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Valley Hospital Medical Center

Electronically Filed
Jul 01 2016 04:32 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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 Case No. A708447

MOTION TO DISMISS
RESPONDENT VALLEY
HOSPITAL MEDICAL CENTER

NOW COMES Defendant-Appellee, VALLEY HOSPITAL MEDICAL
CENTER (hereinafter "Valley Hospital"), by and through their counsel HALL
PRANGLE & SCHOONVELD, LLC, and hereby move this Honorable Court to
dismiss Valley Hospital from Plaintiff's appeal. In support thereof, Valley
Hospital states as follows:

INTRODUCTION AND PROCEDURAL HISTORY

On October 13, 2014, Plaintiff-Appellant Frank Milford Peck (hereinafter “Peck” or “Plaintiff”) pro se filed a complaint against Valley Hospital, Dr. David R. Zipf (hereinafter “Dr. Zipf”), Dr. Michael D. Barnum (hereinafter “Dr. Barnum”) and John Does I-V, asserting a claim for medical malpractice based upon the doctrine of *res ipsa loquitor*. (PA. R.¹ at 0001-0005). Specifically, Plaintiff alleged that Defendants failed to remove a “needle or [needle] guide” from his left hand prior to his discharge on January 17, 2014. (R. at 0001, 0003). Plaintiff further alleged that on March 8, 2014, “an X-Ray technician employed by Desert Radiology took (3) X-Rays of Mr. Peck’s left hand that clearly showed an object in Mr. Peck’s left hand.”(R. at 0003). Plaintiff did not attach an affidavit of a qualified medical professional under NRS 41A.071 supporting the allegations contained in his complaint.

On March 2, 2015, Valley Hospital appeared for the limited purpose of quashing service and to dismiss Plaintiff’s Complaint pursuant to NRCP 4(d) and 4(i). *See* Defendant Valley Hospital Medical Center’s Motion to Quash Service Of Plaintiff’s Complaint For Failure to Satisfy NRCP 4(d) and to Dismiss Plaintiff’s Complaint Pursuant to NRCP 4(i) For Failure To Timely Serve, attached hereto as **Exhibit A**. After the parties had fully briefed Valley Hospital’s Motion, the

¹ (“PA. R. ___”) refers to Plaintiff-Appellant’s Appendix.

1 district court entered an order granting Valley Hospital's Motion and dismissing it
2 from Plaintiff's case. See April 16, 2015 Order Granting Defendant Valley Health
3 System, LLC d/b/a Valley Hospital Medical Center's Motion to Quash Service of
4 Plaintiff's Complaint for Failure to Satisfy NRCP 4(d) and To Dismiss Plaintiff's
5 Complaint Pursuant to NRCP (4)(i) for Failure to Timely Serve, attached hereto as
6 **Exhibit B.**

9 On June 17, 2015, after Valley Hospital had been dismissed as a party
10 defendant, Defendant Dr. Zipf filed a motion for judgment on the pleadings (PA.
11 R. at 0006-27), arguing that Plaintiff's claim failed as a matter of law because the
12 medical evidence established no foreign object was left in Plaintiff's left hand².
13 Moreover, Dr. Zipf urged that the *res ipsa loquitor* exception embodied in NRS
14 41A.100(1)(a) was inapplicable because Plaintiff failed to allege that he underwent
15 a *surgical* procedure wherein a foreign object was "unintentionally" left in his
16 body as required by the plain language of NRS 41A.100(1)(a). (R. at 0009). Since
17 his allegations did not implicate NRS 41A.100(1)(a), Dr. Zipf urged that Plaintiff's
18 failure to attach an affidavit supporting his medical negligence claim required its
19 dismissal pursuant to NRS 41A.071. (R. at 0006-27). Defendant Dr. Barnum
20 subsequently joined Dr. Zipf's motion for judgment on the pleadings. (R. at 0040-
21 46).

22 ² The subject x-rays, ordered to "[rule out a] foreign body" in Plaintiff's left hand (R. at 0022), came back
23 "Negative" (R. at 0024).

1 On August 4, 2015, after the parties fully briefed Drs. Zipf's and Barnum's
2 motions, the district court entered an order granting their motions and dismissed
3 Plaintiff's case in its entirety. (R. at 0070-71). Notice of entry of the district
4 court's August 4, 2015 Order was filed on August 6, 2015. (R. at 0072-75).

5
6 On August 17, 2015, Plaintiff filed a notice of appeal stating in pertinent
7 part:
8

9 Plaintiff Frank M. Peck pro se hereby Appeals to the Supreme Court
10 of Nevada from the ORDER Granting Judgment On The Pleadings
11 Entered On August 4th 2015 herein." (R. at 0082-83) (all emphasis in
12 original).

13 Plaintiff's Notice of Appeal did not identify the district court's April 16, 2015
14 Order dismissing Valley Hospital as a "judgment, order or part thereof being
15 appealed." See NRAP 3(c)(1)(B).
16

17 ARGUMENT

18 **I. Valley Hospital Should Be Dismissed Because Plaintiff Has Not** 19 **Appealed From The April 16, 2015 Order Dismissing It As A Party** 20 **Defendant.**

21 Valley Hospital should be dismissed from the instant appeal because
22 Plaintiff's notice of appeal does not identify or otherwise seek review of the district
23 court's April 16, 2015 Order quashing service on Valley Hospital and dismissing it
24 without prejudice. NRAP 3(c)(1) states in pertinent part:
25
26

27 The notice of appeal shall [] specify the party or parties taking the
28 appeal by naming each one in the caption or body of the notice [;]
designate the judgment, order or part thereof being appealed; and []

1 name the court to which the appeal is taken. NRAP 3(c)(1) (emphasis
2 added).

3 It is well established that “[o]nly those parts of the judgment which are included in
4 the notice of appeal will be considered by the appellate court.” *Charmicor, Inc. v.*
5 *Bradshaw Finance Co.*, 92 Nev. 310, 313 (1976), citing *Reno Newspapers, Inc. v.*
6 *Bibb*, 76 Nev. 332, 335 (1960). In a case “[w]here several defendants are joined
7 and separate judgments are entered, a notice of appeal specifically designating one
8 of these [judgments] cannot be interpreted to include any other [judgment] not
9 mentioned.” *Welch v. State ex rel. State Hwy. Dept.*, 80 Nev. 128, 130 (1964)
10 (motion to dismiss appeal “must be granted” because notice of appeal did not
11 identify or otherwise seek review of order dismissing movant defendants).
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16 Here, Valley Hospital should be dismissed because Plaintiff’s notice of
17 appeal does not mention or otherwise seek review of the district court’s April 16,
18 2015 Order quashing service of process and dismissing it from the case. Rather,
19 Plaintiff’s notice of appeal only mentions the district court’s August 4, 2015 Order
20 granting Defendants Dr. Zipf’s and Dr. Barnum’s motions for judgment on the
21 pleadings as the “judgment, order or part thereof being appealed.” NRAP 3(c)(1).
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23 Thus, “[i]n the absence of a proper notice of appeal being filed, this [C]ourt is
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without jurisdiction to consider any alleged error in the order entered” on April 16, 2015, and Valley Hospital should be dismissed. *Welch*, 80 Nev. at 131.³

CONCLUSION

For the foregoing reasons, Valley Hospital Medical Center’s Motion to Dismiss should be granted.

DATED this 1st day of July, 2016.

HALL PRANGLE & SCHOONVELD, LLC

/s/: Kirill V. Mikhaylov

JOHN F. BEMIS, ESQ.

Nevada Bar No. 9509

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Attorneys for Respondent

Valley Hospital Medical Center

³ Consistent with Plaintiff’s failure to appeal from the April 16, 2015 Order, Plaintiff’s opening brief does not contain any argument or citation to legal authority raising any error in the district court’s decision to quash service and dismiss Valley Hospital pursuant to NRCP 4(i). Indeed, Plaintiff’s Brief explicitly states that

[t]his is an appeal from the Eighth Judicial District Court’s (“District Court”) order granting Defendant David R. Zipf, M.D.’s Motion for Judgment on the Pleadings and Supporting Affidavit of Danielle Woodrum, Esq. (“Motion for Judgment on the Pleadings”) and Defendant Michael D. Barnum’s Joinder to Defendant David R. Zipf, M.D.’s Motion for Judgment on the Pleadings (“Motion for Judgment on the Pleadings”). (Pl. Br. at 3).

The district court’s April 16, 2015 order quashing service and dismissing Valley Hospital, Valley Hospital is not mentioned.

CERTIFICATE OF SERVICE

I hereby certify pursuant to NRAP 25(c), that on the 1st day of July, 2016, I caused service of a true and correct copy of the above and forgoing MOTION TO DISMISS RESPONDENT VALLEY HOSPITAL MEDICAL CENTER pursuant to Supreme Court Electronic Filing System, and by first class United States mail, postage prepaid, Las Vegas, Nevada to the following:

Rachel E. Donn, Esq.
Andrea M. Gandara, Esq.
Holley Driggs Walch
Fine Wray Puzey & Thomspen
400 S. 4th St., Third Floor
Las Vegas, NV 89101
Attorneys for Appellant

Jill Chase, Esq.
McCormick Barstow Sheppard
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Las Vegas, NV 89113
Attorneys for Respondent
David R. Zipf, M.D.

David J. Mortensen, Esq.
Alverson Taylor Mortensen & Sanders
7401 W. Charleston Blvd.
Las Vegas, NV 89117-140
Attorney for Respondent
Michael D. Barnum, M.D.

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...

1 Professor Anne Traum
2 Chair of Pro Bono Committee
3 Appellate Section of
4 State Bar of Nevada
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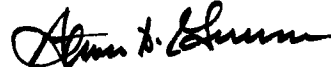
6 Kelly H. Dove
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10 Barbara Buckley
11 Melanie Kushnier
12 Legal Aid Center of So. Nevada
13 725 E. Charleston Blvd.
14 Las Vegas, NV 89104

15 /s/: Tamie Phillips
16 An employee of Hall, Prangle & Schoonveld, LLC
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EXHIBIT “A”

EXHIBIT “A”



CLERK OF THE COURT

1 MQUA
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11 *Attorneys for Defendant*
12 *Valley Hospital Medical Center*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 FRANK M. PECK,

12 Plaintiff,

13 vs.

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

17 Defendants.

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

19 **DEFENDANT VALLEY HOSPITAL MEDICAL CENTER'S MOTION TO QUASH**
20 **SERVICE OF PLAINTIFF'S COMPLAINT FOR FAILURE TO SATISFY NRCP 4(d)**
21 **AND TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO NRCP(4)(i) FOR**
22 **FAILURE TO TIMELY SERVE**

23 **(DEFENDANT APPEARING SPECIFICALLY FOR THE LIMITED**
24 **PURPOSE OF THIS MOTION)**

25 Date of Hearing: _____

26 Time of Hearing: _____

27 COMES NOW, Defendant, VALLEY HOSPITAL MEDICAL CENTER (hereinafter
28 "Valley Hospital"), appearing specially for the limited purpose of this motion, by and through its

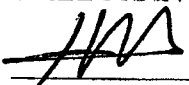
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1 counsel of record, HALL PRANGLE & SCHOONVELD, LLC and hereby moves for this
2 Honorable Court to: (A) quash service of Plaintiff's Complaint for failure to satisfy Nevada Rule
3 of Civil Procedure (4)(d) resulting in dismissal under Nevada Rule of Civil Procedure 12(b)(4);
4 and (B) dismiss Plaintiff's Complaint pursuant to Nevada Rule of Civil Procedure 4(i) as
5 Plaintiff has clearly failed to timely serve Valley Hospital within 120 days of filing his
6 Complaint.
7

8 DATED this 2nd day of March, 2015.

9 HALL PRANGLE & SCHOONVELD, LLC

10 
11 JOHN F. BEMIS, ESQ.

12 Nevada Bar No. 9509

13 IAN M. HOUSTON, ESQ.

14 Nevada Bar No. 11815

15 1160 North Town Center Drive, Suite 200

16 Las Vegas, NV 89144

17 *Attorneys for Defendant*

18 *Valley Hospital Medical Center*
19 ...
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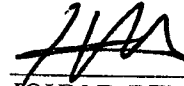
NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that the undersigned will bring the foregoing MOTION TO QUASH SERVICE OF PLAINTIFF'S COMPLAINT FOR FAILURE TO SATISFY NRCP 4(d) AND TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO NRCP(4)(i) FOR FAILURE TO TIMELY SERVE for hearing before the above entitled court on the 08 APRIL day of March, 2015 at the hour of 9:00 a.m. in Department No. III, or as soon thereafter as counsel can be heard.

DATED this 2nd day of March, 2015.

HALL PRANGLE & SCHOONVELD, LLC



JOHN F. BEMIS, ESQ.

Nevada Bar No. 9509

IAN M. HOUSTON, ESQ.

Nevada Bar No. 11815

1160 North Town Center Drive, Suite 200

Las Vegas, NV 89144

Attorneys for Defendant

Valley Hospital Medical Center

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

This is an action arising out of care and treatment provided to Plaintiff pro se, Frank M. Peck, at Valley Hospital on or about December 31, 2013 through January 17, 2014. Plaintiff filed his Complaint with the Eighth Judicial District Court on October 13, 2014. However, Valley Hospital has never been properly served with the Summons and Complaint as is required under NRCP 4(d). At some point in January 2015, a uniformed male presented to the Human Resources desk at Valley Hospital, which is located at 620 Shadow Lane, Las Vegas, Nevada

89106. See Affidavit of Tracy Donohue attached hereto as Exhibit "A." According to an "Affidavit of Service" filed by Plaintiff on February 10, 2015, the visit to Valley Hospital was on or about January 5, 2015. The man spoke with an employee at the human resources counter inside the hospital, Tracy Donohue, and handed her a copy of the Summons and Complaint in this matter. See Exhibit "A." At no time did the man request that he be permitted to speak with any officer of Valley Hospital nor did he inquire as to whether Valley Hospital has a resident agent or who that resident agent might be. *Id.* Instead, the man simply handed a copy of the Summons and Complaint to Ms. Donohue, who is not an officer of Valley Hospital. *Id.*

Valley Hospital now appears for the limited purpose of quashing Plaintiff's improper purported service of process, which alone warrants dismissal, and further moves this Court to dismiss Plaintiff's Complaint for failure to timely serve Defendant.

II.

STANDARD OF REVIEW

Nevada Rule of Civil Procedure 12 provides for dismissal of a cause of action for the "insufficiency of service of process" and authorizes a defendant to raise this defense by motion. See NRCP 12(b)(4). The instructions on how to properly complete sufficient service of the summons and complaint are clearly set forth in Nevada Rule of Civil Procedure 4(d) and were not followed in this case. Further, with regard to the timing of the service of process, a plaintiff has 120 days after filing the complaint to serve the summons and complaint on a defendant. NRCP 4(i). The consequence for failure to so serve a defendant within that 120-day period is expressly mandated in the rule: "the action *shall be dismissed* as to that defendant." *Id.* (emphasis added). The term "shall" is "mandatory and does not denote judicial discretion." *Washoe Med. Ctr. V. Second Judicial Dist. Court of State of Nev. Ex rel. County of Washoe*, 122

1 Nev. 1298, 1303, 148 P.3d 790, 793-94 (2006). Accordingly, as set forth fully herein, Plaintiff's
2 failure to timely and properly serve Valley Hospital mandates dismissal of Plaintiff's Complaint.

3
4 **III.**

5 **LEGAL ARGUMENT**

6 **A. Plaintiff Failed to Properly Serve Valley Hospital in Accordance with the**
7 **Mandates of NRCP 4(d) and, Therefore, the Complaint Must be Dismissed**
8 **Pursuant to NRCP 12(b)(4)**

9 Plaintiff failed to properly serve the Summons and Complaint on Valley Hospital, which
10 justifies dismissal of the action. As relevant, Nevada Rule of Civil Procedure 4(d) provides:

11 Service shall be made by delivering a copy of the summons attached to a
12 copy of the complaint as follows:

13 **(1) Service upon a Nevada Corporation.** If the suit is against an
14 entity or association formed under the laws of this state or
15 registered to do business in this state, to the **registered agent**
16 **thereof or, if the entity or association is (i) a corporation, to**
17 **any officer thereof;** (ii) a general partnership, to any partner
18 thereof; (iii) a limited partnership, to any general partner thereof;
19 (iv) a member-managed limited-liability company, to any member
20 thereof; (v) a manager-managed limited-liability company, to any
21 manager thereof; (vi) a business trust, to any trustee thereof; (vii) a
22 miscellaneous organization mentioned in NRS Chapter 81, to any
23 officer or director thereof; provided, when for any reason service
24 cannot be had in the manner hereinabove provided, then service
25 may be made upon such entity by delivering to the secretary of
26 state, or the deputy secretary of state, a copy of said summons
27 attached to a copy of the complaint, and by posting a copy of said
28 process in the office of the clerk of the court in which such action
is brought or pending;

24 **(2) Service Upon Foreign Corporation or Nonresident Entity.**
25 If the suit is against an unregistered foreign entity or association
26 that has an **officer, general partner, member, manager, trustee**
27 **or director within this state, to such officer, general partner,**
28 **member, manager, trustee or director** or, if none, then service
on such unregistered entity or association may be made by delivery
to the secretary of state or the deputy secretary of state, in the

manner and after affidavit as provided in subsection (d)(1) of this rule or otherwise as provided by law.

NRCPC 4(d)(1) & (2) (emphasis added).

Further, Nevada Revised Statutes § 14.020(1) requires that all artificial persons doing business in Nevada appoint a resident agent that, among other things, may accept legal service:

Every corporation, miscellaneous organization described in Chapter 81 of NRS, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust and municipal corporation created and existing under the laws of this State, any other state, territory or foreign government, or the Government of the United States, doing business in this State shall appoint and keep in this State a registered agent who resides or is located in this State, upon whom all legal process and any demand or notice authorized by law to be served upon it may be served in the manner provided in subsection 2.

Id.

Subsection (2) of Nevada Revised Statute § 14.020 reaffirms that all legal process and any demand or notice authorized by law to be served upon the artificial persons may be served upon the resident agent:

personally or by leaving a true copy thereof with a person of suitable age and discretion at the most recent street address of the registered agent shown on the information filed with the Secretary of State pursuant to chapter 77 of NRS.

Id.

Valley Hospital Medical Center, Inc. is a Nevada corporation. See Entity Details – Secretary of State, Nevada: Valley Hospital Medical Center, Inc., attached hereto as Exhibit “B.” In accordance with Nevada Revised Statute § 14.020, Valley Hospital maintains a resident agent: The Corporation Trust Company of Nevada located at 311 South Division Street, Carson City, NV 89703. See *id.* This information is publicly available through the Secretary of State’s website. However, Plaintiff did not attempt to serve the properly listed resident agent as

1 provided in NRCP 4(d) and NRS 14.020(2). Accordingly, Plaintiff was required to serve an
2 officer of Valley Hospital Medical Center, Inc., which he also failed to do. Furthermore, there is
3 no indication that Plaintiff attempted any alternative means of service, such as providing a copy
4 to the Secretary of State in conjunction with posting a copy of the process in the office of the
5 clerk of the Court. Consequently, Plaintiff failed to serve this Defendant and dismissal is
6 necessary.
7

8 If Plaintiff were to argue that the rules governing service of a foreign corporation apply
9 (as Defendant's parent company, Valley Health System LLC is a foreign limited-liability
10 company organized under the laws of Delaware), this too is a futile argument as Plaintiff failed
11 to follow the provisions of NRCP 4(d)(2) or NRS 14.020(2). Specifically, Plaintiff did not serve
12 any "officer, general partner, member, manager, trustee or director" of Valley Hospital in the
13 state, nor did he make service through the Secretary of State. Again, as previously mentioned,
14 Plaintiff also failed to serve the Defendant through its resident agent as would be permitted by
15 NRS 14.020(2).
16

17 To the contrary, Plaintiff served a human resources representative at Valley Hospital,
18 who lacks any actual or apparent authority to act on behalf of the corporation. This human
19 resources representative does not qualify as an individual upon whom service can be made.
20 Rather, Nevada Rule of Civil Procedure 4(d) and Nevada Revised Statute § 14.020 specifically
21 enumerate those individuals that Plaintiff may serve, and Ms. Donohue, a human resources
22 representative, is not one of them. At no time did Valley Hospital avoid service or attempt to
23 frustrate Plaintiff's attempt to serve the proper entity. Plaintiff failed to properly serve any of the
24 persons enumerated in the rule or the resident agent as permitted by rule and statute.
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1 As shown, Plaintiff has not complied with the appropriate means for service and his
2 purported service should be quashed. Because service was improper and entirely insufficient,
3 Valley Hospital is entitled to dismissal pursuant to Nevada Rule of Civil Procedure 12(b)(4).

4 **B. Plaintiff Failed to Timely Serve Valley Hospital and, Therefore, His**
5 **Complaint "Shall" be Dismissed Pursuant to NRCP 4(i)**

6 The clear, unmistakable, express requirements set forth in Nevada Rule of Civil
7 Procedure 4(i) require dismissal:

8
9 If a service of the summons and complaint is not made upon a
10 defendant within 120 days after the filing of the complaint, *the*
11 *action shall be dismissed* as to that defendant without prejudice
12 upon the court's own initiative with notice to such party or upon
13 motion, unless the party on whose behalf such service was required
14 files a motion to enlarge the time for service and shows good cause
15 why such service was not made within that period. If the party on
16 whose behalf such service was required fails to file a motion to
enlarge the time for service before the 120-day service period
expires, the court shall take that failure into consideration in
determining good cause for an extension of time. Upon a showing
of good cause, the court shall extend the time for service and set a
reasonable date by which service should be made.

17 *Id.* (emphasis added).

18 The term "shall" is "mandatory and does not denote judicial discretion." *Washoe Med.*
19 *Ctr.*, 122 Nev. at 1303, 148 P.3d at 793-94. The *Washoe* court further explained the effect of the
20 mandatory dismissal language reinforcing that "[t]he Legislature's choice of the words 'shall
21 dismiss' instead of 'subject to dismissal' indicates that the Legislature intended that the court
22 have no discretion with respect to dismissal." *Id.* Thus, Plaintiff was required to serve Valley
23 Hospital within 120 days of the October 13, 2014 filing of his Complaint. He has clearly failed
24 to do so. As discussed in detail above, *to date* Plaintiff has not properly served Valley Hospital
25 in accordance with the requirements set forth in NRCP 4(d) and NRS 14.020(2). The deadline
26 for any such service was February 10, 2015 and has long since passed. Plaintiff has failed to
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1 satisfy this clear, unambiguous timing requirement. Consequently, NRCP 4(i) expressly states
2 that upon such failure, "the action *shall* be dismissed." *Id.* (emphasis added).

3 Based on the foregoing, and in light of the clear language of the applicable rule,
4 Defendant Valley Hospital respectfully requests this Honorable Court dismiss the instant action
5 as against this Defendant.
6

7 IV.

8 CONCLUSION

9 Based on the foregoing, Defendant VALLEY HOSPITAL MEDICAL CENTER
10 respectfully requests an order from this Court granting this Motion to quash service and
11 dismissing Plaintiff's Complaint as against this Defendant.
12

13 DATED this 2nd day of March, 2015.

14 HALL PRANGLE & SCHOONVELD, LLC

15 By: 

16 JOHN F. BEMIS, ESQ.

17 Nevada Bar No.: 9509

18 IAN M. HOUSTON, ESQ.

19 Nevada Bar No.: 11815

20 1160 N. Town Center Dr., Ste. 100

21 Las Vegas, NV 89144

22 *Attorneys for Defendant*

23 *Valley Hospital Medical Center*
24
25 ...
26
27
28 ...

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TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 2 day of March, 2015, I served a true and correct copy of the foregoing **DEFENDANT VALLEY HOSPITAL MEDICAL CENTER'S MOTION TO QUASH SERVICE OF PLAINTIFF'S COMPLAINT FOR FAILURE TO SATISFY NRCP 4(d) AND TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO NRCP(4)(i) FOR FAILURE TO TIMELY SERVE** was served on the following by Electronic Service to all parties on the Wiznet Service List, addressed as follows:

Arthur Tuverson, Esq.
Thomas R. Slezak, Jr., Esq.
LAW OFFICES OF ARTHUR W. TUVERSON
7201 W. Lake Mead Blvd., Suite 570
Las Vegas, NV 89128
Attorneys for Defendant
David R. Zlpf, M.D.

The foregoing **DEFENDANT VALLEY HOSPITAL MEDICAL CENTER'S MOTION TO QUASH SERVICE OF PLAINTIFF'S COMPLAINT FOR FAILURE TO SATISFY NRCP 4(d) AND TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO NRCP(4)(i) FOR FAILURE TO TIMELY SERVE** was also served by First Class Mail, by placing same in a sealed envelope upon which first class postage was prepaid and addressed as follows:

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


An employee of HALL PRANGLE & SCHOONVELD, LLC

EXHIBIT "A"

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STATE OF NEVADA)
COUNTY OF CLARK) SS

I, TRACY DONOHUE, under penalty of perjury testify as follows:

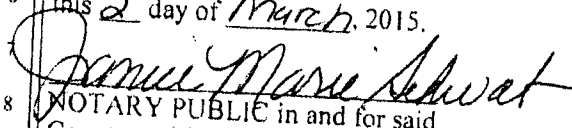
1. I am over the age of 18 and am competent to testify to the matters contained herein.
2. I am currently employed as a human resources representative at Valley Hospital Medical Center and was so employed in January of 2015.
3. At some point in January 2015, a man in a uniform presented to the human resources desk at Valley Hospital Medical Center, located at 620 Shadow Lane, Las Vegas, Nevada 89106.
4. The man spoke to me at the human resources counter inside the hospital and handed me a copy of a Summons and Complaint.
5. At no time did the man request that he be permitted to speak with any officer of Valley Hospital Medical Center.
6. At no time did the man inquire as to whether Valley Hospital has a resident agent or who that resident agent might be.
7. I am not, nor have I ever been, an officer of Valley Hospital Medical Center or any affiliated corporation or limited-liability company.

1 8. The statements contained herein are true and correct and based upon personal knowledge
2 except for those matters stated upon information and belief, which I believe to be true.
3

4 FURTHER AFFIANT SAYETH NAUGHT.

5 
6 TRACY DONOHUE

7 Sworn and subscribed before me
8 this 2 day of March, 2015.

9 
10 NOTARY PUBLIC in and for said
11 County and State

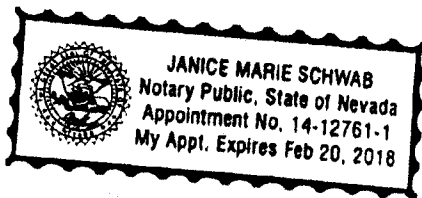


EXHIBIT "B"

VALLEY HOSPITAL MEDICAL CENTER, INC.

Business Entity Information			
Status:	Active	File Date:	6/15/1979
Type:	Domestic Corporation	Entity Number:	C3301-1979
Qualifying State:	NV	List of Officers Due:	6/30/2015
Managed By:		Expiration Date:	
NV Business ID:	NV19791005879	Business License Exp:	6/30/2015

Additional Information	
Central Index Key:	

Registered Agent Information			
Name:	THE CORPORATION TRUST COMPANY OF NEVADA	Address 1:	311 S DIVISION ST
Address 2:		City:	CARSON CITY
State:	NV	Zip Code:	89703
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active

Financial Information			
No Par Share Count:	0	Capital Amount:	\$ 200.00
Par Share Count:	200.00	Par Share Value:	\$ 1.00

<input checked="" type="checkbox"/> Officers <input type="checkbox"/> Include Inactive Officers			
Secretary - GEORGE H BRUNNER, JR.			
Address 1:	367 SOUTH GULPH ROAD	Address 2:	
City:	KING OF PRUSSIA	State:	PA
Zip Code:	19406	Country:	USA
Status:	Active	Email:	
Director - STEVE FILTON			
Address 1:	367 SOUTH GULPH ROAD	Address 2:	
City:	KING OF PRUSSIA	State:	PA
Zip Code:	19406	Country:	USA
Status:	Active	Email:	
President - MARVIN PEMBER			

Address 1:	367 SOUTH GULPH ROAD	Address 2:	
City:	KING OF PRUSSIA	State:	PA
Zip Code:	19406	Country:	USA
Status:	Active	Email:	
Treasurer - CHERYL K RAMAGANO			
Address 1:	367 SOUTH GULPH ROAD	Address 2:	
City:	KING OF PRUSSIA	State:	PA
Zip Code:	19406	Country:	USA
Status:	Active	Email:	

Actions/Amendments			
Action Type:	Articles of Incorporation		
Document Number:	C3301-1979-001	# of Pages:	6
File Date:	6/15/1979	Effective Date:	
(No notes for this action)			
Action Type:	Merger		
Document Number:	C3301-1979-003	# of Pages:	13
File Date:	3/26/1981	Effective Date:	
INTO THIS CORP.			
AGREEMENT OF MERGER MERGING UNIVERSAL HEALTH SERVICES OF LAS VEGAS, INC. (A NEVADA CORP-FILE 3948-79)			
Action Type:	Amendment		
Document Number:	C3301-1979-004	# of Pages:	13
File Date:	12/4/1987	Effective Date:	
AGREEMENT OF MERGER: MERGING FLIGHT FOR LIFE, INC., (A NEVADA CORP.), #6796-85, INTO THIS CORP...			
Action Type:	Amendment		
Document Number:	C3301-1979-005	# of Pages:	13
File Date:	2/16/1988	Effective Date:	
AGREEMENT OF MERGER: MERGING 700 SHADOW LANE CORPORATION, (A NEVADA CORP.), #4459-84, INTO THIS CORP...			
Action Type:	Amendment		
Document Number:	C3301-1979-006	# of Pages:	1
File Date:	10/13/1994	Effective Date:	
AMENDING ARTICLE ONE NAME CHANGE (1 PAGE) RAJ UNIVERSAL HEALTH SERVICES OF NEVADA, INC. RAJB61 001			
Action Type:	Annual List		
Document Number:	C3301-1979-012	# of Pages:	1
File Date:	6/16/1998	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		

Document Number:	C3301-1979-009	# of Pages:	1
File Date:	5/25/1999	Effective Date:	
(No notes for this action)			
Action Type:	Registered Agent Address Change		
Document Number:	C3301-1979-007	# of Pages:	299
File Date:	10/29/1999	Effective Date:	
CORPORATION TRUST COMPANY OF NEVAD KFA			
ONE EAST FIRST STREET RENO NV 89501 KFA			
Action Type:	Annual List		
Document Number:	C3301-1979-013	# of Pages:	1
File Date:	5/12/2000	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C3301-1979-010	# of Pages:	1
File Date:	5/22/2001	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C3301-1979-011	# of Pages:	1
File Date:	5/28/2002	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C3301-1979-008	# of Pages:	1
File Date:	5/16/2003	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C3301-1979-002	# of Pages:	1
File Date:	5/12/2004	Effective Date:	
List of Officers for 2004 to 2005			
Action Type:	Annual List		
Document Number:	20050254269-25	# of Pages:	1
File Date:	6/28/2005	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20060242299-56	# of Pages:	1
File Date:	4/17/2006	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20070372345-93	# of Pages:	1
File Date:	5/30/2007	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		

Document Number:	20080276439-01	# of Pages:	1
File Date:	4/21/2008	Effective Date:	
2008-2009			
Action Type:	Annual List		
Document Number:	20090496011-22	# of Pages:	1
File Date:	6/18/2009	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20100433306-92	# of Pages:	1
File Date:	6/11/2010	Effective Date:	
10/11			
Action Type:	Annual List		
Document Number:	20110330206-28	# of Pages:	1
File Date:	5/2/2011	Effective Date:	
11-12			
Action Type:	Annual List		
Document Number:	20120240860-55	# of Pages:	1
File Date:	4/5/2012	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20130267361-91	# of Pages:	1
File Date:	4/23/2013	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20140375904-75	# of Pages:	1
File Date:	5/23/2014	Effective Date:	
(No notes for this action)			

EXHIBIT “B”

EXHIBIT “B”

ORIGINAL

OGM

JOHN F. BEMIS, ESQ.

Nevada Bar No.: 9509

IAN M. HOUSTON, ESQ.

Nevada Bar No.: 11815

KIRILL V. MIKHAYLOV, ESQ.

Nevada Bar No.: 13538

HALL PRANGLE & SCHOONVELD, LLC

1160 N. Town Center Dr., Ste. 200

Las Vegas, NV 89144

(702) 889-6400 – Office

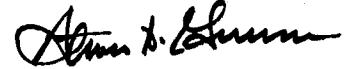
(702) 384-6025 – Facsimile

Email: efile@hpslaw.com

Attorneys for Defendant Valley Health System, LLC

d/b/a Valley Hospital Medical Center

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CLERK OF THE COURT

**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

**ORDER GRANTING DEFENDANT VALLEY HEALTH SYSTEM, LLC d/b/a
VALLEY HOSPITAL MEDICAL CENTER'S MOTION TO QUASH
SERVICE OF PLAINTIFF'S COMPLAINT FOR FAILURE
TO SATISFY NRCP 4(d) AND TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO NRCP(4)(i) FOR FAILURE TO TIMELY SERVE**

This matter came before the Honorable Douglas W. Herndon on April 8, 2015, for Defendant Valley Hospital Medical Center's Motion to Quash Service of Plaintiff's Complaint for Failure to Satisfy NRCP 4(d) and To Dismiss Plaintiff's Complaint Pursuant to NRCP (4)(i) For Failure to Timely Serve. Plaintiff, Frank Peck was not present, Kirill V. Mikhaylov, Esq.

HALL PRANGLE & SCHOONVELD, LLC
1160 NORTH TOWN CENTER DRIVE
SUITE 200
LAS VEGAS, NEVADA 89144
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

HALL PRANGLE & SCHOONVELD, LLC
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SUITE 200
LAS VEGAS, NEVADA 89144
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025


1 appeared as counsel for Defendant Valley Hospital Medical Center, Quincy Jaeger, Esq.,
2 appeared as counsel for Defendant Michael D. Barnum, M.D., and Melanie L. Thomas, Esq.,
3 appeared as counsel for Defendant David R. Zipf, M.D. Based upon the pleadings filed, the oral
4 argument and the cited precedent, this Court finds that Defendant Valley Hospital Medical
5 Center's Motion to Quash Service of Plaintiff's Complaint for Failure to Satisfy NRCP 4(d) and
6 To Dismiss Plaintiff's Complaint Pursuant to NRCP (4)(i) For Failure To Timely Serve is
7 GRANTED.

9
10 **ORDER**

11 Pursuant to the foregoing, and good cause appearing therefore,

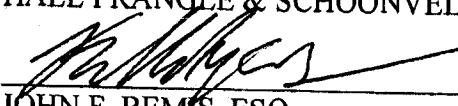
12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Valley
13 Hospital Medical Center's Motion to Quash Service of Plaintiff's Complaint for Failure to
14 Satisfy NRCP 4(d) and To Dismiss Plaintiff's Complaint Pursuant to NRCP (4)(i) For Failure To
15 Timely Serve is GRANTED.

16 **IT IS SO ORDERED.**

17
18 
19 DISTRICT COURT JUDGE 4-16-15

20 Respectfully submitted:

21 HALL PRANGLE & SCHOONVELD, LLC

22 
23 JOHN F. BEMIS, ESQ.

24 Nevada Bar No.: 9509

25 IAN M. HOUSTON, ESQ.

26 Nevada Bar No.: 11815

27 KIRILL V. MIKHAYLOV, ESQ.

28 Nevada Bar No.: 13538

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Attorneys for Defendant Valley Health System, LLC

d/b/a Valley Hospital Medical Center