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17 Centennial Hills Hospital Medical Center;
and Universal Health Services, Inc., a
18 Delaware corporation

19 IN THE SUPREME COURT OF THE STATE OF NEVADA

20 VALLEY HEALTH SYSTEM, LLC,
a Nevada limited liability company,
21 d/b/a CENTENNIAL HILLS
HOSPITAL MEDICAL CENTER;
22 AND UNIVERSAL HEALTH
SERVICES, INC., a Delaware
23 corporation,

24 Appellants,

Supreme Court No. 70083

District Court No. A595780

**APPELLANTS' LIMITED
RESPONSE TO MOTION FOR
GUIDANCE AND/OR MOTION
TO DISMISS THE ESTATE OF
JANE DOE**

Electronically Filed
May 24 2016 10:32 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

vs.

ESTATE OF JANE DOE, by and
through its Special Administrator,
MISTY PETERSON,

Respondents.

**APPELLANTS' LIMITED RESPONSE TO MOTION FOR GUIDANCE
AND/OR MOTION TO DISMISS THE ESTATE OF JANE DOE**

Appellants Valley Health System, LLC, d/b/a Centennial Hills Hospital
Medical Center ("Centennial Hills"), and Universal Health Services, Inc. ("UHS")
(collectively, "Appellants") respond to the Estate of Jane Doe's ("Doe") Motion for
Guidance and/or Motion to Dismiss the Estate of Jane Doe (the "Motion").

DATED this 23rd day of May, 2016.

BAILEY ♦ KENNEDY

By: 

DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
JOSHUA P. GILMORE

AND

MICHAEL E. PRANGLE, ESQ.
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Attorneys for Appellants

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL BACKGROUND

Centennial Hills and UHS appeal from the November 4, 2015 Order Striking Answer of Defendant Valley Health System LLC as Sanction for Discovery Misconduct (the “Sanction Order”), which includes, but is not limited to, the District Court’s ruling that Centennial Hills and UHS pay a monetary sanction to a non-party.¹ On February 29, 2016, an Order was entered by the District Court dismissing the lawsuit with prejudice following a global settlement. Pursuant to the terms of the Order, Centennial Hills and UHS preserved their rights to appeal the Sanction Order.²

II. ARGUMENT

Appellants do not oppose Doe’s request to be dismissed from this appeal. Appellants included Doe as the Respondent in an abundance of caution. However, as Appellants explained in their Joint Docketing Statement, “[d]ue to the parties’ settlement . . . , it is possible that Doe will choose not to participate in this appeal.”³

¹ Hall Prangle & Schoonveld, LLC, Michael E. Prangle, Esq., Kenneth M. Webster, Esq., and John F. Bemis, Esq. (collectively, “Lawyers”) were also the subject of the Sanction Order. The Lawyers will soon file a Petition for Extraordinary Writ Relief addressing the Sanction Order from their perspective. Because they relate to the same Sanction Order, the Lawyers and Appellants will seek to consolidate the Writ Petition with this Appeal at the appropriate time.

² Ex. 2 to Mot.

³ Appellants’ Joint Docketing Statement, 2:21-23, filed April 27, 2016.

1 Although it is relatively uncommon for an appeal to proceed with only
2 one party, it does occur during appellate review of sanction orders. As
3 explained by the Tenth Circuit Court of Appeals in a case involving the appeal
4 of an attorney sanction;

5 [T]he concern over the lack of an adversarial appeal in such cases
6 is assuaged by the fact that, on appeal, we review the district
7 court's order-detailing the reasons for any finding of attorney
misconduct-in addition to the appellant's brief.

8 *See Butler v. Biocore Med. Techs., Inc.*, 348 F.3d 1163, 1169 (10th Cir. 2003).

9 In another instance, the Third Circuit Court of Appeals requested that the
10 United States Attorney's Office appear as *amicus curiae* to defend the sanction
11 order because the opposing party no longer had a stake in the litigation. *See*
12 *Adams v. Ford Motor Co.*, 653 F.3d 299, 306 n. 1 (3d Cir. 1999).⁴

13 Here, the appeal may go forward with Appellants as the sole parties
14 because this Court has the District Court's detailed Sanction Order to review, as
15 well as the underlying briefing. To the extent the Court desires a more
16 adversarial approach, it has the discretion to request briefing from the Nevada
17 Attorney General's Office (*e.g.*, the Nevada Solicitor General), similar to the
18 Third Circuit in *Adams*. For these reasons, Appellants do not oppose Doe's
19 request to be dismissed from this appeal.

20
21 ⁴ As set forth above, Appellants preserved their right to appeal the
22 Sanction Order. Because of the reputational stigma associated with the
23 Sanction Order as well as the fact that Appellants were ordered to pay a
24 monetary sanction to a non-party, the global settlement did not render this
Appeal moot. *See Lasar v. Ford Motor Co.*, 399 F.3d 1101, 1108-09 (9th Cir.
2005); *Grider v. Keystone Health Plan Central, Inc.*, 580 F.3d 119, 133 (3d Cir.
2009).

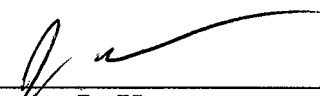
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III. CONCLUSION

For the foregoing reasons, Appellants agree that Doe can and should be dismissed from this appeal.

DATED this 23rd day of May, 2016.

BAILEY ♦ KENNEDY

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CERTIFICATE OF SERVICE

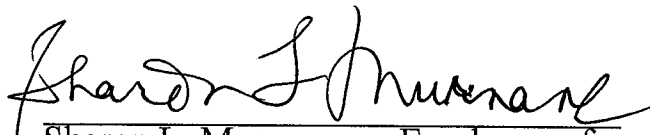
I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 23rd day of May, 2016, service of the foregoing **APPELLANTS' LIMITED RESPONSE TO MOTION FOR GUIDANCE AND/OR MOTION TO DISMISS THE ESTATE OF JANE DOE** was made by electronic service through Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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