. KADE BAIRD, ESQ.  
Nevada Bar No. 8362  
CHARLES MICHALEK, ESQ.  
Nevada Bar No. 5721  
ROGERS, MASTRANGELO, CARVALHO & MITCHELL  
300 South Fourth Street, Suite 710  
Las Vegas, Nevada 89101  
Phone (702) 383-3400  
Attorneys for Appellants

- 1 4. Identify each respondent and the name and address of appellate counsel, if known, for each  
2 respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and  
3 provide the name and address of that respondent's trial counsel):

4 Daniel S. Simon, Esq.  
5 Nevada Bar No: 4750  
6 SIMON & ASSOCIATES  
7 810 South Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 P: (702) 364-1650  
10 *Attorneys for Respondents*  
11 *Christian Cervantes-Lopez and Maria Avarca*

- 12 5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed  
13 to practice law in Nevada and, if so, whether the district court granted that attorney  
14 permission to appear under SCR 42 (attached a copy of any district court order granting such  
15 permission):

16 N/A

- 17 6. Indicate whether appellant was represented by appointed or retained counsel in the district  
18 court:

19 Retained counsel

- 20 7. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of  
21 entry of the district court order granting such leave:

22 N/A

- 23 8. Indicate the date the proceedings commenced in the district court, e.g., date complaint,  
24 indictment, information, or petition was filed:

25 Complaint: 08/20/2012

- 26 9. Provide a brief description of the nature of the action and result in the district court, including  
27 the type of judgment or order being appealed and the relief granted by the district court:

28 Negligence in an auto accident. Judgment in favor of Plaintiffs. Defendants appeal from  
judgment and Denial of Motion for New Trial and/or Remittur.

1 10. Indicate whether the case has previously been subject of an appeal or an original writ  
2 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number  
3 of the prior proceeding.

4 N/A

5 11. Indicate whether this appeal involves child custody or visitation:

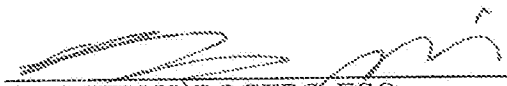
6 N/A

7 12. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

8 Yes

9 DATED this 21<sup>st</sup> day of July, 2015.

10 ROGERS, MASTRANGELO, CARVALHO &  
11 MITCHELL

12   
13 STEPHEN H. ROGERS, ESQ.

14 Nevada Bar No. 5755

15 R. KADE BAIRD, ESQ.

16 Nevada Bar No. 8362

17 CHARLES MICHALEK, ESQ.

18 Nevada Bar No. 5721

19 300 South Fourth Street, Suite 710

20 Las Vegas, Nevada 89101

21 Attorney for Defendants  
22  
23  
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28



1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(a), and EDCR 7.26(a), I hereby certify that I am an employee of Rogers,  
3 Mastrangelo, Carvalho & Mitchell, and on the 21<sup>st</sup> day of July, 2015, a true and correct copy of  
4 the foregoing **CASE APPEAL STATEMENT** was served via Wiznet Electronic Service, upon the  
5 following counsel of record:

6  
7 Daniel S. Simon, Esq.  
8 Nevada Bar No: 4750  
9 SIMON LAW  
10 810 South Casino Center Blvd.,  
11 Las Vegas, NV 89101  
12 P: (702) 364-1650  
13 F: (702) 364-1655  
14 *Attorneys for Plaintiffs*

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Unandi Zarnka

An Employee of  
Rogers, Mastrangelo, Carvalho & Mitchell

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

**Christian Cervantes-Lopez, Plaintiff(s)**  
**vs.**  
**Evangelina Ortega, Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 23**  
Judicial Officer: **Miley, Stefany**  
Filed on: **08/20/2012**  
Cross-Reference Case Number: **A667141**

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**CASE INFORMATION**

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**Statistical Closures**  
03/12/2015    Verdict Reached

Case Type: **Negligence - Auto**  
Case Flags: **Appealed to Supreme Court**  
**Jury Demand Filed**  
**Arbitration Exemption Granted**

---

**DATE**

---

**CASE ASSIGNMENT**

---

**Current Case Assignment**

Case Number	A-12-667141-C
Court	Department 23
Date Assigned	08/20/2012
Judicial Officer	Miley, Stefany

---

**PARTY INFORMATION**

---

**Plaintiff**

**Avarca, Maria**

*Lead Attorneys*

**Lavigne, Kristian**  
*Retained*  
702-732-3529(W)

**Cervantes-Lopez, Christian**

**Lavigne, Kristian**  
*Retained*  
702-732-3529(W)

**Defendant**

**Ortega, Evangelina**

**Rogers, Stephen H**  
*Retained*  
702-383-3400(W)

**Pizarro-Ortega, Miriam**

**Rogers, Stephen H**  
*Retained*  
702-383-3400(W)

---

**DATE**

---


**EVENTS & ORDERS OF THE COURT**

---

**INDEX**

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08/20/2012

 **Complaint**  
Filed By: Plaintiff Cervantes-Lopez, Christian  
*Complaint*


08/20/2012

Case Opened

12/11/2012

 **Affidavit of Compliance**  
Filed By: Plaintiff Cervantes-Lopez, Christian  
*Affidavit of Compliance*

12/11/2012

 **Affidavit of Compliance**  
Filed By: Plaintiff Cervantes-Lopez, Christian  
*Affidavit of Compliance*

12/31/2012

 **Answer**  
Filed By: Defendant Ortega, Evangelina

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

*Answer to Complaint*

12/31/2012	 Initial Appearance Fee Disclosure Filed By: Defendant Ortega, Evangelina <i>Initial Appearance Fee Disclosure</i>
12/31/2012	 Demand for Jury Trial Filed By: Defendant Ortega, Evangelina <i>Demand for Jury Trial</i>
01/24/2013	 Amended Answer Filed By: Defendant Ortega, Evangelina <i>Amended Answer to Complaint</i>
01/28/2013	 Commissioners Decision on Request for Exemption - Granted Party: Plaintiff Cervantes-Lopez, Christian <i>Commissioner's Decision on Request for Exemption - Granted</i>
04/01/2013	 Deposition Filed By: Defendant Ortega, Evangelina <i>Notice of Taking Deposition of Plaintiffs</i>
08/30/2013	 Notice of Association of Counsel Filed By: Plaintiff Cervantes-Lopez, Christian <i>Notice of Association of Counsel</i>
10/02/2013	 Joint Case Conference Report Filed By: Plaintiff Cervantes-Lopez, Christian <i>Joint Case Conference Report</i>
10/08/2013	 Scheduling Order <i>Scheduling Order</i>
10/14/2013	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
03/19/2014	 Designation of Expert Witness Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Designation of Expert Witnesses and Reports</i>
03/24/2014	 Supplement Filed by: Plaintiff Cervantes-Lopez, Christian <i>Supplement to Plaintiffs' Designation of Expert Witnesses and Reports (Specifically Exhibit 2)</i>
06/09/2014	 Supplemental Designation of Expert Witnesses Filed By: Defendant Ortega, Evangelina <i>Defendant's Second Supplemental List of Expert Witness Disclosures</i>
08/05/2014	 Notice of Change of Address Filed By: Plaintiff Cervantes-Lopez, Christian <i>Notice of Change of Address</i>
09/09/2014	 Motion in Limine

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #1: Omnibus*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #2 To Prevent Plaintiff from Introducing Future Damages at Trial*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #3 to Preclude Plaintiff from Recovery of Excessive Medical Bills*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #4 to Limit the Testimony of Plaintiff's Treating Physicians*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #5 Enforcing the Abolition of the Treating Physician Rule*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #6 to Prevent Plaintiff from Arguing "Responsibility Avoidance"*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #7 to Preclude Questions Regarding Verdict Amounts During Voir Dire*

09/09/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #8 to Exclude Evidence of Damages Not Presented Under a Computation of Damages*

09/10/2014



Motion in Limine

Filed By: Defendant Ortega, Evangelina  
*Defendant's Motion in Limine #9 to Prohibit Improper Jury Questionnaire and/or Voir Dire*

09/12/2014



Motion in Limine

Filed By: Plaintiff Cervantes-Lopez, Christian  
*Plaintiffs Motions in Limine Nos. 1 through 9*

09/22/2014



Opposition to Motion in Limine

Filed By: Plaintiff Cervantes-Lopez, Christian  
*Plaintiffs Opposition to Defendants Motion in Limine #5 Enforcing the Abolition of the Treating Physician Rule*

09/22/2014



Opposition to Motion in Limine

Filed By: Plaintiff Cervantes-Lopez, Christian  
*Plaintiffs Opposition to Defendants Motion in Limine #1 Omnibus*

09/22/2014















Opposition to Motion in Limine

Filed By: Plaintiff Cervantes-Lopez, Christian  
*Plaintiffs Opposition to Defendants Motion in Limine #2 to Prevent PLaintiffs from*






DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

*Introducing Future Damages at Trial*












09/22/2014	 Opposition to Motion in Limine Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Opposition to Defendants Motion in Limine #3 to Preclude Plaintiffs from Recovery of Excess Medical Bills</i>
09/22/2014	 Opposition to Motion in Limine Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Opposition to Defendants Motion in Limine #4 to Limit the Testimony of PLaintiffs Treating Physicians</i>
09/22/2014	 Opposition to Motion in Limine Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Opposition to Defendants Motion in Limine #6 to Prevent PLaintiffs from Arguing "Responsibility Avoidance"</i>
09/22/2014	 Opposition to Motion in Limine Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Opposition to Defendants Motion in Limine #7 to Preclude Questions Regharding Verdict Amounts During Voir Dire</i>
09/22/2014	 Opposition to Motion in Limine Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Opposition to Defendants Motion in Limine #8 to Exclude Evidence of Damages Not Presented Under A Computation of Damages</i>
09/22/2014	 Opposition to Motion in Limine Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Opposition to Defendants Motion in Limine #9 to Prohibit Improper Jury Questionnaire and/or Voir Dire</i>
09/30/2014	 Opposition to Motion in Limine Filed By: Defendant Ortega, Evangelina <i>Defendant's Opposition to Plaintiff's Motion in Limine Nos. 1, 2, 3, 4, 7, 8 and 9</i>
10/08/2014	 Reply to Opposition Filed by: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs' reply to defendants' opposition to motions in limine nos. 1, 2, 3, 4, 7, 8 and 9</i>
10/09/2014	 Supplemental Filed by: Defendant Ortega, Evangelina <i>Defendant's Supplement to Their Motion in Limine #8 to Exclude Evidence of Damages Not Presented Under a Computation of Damages</i>
10/09/2014	 Supplemental Filed by: Defendant Ortega, Evangelina <i>Defendants' Supplement to Their Motion in Limine #2 to Prevent Plaintiff From Introducing Future Damages at Trial</i>
10/10/2014	 Pre-trial Memorandum Filed by: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Pre-Trial Memorandum</i>
10/10/2014	 Pre-Trial Disclosure

# CASE SUMMARY













## CASE NO. A-12-667141-C

	Party: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Pre-Trial Disclosures</i>
10/10/2014	 Pre-Trial Disclosure Party: Plaintiff Cervantes-Lopez, Christian <i>Defendants' NRCP 16.1(a)(3) Pre-Trial Disclosures</i>
10/13/2014	 Reply to Opposition Filed by: Defendant Ortega, Evangelina <i>Defendants' Reply to Plaintiff's Opposition to Defendant's Motion in Limine #1: Omnibus</i>
10/13/2014	 Reply to Opposition Filed by: Defendant Ortega, Evangelina <i>Defendants' Reply to Plaintiff's Opposition to Defendant's Motion in Limine #3 to Preclude Plaintiff from Recovery of Excessive Medical Bills</i>
10/13/2014	 Reply to Opposition Filed by: Defendant Ortega, Evangelina <i>Reply to Plaintiff's Opposition to Defendant's Motion in Limine #2 to Prevent Plaintiff from Introducing Future Damages at Trial</i>
10/13/2014	 Reply to Opposition Filed by: Defendant Ortega, Evangelina <i>Defendants' Reply to Plaintiff's Opposition to Defendant's Motion in Limine #4 to Limit the Testimony of Plaintiff's Treating Physicians</i>
10/14/2014	<b>Omnibus Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #1: Omnibus</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #2 To Prevent Plaintiff from Introducing Future Damages at Trial</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #3 to Preclude Plaintiff from Recovery of Excessive Medical Bills</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #4 to Limit the Testimony of Plaintiff's Treating Physicians</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #5 Enforcing the Abolition of the Treating Physician Rule</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #6 to Prevent Plaintiff from Arguing "Responsibility Avoidance"</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #7 to Preclude Questions Regarding Verdict Amounts During Voir Dire</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #8 to Exclude Evidence of Damages Not Presented Under a Computation of Damages</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #9 to Prohibit Improper Jury Questionnaire and/or Voir Dire</i>
10/14/2014	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Plaintiffs Motions in Limine Nos. 1 through 9</i>

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**











10/14/2014	 <b>All Pending Motions</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Motion in Limine #1: Omnibus; Defendant's Motion in Limine #2 To Prevent Plaintiff from Introducing Future Damages at Trial; Defendant's Motion in Limine #3 to Preclude Plaintiff from Recovery of Excessive Medical Bills; Defendant's Motion in Limine #4 to Limit the Testimony of Plaintiff's Treating Physicians; Defendant's Motion in Limine #5 Enforcing the Abolition of the Treating Physician Rule; Defendant's Motion in Limine #6 to Prevent Plaintiff from Arguing "Responsibility Avoidance"; Defendant's Motion in Limine #7 to Preclude Questions Regarding Verdict Amounts During Voir Dire; Defendant's Motion in Limine #8 to Exclude Evidence of Damages Not Presented Under a Computation of Damages; Defendant's Motion in Limine #9 to Prohibit Improper Jury Questionnaire and/or Voir Dire; Plaintiffs Motions in Limine Nos. 1 through 9</i>
10/28/2014	 <b>Objection</b> Filed By: Defendant Ortega, Evangelina <i>Defendants' Objections to Plaintiffs' Pre-Trial Disclosures Filed October 10, 2014</i>
10/28/2014	 <b>Calendar Call</b> (9:30 AM) (Judicial Officer: Miley, Stefany)
10/29/2014	 <b>Recorders Transcript of Hearing</b> <i>Transcript Re: Defendant's Motions In Limine No. 1 Through 9...Plaintiff's Motions in Limine No. 1 Through 9 October 14, 2014</i>
11/10/2014	<b>CANCELED Jury Trial</b> (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
11/17/2014	 <b>Stipulation and Order</b> Filed by: Defendant Ortega, Evangelina <i>Stipulation and Order to Continue Trial Date</i>
11/20/2014	 <b>Notice of Entry of Order</b> Filed By: Defendant Ortega, Evangelina <i>Notice of Entry of Order</i>
12/03/2014	 <b>Amended Order Setting Jury Trial</b> <i>Amended Order Setting Civil Jury Trial</i>
01/27/2015	 <b>Motion in Limine</b> Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Motion in Limine Nos. 10 and for Reconsideration of Motion in Limine No. 9 Due to New Findings by the Discovery Commissioner Regarding Dr. Derek Duke on Order Shortening Time</i>
01/28/2015	 <b>Pre-Trial Disclosure</b> Party: Defendant Ortega, Evangelina <i>Defendants' Supplement NRCp 16.1(a)(3) Pre-Trial Disclosures</i>
01/29/2015	 <b>Objection</b> Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Objection to Defendants Pre-Trial Disclosures</i>
01/30/2015	 <b>Pre-trial Memorandum</b> Filed by: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Pre-trial Memorandum</i>
02/02/2015	

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**









	 Reply to Opposition Filed by: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion in Limine No. 10 and for Reconsideration of Motion in Limine No. 9 Due to New Findings by the Discovery Commissioner Regarding Dr. Derek Duke on Order Shortening Time</i>
02/02/2015	 Opposition Filed By: Defendant Ortega, Evangelina <i>Opposition to Plaintiff's Motion in Limine Numbers 9 and 10 on Order Shortening Time</i>
02/03/2015	<b>Motion in Limine</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Plaintiffs Motion in Limine Nos. 10 and for Reconsideration of Motion in Limine No. 9 Due to New Findings by the Discovery Commissioner Regarding Dr. Derek Duke on Order Shortening Time</i>
02/03/2015	 <b>All Pending Motions</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Calendar Call; Plaintiffs Motion in Limine Nos. 10 and for Reconsideration of Motion in Limine No. 9 Due to New Findings by the Discovery Commissioner Regarding Dr. Derek Duke on Order Shortening Time</i>
02/03/2015	 Pre-Trial Disclosure Party: Defendant Ortega, Evangelina <i>Defendants' Second Supplement Pre-Trial Disclosures</i>
02/03/2015	<b>Calendar Call</b> (11:00 AM) (Judicial Officer: Miley, Stefany)
02/18/2015	 Proposed Voir Dire Questions Filed By: Plaintiff Cervantes-Lopez, Christian <i>Proposed Voir Dire</i>
02/20/2015	 Miscellaneous Filing Filed by: Defendant Ortega, Evangelina <i>Designation of Deposition Testimony for Trial</i>
02/23/2015	 Proposed Voir Dire Questions Filed By: Defendant Ortega, Evangelina <i>Defendant's Proposed Voir Dire</i>
02/23/2015	 <b>Jury Trial</b> (1:00 PM) (Judicial Officer: Miley, Stefany) <b>02/23/2015-02/25/2015</b>
02/24/2015	 Miscellaneous Filing Filed by: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Designation of Deposition Testimony for Trial</i>
02/24/2015	 Jury List <i>Jury List</i>
02/25/2015	 Brief Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Trial Brief Regarding the Exclusion of Defendant's Expert Tami Rockholt, R.N.</i>
02/26/2015	 Objection Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Objections to Defendant's Designations of Deposition Testimony for Trial</i>


















DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

02/26/2015	 <b>Jury Trial</b> (9:30 AM) (Judicial Officer: Miley, Stefany)
02/27/2015	 <b>Jury Trial</b> (9:30 AM) (Judicial Officer: Miley, Stefany)
03/02/2015	 Designation of Witness Filed By: Defendant Ortega, Evangelina <i>Amended Designation of Deposition Testimony for Trial</i>
03/02/2015	 <b>Jury Trial</b> (1:00 PM) (Judicial Officer: Miley, Stefany)
03/03/2015	 <b>Jury Trial</b> (10:30 AM) (Judicial Officer: Miley, Stefany)
03/04/2015	 <b>Jury Trial</b> (8:30 AM) (Judicial Officer: Miley, Stefany)
03/04/2015	 Amended Jury List
03/04/2015	 Jury Verdict <i>Jury Verdict for Plaintiffs Against Defendant Miriam Pizarro-Ortega</i>
03/04/2015	 Jury Instructions
03/04/2015	<b>Verdict</b> (Judicial Officer: Miley, Stefany) Debtors: Miriam Pizarro-Ortega (Defendant) Creditors: Christian Cervantes-Lopez (Plaintiff) Judgment: 03/04/2015, Docketed: 03/11/2015 Total Judgment: 499,410.45 Debtors: Miriam Pizarro-Ortega (Defendant) Creditors: Maria Avarca (Plaintiff) Judgment: 03/04/2015, Docketed: 03/11/2015 Total Judgment: 222,266.47
03/12/2015	 Judgment on Jury Verdict Filed By: Plaintiff Cervantes-Lopez, Christian <i>Judgment on Jury Verdict</i>
03/13/2015	 Memorandum of Costs and Disbursements Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Memorandum of Costs and Disbursements</i>
03/13/2015	 Notice of Entry of Judgment Filed By: Plaintiff Cervantes-Lopez, Christian <i>Notice of Entry of Judgment</i>
03/16/2015	 Motion for Attorney Fees Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Motion for Attorneys Fees</i>
03/27/2015	 Motion for New Trial Filed By: Defendant Ortega, Evangelina <i>Defendant's Motion for Remittur and/or New Trial</i>
03/30/2015	 Opposition





DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

	Filed By: Defendant Ortega, Evangelina <i>Defendants' Opposition to Plaintiff's Motion for Attorney Fees</i>
04/07/2015	 Reply to Opposition Filed by: Plaintiff Cervantes-Lopez, Christian <i>Reply to Defendants Opposition to Plaintiffs Motion for Attorneys Fees</i>
04/13/2015	 Opposition to Motion Filed By: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs' Opposition to Defendants Motion for Remittur and/or New Trial</i>
04/21/2015	 <b>Motion for Attorney Fees</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Plaintiff's Motion for Attorney Fees</i>
04/23/2015	 Reply to Opposition Filed by: Defendant Ortega, Evangelina <i>Defendant's Reply to Opposition to Motion for Remittur and/or New Trial</i>
04/30/2015	 <b>Motion</b> (9:30 AM) (Judicial Officer: Miley, Stefany) <b>04/30/2015, 06/23/2015</b> <i>Defendant's Motion for Remittur and/or New Trial</i>
05/01/2015	 Decision and Order <i>Decision</i>
05/07/2015	 Order Granting Motion Filed By: Plaintiff Cervantes-Lopez, Christian <i>Order Granting Plaintiff's Motion for Attorney's Fees</i>
05/07/2015	 Amended Judgment Filed By: Plaintiff Cervantes-Lopez, Christian <i>Amended Judgment on Jury Verdict</i>
05/07/2015	<b>Amended Judgment Upon the Verdict</b> (Judicial Officer: Miley, Stefany) Debtors: Miriam Pizarro-Ortega (Defendant) Creditors: Christian Cervantes-Lopez (Plaintiff) Judgment: 05/07/2015, Docketed: 03/19/2015 Total Judgment: 735,156.31
05/07/2015	<b>Amended Judgment Upon the Verdict</b> (Judicial Officer: Miley, Stefany) Debtors: Miriam Pizarro-Ortega (Defendant) Creditors: Maria Avarca (Plaintiff) Judgment: 05/07/2015, Docketed: 05/12/2015 Total Judgment: 338,828.66
05/07/2015	<b>Order</b> (Judicial Officer: Miley, Stefany) Debtors: Miriam Pizarro-Ortega (Defendant) Creditors: Christian Cervantes-Lopez (Plaintiff) Judgment: 05/07/2015, Docketed: 05/12/2015 Total Judgment: 105,438.16
05/07/2015	<b>Order</b> (Judicial Officer: Miley, Stefany) Debtors: Miriam Pizarro-Ortega (Defendant) Creditors: Christian Cervantes-Lopez (Plaintiff) Judgment: 05/07/2015, Docketed: 05/12/2015 Total Judgment: 217,980.87

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

05/08/2015	 Notice of Entry of Judgment Filed By: Plaintiff Cervantes-Lopez, Christian <i>Notice of Entry of Amended Judgment on Jury Verdict</i>
05/08/2015	 Notice of Entry of Order Filed By: Plaintiff Cervantes-Lopez, Christian <i>Notice of Entry of Order Granting Plaintiffs Motion for Attorneys Fees</i>
05/12/2015	 Notice of Rescheduling <i>Notice of Rescheduling of Hearing</i>
05/18/2015	 Recorders Transcript of Hearing Party: Plaintiff Cervantes-Lopez, Christian <i>Transcript Re: Defendant's Motion for Remittur and/or New Trial April 30, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 1 February 23, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 2 February 24, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 3 February 25, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 4 February 26, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 5 February 27, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 6 March 2, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 7 March 3, 2015</i>
05/18/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Jury Trial - Day 8 March 4, 2015</i>
06/05/2015	 Supplemental Filed by: Plaintiff Cervantes-Lopez, Christian <i>Defendant's Supplement to Motion for Remittur and/or New Trial</i>
06/19/2015	 Response Filed by: Plaintiff Cervantes-Lopez, Christian <i>Plaintiffs Response to Defendants Supplement to Motion for Remittur and/or New Trial</i>
06/23/2015	<b>Hearing (9:30 AM)</b> (Judicial Officer: Miley, Stefany) <i>Hearing Re: Lioce Violations</i>
06/23/2015	 <b>All Pending Motions (9:30 AM)</b> (Judicial Officer: Miley, Stefany) <i>Defendant's Motion for Remittur and/or New Trial; Hearing Re: Lioce Violations</i>

DEPARTMENT 23  
**CASE SUMMARY**  
**CASE NO. A-12-667141-C**

07/08/2015	 Notice of Entry of Order Filed By: Plaintiff Cervantes-Lopez, Christian <i>Notice of Entry of Order Denying Defendant's Motion for Remittur and/or New Trial</i>
07/08/2015	 Order Denying Motion Filed By: Plaintiff Cervantes-Lopez, Christian <i>Order Denying Defendant's Motion for Remittur and/or New Trial</i>
07/21/2015	 Notice of Appeal Filed By: Defendant Ortega, Evangelina <i>Notice of Appeal</i>
07/21/2015	 Case Appeal Statement Filed By: Defendant Ortega, Evangelina <i>Case Appeal Statement</i>

DATE	FINANCIAL INFORMATION
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<b>Defendant</b> Ortega, Evangelina	
Total Charges	247.00
Total Payments and Credits	247.00
<b>Balance Due as of 7/23/2015</b>	<b>0.00</b>
<b>Defendant</b> Pizarro-Ortega, Miriam	
Total Charges	30.00
Total Payments and Credits	30.00
<b>Balance Due as of 7/23/2015</b>	<b>0.00</b>
<b>Plaintiff</b> Cervantes-Lopez, Christian	
Total Charges	300.00
Total Payments and Credits	300.00
<b>Balance Due as of 7/23/2015</b>	<b>0.00</b>
<b>Defendant</b> Ortega, Evangelina	
Appeal Bond Balance as of 7/23/2015	<b>500.00</b>

## CIVIL COVER SHEET

County, Nevada

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

A-12-667141-C

XXIII

**I. Party Information**

Plaintiff(s) (name/address/phone): *Christian Cervantes-Lopez*  
*702-606-2067*  
*Maria Avarca*  
*B.E. Trenchard # A*  
*Las Vegas, NV 89030*

Attorney (name/address/phone): *Kristian Lavigne, Esq.*  
*5263 S. Durango # 4*  
*Las Vegas, NV 89115*  
*702-845-8728*

Defendant(s) (name/address/phone): *Evangelina Ortiz*  
*Miriam #12460-001259*  
*2137 Stet #7*  
*North Las Vegas, NV 89030*

Attorney (name/address/phone): *UNKNOWN #*  
*N/A*

**II. Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)☐ Arbitration Requested**Civil Cases**

Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Easements <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input checked="" type="checkbox"/> <b>Negligence</b> <input checked="" type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Account/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	
	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters	

**III. Business Court Requested** (Please check applicable category; for Clark or Washoe Counties only.)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input type="checkbox"/> Enhanced Case Mgmt/Business  |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90)  | <input type="checkbox"/> Trademarks (NRS 600A)               |   |

8/20/2012

Date

Signature of initiating party or representative

  
CLERK OF THE COURT

**ORDER**  
DANIEL S. SIMON, ESQ.  
Nevada Bar #004750  
BENJAMIN J. MILLER, ESQ.  
Nevada Bar #010406  
SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
Telephone (702) 364-1650  
Fax (702) 364-1655  
[dan@simonlawlv.com](mailto:dan@simonlawlv.com)  
Attorneys for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,  
an individual,  
MARIA AVARCA, an individual  
Plaintiffs,

vs.

EVANGELINA ORTEGA, an individual;  
MIRIAM PIZARRO-ORTEGA, an individual  
DOES I through V; inclusive  
and ROE CORPORATIONS I through V,  
inclusive  
Defendants.

Case No.: A667141  
Dept. No.: XXIII

**ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL**

THIS MATTER having come on for hearing pursuant to Defendant's Motion for Remittur and/or New Trial, on the 30<sup>th</sup> day of April and the 23<sup>rd</sup> day of June, with Plaintiffs represented by Daniel S. Simon, Esq., and Ashley M. Ferrel, Esq., of the law firm SIMON LAW, and Defendant represented by Kade Baird, Esq. and Charles Michaleck, Esq., of Rogers, Masterangelo, Carvalho & Mitchell.

Defendant asserts that she was denied a fair trial and deprived of a meaningful opportunity to present a defense during trial because the Court: (1) improperly permitted Plaintiffs to present future damages, because Plaintiffs failed to comply with NRCP 16.1(a)(1)(c); (2) excluded Defendant's expert on medical billing, Tami Rockholt, R.N.; (3) excluded evidence of liens; (4) excluded the surveillance video; (5) precluded Dr. Duke from testifying about secondary gain

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
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1 motives; and (6) Plaintiffs' counsel made improper arguments to the jury in violation of *Lioce v.*  
2 *Cohen*. Alternatively, Defendant requests remittitur of the future damages award.

3 The Court having reviewed the pleadings and papers on file herein and heard arguments of  
4 counsel made at the hearing, and other good cause appearing,

5 THE COURT HEREBY FINDS:

6 I.

7 FINDINGS OF FACT AND CONCLUSIONS OF LAW

8 1. Defendant's argument regarding Plaintiffs' failure to provide computation of future  
9 damages prior to trial, was overruled at the time of trial and the Court finds that Defendant's  
10 arguments do not warrant granting a new a new trial. Defendant was aware of Plaintiffs' claim of  
11 future damages prior to trial during the discovery phase and Plaintiffs' made their doctor's available  
12 for depositions. Defendant exercised her opportunity to depose Plaintiffs' doctor, but for strategic  
13 purposes chose not to question the doctor's regarding the cost of future damages at that time. Since  
14 the treatment, including, the future lumbar surgery for Christian Cervantes was contained in the  
15 medical records produced in discovery and was discussed at Dr. Kaplan's deposition, Defendant's  
16 were well aware of the future treatment. That further, the Court finds no prejudice as this information  
17 was provided to Dr. Duke, who practices in the same specialty as Dr. Kaplan, rendered opinions about  
18 the future treatment and surgery, as well as the cost of same.

19 2. Defendant's argument regarding the exclusion of Defendant's expert Tami Rockholt, R.N.,  
20 was discussed at length at the time of trial and the Court finds that Defendant's arguments do not  
21 provide a basis for a new trial. Ms. Rockholt's exclusion did not prevent Defendant from challenging  
22 the charges of Plaintiffs' medical bills, as Dr. Duke was given all of the findings of Ms. Rockholt and  
23 her conclusions. Dr. Duke then provided testimony regarding the reasonableness of the charges for  
24 all the medical providers, including the charges of Dr. Kaplan and the future cost of surgery.

25 3. Defendant's argument regarding the exclusion of evidence of liens was addressed at the  
26 time of trial and the court affirms its ruling and finds that evidence of liens its prejudicial effect  
27 outweighed any probative value, and is not a basis for a new trial. Plaintiff also argued it is a payment  
28 source that also invites questioning about insurance or the lack thereof.

1           4. Defendant's argument regarding the exclusion of the surveillance video is not a basis for  
2 a new trial because the Court finds that video was in the possession of the Defendant for  
3 approximately one year prior to its disclosure and long before the close of discovery and could have  
4 been disclosed, but Defendant chose not to do so for nearly one year and only produced it shortly  
5 before trial. The Court recognized that discovery was extended for new information to be produced  
6 for a short time, but Defendant could not provide a satisfactory explanation why the video  
7 surveillance was not produced prior to the close of discovery when it was in its possession for a year.  
8 Since the video surveillance is evidence created by the Defendant and could not have been obtained  
9 independently by Plaintiff, the prejudicial effect outweighs any probative value. The police report and  
10 pictures taken by the police department is substantially different as both parties had equal access to  
11 this information and the police report was disclosed in discovery. The pictures were a part of the  
12 police investigation at the scene of the accident. The Court finds there is no prejudice to either party  
13 to allow the pictures of the accident taken by the police at the scene of the accident.

14           5. Defendant's argument that Dr. Duke should have been permitted to testify regarding  
15 secondary gain was properly excluded and does not warrant granting a new trial. Dr. Duke had no  
16 basis for any testimony regarding secondary gain specific to these plaintiffs', because there was no  
17 evidence of secondary gain motives in this case. Further, Dr. Duke is not qualified as a neurosurgeon  
18 to testify to psychological issues regarding why people do or do not do certain things. Dr. Duke  
19 opined that both Plaintiffs' were truthful. His testimony about secondary gain would have been mere  
20 conjecture as to the Plaintiffs' in this case.

21           6. Defendant's argument that Plaintiffs' counsel made improper arguments during Opening  
22 and Closing Statements was properly addressed during each instance at the time of trial and the Court  
23 finds that Plaintiffs' Counsel's arguments do not rise to the level to warrant the granting of a new  
24 trial. The Court fully examined each improper argument pursuant to the seminal case in Nevada  
25 regarding attorney misconduct, *Lioce v. Cohen*, 124 Nev. 1, 23, 174 P.3d 970, 984 (2008) and also  
26 evaluated it possible cumulative effect on the outcome of the trial and finds as follows:

27           (i) The Duke "for sale" comment was sustained during Opening, because it was argument for  
28 closing, and not a violation of *Lioce*;



1 (ii) Dollar signs during Plaintiffs' opening PowerPoint were taken off the screen fairly quickly,  
2 and was not a violation of *Lioce*;

3 (iii) Statements regarding Duke's services for sale in Closing was not a violation of *Lioce*.  
4 because the Court permitted both parties to discuss the charges of the witnesses and Duke specifically  
5 testified during trial that his services were for sale in this case;

6 (iv) Statement during Opening that the verdict would affect the community were improper,  
7 but the statement was objected to, objection was sustained and the jury was admonished;

8 (v) Statement during Opening regarding Defendant avoiding responsibility was not made by  
9 Plaintiffs' counsel and the reading of the pleadings to the jury was not a violation of *Lioce*;

10 (vi) Statement in Closing about awarding damages on a per diem basis was not a violation of  
11 *Lioce* because the Court routinely permits it because it assists the jury; and

12 (vii) Statement in Closing that jury's verdict will send a message, did not violate *Lioce*  
13 because the Court asked Plaintiffs' counsel to re-direct the line of closing and Plaintiffs' counsel did.

14 7. The Court finds that the single improper argument made by Plaintiffs' counsel, taken in  
15 isolation, does not rise to the level to award Defendant a new trial, because Defendant has failed to  
16 demonstrate that the misconduct's harmful effect was not removed through the Court sustaining the  
17 objection and subsequent admonishment to the jury. The Court further finds that any possible  
18 cumulative effect from the above arguments would not have changed the outcome of the case.

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SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 8. The Court also finds that there is insufficient evidence in the record to support the assertion  
2 by Defendant that the future damages award was excessive or improperly influenced by passion or  
3 prejudice. The jury did not disregard the evidence or the jury instructions, which is confirmed by the  
4 jury's award of zero for loss of enjoyment of life for both Plaintiffs. The jury also awarded much less  
5 than what the Plaintiffs' asked for in closing arguments. The record supports the jury's award, which  
6 was based on substantial evidence.

7 **II.**

8 **ORDER**

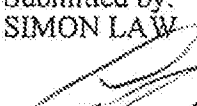
9 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that  
10 Defendant's Motion for Remittur and/or New Trial is **DENIED**.

11 **IT IS SO ORDERED.**

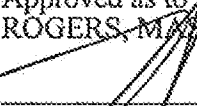
12 DATED this 2 day of July, 2015.

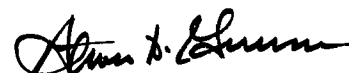
13   
14 DISTRICT JUDGE  
15  
16 JUDGE STEFANY A. MILEY

17 Submitted by:  
18 SIMON LAW

19   
20 DANIEL S. SIMON, ESQ.  
21 ASHLEY M. FERREL, ESQ.  
22 810 South Casino Center Boulevard  
23 Las Vegas, Nevada 89101  
24 Attorneys for Plaintiffs

25 Approved as to Form and Content:  
26 ROGERS, MASTERANGELO, CARVALHO & MITCHELL

27   
28 R. KADE BAIRD, ESQ.  
CHARLES A. MICHALEK, ESQ.  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendant



CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **ASHLEY M. FERREL, ESQ.**  
5 Nevada Bar #012207  
6 **SIMON LAW**  
7 810 S. Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 Telephone (702) 364-1650  
10 Attorney for Plaintiffs

6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

9 CHRISTIAN CERVANTES-LOPEZ and  
10 MARIA AVARCA,

11 Plaintiffs,

12 vs.

13 MIRIAM PIZARRO-ORTEGA,

14 Defendant.

Case No.: A667141  
Dept. No.: XXIII

15 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION FOR**  
16 **REMITTUR AND/OR NEW TRIAL**

17 **PLEASE TAKE NOTICE** that an Order Denying Defendant's Motion for Remittur and/or  
18 New Trial was duly entered in the above-entitled matter on the 8<sup>th</sup> day of July, 2015, a copy of which  
19 order is attached hereto.

20 Dated this 8<sup>th</sup> day of July, 2015.



21 **DANIEL S. SIMON, ESQ.**

22 Nevada Bar #004750

23 **ASHLEY M. FERREL, ESQ.**

24 Nevada Bar #012207

25 **SIMON LAW**

26 810 South Casino Center Boulevard

27 Las Vegas, Nevada 89101

28 Attorney for Plaintiff

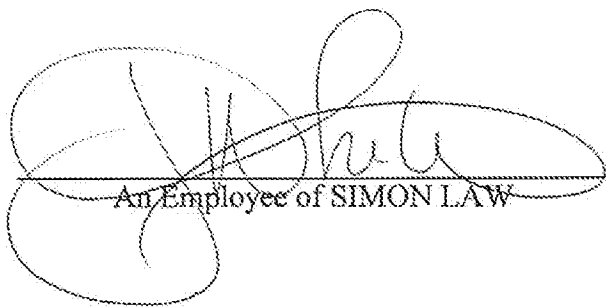
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Las Vegas, Nevada 89101  
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CERTIFICATE OF E-SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 8<sup>th</sup> day of July, 2015, I served the foregoing **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants



An Employee of SIMON LAW

  
CLERK OF THE COURT

1 **ORDR**  
2 DANIEL S. SIMON, ESQ.  
3 Nevada Bar #004750  
4 BENJAMIN J. MILLER, ESQ.  
5 Nevada Bar #010406  
6 SIMON LAW  
7 810 S. Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 Telephone (702) 364-1650  
10 Fax (702) 364-1655  
11 [dan@simonlawlv.com](mailto:dan@simonlawlv.com)  
12 Attorneys for Plaintiffs

13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 CHRISTIAN CERVANTES-LOPEZ,  
16 an individual,  
17 MARIA AVARCA, an individual

18 Plaintiffs,

19 vs.

20 EVANGELINA ORTEGA, an individual;  
21 MIRIAM PIZARRO-ORTEGA, an individual  
22 DOES I through V; inclusive  
23 and ROE CORPORATIONS I through V,  
24 inclusive

25 Defendants.

Case No.: A667141  
Dept. No.: XXIII

26 **ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL**

27 THIS MATTER having come on for hearing pursuant to Defendant's Motion for Remittur  
28 and/or New Trial, on the 30<sup>th</sup> day of April and the 23<sup>rd</sup> day of June, with Plaintiffs represented by  
Daniel S. Simon, Esq., and Ashley M. Ferrel, Esq., of the law firm SIMON LAW, and Defendant  
represented by Kade Baird, Esq. and Charles Michaleck, Esq., of Rogers, Masterangelo, Carvalho &  
Mitchell.

Defendant asserts that she was denied a fair trial and deprived of a meaningful opportunity  
to present a defense during trial because the Court: (1) improperly permitted Plaintiffs to present  
future damages, because Plaintiffs failed to comply with NRCP 16.1(a)(1)(c); (2) excluded  
Defendant's expert on medical billing, Tami Rockholt, R.N.; (3) excluded evidence of liens; (4)  
excluded the surveillance video; (5) precluded Dr. Duke from testifying about secondary gain

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1 motives; and (6) Plaintiffs' counsel made improper arguments to the jury in violation of *Lioce v.*  
2 *Cohen*. Alternatively, Defendant requests remittitur of the future damages award.

3 The Court having reviewed the pleadings and papers on file herein and heard arguments of  
4 counsel made at the hearing, and other good cause appearing,

5 THE COURT HEREBY FINDS:

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9 damages prior to trial, was overruled at the time of trial and the Court finds that Defendant's  
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11 future damages prior to trial during the discovery phase and Plaintiffs' made their doctor's available  
12 for depositions. Defendant exercised her opportunity to depose Plaintiffs' doctor, but for strategic  
13 purposes chose not to question the doctor's regarding the cost of future damages at that time. Since  
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16 were well aware of the future treatment. That further, the Court finds no prejudice as this information  
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18 the future treatment and surgery, as well as the cost of same.

19 2. Defendant's argument regarding the exclusion of Defendant's expert Tami Rockholt, R.N.,  
20 was discussed at length at the time of trial and the Court finds that Defendant's arguments do not  
21 provide a basis for a new trial. Ms. Rockholt's exclusion did not prevent Defendant from challenging  
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23 her conclusions. Dr. Duke then provided testimony regarding the reasonableness of the charges for  
24 all the medical providers, including the charges of Dr. Kaplan and the future cost of surgery.

25 3. Defendant's argument regarding the exclusion of evidence of liens was addressed at the  
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1 4. Defendant's argument regarding the exclusion of the surveillance video is not a basis for  
2 a new trial because the Court finds that video was in the possession of the Defendant for  
3 approximately one year prior to its disclosure and long before the close of discovery and could have  
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10 pictures taken by the police department is substantially different as both parties had equal access to  
11 this information and the police report was disclosed in discovery. The pictures were a part of the  
12 police investigation at the scene of the accident. The Court finds there is no prejudice to either party  
13 to allow the pictures of the accident taken by the police at the scene of the accident.

14 5. Defendant's argument that Dr. Duke should have been permitted to testify regarding  
15 secondary gain was properly excluded and does not warrant granting a new trial. Dr. Duke had no  
16 basis for any testimony regarding secondary gain specific to these plaintiffs', because there was no  
17 evidence of secondary gain motives in this case. Further, Dr. Duke is not qualified as a neurosurgeon  
18 to testify to psychological issues regarding why people do or do not do certain things. Dr. Duke  
19 opined that both Plaintiffs' were truthful. His testimony about secondary gain would have been mere  
20 conjecture as to the Plaintiffs' in this case.

21 6. Defendant's argument that Plaintiffs' counsel made improper arguments during Opening  
22 and Closing Statements was properly addressed during each instance at the time of trial and the Court  
23 finds that Plaintiffs' Counsel's arguments do not rise to the level to warrant the granting of a new  
24 trial. The Court fully examined each improper argument pursuant to the seminal case in Nevada  
25 regarding attorney misconduct, *Lioce v. Cohen*, 124 Nev. 1, 23, 174 P.3d 970, 984 (2008) and also  
26 evaluated it possible cumulative effect on the outcome of the trial and finds as follows:

27 (i) The Duke "for sale" comment was sustained during Opening, because it was argument for  
28 closing, and not a violation of *Lioce*;

1 (ii) Dollar signs during Plaintiffs' opening PowerPoint were taken off the screen fairly quickly,  
2 and was not a violation of *Lioce*;

3 (iii) Statements regarding Duke's services for sale in Closing was not a violation of *Lioce*,  
4 because the Court permitted both parties to discuss the charges of the witnesses and Duke specifically  
5 testified during trial that his services were for sale in this case;

6 (iv) Statement during Opening that the verdict would affect the community were improper,  
7 but the statement was objected to, objection was sustained and the jury was admonished;

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9 Plaintiffs' counsel and the reading of the pleadings to the jury was not a violation of *Lioce*;

10 (vi) Statement in Closing about awarding damages on a per diem basis was not a violation of  
11 *Lioce* because the Court routinely permits it because it assists the jury; and

12 (vii) Statement in Closing that jury's verdict will send a message, did not violate *Lioce*  
13 because the Court asked Plaintiffs' counsel to re-direct the line of closing and Plaintiffs' counsel did.

14 7. The Court finds that the single improper argument made by Plaintiffs' counsel, taken in  
15 isolation, does not rise to the level to award Defendant a new trial, because Defendant has failed to  
16 demonstrate that the misconduct's harmful effect was not removed through the Court sustaining the  
17 objection and subsequent admonishment to the jury. The Court further finds that any possible  
18 cumulative effect from the above arguments would not have changed the outcome of the case.

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810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
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1 8. The Court also finds that there is insufficient evidence in the record to support the assertion  
2 by Defendant that the future damages award was excessive or improperly influenced by passion or  
3 prejudice. The jury did not disregard the evidence or the jury instructions, which is confirmed by the  
4 jury's award of zero for loss of enjoyment of life for both Plaintiffs. The jury also awarded much less  
5 than what the Plaintiffs' asked for in closing arguments. The record supports the jury's award, which  
6 was based on substantial evidence.

7 IL

8 ORDER

9 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that  
10 Defendant's Motion for Remittur and/or New Trial is DENIED.

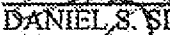
11 IT IS SO ORDERED.

12 DATED this 2 day of July, 2015.

13  
14   
15 DISTRICT JUDGE

JUDGE STEFANY A. MILEY

16 Submitted by:  
SIMON LAW

17   
18 DANIEL S. SIMON, ESQ.  
19 ASHLEY M. FERREL, ESQ.  
20 810 South Casino Center Boulevard  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs

21 Approved as to Form and Content:  
22 ROGERS, MASTERANGELO, CARVALHO & MITCHELL

23 R. KADE BAIRD, ESQ.  
24 CHARLES A. MICHALEK, ESQ.  
25 300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
26 (702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendant

ORIGINAL

*Alvin D. Simon*  
CLERK OF THE COURT

**JDGMNT**  
DANIEL S. SIMON, ESQ.  
Nevada Bar No. 4750  
810 South Casino Center Blvd.  
Las Vegas, Nevada 89101  
(702) 364-1650  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,  
an individual,  
MARIA AVARCA, an individual  
  
Plaintiffs,

Case No.: A667141  
Dept. No.: XXIII

vs.

EVANGELINA ORTEGA, an individual;  
MIRIAM PIZARRO-ORTEGA, an individual  
DOES I through V; inclusive  
and ROE CORPORATIONS I through V,  
inclusive  
  
Defendants.

**JUDGMENT ON JURY VERDICT**

**WHEREAS**, the above-entitled matter came on for trial on the 23rd day of February, 2015, before a jury, and on the 4th day of March, 2015 the jury returned a verdict in favor of the Plaintiff's CHRISTIAN CERVANTES-LOPEZ, individually and against the Defendant MIRIAM PIZARRO-ORTEGA, individually; in the total sum of \$112,930.45 as and for past damages and \$386,480.00 for future damages for a total verdict of \$499,410.45. The jury also returned a verdict in favor of MARIA AVARCA, individually and against the Defendant MIRIAM PIZARRO-ORTEGA, individually, in the total sum of \$77,266.47 as and for past damages and \$145,000.00 for future damages for a total verdict of \$222,266.47.

**IT IS THEREFORE ORDERED THAT** Judgment is hereby entered as of March 11, 2015 and that Plaintiff CHRISTIAN CERVANTES-LOPEZ, individually shall have and recover the sum of \$112,930.45 for past damages, with interest at the legal rate (5.25%) from December 11, 2012 thru March 11, 2015, in the amount of \$13,339.89 and the sum of \$386,480.00 for

The Law Office of Daniel S. Simon  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Disposed After Trial Start
<input type="checkbox"/> Judgment Reached	<input type="checkbox"/> Jury
<input type="checkbox"/> Transferred Before Trial	<input type="checkbox"/> Disposed After Trial Start
<input type="checkbox"/> Other	<input type="checkbox"/> Jury
	<input type="checkbox"/> Disposed After Trial Start
	<input type="checkbox"/> Judgment Reached
	<input type="checkbox"/> Other

1 future damages for a total judgment in the sum of \$512,750.34.

2 **IT IS THEREFORE FURTHER ORDERED THAT** Judgment is hereby entered as of  
3 March 11, 2015 and that Plaintiff MARIA AVARCA, individually shall have and recover the sum  
4 of \$77,266.47 for past damages, with interest at the legal rate (5.25%) from December 11, 2012  
5 thru March 11, 2015, in the amount of \$9,127.08 and the sum of \$145,000.00 for future damages  
6 for a total judgment in the sum of \$231,393.55.

7 **IT IS FURTHER ORDERED** that interest on all of said judgment for CHRISTIAN  
8 CERVANTES LOPEZ will accrue from the date of March 12, 2015, and continue to accrue at the  
9 legal rate until paid in full at the daily rate of \$16.24.

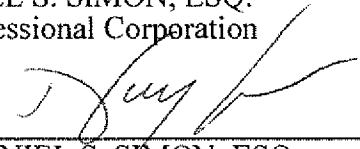
10 **IT IS FURTHER ORDERED** that interest on all of said judgment for MARIA  
11 AVARCA will accrue from the date of March 12, 2015, and continue to accrue at the legal rate  
12 until paid in full at the daily rate of \$11.11.

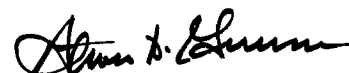
13 **DATED AND DONE** this 11th day of March, 2015.

14  
15  
16   
DISTRICT JUDGE  
JUDGE STEFANY A. MILEY

17 Submitted by:

18 DANIEL S. SIMON, ESQ.  
19 A Professional Corporation

20 By   
21 DANIEL S. SIMON, ESQ.  
22 Nevada Bar #004750  
23 810 South Casino Center Boulevard  
24 Las Vegas, Nevada 89101  
25 Attorney for Plaintiff  
26  
27  
28



CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **SIMON LAW**  
5 810 S. Casino Center Blvd.  
6 Las Vegas, Nevada 89101  
7 Telephone (702) 364-1650  
8 Attorney for Plaintiffs

9  
10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 CHRISTIAN CERVANTES-LOPEZ and  
13 MARIA AVARCA,

14 Plaintiffs,

15 vs.

16 MIRIAM PIZARRO-ORTEGA,

17 Defendant.

Case No.: A667141  
Dept. No.: XXIII

18  
19 **NOTICE OF ENTRY OF JUDGMENT**

20 **PLEASE TAKE NOTICE** that a Judgment on Jury Verdict was duly entered in the above-  
21 entitled matter on the 12<sup>th</sup> day of March, 2015, a copy of which order is attached hereto.

22 Dated this 13<sup>th</sup> day of March, 2015.



23 **DANIEL S. SIMON, ESQ.**

24 Nevada Bar #004750

25 **SIMON LAW**

26 810 South Casino Center Boulevard

27 Las Vegas, Nevada 89101

28 Attorney for Plaintiff

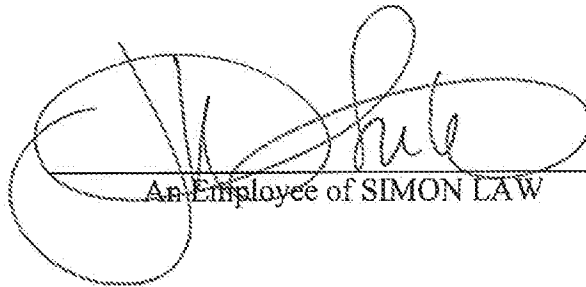
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SIMON LAW  
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Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

CERTIFICATE OF E-SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 13 day of March, 2015, I served the foregoing **NOTICE OF ENTRY OF JUDGMENT** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
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Attorneys for Defendants



An Employee of SIMON LAW

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*Alvin D. Simon*

CLERK OF THE COURT

JDGMNT  
DANIEL S. SIMON, ESQ.  
Nevada Bar No. 4750  
810 South Casino Center Blvd.  
Las Vegas, Nevada 89101  
(702) 364-1650  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,  
an individual,  
MARIA AVARCA, an individual

Plaintiffs,

vs.

EVANGELINA ORTEGA, an individual;  
MIRIAM PIZARRO-ORTEGA, an individual  
DOES I through V; inclusive  
and ROE CORPORATIONS I through V,  
inclusive

Defendants.

Case No.: A667141  
Dept. No.: XXIII

**JUDGMENT ON JURY VERDICT**

WHEREAS, the above-entitled matter came on for trial on the 23rd day of February, 2015, before a jury, and on the 4th day of March, 2015 the jury returned a verdict in favor of the Plaintiff's CHRISTIAN CERVANTES-LOPEZ, individually and against the Defendant MIRIAM PIZARRO-ORTEGA, individually; in the total sum of \$112,930.45 as and for past damages and \$386,480.00 for future damages for a total verdict of \$499,410.45. The jury also returned a verdict in favor of MARIA AVARCA, individually and against the Defendant MIRIAM PIZARRO-ORTEGA, individually, in the total sum of \$77,266.47 as and for past damages and \$145,000.00 for future damages for a total verdict of \$222,266.47.

IT IS THEREFORE ORDERED THAT Judgment is hereby entered as of March 11, 2015 and that Plaintiff CHRISTIAN CERVANTES-LOPEZ, individually shall have and recover the sum of \$112,930.45 for past damages, with interest at the legal rate (5.25%) from December 11, 2012 thru March 11, 2015, in the amount of \$13,339.89 and the sum of \$386,480.00 for

The Law Office of Daniel S. Simon  
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Las Vegas, Nevada 89101  
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<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Disposed After Trial Start
<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Judgment Reached
<input type="checkbox"/> Transferred before trial	<input type="checkbox"/> Jury
	<input type="checkbox"/> Disposed After Trial Start
	<input type="checkbox"/> Verdict Reached
	<input type="checkbox"/> Other

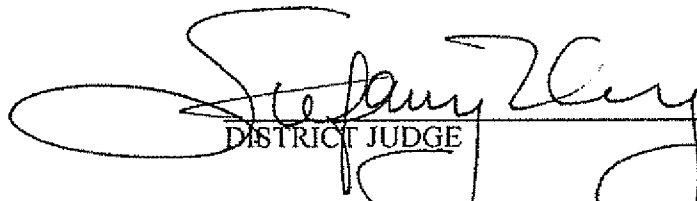
1 future damages for a total judgment in the sum of \$512,750.34.

2 **IT IS THEREFORE FURTHER ORDERED THAT** Judgment is hereby entered as of  
3 March 11, 2015 and that Plaintiff MARIA AVARCA, individually shall have and recover the sum  
4 of \$77,266.47 for past damages, with interest at the legal rate (5.25%) from December 11, 2012  
5 thru March 11, 2015, in the amount of \$9,127.08 and the sum of \$145,000.00 for future damages  
6 for a total judgment in the sum of \$231,393.55.

7 **IT IS FURTHER ORDERED** that interest on all of said judgment for CHRISTIAN  
8 CERVANTES LOPEZ will accrue from the date of March 12, 2015, and continue to accrue at the  
9 legal rate until paid in full at the daily rate of \$16.24.

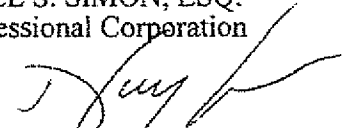
10 **IT IS FURTHER ORDERED** that interest on all of said judgment for MARIA  
11 AVARCA will accrue from the date of March 12, 2015, and continue to accrue at the legal rate  
12 until paid in full at the daily rate of \$11.11.

13 **DATED AND DONE** this 11th day of March, 2015.

14  
15   
16 DISTRICT JUDGE  
17  
18 JUDGE STEFANY A. MILEY

17 Submitted by:

18 DANIEL S. SIMON, ESQ.  
19 A Professional Corporation

20 By   
21 DANIEL S. SIMON, ESQ.  
22 Nevada Bar #004750  
23 810 South Casino Center Boulevard  
24 Las Vegas, Nevada 89101  
25 Attorney for Plaintiff  
26  
27  
28

CLERK OF THE COURT

1 **AMDJDGMNT**  
 2 DANIEL S. SIMON, ESQ.  
 3 Nevada Bar No. 4750  
 4 SIMON LAW  
 5 810 South Casino Center Blvd.  
 6 Las Vegas, Nevada 89101  
 7 (702) 364-1650  
 8 *Attorney for Plaintiff*

9 **DISTRICT COURT**  
 10 **CLARK COUNTY, NEVADA**

11 CHRISTIAN CERVANTES-LOPEZ,  
 12 an individual,

13 MARIA AVARCA, an individual

14 Plaintiffs,

15 vs.

16 EVANGELINA ORTEGA, an individual;  
 17 MIRIAM PIZARRO-ORTEGA, an individual

18 DOES I through V, inclusive  
 19 and ROE CORPORATIONS I through V,  
 20 inclusive

21 Defendants.

Case No.: A667141

Dept. No.: XXIII

22 **AMENDED JUDGMENT ON JURY VERDICT**

23 **WHEREAS**, the above-entitled matter came on for trial on the 23rd day of February, 2015,  
 24 before a jury, and on the 4th day of March, 2015, the jury returned a verdict in favor of the Plaintiff's  
 25 CHRISTIAN CERVANTES-LOPEZ, individually and against the Defendant MIRIAM PIZARRO-  
 26 ORTEGA, individually; in the total sum of \$112,930.45, as and for past damages and \$386,480.00  
 27 for future damages for a total verdict of \$499,410.45. The jury also returned a verdict in favor of  
 28 MARIA AVARCA, individually and against the Defendant MIRIAM PIZARRO-ORTEGA,  
 individually, in the total sum of \$77,266.47, as and for past damages and \$145,000.00, for future  
 damages for a total verdict of \$222,266.47.

Judgment was entered as of March 11, 2015, that Plaintiff CHRISTIAN CERVANTES-  
 LOPEZ, individually shall have and recover the sum of \$112,930.45 for past damages, with interest  
 at the legal rate (5.25%) from December 11, 2012 thru March 11, 2015, in the amount of \$13,339.89

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1 and the sum of \$386,480.00 for future damages for a total judgment in the sum of \$512,750.34.  
2 Additional interest accrued on the total judgment in the amount of \$4,425.10 thru May 11, 2015.

3 Judgment was entered as of March 11, 2015, and that Plaintiff MARIA AVARCA,  
4 individually shall have and recover the sum of \$77,266.47, for past damages, with interest at the legal  
5 rate (5.25%) from December 11, 2012, thru March 11, 2015, in the amount of \$9,127.08 and the sum  
6 of \$145,000.00 for future damages for a total judgment in the sum of \$231,393.55. Additional  
7 interest accrued on the total judgment in the amount of \$1,996.95 thru May 11, 2015.

8 On May1, 2015, the Court granted the Plaintiffs motions for attorneys fees and costs.  
9 Therefore, the Judgment shall be amended as follows:

10 **IT IS HEREBY ORDERED** that Judgment is hereby entered as of May11, 2015, that  
11 Plaintiff CHRISTIAN CERVANTES-LOPEZ, individually shall have and recover the sum of  
12 \$112,930.45 for past damages, with interest at the legal rate (5.25%) from December 11, 2012, thru  
13 March 11, 2015, in the amount of \$13,339.89, and the sum of \$386,480.00, for future damages, and  
14 additional interest accrued that accrued on the total judgment in the amount of \$4,425.10, from March  
15 11, 2015, thru May 11, 2015, as well as attorneys fees in the amount of \$205,100.13, and costs in the  
16 amount of \$12,880.74 (representing 50% of total costs awarded) for a **total judgment in the sum of**  
17 **\$735,156.31.**

18 **IT IS HEREBY ORDERED** that Judgment is hereby entered as of May 11, 2015, and that  
19 Plaintiff MARIA AVARCA, individually shall have and recover the sum of \$77,266.47, for past  
20 damages, with interest at the legal rate (5.25%) from December 11, 2012, thru March 11, 2015, in the  
21 amount of \$9,127.08 and the sum of \$145,000.00, for future damages and additional interest accrued  
22 on the total judgment in the amount of \$1,996.95, from March 11, 2015, thru May 11, 2015, as well  
23 as attorneys fees in the amount of \$92,557.42, and costs in the amount of \$12,880.74 (representing  
24 50% of total costs awarded) for a **total judgment in the sum of \$338,828.66.**

25 **IT IS FURTHER ORDERED** that interest on all of said judgment for CHRISTIAN  
26 CERVANTES LOPEZ will accrue from the date of May 11, 2015, and continue to accrue at the legal  
27 rate until paid in full.  
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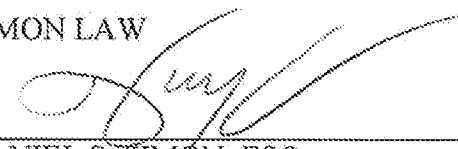
**IT IS FURTHER ORDERED** that interest on all of said judgment for MARIA AVARCA will accrue from the date of May 11, 2015, and continue to accrue at the legal rate until paid in full.

**DATED AND DONE** this 6 day of May, 2015.

  
DISTRICT JUDGE  
JUDGE STEFANY A. MILEY

Submitted by:

SIMON LAW

  
DANIEL S. SIMON, ESQ.  
Nevada Bar No. 4750  
810 South Casino Center Boulevard  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs

  
CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **BENJAMIN J. MILLER, ESQ.**  
5 Nevada Bar #010406  
6 **SIMON LAW**  
7 810 S. Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 Telephone (702) 364-1650  
10 Attorney for Plaintiffs

6 **DISTRICT COURT**  
7 **CLARK COUNTY, NEVADA**

8 CHRISTIAN CERVANTES-LOPEZ and  
9 MARIA AVARCA,

10 Plaintiffs,

11 vs.

12 MIRIAM PIZARRO-ORTEGA,


13 Defendant.

Case No.: A667141  
Dept. No.: XXIII

14 **NOTICE OF ENTRY OF AMENDED JUDGMENT ON JURY VERDICT**

15 **PLEASE TAKE NOTICE** that an Amended Judgment on Jury Verdict was duly entered in  
16 the above-entitled matter on the 7<sup>th</sup> day of May, 2015, a copy of which order is attached hereto.

17 Dated this 8 day of May, 2015.

18 

19 **DANIEL S. SIMON, ESQ.**  
20 Nevada Bar #004750  
21 **BENJAMIN J. MILLER, ESQ.**  
22 Nevada Bar #010406  
23 **SIMON LAW**  
24 810 South Casino Center Boulevard  
25 Las Vegas, Nevada 89101  
26 Attorney for Plaintiff  
27  
28

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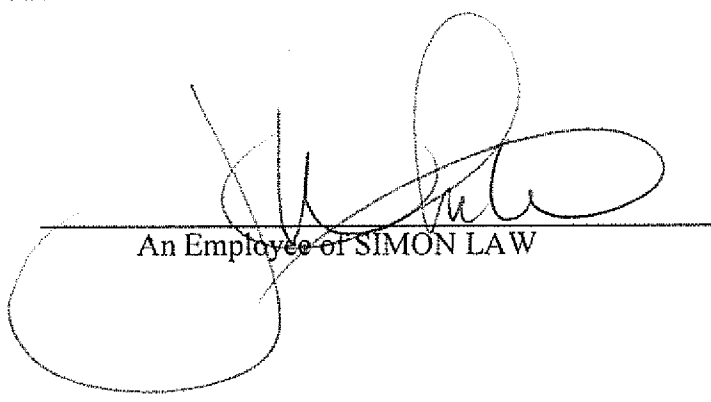
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**CERTIFICATE OF E-SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 2 day of May, 2015, I served the foregoing **NOTICE OF ENTRY OF AMENDED JUDGMENT ON JURY VERDICT** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants



An Employee of SIMON LAW

  
CLERK OF THE COURT

1 AMDJDGMNT  
2 DANIEL S. SIMON, ESQ.  
3 Nevada Bar No. 4750  
4 SIMON LAW  
5 810 South Casino Center Blvd.  
6 Las Vegas, Nevada 89101  
7 (702) 364-1650  
8 *Attorney for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

8 CHRISTIAN CERVANTES-LOPEZ,  
9 an individual,  
10 MARIA AVARCA, an individual  
11 Plaintiffs,

Case No.: A667141  
Dept. No.: XXIII

11 vs.

12 EVANGELINA ORTEGA, an individual;  
13 MIRIAM PIZARRO-ORTEGA, an individual  
14 DOES I through V; inclusive  
15 and ROE CORPORATIONS I through V,  
16 inclusive  
17 Defendants.

**AMENDED JUDGMENT ON JURY VERDICT**

17 **WHEREAS**, the above-entitled matter came on for trial on the 23rd day of February, 2015,  
18 before a jury, and on the 4th day of March, 2015, the jury returned a verdict in favor of the Plaintiffs  
19 CHRISTIAN CERVANTES-LOPEZ, individually and against the Defendant MIRIAM PIZARRO-  
20 ORTEGA, individually; in the total sum of \$112,930.45, as and for past damages and \$386,480.00  
21 for future damages for a total verdict of \$499,410.45. The jury also returned a verdict in favor of  
22 MARIA AVARCA, individually and against the Defendant MIRIAM PIZARRO-ORTEGA,  
23 individually, in the total sum of \$77,266.47, as and for past damages and \$145,000.00, for future  
24 damages for a total verdict of \$222,266.47.

25 Judgment was entered as of March 11, 2015, that Plaintiff CHRISTIAN CERVANTES-  
26 LOPEZ, individually shall have and recover the sum of \$112,930.45 for past damages, with interest  
27 at the legal rate (5.25%) from December 11, 2012 thru March 11, 2015, in the amount of \$13,339.89  
28

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1 and the sum of \$386,480.00 for future damages for a total judgment in the sum of \$512,750.34.  
2 Additional interest accrued on the total judgment in the amount of \$4,425.10 thru May 11, 2015.

3 Judgment was entered as of March 11, 2015, and that Plaintiff MARIA AVARCA,  
4 individually shall have and recover the sum of \$77,266.47, for past damages, with interest at the legal  
5 rate (5.25%) from December 11, 2012, thru March 11, 2015, in the amount of \$9,127.08 and the sum  
6 of \$145,000.00 for future damages for a total judgment in the sum of \$231,393.55. Additional  
7 interest accrued on the total judgment in the amount of \$1,996.95 thru May 11, 2015.

8 On May1, 2015, the Court granted the Plaintiffs motions for attorneys fees and costs.  
9 Therefore, the Judgment shall be amended as follows:

10 **IT IS HEREBY ORDERED** that Judgment is hereby entered as of May11, 2015, that  
11 Plaintiff CHRISTIAN CERVANTES-LOPEZ, individually shall have and recover the sum of  
12 \$112,930.45 for past damages, with interest at the legal rate (5.25%) from December 11, 2012, thru  
13 March 11, 2015, in the amount of \$13,339.89, and the sum of \$386,480.00, for future damages, and  
14 additional interest accrued that accrued on the total judgment in the amount of \$4,425.10, from March  
15 11, 2015, thru May 11, 2015, as well as attorneys fees in the amount of \$205,100.13, and costs in the  
16 amount of \$12,880.74 (representing 50% of total costs awarded) for a **total judgment in the sum of**  
17 **\$735,156.31.**

18 **IT IS HEREBY ORDERED** that Judgment is hereby entered as of May 11, 2015, and that  
19 Plaintiff MARIA AVARCA, individually shall have and recover the sum of \$77,266.47, for past  
20 damages, with interest at the legal rate (5.25%) from December 11, 2012, thru March 11, 2015, in the  
21 amount of \$9,127.08 and the sum of \$145,000.00, for future damages and additional interest accrued  
22 on the total judgment in the amount of \$1,996.95, from March 11, 2015, thru May 11, 2015, as well  
23 as attorneys fees in the amount of \$92,557.42, and costs in the amount of \$12,880.74 (representing  
24 50% of total costs awarded) for a **total judgment in the sum of \$338,828.66.**

25 **IT IS FURTHER ORDERED** that interest on all of said judgment for CHRISTIAN  
26 CERVANTES LOPEZ will accrue from the date of May 11, 2015, and continue to accrue at the legal  
27 rate until paid in full.  
28

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IT IS FURTHER ORDERED that interest on all of said judgment for MARIA AVARCA will accrue from the date of May 11, 2015, and continue to accrue at the legal rate until paid in full.

DATED AND DONE this 6 day of May, 2015.

  
DISTRICT JUDGE

JUDGE STEFANY A. MILEY

Submitted by:

SIMON LAW

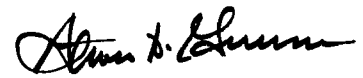
  
DANIEL S. SIMON, ESQ.

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810 South Casino Center Boulevard

Las Vegas, Nevada 89101

Attorneys for Plaintiffs



CLERK OF THE COURT

**ORDR**

DANIEL S. SIMON, ESQ.

Nevada Bar #004750

BENJAMIN J. MILLER, ESQ.

Nevada Bar #010406

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Attorneys for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,

an individual,

MARIA AVARCA, an individual

Plaintiffs,

vs.

EVANGELINA ORTEGA, an individual;

MIRIAM PIZARRO-ORTEGA, an individual

DOES I through V; inclusive

and ROE CORPORATIONS I through V,  
inclusive

Defendants.

Case No.: A667141

Dept. No.: XXIII

**ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEY'S FEES**

THIS MATTER having come on for hearing pursuant to Plaintiffs' Motion for Attorney's Fees, on the 21<sup>st</sup> day of April, with Plaintiffs represented by Daniel S. Simon, Esq., and Ashley M. Ferrel, Esq., of the law firm SIMON LAW, and Defendant represented by Kade Baird, Esq. and Charles Michaleck, Esq., of Rogers, Masterangelo, Carvalho & Mitchell, the Court having reviewed the pleadings and papers on file herein and heard arguments of counsel made at the hearing, and other good cause appearing,

THE COURT HEREBY FINDS:

**I.****FINDINGS OF FACT**

1. On March 4, 2015, the jury found for the Plaintiffs and awarded damages in the amount

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1 of \$499,410.45, for Christian Cervantes-Lopez and \$222,266.47, for Maria Avarca.

2 2. On October 14, 2015, prior to trial, Maria Avarca served an Offer of Judgment in the sum  
3 of \$100,000 on Defendant Miriam Pizarro-Ortega, which was ignored and thereby rejected pursuant  
4 to NRCF 68 and NRS 17.115. Christian Cervantes-Lopez also served an Offer of Judgment in the  
5 sum of \$100,000 on Defendant Miriam Pizarro-Ortega, which was ignored and thereby rejected  
6 pursuant to NRCF 68 and NRS 17.115.

7 3. That the Defendant, Mariam Pizarro-Ortega, by and through counsel, did not act  
8 reasonably in acknowledging the weakness of its defenses.

9 4. Taking into consideration the papers and pleadings on file herein, arguments set forth  
10 at the time of the hearings, as well as the factors set forth in *Beattie v. Thomas*, *Brunzell v. Golden*  
11 *Gate National Bank*, and *Shuette v. Beazer Homes Holdings Corp.*, the Court hereby further adopts  
12 the legal arguments set forth in Plaintiffs' Motion, which is incorporated herein by reference.

13 5. Upon review and application of the *Beattie* factors, the Court hereby finds: (1) Plaintiffs  
14 claims were brought in good faith, as presented by the evidence at trial; (2) Plaintiffs offers of  
15 judgment were reasonable in both timing and amount and served in good faith, as the evidence in this  
16 matter supported a probable verdict in excess of the offers of judgment and served after discovery in  
17 the matter closed, but prior to trial; (3) Defendant's decision to reject the offer and proceed to trial  
18 was unreasonable based on the evidence that liability was conceded and all of Plaintiff's treating  
19 physicians had already supported the case in their depositions prior to trial and the Plaintiffs' did not  
20 have any prior medical history, as well as the lack of opinion by the Defense expert Dr. Duke, who  
21 could not tell the jury the cause of the ongoing symptoms of both Plaintiffs; and (4) the fees sought  
22 are reasonable and justified in this matter as a contingency fee is nationally recognized and also  
23 approved by the State Bar of Nevada as a reasonable fee, as well as pursuant to the *Brunzell* factors,  
24 as set forth in Plaintiffs' Motion.

25 6. Pursuant to *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349(1969), the Court  
26 finds that Mr. Simon and his firm demonstrated the highest of qualities as an advocate supporting the  
27 award of attorney's fees, including, but not limited to, his ability, his training, education, experience,  
28 professional standing and skill. The court also considered: (1) the character of the work to be done:

1 its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the  
2 prominence and character of the parties where they affect the importance of the litigation; (2) the  
3 work actually performed by the lawyer: the skill, time and attention given to the work; and (3) the  
4 result: whether the attorney was successful and what benefits were derived. Here, there was  
5 substantial benefit derived from the quality of the work and advocacy.

6 7. On March 11, 2015, the Court ordered a Judgment on the Jury Verdict for Christian  
7 Cervantes-Lopez in the amount of \$512,750.34. The Court also ordered Judgment on the Jury Verdict  
8 for Maria Avarca in the amount of \$231,393.55.

9 8. That 100% of the attorneys fees were incurred and earned at the time of the verdict  
10 returned by the jury. Pursuant to *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 124 P.3d  
11 530 (2005), contingent fees are fully recoverable only tempered by reasonableness. Here, the Court  
12 finds that the contingency fees earned were reasonable.

13 9. That plaintiff shall have and recover the sum of TWENTY FIVE THOUSAND SEVEN  
14 HUNDRED SIXTY ONE AND FORTY EIGHT CENTS (\$25,761.48) as and for costs incurred  
15 by SIMON and prior counsel, Kristian Lavigne, Esq. pursuant to the memorandum of costs previously  
16 filed. The Defense did not file a motion to re-tax the costs and did not oppose the amount of costs  
17 contained in the motion for attorneys fees and costs. The Court finds the costs reasonable and  
18 necessary in the prosecution of this case.

## 19 II.

### 20 CONCLUSIONS OF LAW

21 1. NRS 17.115 states that a party who rejects an offer of judgment, and fails to obtain a more  
22 favorable judgment, may be ordered to pay interest on the judgment for the period from the date  
23 of service of the offer to the date of entry of the judgment and reasonable attorney's fees incurred  
24 by the party who made the offer for the period from the date of service of the offer to the date  
25 of entry of the judgment.

26 2. Similarly, NRCP 68(f) provides that, if the offeree rejects an offer and fails to obtain a more  
27 favorable judgment, the offeree shall pay the offeror's reasonable attorney's fees incurred by the  
28 offeror from the time of the offer.

1 3. The Nevada Supreme Court, in *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983), set  
2 forth four (4) factors to be considered in allowing fees pursuant to NRCP 68. Those factors include:

3 (1) Whether the claim was brought in good faith; (2) Whether the Offer of Judgment was  
4 reasonable and in good faith in both its timing and amount; (3) Whether the decision to reject  
5 the offer and proceed to trial was reasonable; and (4) Whether the fees sought are reasonable  
6 and justified in amount.

7 4. In Nevada, the method upon which a reasonable fee is determined is subject to the  
8 discretion of the court, and not limited to one specific approach; its analysis may begin with any  
9 method rationally designed to calculate a reasonable amount, including those based on contingency  
10 fee. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 124 P.3d 530 (2005).

11 5. In *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349(1969), the Nevada Supreme  
12 Court stated that the “basic elements” to be considered in determining the reasonable value of an  
13 attorney’s services may be classified pursuant to four (4) factors: (1) the qualities of the advocate: his  
14 ability, his training, education, experience, professional standing and skill; (2) the character of the  
15 work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility  
16 imposed and the prominence and character of the parties where they affect the importance of the  
17 litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the  
18 work; (4) the result: whether the attorney was successful and what benefits were derived.

19 6. Therefore, taking into consideration the papers and pleadings on file herein, arguments set  
20 forth at the time of the hearings, as well as the factors set forth in *Beattie v. Thomas*, *Brunzell v.*  
21 *Golden Gate National Bank*, and *Shuette v. Beazer Homes Holdings Corp.*, the Court hereby further  
22 adopts the legal arguments set forth in Plaintiffs’ Motion and orders attorneys fees.

23 7. Pursuant to NRS 18.005, the Plaintiff’s costs are recoverable.

24 **III.**

25 **ORDER**

26 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that  
27 Plaintiffs’ Motion for Attorneys Fees is GRANTED and Christian Cervantes-Lopez shall have and  
28 recover an additional sum of TWO HUNDRED FIVE THOUSAND ONE HUNDRED AND 13/100

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Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 DOLLARS (\$205,100.13) and Maria Avarca shall have and recover an additional sum of  
2 NINETY TWO THOUSAND FIVE HUNDRED FIFTY SEVEN AND 42/100 DOLLARS  
3 (\$92,557.42), which were incurred via the Contingency Fee Agreement Executed between the  
4 Plaintiff's and The Law Office of Daniel S. Simon.

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff shall  
6 have and recover the sum of TWENTY FIVE THOUSAND SEVEN HUNDRED SIXTY ONE AND  
7 FORTY EIGHT CENTS (\$25,761.48) as and for costs incurred by SIMON LAW and prior counsel,  
8 Kristian Lavigne, Esq. pursuant to the memorandum of costs.

9 DATED this 6 day of May, 2015.


10  
11   
12 DISTRICT JUDGE

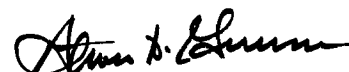
ACB

JUDGE STEFANY A. MILEY

13 Submitted by:

14 SIMON LAW

15   
16 DANIEL S. SIMON, ESQ.  
17 Nevada Bar No. 4750  
18 810 South Casino Center Boulevard  
19 Las Vegas, Nevada 89101  
20 Attorneys for Plaintiffs  
21  
22  
23  
24  
25  
26  
27  
28



CLERK OF THE COURT

1 **NEOJ**  
2 **DANIEL S. SIMON, ESQ.**  
3 Nevada Bar #004750  
4 **BENJAMIN J. MILLER, ESQ.**  
5 Nevada Bar #010406  
6 **SIMON LAW**  
7 810 S. Casino Center Blvd.  
8 Las Vegas, Nevada 89101  
9 Telephone (702) 364-1650  
10 Attorney for Plaintiffs

11  
12 **DISTRICT COURT**  
13  
14 **CLARK COUNTY, NEVADA**

15 CHRISTIAN CERVANTES-LOPEZ and  
16 MARIA AVARCA,

17 Plaintiffs,

18 vs.

19 MIRIAM PIZARRO-ORTEGA,

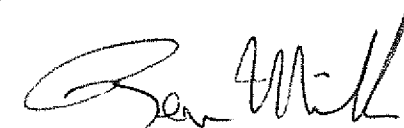
20 Defendant.

Case No.: A667141  
Dept. No.: XXIII

21 **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S**  
22 **MOTION FOR ATTORNEY'S FEES**

23 **PLEASE TAKE NOTICE** that an Order Granting Plaintiffs Motion for Attorney Fees was  
24 duly entered in the above-entitled matter on the 7<sup>th</sup> day of May, 2015, a copy of which order is  
25 attached hereto.

26 Dated this 8 day of May, 2015.



27 **DANIEL S. SIMON, ESQ.**

28 Nevada Bar #004750

**BENJAMIN J. MILLER, ESQ.**

Nevada Bar #010406

**SIMON LAW**

810 South Casino Center Boulevard

Las Vegas, Nevada 89101

Attorney for Plaintiff

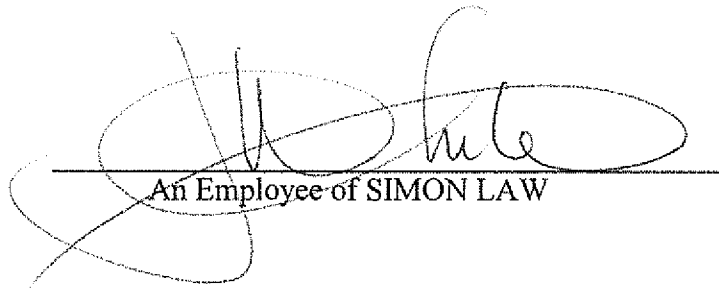
SIMON LAW  
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Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

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Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

**CERTIFICATE OF E-SERVICE**

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 04 day of May, 2015, I served the foregoing **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFFS MOTION FOR ATTORNEYS FEES** on the following parties by electronic transmission through the Wiznet system:

Stephen Rogers, Esq.  
Kade Baird, Esq.  
Rogers, Masterangelo, Carvalho & Mitchell  
300 S. Fourth Street, Suite 710  
Las Vegas, NV 89101  
(702) 383-3400  
Fax (702) 384-1460  
Attorneys for Defendants



An Employee of SIMON LAW

  
CLERK OF THE COURT

**ORDER**  
DANIEL S. SIMON, ESQ.  
Nevada Bar #004750  
BENJAMIN J. MILLER, ESQ.  
Nevada Bar #010406  
SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
Telephone (702) 364-1650  
Fax (702) 364-1655  
[dan@simonlawlv.com](mailto:dan@simonlawlv.com)  
Attorneys for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CHRISTIAN CERVANTES-LOPEZ,  
an individual,  
MARIA AVARCA, an individual

Plaintiffs,

vs.

EVANGELINA ORTEGA, an individual;  
MIRIAM PIZARRO-ORTEGA, an individual  
DOES I through V; inclusive  
and ROE CORPORATIONS I through V,  
inclusive.

Defendants.

Case No.: A667141  
Dept. No.: XXIII

**ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEY'S FEES**

THIS MATTER having come on for hearing pursuant to Plaintiffs' Motion for Attorney's Fees, on the 21<sup>st</sup> day of April, with Plaintiffs represented by Daniel S. Simon, Esq., and Ashley M. Ferrel, Esq., of the law firm SIMON LAW, and Defendant represented by Kade Baird, Esq. and Charles Michaleck, Esq., of Rogers, Masterangelo, Carvalho & Mitchell, the Court having reviewed the pleadings and papers on file herein and heard arguments of counsel made at the hearing, and other good cause appearing,

THE COURT HEREBY FINDS:

**I.**

**FINDINGS OF FACT**

1. On March 4, 2015, the jury found for the Plaintiffs and awarded damages in the amount

SIMON LAW  
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Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 of \$499,410.45, for Christian Cervantes-Lopez and \$222,266.47, for Maria Avarca.

2 2. On October 14, 2015, prior to trial, Maria Avarca served an Offer of Judgment in the sum  
3 of \$100,000 on Defendant Miriam Pizarro-Ortega, which was ignored and thereby rejected pursuant  
4 to NRCP 68 and NRS 17.115. Christian Cervantes-Lopez also served an Offer of Judgment in the  
5 sum of \$100,000 on Defendant Miriam Pizarro-Ortega, which was ignored and thereby rejected  
6 pursuant to NRCP 68 and NRS 17.115.

7 3. That the Defendant, Mariam Pizarro-Ortega, by and through counsel, did not act  
8 reasonably in acknowledging the weakness of its defenses.

9 4. Taking into consideration the papers and pleadings on file herein, arguments set forth  
10 at the time of the hearings, as well as the factors set forth in *Beattie v. Thomas*, *Brunzell v. Golden*  
11 *Gate National Bank*, and *Shuette v. Beazer Homes Holdings Corp.*, the Court hereby further adopts  
12 the legal arguments set forth in Plaintiffs' Motion, which is incorporated herein by reference.

13 5. Upon review and application of the *Beattie* factors, the Court hereby finds: (1) Plaintiffs  
14 claims were brought in good faith, as presented by the evidence at trial; (2) Plaintiffs offers of  
15 judgment were reasonable in both timing and amount and served in good faith, as the evidence in this  
16 matter supported a probable verdict in excess of the offers of judgment and served after discovery in  
17 the matter closed, but prior to trial; (3) Defendant's decision to reject the offer and proceed to trial  
18 was unreasonable based on the evidence that liability was conceded and all of Plaintiff's treating  
19 physicians had already supported the case in their depositions prior to trial and the Plaintiffs' did not  
20 have any prior medical history, as well as the lack of opinion by the Defense expert Dr. Duke, who  
21 could not tell the jury the cause of the ongoing symptoms of both Plaintiffs; and (4) the fees sought  
22 are reasonable and justified in this matter as a contingency fee is nationally recognized and also  
23 approved by the State Bar of Nevada as a reasonable fee, as well as pursuant to the *Brunzell* factors,  
24 as set forth in Plaintiffs' Motion.

25 6. Pursuant to *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349(1969), the Court  
26 finds that Mr. Simon and his firm demonstrated the highest of qualities as an advocate supporting the  
27 award of attorney's fees, including, but not limited to, his ability, his training, education, experience,  
28 professional standing and skill. The court also considered: (1) the character of the work to be done:



1 its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the  
2 prominence and character of the parties where they affect the importance of the litigation; (2) the  
3 work actually performed by the lawyer: the skill, time and attention given to the work; and (3) the  
4 result: whether the attorney was successful and what benefits were derived. Here, there was  
5 substantial benefit derived from the quality of the work and advocacy.

6 7. On March 11, 2015, the Court ordered a Judgment on the Jury Verdict for Christian  
7 Cervantes-Lopez in the amount of \$512,750.34. The Court also ordered Judgment on the Jury Verdict  
8 for Maria Avarca in the amount of \$231,393.55.

9 8. That 100% of the attorneys fees were incurred and earned at the time of the verdict  
10 returned by the jury. Pursuant to *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 124 P.3d  
11 530 (2005), contingent fees are fully recoverable only tempered by reasonableness. Here, the Court  
12 finds that the contingency fees earned were reasonable.

13 9. That plaintiff shall have and recover the sum of TWENTY FIVE THOUSAND SEVEN  
14 HUNDRED SIXTY ONE AND FORTY EIGHT CENTS (\$25,761.48) as and for costs incurred  
15 by SIMON and prior counsel, Kristian Lavigne, Esq. pursuant to the memorandum of costs previously  
16 filed. The Defense did not file a motion to re-tax the costs and did not oppose the amount of costs  
17 contained in the motion for attorneys fees and costs. The Court finds the costs reasonable and  
18 necessary in the prosecution of this case.

19 II.

20 CONCLUSIONS OF LAW

21 1. NRS 17.115 states that a party who rejects an offer of judgment, and fails to obtain a more  
22 favorable judgment, may be ordered to pay interest on the judgment for the period from the date  
23 of service of the offer to the date of entry of the judgment and reasonable attorney's fees incurred  
24 by the party who made the offer for the period from the date of service of the offer to the date  
25 of entry of the judgment.

26 2. Similarly, NRCP 68(f) provides that, if the offeree rejects an offer and fails to obtain a more  
27 favorable judgment, the offeree shall pay the offeror's reasonable attorney's fees incurred by the  
28 offeror from the time of the offer.

1 3. The Nevada Supreme Court, in *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983), set  
2 forth four (4) factors to be considered in allowing fees pursuant to NRCP 68. Those factors include:  
3 (1) Whether the claim was brought in good faith; (2) Whether the Offer of Judgment was  
4 reasonable and in good faith in both its timing and amount; (3) Whether the decision to reject  
5 the offer and proceed to trial was reasonable; and (4) Whether the fees sought are reasonable  
6 and justified in amount.

7 4. In Nevada, the method upon which a reasonable fee is determined is subject to the  
8 discretion of the court, and not limited to one specific approach; its analysis may begin with any  
9 method rationally designed to calculate a reasonable amount, including those based on contingency  
10 fee. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 124 P.3d 530 (2005).

11 5. In *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349(1969), the Nevada Supreme  
12 Court stated that the "basic elements" to be considered in determining the reasonable value of an  
13 attorney's services may be classified pursuant to four (4) factors: (1) the qualities of the advocate: his  
14 ability, his training, education, experience, professional standing and skill; (2) the character of the  
15 work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility  
16 imposed and the prominence and character of the parties where they affect the importance of the  
17 litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the  
18 work; (4) the result: whether the attorney was successful and what benefits were derived.

19 6. Therefore, taking into consideration the papers and pleadings on file herein, arguments set  
20 forth at the time of the hearings, as well as the factors set forth in *Beattie v. Thomas*, *Brunzell v.*  
21 *Golden Gate National Bank*, and *Shuette v. Beazer Homes Holdings Corp.*, the Court hereby further  
22 adopts the legal arguments set forth in Plaintiffs' Motion and orders attorneys fees.

23 7. Pursuant to NRS 18.005, the Plaintiff's costs are recoverable.

24 **III.**

25 **ORDER**

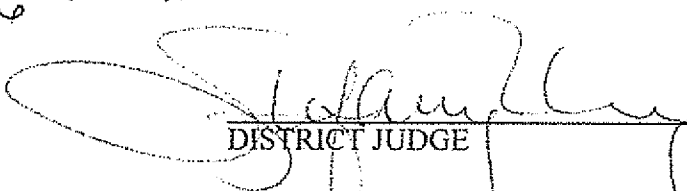
26 ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that  
27 Plaintiffs' Motion for Attorneys Fees is GRANTED and Christian Cervantes-Lopez shall have and  
28 recover an additional sum of TWO HUNDRED FIVE THOUSAND ONE HUNDRED AND 13/100

SIMON LAW  
810 S. Casino Center Blvd.  
Las Vegas, Nevada 89101  
702-364-1650 Fax: 702-364-1655

1 DOLLARS (\$205,100.13) and Maria Avarca shall have and recover an additional sum of  
2 NINETY TWO THOUSAND FIVE HUNDRED FIFTY SEVEN AND 42/100 DOLLARS  
3 (\$92,557.42), which were incurred via the Contingency Fee Agreement Executed between the  
4 Plaintiff's and The Law Office of Daniel S. Simon.

5 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff shall  
6 have and recover the sum of TWENTY FIVE THOUSAND SEVEN HUNDRED SIXTY ONE AND  
7 FORTY EIGHT CENTS (\$25,761.48) as and for costs incurred by SIMON LAW and prior counsel,  
8 Kristian Lavigne, Esq. pursuant to the memorandum of costs.

9 DATED this 6 day of May, 2015.

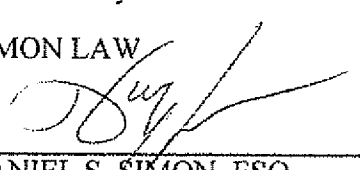
10  
11   
12 DISTRICT JUDGE

ACB

JUDGE STEFANY A. MILEY

13 Submitted by:

14 SIMON LAW

15   
16 DANIEL S. SIMON, ESQ.  
17 Nevada Bar No. 4750  
810 South Casino Center Boulevard  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto****COURT MINUTES****October 14, 2014**

A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

<b>October 14, 2014</b>	<b>9:30 AM</b>	<b>All Pending Motions</b>	<b>Defendant's Motion in Limine #1: Omnibus; Defendant's Motion in Limine #2 To Prevent Plaintiff from Introducing Future Damages at Trial; Defendant's Motion in Limine #3 to Preclude Plaintiff from Recovery of Excessive Medical Bills; Defendant's Motion in Limine #4 to Limit the Testimony of Plaintiff's Treating Physicians; Defendant's Motion in Limine #5 Enforcing the Abolition of the Treating Physician Rule; Defendant's Motion in Limine #6 to Prevent Plaintiff from Arguing "Responsibility Avoidance"; Defendant's Motion in Limine #7 to Preclude Questions Regarding Verdict</b>
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**Amounts During  
Voir Dire;  
Defendant's Motion  
in Limine #8 to  
Exclude Evidence of  
Damages Not  
Presented Under a  
Computation of  
Damages;  
Defendant's Motion  
in Limine #9 to  
Prohibit Improper  
Jury Questionnaire  
and/or Voir Dire;  
Plaintiffs Motions in  
Limine Nos. 1  
through 9**

**HEARD BY:** Miley, Stefany

**COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Baird, Robert K.	Attorney
	MILLER, BEN	Attorney

**JOURNAL ENTRIES**

- Defendants' Motion in Limine #1: Omnibus: A - Preclude Duplicative and Cumulative Evidence. Argument by Mr. Baird. Mr. Miller believed motion to be overbroad noting treatment of Plaintiffs are not going to cumulative. Mr. Baird stated there are many witnesses and noted it will not keep them from being cumulative. Court pointed out it might beneficial to bring forward closer to date of trial and ORDERED, motion DENIED; B - Plaintiff is Not Permitted to Offer Cumulative Evidence Pursuant to NRS 48.035(2) from treating physicians: COURT ORDERED, motion DENIED; C - Plaintiff Cannot Prohibit Argument Regarding Excessive Damages Sought: Argument by Mr. Baird. Court stated it disagreed with counsel. Further argument by Mr. Baird noting Plaintiffs are not bringing in experts on general damages and stated it would encourage jury to decide by way of sympathy. Statement by the Court and noted counsel may argue case's worth. Further argument by Mr. Baird. Mr. Miller noted arguments are to be what evidence is given at trial and argued inappropriateness of motion. COURT ORDERED, motion DENIED; F - Plaintiff Should Not Make

Comments About Defendants' Insurance Coverage: Arguments by counsel regarding liens and collateral source. COURT ORDERED, motion DENIED as doctors cannot mention insurance and it will not allow medical liens to come in at trial; Defendants' Motion in Limine #2 to Prevent Plaintiff From Introducing Future Damages at Trial: Mr. Baird advised no expert testimony had been disclosed regarding future damages, therefore, Plaintiffs should not be allowed to introduce at trial and stated they believe this is trial by ambush as they do not know what Plaintiffs were going to request. Court inquired of Mr. Miller as to what they were going to have treating physician testify to. Mr. Miller pointed out all physicians had been disclosed, none being experts, noted defense had deposed all physicians and advised physicians would testify as to future medical and treatment. Statement by the Court. Mr. Miller advised all are treating physicians and would testify as to care. Arguments by counsel regarding future surgeries. Mr. Baird advised problem is with value and noted changing costs thus an Economist would be needed. Mr. Miller advised they are only seeking present day value and stated they would not be doing anything else. Further arguments by counsel. Court pointed out surgeries would not be on-going, witness could testify and be cross examined. COURT ORDERED, motion DENIED, however, can be revisited at trial; Defendants' Motion in Limine #3 to Preclude Plaintiff From Recovery of Excessive Medical Bills: Mr. Baird inquired how Plaintiffs can claim damages that had not occurred and charges which the medical provider never had any hope of receiving for their services. Mr. Baird then advised Defendants did have Tammy Rockhold, a nurse who does analysis and could testify as to what are reasonable costs. Court advised it read motion differently and noted issue of qualifications of that individual giving testimony. Mr. Baird advised nurse had been qualified and pointed out physicians having medical billers, thus they do not have knowledge of reasonable costs. Mr. Miller advised defense is requesting Court make a general decision as to all of the physicians which makes this motion overbroad. Mr. Miller noted it is up to the Court and jury if they agree fee are reasonable and stated it appears Defendants are going into collateral source. Further argument by Mr. Baird noting Hallmark standard should be applied. Mr. Miller argued counsel is extending standard beyond its reach. Upon Court's inquiry, Mr. Baird stated treating physicians giving their opinions on their costs being reasonable is highly prejudicial. Court stated it will allow treating physicians to testify as to their billing and ORDERED, motion DENIED; Defendants' Motion in Limine #4 to Limit the Testimony of Plaintiffs' Treating Physicians: Mr. Baird motion is similar to motion #3 and argued Palms case noting need for foundation. Mr. Miller stated his confusion as to what defense wanted to limit and believed motion to be vague and overbroad. Court stated Rodriguez case is clear, believes it is appropriate and ORDERED, motion GRANTED with testimony limited based upon restrictions; Defendants Motion in Limine #5 Enforcing the Abolition of the Treating Physician Rule: Mr. Baird argued jury should not be given deference and believed they be told they are all doctors without naming specialties. Argument by Mr. Miller noting defense has expert who did not give treatment to Plaintiffs and stated Defendants are attempting to misapply the rule. Further arguments by counsel. Court stated case is clear, noted parties can argued factors and pointed out it is fair game to bring out expert did not treat. Arguments by Mr. Baird advising expert had examined Plaintiffs. Mr. Miller pointed out expert had been hired by defense. Further arguments by counsel. Court stated its findings and ORDERED, motion DENIED; Defendants' Motion in Limine #6 to prevent Plaintiffs from Arguing "Responsibility Avoidance": Mr. Baird argued this is calculated to inflame the jury and believes it should be disallowed as prejudicial. Mr. Miller advised liability is still on the table and believes they

should be allowed to argue this issue at trial if Defendants contest liability. Mr. Baird advised there will be no responsibility until judgment, stated they cannot say clients are avoiding liability only that they are at fault. COURT ORDERED, motion GRANTED; Defendants' Motion in Limine #7 to preclude Questions Regarding Verdict Amounts During Voir Dire: Mr. Baird argued jury should not be given numbers in order to see if they are bias as jury should not be conditioned. Argument by Mr. Miller noting they could inquire of possible six figure amount, however, not give actual amount to the jury. Further argument by Mr. Baird. COURT ORDERED, motion GRANTED; Defendants' Motion in Limine #8 to Exclude Evidence of Damages Not Presented Under a Computation of Damages: Mr. Baird argued this information had not been properly disclosed thus it should not be presented at trial. Mr. Miller did not disagree. Court pointed out only information disclosed during discovery may be used at time of trial. Statement by Mr. Baird. Mr. Miller argued they were able to supplement bills and records up to 30 days prior trial. Mr. Baird stated he understood in regards to new treatment, however, not to bills from 2012. Further arguments by counsel. Mr. Miller noted Court has discretion under 16.1, pointed out his firm did not have this case from the beginning and believed Defendants had been provided all bills and summary from said time. COURT ORDERED, motion DENIED; Defendants' Motion in Limine #9 to Prohibit Improper Jury Questionnaire and/or Voir Dire: Mr. Baird stated motion might be rendered moot by Court's other rulings. Mr. Miller agreed. COURT ORDERED, motion GRANTED; Plaintiffs' Motions in Limine Nos. 1 Through 9: Court advised Nos. 5 - Reference to Taxation on Any Award and 6 - Reference to Motions Filed are GRANTED with no opposition by defense; 1 - Reference to Secondary Gain: Argument by Mr. Miller. Mr. Baird argued noting they had not seen or heard malingerer and believed it goes to bias. Further argument by Mr. Miller noting positive and negative and stated this is highly prejudicial as it is not based on any evidence in the case. Further argued by Mr. Baird. COURT ORDERED, motion GRANTED; 2 - Reference to Aches, Pains or Complaints Prior to the Subject Accident - Statement by Mr. Baird. COURT ORDERED, motion DENIED; 3 - Reference to Liens or Other Collateral Sources: Court stated it would not allow and ORDERED, motion DENIED; 4 - Reference that Plaintiffs are Asking for an Amount Greater Than They Expect to be Awarded: Court advised matter already discussed and ORDERED, motion GRANTED; - 7 - Reference to Some Other Traumatic Event: COURT ORDERED, motion DENIED; 8 - Reference to Prior Conditions, Preexisting Medical History, Etc.; Court stated its findings and ORDERED, motion DENIED; 9 - Motion to Exclude Dr. Duke: Argument by Mr. Miller noting bias being inseparable from doctor's opinions and requested doctor be limited with opinions as to secondary gain. Mr. Baird argued doctor has reviewed all recorders and examined Plaintiffs and believes doctor should not be limited as he is the only one with representations. Court stated it would not exclude, stated doctor can testify as to records, treatments and bills. Court inquired how it came out in deposition. Argument by counsel. Colloquy regarding malingerer. Argument by Mr. Baird regarding medical probability. Mr. Miller argued unfairness as there had been no evidence, stated doctor only wants to add to his opinions and noted there is no foundation. Further argument by Mr. Baird noting secondary gain is in doctor's reports. Further arguments by counsel. Court stated it would not allow argument regarding secondary gain as it believes it be prejudicial, however, it will allow doctor to testify as to opinions on treatment and ORDERED, motion DENIED IN PART/GRANTED IN PART. Colloquy regarding trial readiness and schedule. JEA advised trial is #4 in the Court's trial stack.





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**October 28, 2014**

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A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

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**October 28, 2014      9:30 AM      Calendar Call**

**HEARD BY:** Miley, Stefany      **COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

**PRESENT:**      Baird, Robert K.      Attorney  
MILLER, BEN      Attorney

**JOURNAL ENTRIES**

- Parties advised ready for trial and trial length of 4-5 days. COURT ORDERED, trial date VACATED and RESET within current trial stack.

11-12-14 1:00 PM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**February 03, 2015**

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A-12-667141-C	Christian Cervantes-Lopez, Plaintiff(s) vs. Evangelina Ortega, Defendant(s)
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<b>February 03, 2015</b>	<b>9:30 AM</b>	<b>All Pending Motions</b>	<b>Calendar Call; Plaintiffs Motion in Limine Nos. 10 and for Reconsideration of Motion in Limine No. 9 Due to New Findings by the Discovery Commissioner Regarding Dr. Derek Duke on Order Shortening Time</b>
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**HEARD BY:** Miley, Stefany

**COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Baird, Robert K. MILLER, BEN Simon, Daniel S., ESQ	Attorney Attorney Attorney
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**JOURNAL ENTRIES**

- Court advised it had just received Defendant's Opposition. Mr. Simon advised they had filed a Reply and argued they had limited Dr. Duke's testimony. Counsel then argued doctor could not give reliable testimony and believed doctor is bias regarding doctors would had treated the Plaintiff as doctor could not keep his bias out of his report. Further argument by Mr. Simon noting doctor stated he did not know why they were in pain, however, believed it was not from this accident. Argument

by Mr. Baird stating Plaintiff's claim of doctor's bias is untrue and stated if doctor's report was reviewed, it was no way inflammatory. Counsel then noted there is no evidence of traumatic injury and stated doctor noted there are huge gaps in treatment which is not bias or inflammatory. Additional argument by Mr. Baird regarding alternative theories and secondary gain. COURT ORDERED, Motion in Limine #9 is DENIED and noted it would be fair game at cross examination and Secondary Gain will STAND. Mr. Simon advised they did not have Defendant's photographs or list of property estimates. Court noted discovery is closed and inquired what was being done as to the property. Mr. Baird advised he could not find his client's estimate on the car. Counsel then advised they do not have any new photographs and stated they had no plans to produce new photographs. Argument by Mr. Simon. Colloquy regarding Interrogatories. Argument by Mr. Baird noting they were not planning on making low impact argument and stated no evidence that photographs were taken or property estimate done. Counsel further stated they were unsure their client still have the car, noted Defendant resided in Colorado and advised he would contact insurance company to follow to see if there was anything overlooked. Mr. Simon stated they were not accusing counsel. Mr. Baird suggested an affidavit from insurance adjuster. COURT ORDERED, Motion in Limine #10 is DENIED as there is no evidence of exploitation, parties are limited to items turn over during discovery. Argument by Mr. Simon regarding video received last week which had never been disclosed and noted it was past discovery cutoff. Mr. Baird argued video was produced in December 2015, stated it had been received from insurance company and noted they had inquired what he wanted to do with surveillance video. COURT ORDERED, it would not be allowed in during trial. Colloquy regarding trial setting. Mr. Baird to prepare order and provide to opposing counsel for review prior to submitting to the Court for signature.

02-23-15 1:00 PM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**February 23, 2015**

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A-12-667141-C	Christian Cervantes-Lopez, Plaintiff(s) vs. Evangeline Ortega, Defendant(s)
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**February 23, 2015      1:00 PM      Jury Trial**

**HEARD BY:** Miley, Stefany      **COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- POTENTIAL JURY PANEL PRESENT. Roll taken. CONFERENCE AT THE BENCH. Voir Dire began. OUTSIDE THE PRESENCE OF POTENTIAL JURY PANEL. POTENTIAL JURY PANEL PRESENT. Voir Dire continued. CONFERENCE AT THE BENCH. Voir Dire continued. CONFERENCE AT THE BENCH. Voir Dire continued. CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF POTENTIAL JURY PANEL. Arguments by counsel regarding Challenges for Cause. Mr. Michalek argued as to Plaintiff's voir dire questions referred to Motion in Limine #9. Arguments by counsel. Court noted learning curve of the jury and whether they can follow burden of proof and the law. Mr. Michalek inquired of verdict amounts. Court stated it had reviewed the minute order containing its ruling and noted it did not allow "what would you give" as a tentative ruling. Mr. Simon advised they had just received photographs of scene from North Las Vegas and stated they were turned over immediately to the defense. Further arguments by counsel. Evening recess.

**A-12-667141-C**

02-24-15 1:00 PM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Negligence - Auto

# COURT MINUTES

February 24, 2015

A-12-667141-C Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

**February 24, 2015      1:00 PM      Jury Trial**

**HEARD BY:** Miley, Stefany

COURTROOM: RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Pizarro-Ortega, Miriam	Defendant
	Simon, Daniel S., ESQ	Attorney

## JOURNAL ENTRIES

- Spanish Interpreter Lorena Pike present. OUTSIDE THE PRESENCE OF POTENTIAL JURY PANEL. Mr. Simon argued regarding photographs obtained from North Las Vegas and understood they were produced after discovery cut off, however, all of the parties had access to said photographs. Mr. Baird noted all parties had signed the order, stated Plaintiff had three years to obtain the photographs and inquired of probative value as Defendant had already admitted fault. Mr. Baird noted they had no biomechanical experts in this case. Court noted it was not a huge accident and inquired of Defendant's position. Mr. Baird not photographs did not show injury and if it photographs were allowed in, they should be able to play surveillance video. Argument by Mr. Simon. Colloquy regarding police report and photographs. Mr. Baird believed this trial to be by ambush as they do not see material fact and noted they have no repair estimate as the vehicle has been totaled out by insurance company. Mr. Simon pointed out they did not have photographs of both vehicle until they received the photographs from North Las Vegas. Further arguments by

counsel. Court stated it would allow photographs, noted they were not a surprise to insurance company as an inspection was done and pointed out the Plaintiff requested the police report to which to photographs were not produced at the same time. Further arguments by counsel. POTENTIAL JURY PANEL PRESENT. Voir dire continued. CONFERENCE AT THE BENCH. Voir dire continued. CONFERENCE AT THE BENCH. Voir dire continued. CONFERENCE AT THE BENCH. Voir Dire continued. OUTSIDE THE PRESENCE OF POTENTIAL JURY PANEL. Mr. Michalek argued insurance issue had been raised by Mr. Simon during voir dire questions and moved for a mistrial. Arguments by counsel. Court stated its findings and ORDERED, request for mistrial is DENIED. POTENTIAL JURY PANEL PRESENT. Voir dire continued. CONFERENCE AT THE BENCH. Peremptory Challenges exercised. Jury SELECTED and SWORN. Court instructed the jury. CONFERENCE AT THE BENCH. Opening Statement by Mr. Simon. CONFERENCE AT THE BENCH. Open statement continued. CONFERENCE AT THE BENCH. Opening statement continued. CONFERENCE AT THE BENCH. Opening statement continued. CONFERENCE AT THE BENCH. Opening statement continued. CONFERENCE AT THE BENCH. Opening statement continued. CONFERENCE AT THE BENCH. Opening statement continued. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding objections during opening statement. Arguments by counsel. Court noted this is just dispute in value in this case. Mr. Michalek argued flipping burden of proof. Further arguments by counsel. Mr. Michalek moved for a mistrial. Mr. Simon argued services being for sale. Argument by Mr. Michalek regarding slide in opening statement being up for eight seconds. COURT ORDERED, request for mistrial is DENIED. Evening recess.

02-25-15 1:00 PM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto****COURT MINUTES****February 25, 2015**

A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
                                  vs.  
                                  Evangelina Ortega, Defendant(s)

**February 25, 2015      1:00 PM      Jury Trial**

**HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Pizarro-Ortega, Miriam	Defendant
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY. Argument by Mr. Michalek regarding future care and treatment of Plaintiff noting Plaintiff never stated how much it was going to cost, noted it required compilation and stated it was burden of Plaintiff to disclose the information. Counsel further argued they did not provide information, therefore, they should not be able to testify about mechanism of injury as there had been no disclosure by expert deadline. Mr. Simon stated defense's argument was flawed, noted they had already argued motions in limine and pointed out the information was contained in their designations of experts. Counsel then argued Plaintiffs gave lengthy explanation of what experts would testify to and stated depositions were completed to which they defense had an opportunity to ask about future care. Mr. Michalek noted the minute order reflecting the motion had been denied, however, it could be revisited at trial and stated Plaintiff could not shift burden. Colloquy regarding references of future surgeries. Court stated prior decision will STAND and noted it did not read opinion as defense would like. Statement by Mr. Michalek regarding joke made by



Mr. Simon in the elevator while jurors were present. Arguments by counsel. JURY PRESENT. Opening statement by Mr. Baird. CONFERENCE AT THE BENCH. Opening statement continued. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Statements made off the record. Arguments by counsel on the record regarding medical records. Colloquy regarding further testimony regarding future surgeries. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Evening recess.

02-26-15 9:30 AM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**February 26, 2015**

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A-12-667141-C	Christian Cervantes-Lopez, Plaintiff(s)
	vs.
	Evangelina Ortega, Defendant(s)

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**February 26, 2015      9:30 AM      Jury Trial**

**HEARD BY:** Miley, Stefany      **COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY. Mr. Simon advised Defendants had stipulated to admittance to bills, noted jury to find what is reasonable and necessary and stated doctor would be testifying about his bill, chiropractic bills, MRI bill and UMC bills. Court advised the issue of designation and stated it would allow some leeway regarding medical bills. Arguments by counsel. Mr. Michalek advised they disagree with the past medical of \$55,000.00. Court noted its familiarity with Nurse Rockholt, stated it never allowed her to testify as she had no information as to what is customary in Las Vegas and pointed out issue of collateral source. Mr. Michalek advised it would give purpose of testimony and moved to publish Dr. Koka's deposition as he was never designated as an expert nor had he worked at UMC. Court noted the jury would need foundation as to CPT codes. Argument by Mr. Baird stating it is required by Federal law to use CPT codes, noted Nurse Rockholt would make it clear and advised there would be no insurance danger to the jury. Court inquired on how it would assist the jury. Further arguments by counsel. Court noted insurance companies have different contracts. Further argument by Mr. Baird noting nurse would bring scientific measure.

Further arguments by counsel as to amounts. Court noted there had been an objection on future care and it had been sustained. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Mr. Baird advised there had been several references to insurance and moved for a mistrial. Mr. Simon noted he did not illicit insurance, stated it was not his questioned proffered to the doctor and pointed out the doctor was speaking of Plaintiffs' insurance not the Defendant's insurance. Colloquy regarding curative instruction. JURY PRESENT. Court gave curative instruction to the jury. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Arguments by counsel regarding record pertaining to radioactive treatment. OUTSIDE THE PRESENCE OF THE JURY. Testimony and exhibits presented. (See worksheets) Court stated it did not think nurse had the qualifications and would not allow her to testify. Mr. Simon requested to proffer questions to Nurse Rockholt, COURT SO ALLOWED. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Court noted there being no evidence of pre-existing conditions. Arguments by counsel. OUTSIDE THE PRESENCE OF THE JURY. Argument by Mr. Michalek noting Plaintiff is calling Defendant to the stand and they do not see the purpose other than for Defendant to state she caused the accident. Mr. Simon stated he had advised defense counsel the week prior that they would be calling Defendant to the stand. Further arguments by counsel regarding causation and damages. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Court instructed the jury at the request of the defense. OUTSIDE THE PRESENCE OF THE JURY. Evening recess.

02-27-15 9:30 AM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**February 27, 2015**

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A-12-667141-C	Christian Cervantes-Lopez, Plaintiff(s) vs. Evangelina Ortega, Defendant(s)
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**February 27, 2015      9:30 AM      Jury Trial**

**HEARD BY:** Miley, Stefany      **COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Pizarro-Ortega, Miriam	Defendant
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY. Spanish Interpreter Lorena Pike present. Mr. Michalek believed Plaintiff is attempting to impeach Dr. Duke with Discovery Commissioner's report, noted report is not an exhibit and requested a full hearing. Argument by Mr. Simon noting doctor's testimony is limited to injury. Court noted doctor is not qualified to state why people do the things they do, stated there is no evidence of malingering and it did not remember allowing the use of Discovery Commissioner's report. Arguments by counsel regarding unpublished opinions. Mr. Simon advised doctor's testimony goes to bias and inquired how it could be disclosed prior to trial when decision was filed on February 20, 2015. Argument by Mr. Michalek. Court noted factual difference between these cases and noted they could not do Rule 35 examination. Mr. Baird argued doctor should be allowed to testify as to differences between personal injury and regular treatment. Arguments by counsel. Court stated it did not believe Dr. Duke was qualified to discuss personal injury, however, he may testify as to his treatment. Further arguments by counsel. Court stated it

was having difficulty with the disclosure and would think about the issue during direct examination. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. OUTSIDE THE PRESENCE OF THE JURY. Court advised it had reviewed Discovery Commissioner's Report and Recommendation, noted it had been signed by Judge Denton and stated it was not inclined to let it in. Arguments by counsel. Court stated only depositions will be used. Mr. Michalek argued Plaintiff's question called for an answer as to insurance and moved for a mistrial. Arguments by counsel. Court stated it had reviewed 16.1 Section b1 and advised it was in error. Mr. Michalek moved to strike testimony. JURY PRESENT. Court instructed jury to disregard testimony. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Arguments by counsel regarding medical records which had been overlooked. Mr. Michalek advised defense would stipulate to the medical. Further arguments by counsel. Court stated it would let them as it would be clerical error at best. JURY PRESENT. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. JURY PRESENT. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Evening recess.

03-02-15 1:00 PM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Negligence - Auto

## COURT MINUTES

**March 02, 2015**

A-12-667141-C Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

**March 02, 2015                  1:00 PM                  Jury Trial**

**HEARD BY:** Miley, Stefany

COURTROOM: RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Pizarro-Ortega, Miriam	Defendant
	Simon, Daniel S., ESQ	Attorney

## JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Jury Instructions ARGUED and partially SETTLED. Arguments by counsel as to deposition testimony. JURY PRESENT. Spanish Interpreter Lorena Pike present. Testimony and exhibits presented. (See worksheets) CONFERENCE AT THE BENCH. Testimony and exhibits presented. (See worksheets) Plaintiffs and Defendant RESTED. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding Jury Instruction. Instructions SETTLED. JURY PRESENT. Court instructed the jury. OUTSIDE THE PRESENCE OF THE JURY. Evening recess.

03-03-15 10:30 AM TRIAL BY JURY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto****COURT MINUTES****March 03, 2015**

A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
                                  vs.  
                                  Evangelina Ortega, Defendant(s)

**March 03, 2015      10:30 AM      Jury Trial**

**HEARD BY:** Miley, Stefany      **COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Pizarro-Ortega, Miriam	Defendant
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- JURY PRESENT. Spanish Interpreter Lorena Pike present. Closing argument by Mr. Simon. CONFERENCE AT THE BENCH. Closing argument continued. CONFERENCE AT THE BENCH. Closing argument continued. CONFERENCE AT THE BENCH. Closing argument continued. OUTSIDE THE PRESENCE OF THE JURY. Mr. Baird placed objections on the record. Argument by Mr. Simon. JURY PRESENT. Closing argument by Mr. Baird. CONFERENCE AT THE BENCH. Closing argument continued. CONFERENCE AT THE BENCH. Closing argument continued. CONFERENCE AT THE BENCH. Closing argument continued. CONFERENCE AT THE BENCH. Closing argument continued. OUTSIDE THE PRESENCE OF THE JURY. JURY PRESENT. Rebuttal closing argument by Mr. Simon. CONFERENCE AT THE BENCH. Rebuttal argument continued. CONFERENCE AT THE BENCH. Rebuttal argument continued. CONFERENCE AT THE BENCH. Rebuttal argument continued. At the hour of 4:11 p.m., the jury retired to deliberate. OUTSIDE THE PRESENCE OF THE JURY.

Arguments by counsel regarding objections during closings.

03-04-15 9:00 AM TRIAL BY JURY



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**March 04, 2015**

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A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

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**March 04, 2015      8:30 AM      Jury Trial**

**HEARD BY:** Miley, Stefany      **COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Avarca, Maria	Plaintiff
	Baird, Robert K.	Attorney
	Cervantes-Lopez, Christian	Plaintiff
	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- At the hour of 1:39 p.m., the jury returned with a verdict for Plaintiffs Against the Defendant Miriam Pizarro-Ortega. Jury thanked and excused. Mr. Michalek requested stay of execution on judgment for post-trial motions. Court advised request needed to be in writing.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**April 21, 2015**

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A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

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**April 21, 2015      9:30 AM      Motion for Attorney Fees      Plaintiff's Motion for Attorney Fees**

**HEARD BY:** Miley, Stefany

**COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:** Maria Garibay

**REPORTER:**

**PARTIES**

**PRESENT:**      FERREL, ASHLEY      Attorney  
                 Michalek, Charles A.      Attorney  
                 Simon, Daniel S., ESQ      Attorney

**JOURNAL ENTRIES**

- Court noted counsel had set forth all the factors. Mr. Simon noted there had been four offers of judgment and pointed out defense had never re-evaluated during course of the trial. Colloquy regarding \$100,000.00 policy limit. Arguments by counsel. Mr. Michalek pointed out Mr. Simon had not provided itemization of hours or work performed. Mr. Simon stated they are reasonable fees his clients would have to pay. Court advised a decision would follow via a minute order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto****COURT MINUTES****April 30, 2015**

A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

**April 30, 2015****9:30 AM****Motion**

**Defendant's Motion  
for Remittur and/or  
New Trial**

**HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES****PRESENT:**

Baird, Robert K.	Attorney
FERREL, ASHLEY	Attorney
Michalek, Charles A.	Attorney
Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- Argument by Mr. Michalek noting the Court had admitted transcript of impeachment of Dr. Duke and then amended its ruling. Counsel then argued Rules of Civil Procedure and noted no calculations of future damages had been given to the defense. Court noted parties had deposed doctors and noted there had been time to ask whether if there was to be a future surgery and costs. Mr. Michalek advised they did not have a cost assessment in the file, however, they had asked for costs in their interrogatories and noted doctor only stated Plaintiff was a surgical candidate. Counsel then argued Jackson vs. United Artist case and further argued prejudice as to future damages during Dr. Duke's testimony. Court noted there had to be some understanding there would be future costs. Argument by Mr. Michalek noting notice of surgery is inadequate, stated it cannot be substituted and believed Plaintiff could not satisfy burden as to damages. Court inquired of the prejudice to the Defendant. Argument by Mr. Michalek noting defense had been forced into an all or nothing defense as Nurse Rockholt had been excluded. Colloquy regarding CPT codes and procedures. Further argument by Mr. Michalek noting Dr. Duke had not been given discovery, pointed out Dr. Duke was

a backup for Nurse Rockholt and believed defense had been sand-bagged at trial. Argument by Mr. Baird as to the reasonableness and customariness of charges. Court noted some doctors make more depending on their specialties. Further argument by Mr. Baird noting amounts being put into percentages and stated Dr. Duke only gave a conclusion without support. Court noted parties would most likely need to supplement after transcripts were completed. Mr. Baird believed no further argument would be needed until after transcripts were filed. Argument by Mr. Simon and requested parties re-brief on the issue after the Lioce hearing. Argument by Mr. Baird regarding secondary gain. Court stated nothing Dr. Duke testified to goes to secondary gain. Further argument by counsel regarding lien issue noting collateral source. Court believed it to be prejudicial and not relevant. Additional argument by counsel. Mr. Simon stated the motion is flawed and argued liens and secondary gain. Counsel noted Dr. Duke testified the Plaintiffs did not treat enough and stated they were malingers. Mr. Simon further argued lack foundation as to Nurse Rockholt and noted defense had ample time to prepare Dr. Duke. Counsel then argued Palms case, noted the defense were citing unpublished opinions and believed defense ignored medical evidence. Further arguments by counsel. Mr. Michalek requested future damages be remitted and a new trial be granted. Further argument by Mr. Simon. Court advised it needed further information on the Lioce violations. Colloquy regarding transcript readiness. COURT ORDERED, matter CONTINUED and SET for hearing. Supplemental Briefing Schedule is as follows: Defendant's Supplement due on May 15, 2015 and Plaintiff's Response due on May 29, 2015.

06-02-15 9:30 AM DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL...HEARING  
RE: LIOCE VIOLATIONS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto****COURT MINUTES****June 23, 2015**

A-12-667141-C      Christian Cervantes-Lopez, Plaintiff(s)  
vs.  
Evangelina Ortega, Defendant(s)

<b>June 23, 2015</b>	<b>9:30 AM</b>	<b>All Pending Motions</b>	<b>Defendant's Motion for Remittur and/or New Trial; Hearing Re: Lioce Violations</b>
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**HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

<b>PRESENT:</b>	FERREL, ASHLEY	Attorney
	Michalek, Charles A.	Attorney
	Simon, Daniel S., ESQ	Attorney

**JOURNAL ENTRIES**

- Court noted it had received supplementals regarding Plaintiff violating Lioce and stated a decision had not been rendered. Argument by Mr. Michalek noting pattern of conduct starting with Complaint and further argued Plaintiff cannot state defense's case did not have merit as this case is regarding proper amount of damages. Argument by Mr. Simon noting he never stated to the jury that they should punish State Farm and pointed out they only showed pleadings to the jury. Mr. Simon noted he had stated Dr. Duke charged a lot of money, stated they only argued the evidence to the jury and believed there to be no violation of any law. Further argument by Mr. Michalek. COURT ORDERED, Motion for Remittur and/or New Trial is DENIED IN TOTALITY and stated its findings, pointing out Plaintiff's doctors were available for deposition and defense choose not to depose said doctors. Court further FINDS, surveillance video was not produced until December 2, 2014 and noted discovery had closed in June. Additionally, Court noted Dr. Duke's testimony regarding secondary gain had been stricken, stated defense failed to show the amounts were excessive and pointed out jury award was less than what Plaintiff's counsel had requested. Lastly,

Court noted as to avoidance of responsibility and stated Plaintiff did introduce pleadings as it allowed it as they are public records. Mr. Simon to prepare the order and provide to opposing counsel for review prior to submitting to the Court for signature. Argument by Mr. Michalek regarding cost letter. Argument by Mr. Simon noting defense failed to ask how much the surgery would cost. COURT SO NOTED.

**PLAINTIFF'S EXHIBITS**

CASE NO. A 667141

	Date Offered	Objection	Date Admitted
1- Summary of Medical Specials for Pltf. Christian Cervantes- Lopez	FEB 25 2015	STIP	FEB 25 2015
2- Summary of Medical Specials for Maria Avarca	"		"
3- Billing and Medical Records from UMC for Pltf Cervantes- Lopez			
4- Billing and Medical Records from Neck & Back Pltf. Cervantes- Lopez			
5- " "			
from LV Radiology for Pltf.			
6- " " from Primary Care Consultants			
7- " " from Advantage Diagnostic Imaging Center			
8- " " from Nevada Comprehensive Pain Center			
9- " " from Nevada Comprehensive Pain Pharmacy			
10- " " from Centennial Medical Group/Cent. Pain			
11- " " from Western Regional Center for Brain & Spine for Pltf. Cervantes- Lopez			

PLAINTIFF'S EXHIBITS

CASE NO. A 667141

	Date Offered	Objection	Date Admitted
12 - Billing and Medical Records from Umc for Pltf. Avarca	FEB 25 2015	STIP	FEB 25 2015
13 - " " from NLV Fire Dept/Ems for Pltf Avarca			
14 - " " from Desert Radiologists for Pltf Avarca			
15 - " " from Neck & Back Clinic Pltf. Avarca			
16 - " " & Films from LV Radiology Pltf. Avarca			
17 - " " from Primary Care Consultants			
18 - " " from Nevada Comprehensive Pain Center			
19 - " " from Centennial medical Group/Centennial			
20 - " " & Films from Advantage Diagnostic			
21 - CV, Rate sheet & list of cases from David Lanzkowsky, M.D.			
22 - CV, Rate sheet & list of cases from Alain Coppel, M.D.			
23 - " " Stuart Kaplan M.D.			



PLAINTIFF'S EXHIBITS

CASE NO. A 667141

	Date Offered	Objection	Date Admitted
24- Complaint	FEB 25 2015	STIP	FEB 25 2015
25- Answer to Complaint	"		"
26- Amended Answer to Complaint			
27- Deft. Ortega's Responses to Pltfs' Request for Admissions			
28- " " Request for Production	"		
29- Deft Miriam Ortega's Responses to Pltfs' Request for Admissions			
30- " " Request for Production			
31- " " Pltfs' Interrogatories			
32- Pltf Cervantes-Lopez's Answers to Deft's Request for Production			
33- Pltf Cervantes-Lopez's Supplemental Answers to Deft's Request for Production Nos. 2,5,6,7,8,10,11,15,16			
34- Pltf Cervantes-Lopez's Answers to Defts' Interrogatories			
35- " " Supplemental Answers to Defts' Interrogatories Nos. 10,11,15,18,21,22,24,27,28			

PLAINTIFF'S EXHIBITSCASE NO. A 667141

	Date Offered	Objection	Date Admitted
36- Pltff. Avarca's Answers to Deft's Request for Production			
37- Pltff. Avarca's Supplemental Answers to Deft's Request for Production Nos. 2,5,6,7,8,10,11,15,16			
38- Pltff. Avarca's Answers to Defts' Interrogatories			
39- Pltff. Avarca's Supplemental Answers			
40- State of Nevada Traffic Accident Report			
41- Pltffs' vehicle damage estimate			
42- Color Photographs of Pltffs' vehicle	FEB 25 2015	STIP	FEB 25 2015
43- Rocio Serrano-Cortez' Vehicle Damage Estimate			
44- Twelve Color Photographs Obtained from NLVPD	FEB 25 2015	OBS	FEB 25 2015
45- NLVPD Witness Statement of Christian Cervantes-Lopez			
46- NLVPD Witness Statement of Adam Serrano			
47- NLVPD Witness Statement of Miriam Pizarro			

## PLAINTIFF'S EXHIBITS

CASE NO. A 667141

[illegible]

DEFENDANT'S EXHIBITS

CASE NO. A667141

[illegible]

COURT'S EXHIBITS

CASE NO. A667141

[illegible]

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL; NOTICE OF ENTRY OF ORDER DENYING DEFENDANT'S MOTION FOR REMITTUR AND/OR NEW TRIAL; JUDGMENT ON JURY VERDICT; NOTICE OF ENTRY OF JUDGMENT; AMENDED JUDGMENT ON JURY VERDICT; NOTICE OF ENTRY OF AMENDED JUDGMENT ON JURY VERDICT; ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEY'S FEES; NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION TO ATTORNEY'S FEES; DISTRICT COURT MINUTES; EXHIBITS LIST

CHRISTIAN CERVANTES-LOPEZ; MARIA  
AVARCA,

Plaintiff(s),

vs.

EVANGELINA ORTEGA; MIRIAM  
PIZARRO-ORTEGA,

Defendant(s),

Case No: A667141

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 23 day of July 2015.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

ROGERS, MASTRANGELO, CARVALHO, & MITCHELL, LTD

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DATE : Jul/21/2015

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ACCOUNT: GENERAL - 1

PAID TO: Supreme Court Clerk

Appeal (A-12-667141-C)

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Appeal (A-12-667141-C)

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