IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 23 2015 08:52 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

FRANK MILFORD PECK,
Appellant(s),

vs.

VALLEY HOSPITAL MEDICAL CENTER; DAVID R. ZIPF, M.D.; AND MICHAEL D. BARNUM, M.D.,
Respondent(s),

Case No: A708447

Docket No: 68664

RECORD ON APPEAL
VOLUME
2

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I N D E X

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A-14-708447-C **Frank Peck, Plaintiff(s)**
vs.
Valley Hospital Medical Center, Defendant(s)

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A-14-708447-C **Frank Peck, Plaintiff(s)**
vs.
Valley Hospital Medical Center, Defendant(s)

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A-14-708447-C **Frank Peck, Plaintiff(s)**
vs.
Valley Hospital Medical Center, Defendant(s)

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A-14-708447-C **Frank Peck, Plaintiff(s)**
vs.
Valley Hospital Medical Center, Defendant(s)

I N D E X

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

****

FRANK M. PECK, Plaintiff, v. VALLEY HOSPITAL MEDICAL CENTER, et al., DAVID R. ZIPF, M.D., MICHAEL D. BARNUM, M.D., JOHN DOES I - V, Defendants.	CASE NO.: A-14-708447-C DEPT. NO.: III **ORDER**

Defendant DAVID R. ZIPF, M.D.'s Motion for Judgment on the Pleadings came on for hearing on July 22, 2015, at 9:00 a.m., in Department 3 of the Eighth Judicial District Court, Clark County, Nevada, with the Honorable Douglas W. Herndon presiding. Plaintiff FRANK PECK, was not present due to his incarceration at the Nevada Department of Corrections; William B. Palmer, Esq., of ALVERSON TAYLOR MORTENSEN & SANDERS, appeared on behalf of Defendant MICHAEL D. BARNUM, M.D.; and Danielle Woodrum, Esq., of the LAW OFFICE OF ARTHUR W. TUVERSON appeared for and on behalf of Defendant, DAVID R. ZIPF, M.D.

Having considered the pleadings filed herein and good cause appearing therefor:

///

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INCLUDING PROFESSIONAL CORPORATIONS
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IT IS HEREBY ORDERED that Defendant David R. Zipf, M.D.'s Motion for Judgment on the Pleadings and Defendant Michael D. Barnum's Joinder thereto are GRANTED.

IT IS FURTHER ORDERED that all future dates are VACATED and CASE CLOSED.

Dated this 30 day of July, 2015.

DISTRICT COURT JUDGE

Respectfully Submitted:

LAW OFFICES OF ARTHUR W. TUVERSON

By
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DISTRICT COURT

CLARK COUNTY, NEVADA

****

FRANK M. PECK,

Plaintiff,

v.

VALLEY HOSPITAL MEDICAL CENTER, et al., DAVID R. ZIPF, M.D., MICHAEL D. BARNUM, M.D., JOHN DOES I - V,

Defendants.

CASE NO.: A-14-708447-C
DEPT. NO.: III

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the Order granting Defendant David R. Zipf, M.D.'s Motion for Judgment on the Pleadings and Defendant Michael D. Barnum, M.D.'s Joinder thereto was entered in the above entitled action on the 4th day of August, 2015, a copy of which is attached hereto.

DATED: August 6, 2015

LAW OFFICES OF ARTHUR W. TUVERSON

BY: */s/ Danielle Woodrum*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICES OF ARTHUR W. TUVERSON, and that on this 6th day of August, 2015, I served a copy of **NOTICE OF ENTRY OF ORDER** as follows:

☒ By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada: and/or

Frank M. Peck, #57106
HDSP Box 650
Indian Springs, NV 89070
Plaintiff Pro Per

☒ By Electronic Service through Eighth Judicial District Court to:

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An employee of the
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ORDR
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Attorney for Defendant DAVID R. ZIPF, M.D.

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

****

FRANK M. PECK, Plaintiff, v. VALLEY HOSPITAL MEDICAL CENTER, et al., DAVID R. ZIPF, M.D., MICHAEL D. BARNUM, M.D., JOHN DOES I - V, Defendants.	CASE NO.: A-14-708447-C DEPT. NO.: III **ORDER**

Defendant DAVID R. ZIPF, M.D.'s Motion for Judgment on the Pleadings came on for hearing on July 22, 2015, at 9:00 a.m., in Department 3 of the Eighth Judicial District Court, Clark County, Nevada, with the Honorable Douglas W. Herndon presiding. Plaintiff FRANK PECK, was not present due to his incarceration at the Nevada Department of Corrections; William B. Palmer, Esq., of ALVERSON TAYLOR MORTENSEN & SANDERS, appeared on behalf of Defendant MICHAEL D. BARNUM, M.D.; and Danielle Woodrum, Esq., of the LAW OFFICE OF ARTHUR W. TUVERSON appeared for and on behalf of Defendant, DAVID R. ZIPF, M.D.

Having considered the pleadings filed herein and good cause appearing therefor:

///

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IT IS HEREBY ORDERED that Defendant David R. Zipf, M.D.'s Motion for Judgment on the Pleadings and Defendant Michael D. Barnum's Joinder thereto are GRANTED.

IT IS FURTHER ORDERED that all future dates are VACATED and CASE CLOSED.

Dated this 30 day of July, 2015.

DISTRICT COURT JUDGE

Respectfully Submitted:

LAW OFFICES OF ARTHUR W. TUVERSON

By
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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

FRANK M. PECK, Plaintiff, vs. VALLEY HOSPITAL MEDICAL CENTER, et al., DAVID R. ZIPF, M.D., MICHAEL D. BARNUM, M.D., JOHN DOES I - V, Defendants.	CASE NO: A-14-708447-C DEPT NO: III

NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT MICHAEL D. BARNUM, M.D.'S JOINDER TO DEFENDANT DAVID R. ZIPF, M.D.'S MOTION FOR JUDGMENT ON THE PLEADINGS

PLEASE TAKE NOTICE that an Order granting Defendant Michael D. Barnum, M.D.'s Joinder to Defendant David R. Zipf, M.D.'s Motion for Judgment on the Pleadings, was entered

/ / /

/ / /

/ / /

#22098/ DJM:sm

in the above-entitled matter on the 4th day of August, 2015, a copy of which is attached hereto.

DATED this 6th day of August, 2015.

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

DAVID J. MORTENSEN, ESQ.
Nevada Bar No. 002547
R. DOUGLAS KURDZIEL, ESQ.
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LAWYERS
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(702) 384-7000

CERTIFICATE OF SERVICE AND MAILING

The undersigned hereby certifies that on the 6th day of August, 2015, the forgoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT MICHAEL D. BARNUM, M.D.'S JOINDER TO DEFENDANT DAVID R. ZIPF, M.D.'S MOTION FOR JUDGMENT ON THE PLEADINGS** was served on the following by Electronic Service to All parties on the Wiznet Service List, addressed as follows:

Arthur W. Tuverson, Esq.
Thomas R. Slezak, Jr., Esq.
Law Offices of Arthur W. Tuverson
7201 West Lake Mead Boulevard, Suite 570
Las Vegas, NV 89128
Attorney for Defendant
David R. Zipf, M.D.

The foregoing **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT MICHAEL D. BARNUM, M.D.'S JOINDER TO DEFENDANT DAVID R. ZIPF, M.D.'S MOTION FOR JUDGMENT ON THE PLEADINGS** was also served by First Class Mail, by placing same in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada, addressed as follows:

Frank M. Peck, #57106
HDSP Box 650
Indian Springs, NV 89070
Plaintiff Pro Per

An Employee of Alverson, Taylor,
Mortensen & Sanders

ALVERSON, TAYLOR, MORTENSEN & SANDERS
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(702) 384-7000

AFFIRMATION
Pursuant to N.R.S. 239B.030

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT MICHAEL D. BARNUM, M.D.'S JOINDER TO DEFENDANT DAVID R. ZIPF, M.D.'S MOTION FOR JUDGMENT ON THE PLEADINGS** filed in District Court Case No. A-14-708447-C.

X Does not contain the social security number of any person.

DATED this 6th day of August, 2015.

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

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Attorney for Defendant DAVID R. ZIPF, M.D.

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

****

FRANK M. PECK, Plaintiff, v. VALLEY HOSPITAL MEDICAL CENTER, et al., DAVID R. ZIPF, M.D., MICHAEL D. BARNUM, M.D., JOHN DOES I - V, Defendants.	CASE NO.: A-14-708447-C DEPT. NO.: III **ORDER**

Defendant DAVID R. ZIPF, M.D.'s Motion for Judgment on the Pleadings came on for hearing on July 22, 2015, at 9:00 a.m., in Department 3 of the Eighth Judicial District Court, Clark County, Nevada, with the Honorable Douglas W. Herndon presiding. Plaintiff FRANK PECK, was not present due to his incarceration at the Nevada Department of Corrections; William B. Palmer, Esq., of ALVERSON TAYLOR MORTENSEN & SANDERS, appeared on behalf of Defendant MICHAEL D. BARNUM, M.D.; and Danielle Woodrum, Esq., of the LAW OFFICE OF ARTHUR W. TUVERSON appeared for and on behalf of Defendant, DAVID R. ZIPF, M.D.

Having considered the pleadings filed herein and good cause appearing therefor:

///

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IT IS HEREBY ORDERED that Defendant David R. Zipf, M.D.'s Motion for Judgment on the Pleadings and Defendant Michael D. Barnum's Joinder thereto are GRANTED.

IT IS FURTHER ORDERED that all future dates are VACATED and CASE CLOSED.

Dated this 30 day of July, 2015.

DISTRICT COURT JUDGE

Respectfully Submitted:

LAW OFFICES OF ARTHUR W. TUVERSON

By

ARTHUR W. TUVERSON, ESQ.
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Attorneys for Defendant DAVID R. ZIPF, M.D.

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Frank M. Peck 57106
HDSP Box 650
Indian Springs, Nv. 89070
Plaintiff, pro se

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AUG 17 2015
CLERK OF COURT

DISTRICT COURT CLARK COUNTY, NEVADA

Frank M. Peck, CASE NO. A-14-708447-C
Plaintiff, DEPT NO. 3
v.
Valley Hospital, et al,
Defendant's.

NOTICE OF APPEAL

NOTICE is hereby given that the Plaintiff Frank M. Peck pro se hereby APPEALS to the Supreme Court of Nevada from the ORDER Granting JUDGEMENT ON THE PLEADINGS entered on August 4th 2015 herein.

Dated 8-9-15
Electronically served / noticed on the registered parties per NEFCR rule 9 (c).
Affirmation contains no social security numbers of any person NRS 239B.030.

Frank Peck
Frank M. Peck Plntf, pro se.

RECEIVED
AUG 17 2015
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A-14-708447-C
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Notice of Appeal
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Frank M. Peck 57106
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Indian Springs, NV. 89070

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CLERK OF THE COURT

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

FRANK M. PECK,

Plaintiff(s),

vs.

VALLEY HOSPITAL MEDICAL CENTER; MICHAEL D. BARNUM, M.D.; DAVID R. ZIPF, M.D.,

Defendant(s),

Case No: A-14-708447-C

Dept No: III

CASE APPEAL STATEMENT

1. Appellant(s): Frank M. Peck

2. Judge: David Barker

3. Appellant(s): Frank M. Peck

Counsel:

Frank M. Peck #57106
P.O. Box 650
Indian Springs, NV 89070

4. Respondent (s): Valley Hospital Medical Center; Michael D. Barnum, M.D.; David R. Zipf, M.D.

Counsel:

Kirill V. Mikhaylov, Esq.
1160 N. Town Center Dr., Ste. 200
Las Vegas, NV 89144

David J. Mortensen, Esq.
7401 W. Charleston Blvd.
Las Vegas, NV 89117

Arthur W. Tuverson, Esq.
7201 W. Lake Mead Blvd., Suite 570
Las Vegas, NV 89128

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, October 13, 2014
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: October 13, 2014

10. Brief Description of the Nature of the Action: TORT - Other

Type of Judgment or Order Being Appealed: Judgment

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 18 day of August 2015.

Steven D. Grierson, Clerk of the Court

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Frank M. Peck

Electronically Filed
10/29/2015 02:53:07 PM

OSCC

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

FRANK PECK, PLAINTIFF(S) VS. VALLEY HOSPITAL MEDICAL CENTER, DEFENDANT(S)	CASE NO.: A-14-708447-C DEPARTMENT 3

CIVIL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to statistically close this case for the following reason:

DISPOSITIONS:

- ☐ Default Judgment
- ☐ Judgment on Arbitration
- ☐ Stipulated Judgment
- ☒ Summary Judgment
- ☐ Involuntary Dismissal
- ☐ Motion to Dismiss by Defendant(s)
- ☐ Stipulated Dismissal
- ☐ Voluntary Dismissal
- ☐ Transferred (before trial)
- ☐ Non-Jury – Disposed After Trial Starts
- ☐ Non-Jury – Judgment Reached
- ☐ Jury – Disposed After Trial Starts
- ☐ Jury – Verdict Reached
- ☐ Other Manner of Disposition

DATED this 29th day of October, 2015.

DOUGLAS W. HERNDON
DISTRICT COURT JUDGE

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**February 18, 2015**

A-14-708447-C Frank Peck, Plaintiff(s)
vs.
Valley Hospital Medical Center, Defendant(s)

February 18, 2015 **9:00 AM** **Motion**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Keri Cromer

RECORDER: Sara Richardson

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Anastasia Noe, Esq., present for David R. Zipf, M.D. and Jared Herling, Esq. present for Michael D. Barnum, M.D.

Ms. Noe advised there was no opposition. This being appropriately served and there being no opposition filed, COURT ORDERED, Motion GRANTED. Court directed counsel to submit an order.

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**April 08, 2015**

A-14-708447-C Frank Peck, Plaintiff(s)
vs.
Valley Hospital Medical Center, Defendant(s)

April 08, 2015 **9:00 AM** **Motion to Quash Service**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kristen Brown

RECORDER: Sara Richardson

REPORTER:

PARTIES PRESENT:

Jaeger, Quincy	Attorney
Mikhaylov, Kirll V.	Attorney
Thomas, Melanie L.	Attorney

JOURNAL ENTRIES

- Court noted the Pltf. is in the Nevada Department of Corrections, therefore, will rely on the pleadings filed without taking any argument. Court stated its findings and ORDERED, Motion GRANTED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**April 20, 2015**

A-14-708447-C Frank Peck, Plaintiff(s)
vs.
Valley Hospital Medical Center, Defendant(s)

April 20, 2015 **3:00 AM** **Motion**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Deborah Miller

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Upon review of the papers and pleadings on file in this matter, as proper service has been provided to all involved parties, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (b), the unopposed plaintiff s motion for subpoenas has been construed as admittedly being meritorious with consent to granting the same. The Court would note that while plaintiff s motion incorrectly cites to a criminal statute for authority on subpoenas, his request will be considered as a Nevada Rules of Civil Procedure (NRCP) 45 based request. Therefore, Court ORDERS, pursuant to EDCR 2.20 and NRCP 45, plaintiff s motion for subpoenas is GRANTED.

CLERK'S NOTE: A copy of this minute order has been mailed to Frank Peck, #57106, HDSP, P.O. Box 650, Indian Springs, NV 89070.dm

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **July 22, 2015**

A-14-708447-C Frank Peck, Plaintiff(s)
vs.
Valley Hospital Medical Center, Defendant(s)

July 22, 2015 **9:00 AM** **All Pending Motions**

HEARD BY: Herndon, Douglas W. **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Shelly Landwehr

RECORDER: Sara Richardson

REPORTER:

PARTIES PRESENT:

PALMER, WILLIAM B	Attorney
Slezak, Thomas R	Attorney
Woodrum, Danielle	Attorney

JOURNAL ENTRIES

- DEFENDANT DAVID R. ZIPF, M.D.'S MOTION FOR JUDGMENT ON THE PLEADINGS AND SUPPORTING AFFIDAVIT OF DANIELLE WOODRUM, ESQ., DEFENDANT MICHAEL D. BARNUM, M.D.'S JOINDER TO DEFENDANT DAVID R. ZIPF, M.D.'S MOTION FOR JUDGMENT ON THE PLEADINGS

Court noted Plaintiff Peck is currently incarcerated in the Nevada Department of Corrections and is not present. Court stated it would not entertain arguments and stated its findings. COURT ORDERED, motion GRANTED. Future dates VACATED. CASE CLOSED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **August 03, 2015**

A-14-708447-C Frank Peck, Plaintiff(s)
vs.
Valley Hospital Medical Center, Defendant(s)

August 03, 2015 **1:00 PM** **Status Check: Medical/Dental Malpractice**

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Cynthia Moleres
Shelley Boyle
Alice Jacobson
Natalie Ortega
Robin Thomas

RECORDER:

REPORTER:

PARTIES PRESENT:

Mikhaylov, Kirll V.	Attorney
Slezak, Thomas R	Attorney

JOURNAL ENTRIES

-
- Plaintiff not present. Attorneys Jill Chase, Esq., Charles S. Jackson, Esq., and Kristopher S. Rath, Esq. also present.

The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Colloquy regarding status of the case. COURT ORDERED, matter CONTINUED to next Med-Mal Status Check.

Certification of Copy and Transmittal of Record

State of Nevada
County of Clark } **SS:**

Pursuant to the Supreme Court order dated November 4, 2015, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises two volumes with pages numbered 1 through 262.

FRANK M. PECK,

Plaintiff(s),

vs.

VALLEY HOSPITAL MEDICAL CENTER; MICHAEL D. BARNUM, M.D.; DAVID R. ZIPF, M.D.,

Defendant(s),

Case No: A708447

Dept. No: III

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 21 day of November 2015.

Steven D. Grierson, Clerk of the Court

Heather Ungermann, Deputy Clerk