

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK MILFORD PECK,
Appellant,
vs.
VALLEY HOSPITAL MEDICAL
CENTER; DAVID R. ZIPF, M.D.; AND
MICHAEL D. BARNUM, M.D.,
Respondents.

Supreme Court No. 68664
District Court No. A708447
Due Date: September 29, 2015

FILED

SEP 17 2015

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DEPUTY CLERK

CIVIL PROPER PERSON APPEAL STATEMENT

Frank Milford Peck
Inmate ID: 57106
HDSP
P.O. Box 650
Indian Springs NV 89070

Appellant in Proper Person

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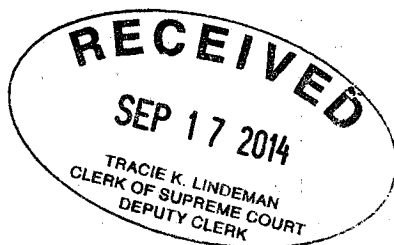
Michael D. Barnum, M.D.
Respondent

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Valley Hospital Medical Center
Respondent

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David R. Zipf, M.D.
Respondent



CIVIL PROPER PERSON APPEAL STATEMENT

INSTRUCTIONS: You must complete and file this Appeal Statement with the Nevada Supreme Court on or before **September 29, 2015**.

HOW TO FILL OUT THE FORM: The form must be typed or clearly handwritten. Write only in the space allowed on the form. **Additional pages and attachments are not allowed.** The Nevada Supreme Court prefers short and direct statements. You do not need to refer to legal authority or the district court record.

WHERE TO FILE THE FORM: You may file your form in person or by mail.

To file your form in person: Bring the form to the Clerk's Office at the Supreme Court of Nevada, 201 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701-4702. You can file your form Monday through Friday, 8:00 a.m. to 4:00 p.m.

To file your form by mail: Mail the form to the Clerk of the Supreme Court of Nevada, 201 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701-4702. Your form must be postmarked by the due date.

You must file the original form and 1 copy with the Clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your form, you must submit the original form and 2 copies and include a self-addressed, stamped envelope. Forms cannot be faxed or e-mailed to the Nevada Supreme Court Clerk's Office.

Copies of the completed form must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also fill out the certificate of service that is attached to the form. The Nevada Supreme Court may return any document that does not meet these requirements.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
8-6-15	Judgement on the pleadings
?	Order Quashing Service re Deft Valley Hosp (NOT SERVED)

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 8-20-15

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court

Issues on Appeal. Does your appeal concern any of the following issues? Check all that apply:

- | | | |
|--|---|---|
| <input type="checkbox"/> divorce | <input type="checkbox"/> child custody/visitation | <input type="checkbox"/> child support |
| <input type="checkbox"/> relocation | <input type="checkbox"/> termination of parental rights | <input type="checkbox"/> attorney fees |
| <input type="checkbox"/> paternity | <input type="checkbox"/> marital settlement agreement | <input type="checkbox"/> division of property |
| <input type="checkbox"/> adoption | <input type="checkbox"/> prenuptial agreement | <input type="checkbox"/> spousal support |
| <input type="checkbox"/> other—briefly explain: <u>MEDICAL NEGLIGENCE RES IPSA</u> | | |

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

"PRISONER" FRANK M. PECK WAS
admitted to Valley Hospital Medical Center with ACUTE
VIRAL MENINGITIS ON DEC 31st 2013 Dr David Zipt MD
Attending. Mr Peck was discharged on JAN 17th 2014,
shortly thereafter Mr Peck's hand (LT HAND) started feeling
(strang/uncomfortable) Mr PECK noticed AN object just under
the skin APPROX 1/2 inch long appearing to be A NEEDLE.

Mr Peck kited medical to have his hand examined. A Dr. Suwee on or about Feb 18th and March 8th examined Mr Peck's hand and commented that there was in fact an object in Mr Peck's hand and ~~of the~~ ordered an X-RAY. Mr Peck at the time of the X-RAY looked at the X-RAY and saw what appeared to be what Mr Peck describes as distortion in the area of the object. Unless someone was directed specifically to the area of the object it could be easily overlooked as exactly is what has happened here. Mr Peck is told that plastic does not appear on X-RAYS. The object is clearly able to be seen and physically felt and moved and you can see its length when moved. The nurse who takes blood from inmates (Nurse Brenda) told Mr Peck when Mr Peck showed Nurse Brenda, that "oh yeah, its probably a NEEDLE GUIDE". Seeming to be a common occurrence.

Its impossible to rule out a foreign body if you cant see it

This court should keep in mind that the Dr who ordered the X-RAY is not the same Dr who examined the X-RAY.

Mr. Peck is forbidden from asking staff members such as Nurse Brenda for an affidavit, as this could be considered "compromising staff" 18 months in the hole.

Mr. Peck's Left hand has gone numb on the top and two fingers are numb and the top of Mr Peck's hand and wrist are painful and Mr Peck is Left handed and as this court knows Mr Peck needs his left hand to defend himself in the legal arena.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

Firstly, Mr. Peck moved the court to be present via video conference to argue judgement on the pleadings, this request was ignored.

Secondly the evidence in which the Debtors rely X-RAYS AND Quality Imaging report dated 3-8-14 is useless if plastic does not appear on X-RAYS.

Third the district court dismisses without any finding of fact or conclusion of law for this court to base an opinion.

Lastly - The injury and the pain is real and the Debtors are responsible for its removal.

Mr. Peck has clearly stated a claim for which which relief can be granted based upon the testimony of Dr. Swire and Nurse Brenda.

It also should be noted that Mr Peck's service of process documents were delayed by the State Mailroom. Mr Peck's documents were held in the mailroom from ~~Dec 18th~~ Dec 22 2014 until Jan 30 2015.

Another delay not attributed to Mr Peck was the Sheriff Deputy Kenneth Ross failed to serve debts and had to re serve costing Mr. Peck from Nov 18 2014 until Jan 6 2015.

Had these delays not occurred Mr Peck could have and would have corrected the defect in service of Valley Hospitals Agent in Carson City. As such the District Court should have given Mr Peck this time to correct the defect.

Therefore, for the foregoing reasons this court should reverse and remand these proceedings to the District Court for a jury trial.

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:


- ☐ By personally serving it upon him/her; or
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

☒ Electronic Service per NRCP 5(b)(2)(D) and NEFCA rule 9(b)(c) on all registered parties.

A true and correct copy was mailed this date to the Clerk at 201 S Carson St Carson City, NV 89701.

Affirmation Contains No Social Security Numbers NRS 239 B 030

DATED this 13th day of September, 2015.


Signature of Appellant

Frank Peck
Print Name of Appellant

HDSP Box 650
Address

Indian Springs NV 89070
City/State/Zip

Telephone