

1 APPROVED AS TO FORM AND CONTENT:

2
3 By: 

4 Benjamin P. Cloward, Esq.
5 CLOWARD HICKS & BRASIER
6 721 S. Sixth Street
7 Las Vegas, NV 89101

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Attorneys for Plaintiffs

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 354-7000

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 2 TO EXCLUDE POST-JULY 2011 POLICY DOCUMENTS AND ANY REFERENCES OR TESTIMONY RELATED THERETO** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

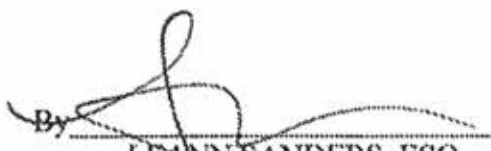
[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

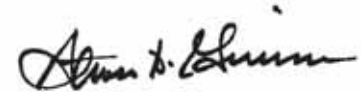
ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Attorneys for Defendants

N:\leann.grp\CASES\19969\pleadings\order granting-denying defs mil #2.doc

26

26



CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
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 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF ORDER ON DEFENDANTS MOTION IN LIMINE NO. 3 TO
EXCLUDE POSTMORTEM PHOTOGRAPHS OF DECEDENT AT TRIAL

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1
2 A copy of said Order is attached hereto.

3
4 DATED this 4th day of September, 2015.

5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

9 LEANN SANDERS, ESQ.

10 Nevada Bar No. 000390

11 KIMBERLEY HYSON, ESQ.

12 Nevada Bar No.: 11611

13 7401 W. Charleston Boulevard

14 Las Vegas, NV 89117-1401

15 (702) 384-7000

16 Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER ON DEFENDANTS MOTION IN LIMINE NO. 3 TO EXCLUDE POSTMORTEM PHOTOGRAPHS OF DECEDENT AT TRIAL to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
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CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs


An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF ORDER ON DEFENDANTS MOTION IN LIMINE NO. 3 TO EXCLUDE POSTMORTEM PHOTOGRAPHS OF DECEDENT AT TRIAL** filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

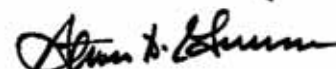
ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

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KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
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Las Vegas, Nevada 89117
Attorneys for Defendants

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09/04/2015 11:11:00 AM



CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
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efile@alversontaylor.com
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

**ORDER ON DEFENDANTS MOTION IN LIMINE NO. 3 TO EXCLUDE POSTMORTEM
PHOTOGRAPHS OF DECEDENT AT TRIAL**

21 WHEREAS Defendants First Transit, Inc. and Jay Farrales' Motion in Limine No. 3 To
22 Exclude Postmortem Photographs of Decedent at Trial came for hearing before the Honorable
23 Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs Jack and Elaine
24 Chernikoff appearing through their counsel of record BENJAMIN CLOWARD, ESQ. of
25 CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY
26 FARRALES, appearing through their counsel of record, KIMBERLEY HYSON, ESQ.; of the
27

1 law firm of Alverson, Taylor, Mortensen and Sanders; and with the Court having reviewed the
 2 pleadings and having heard oral arguments, rules as follows:

3 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Defendants
 4 First Transit, Inc. and Jay Farrales' Motion in Limine No. 3 To Exclude Postmortem
 5 Photographs of Decedent at Trial is hereby **POSTPONED UNTIL THE TIME OF TRIAL.**

6 Dated this 2nd day of September, 2015

7
 8 
 9 DISTRICT COURT JUDGE

JUDGE STEFANY A. MILEY

10 Submitted by:

11 ALVERSON, TAYLOR,
 12 MORTENSEN & SANDERS

13 By: 

14 LEANN SANDERS, ESQ.
 15 Nevada Bar No. 000390
 16 KIMBERLEY HYSON, ESQ.
 17 Nevada Bar No.: 11611
 18 7401 W. Charleston Boulevard
 19 Las Vegas, NV 89117-1401
 20 Attorneys for Defendants

21 **APPROVED AS TO FORM AND CONTENT:**

22 By: 

23 Benjamin P. Cloward, Esq.
 24 CLOWARD HICKS & BRASIER
 25 721 S. Sixth Street
 26 Las Vegas, NV 89101

27 *Attorneys for Plaintiffs*
 28

AFFIRMATION

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

The undersigned does hereby affirm that the preceding ORDER ON DEFENDANTS
MOTION IN LIMINE NO. 3 TO EXCLUDE POSTMORTEM PHOTOGRAPHS OF
DECEDENT AT TRIAL filed in District Court Case No. A-13-682726-C

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

-OR-

___ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

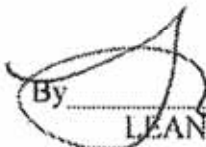
[Insert specific law]

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

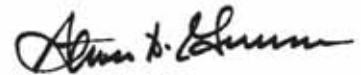
Las Vegas, Nevada 89117

Attorneys for Defendants

N:\leann.grp\CASES\19969\pleadings\order on defs mil #3.doc

27

27



CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
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 KIMBERLEY HYSON, ESQ.
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 Las Vegas, Nevada 89117
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 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

**NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART
 DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE
 NO. 4 TO PRECLUDE SPECULATION BY LAY WITNESSES THAT FIRST AID WOULD
 HAVE SAVED DECEDENT'S LIFE**

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1
2 A copy of said Order is attached hereto.

3 DATED this 4th day of September, 2015.

4
5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

000173

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 4 TO PRECLUDE SPECULATION BY LAY WITNESSES THAT FIRST AID WOULD HAVE SAVED DECEDENT'S LIFE to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
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(702) 384-7000

000174

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 4 TO PRECLUDE SPECULATION BY LAY WITNESSES THAT FIRST AID WOULD HAVE SAVED DECEDENT'S LIFE filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

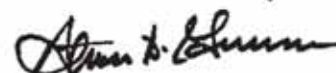
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

ORDR
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
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KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
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Telephone: (702) 384-7000
Facsimile: &(02) 385-7000
efile@alversontaylor.com
Attorneys for Defendants

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST
TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 4 TO PRECLUDE
SPECULATION BY LAY WITNESSES THAT FIRST AID WOULD HAVE SAVED
DECEDENT'S LIFE**

WHEREAS Defendants First Transit, Inc. and Jay Farrales' Motion in Limine No. 4 To Preclude Speculation by Lay Witnesses that First Aid Would Have Saved Decedent's Life came for hearing before the Honorable Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND ELAINE CHERNIKOFF appearing through their counsel of record BENJAMIN CLOWARD, ESQ., of CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY FARRALES, appearing through their counsel of record, KIMBERLEY HYSON, ESQ., of the law firm of ALVERSON, TAYLOR, MORTENSEN

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

1 AND SANDERS; and with the Court having reviewed the pleadings and having heard oral
2 arguments, rules as follows:

3 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Defendants
4 First Transit, Inc. and Jay Farrales' Motion in Limine No. 4 To Preclude Speculation by Lay
5 Witnesses that First Aid Would Have Saved Decedent's Life is hereby **GRANTED IN PART**
6 **AND DENIED IN PART**. Specifically, testimony by lay witnesses that first aid would have
7 saved Harvey Chernikoff's life is precluded. Plaintiff's medical expert Kenneth Stein, M.D. is
8 permitted to provide opinions regarding whether first aid would have saved Harvey
9 Chernikoff's life subject to foundation. Additionally, Plaintiffs stipulated on the record that
10 Plaintiffs' expert Carl Berkowitz, Ph.D. will not provide any opinions regarding whether first
11 aid would have saved Harvey Chernikoff's life.

12 Dated this 2nd day of September 2015

13 Submitted by:

14 ALVERSON, TAYLOR, MORTENSEN & SANDERS

15 By: 

16 LEANN SANDERS, ESQ.

17 Nevada Bar No. 000390

18 KIMBERLEY HYSON, ESQ.

19 Nevada Bar No.: 11611

20 7401 W. Charleston Boulevard

21 Las Vegas, NV 89117-1401

22 Attorneys for Defendants

23 ///

24 ///

1 APPROVED AS TO FORM AND CONTENT:

2 By: 

3 Benjamin P. Cloward, Esq.

4 CLOWARD HICKS & BRASIER

5 721 S. Sixth Street

6 Las Vegas, NV 89101

7 *Attorneys for Plaintiffs*

8

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AFFIRMATION

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

The undersigned does hereby affirm that the preceding **ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 4 TO PRECLUDE SPECULATION BY LAY WITNESSES THAT FIRST AID WOULD HAVE SAVED DECEDENT'S LIFE** filed in District Court Case No. A-13-682726-C:

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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28

28

CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
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 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,

CASE NO. A-13-682726-C

Plaintiffs,

DEPT. NO. XXIII

vs.

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-10, and ROES 1-10, inclusive,

Defendants.

**NOTICE OF ENTRY OF ORDER DEFERRING RULING ON PLAINTIFFS JACK
 AND ELAINE CHERNIKOFF'S MOTION TO STRIKE IMPERMISSIBLE VIDEO ON
 ORDER SHORTENING TIME**

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1 A copy of said Order is attached hereto.

2 DATED this 4th day of September, 2015.

3 ALVERSON, TAYLOR, MORTENSEN & SANDERS

4
5
6 By 

7 LEANN SANDERS, ESQ.

8 Nevada Bar No. 000390

9 KIMBERLEY HYSON, ESQ.

10 Nevada Bar No.: 11611

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14 Attorneys for Defendants

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LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000181

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER DEFERRING RULING ON PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION TO STRIKE IMPERMISSIBLE VIDEO ON ORDER SHORTENING TIME** to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
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Charles H. Allen, Esq.
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Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick
An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF ORDER DEFERRING RULING ON PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION TO STRIKE IMPERMISSIBLE VIDEO ON ORDER SHORTENING TIME filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

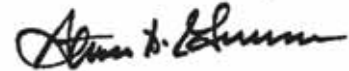
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

n:\leann.grp\cases\19969\pleadings\order deferring pltf's mot to strike impermissible video (revised)-neo.doc

Electronically Filed
09/04/2015 11:04:23 AM



CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
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9 Las Vegas, Nevada 89117
10 Telephone: (702) 384-7000
11 Facsimile: &02) 385-7000
12 efile@alversontaylor.com
13 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

**ORDER DEFERRING RULING ON PLAINTIFFS JACK AND ELAINE
CHERNIKOFF'S MOTION TO STRIKE IMPERMISSIBLE VIDEO ON ORDER
SHORTENING TIME**

21 WHEREAS Plaintiffs Jack and Elaine Chernikoff's Motion to Strike Impermissible
22 Video on Order Shortening Time came for hearing before the Honorable Stefany Miley on
23 Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND ELAINE CHERNIKOFF
24 appearing through their counsel of record BENJAMIN CLOWARD, ESQ., of CLOWARD
25 HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY FARRALES,
26 appearing through their counsel of record, KIMBERLEY HYSON, ESQ., of the law firm of
27
28

1 ALVERSON, TAYLOR, MORTENSEN AND SANDERS; and with the Court having reviewed
2 the pleadings and having heard oral arguments, rules as follows:

3 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that ruling on
4 Plaintiff's Motion to Strike Impermissible Video is hereby **DEFERRED** until trial. At that
5 time, the Court will address whether a proper foundation has been laid to admit the July 27,
6 2011 video. This issue will be addressed outside of the presence of the jury. In light of this
7 ruling, the July 27, 2011 video cannot be utilized by either party in opening statements.

8 Dated this 2nd day of September, 2015

9
10 
11 DISTRICT COURT JUDGE

12 Submitted by:

13 ALVERSON, TAYLOR,
14 MORTENSEN & SANDERS

15 By: 

16 LEANN SANDERS, ESQ.

Nevada Bar No. 000390

17 KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

18 7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

19 Attorneys for Defendants

20
21 **APPROVED AS TO FORM AND CONTENT:**

22 By: 

23 Benjamin P. Cloward, Esq.

24 CLOWARD HICKS & BRASIER

721 S. Sixth Street

25 Las Vegas, NV 89101

26 Attorneys for Plaintiffs
27
28

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **ORDER DEFERRING RULING ON PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION TO STRIKE IMPERMISSIBLE VIDEO ON ORDER SHORTENING TIME** filed in District Court Case No. A-13-682726-C:

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

-OR-

___ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

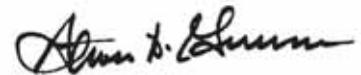
Las Vegas, Nevada 89117

Attorneys for Defendants

N:\leann.grp\CASES\19969\pleadings\order deferring Pltfs Mot to strike impermissible video (revised).doc

29

29



CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Telephone: (702) 384-7000
 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF ORDER

DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE
NO. 1 TO EXCLUDE ANY DISCUSSION, MENTION, REFERENCE, COMMENTS
REGARDING THE RETENTION OF NED EINSTEIN

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

///

1
2 A copy of said Order is attached hereto.

3 DATED this 4th day of September, 2015.

4 ALVERSON, TAYLOR, MORTENSEN & SANDERS

5
6
7 By 

8 JEANN SANDERS, ESQ.

9 Nevada Bar No. 000390

10 KIMBERLEY HYSON, ESQ.

11 Nevada Bar No.: 11611

12 7401 W. Charleston Boulevard

13 Las Vegas, NV 89117-1401

14 (702) 384-7000

15 Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000188

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 1 TO EXCLUDE ANY DISCUSSION, MENTION, REFERENCE, COMMENTS REGARDING THE RETENTION OF NED EINSTEIN to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 1 TO EXCLUDE ANY DISCUSSION, MENTION, REFERENCE, COMMENTS REGARDING THE RETENTION OF NED EINSTEIN filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
8 7401 W. Charleston Boulevard
9 Las Vegas, Nevada 89117
10 Telephone: (702) 384-7000
11 Facsimile: (702) 385-7000
12 efile@alversontaylor.com
13 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

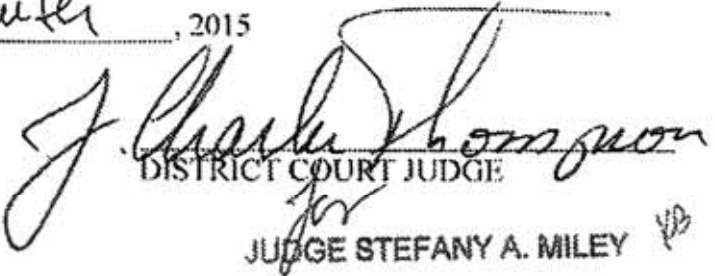
**ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN
LIMINE NO. 1 TO EXCLUDE ANY DISCUSSION, MENTION, REFERENCE,
COMMENTS REGARDING THE RETENTION OF NED EINSTEIN**

21 WHEREAS Plaintiffs Jack and Elaine Chernikoff's Motion in Limine No. 1 came for
22 hearing before the Honorable Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with
23 Plaintiffs JACK AND ELAINE CHERNIKOFF appearing through their counsel of record
24 BENJAMIN CLOWARD, ESQ., of CLOWARD HICKS & BRASIER; and Defendants FIRST
25 TRANSIT, INC. and JAY FARRALES, appearing through their counsel of record,
26 KIMBERLEY HYSON, ESQ., of the law firm of ALVERSON, TAYLOR, MORTENSEN
27
28

1 AND SANDERS; and with the Court having reviewed the pleadings and having heard oral
2 arguments, rules as follows:

3 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Plaintiff's
4 Motion in Limine No. 1 is hereby DENIED.

5 Dated this 2nd day of September, 2015

6
7 
8 DISTRICT COURT JUDGE
9 JUDGE STEFANY A. MILEY *VB*

Submitted by:

10 ALVERSON, TAYLOR.
11 MORTENSEN & SANDERS

12 By: 

LEANN SANDERS, ESQ.

13 Nevada Bar No. 000390

14 KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

15 Las Vegas, NV 89117-1401

16 Attorneys for Defendants

17 **APPROVED AS TO FORM AND CONTENT:**

18
19 By: 

20 Benjamin P. Cloward, Esq.

21 CLOWARD HICKS & BRASIER

721 S. Sixth Street

22 Las Vegas, NV 89101

23 *Attorneys for Plaintiffs*

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 1 TO EXCLUDE ANY DISCUSSION, MENTION, REFERENCE, COMMENTS REGARDING THE RETENTION OF NED EINSTEIN** filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

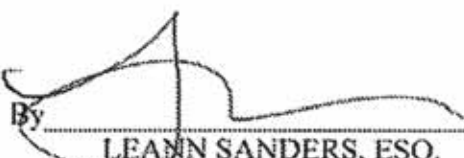
[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

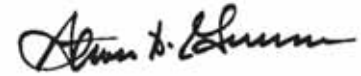
ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

N:\leann.grp\CASES\19969\pleadings\order denying pltf's mil #1.doc

30

30



CLERK OF THE COURT

NEOJ
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Telephone: (702) 384-7000
Facsimile: (702) 385-7000
efile@alversontaylor.com
Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

**NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE
CHERNIKOFF'S MOTION IN LIMINE NO. 2 TO EXCLUDE ANY REFERENCE OR
COMMENTS THAT CARL BERKOWITZ UTILIZED NED EINSTEIN'S REPORT**

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
Order in the above-entitled action.

///

///

///

///

1
2 A copy of said Order is attached hereto.

3 DATED this 11 day of September, 2015.

4
5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

000195

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 2 TO EXCLUDE ANY REFERENCE OR COMMENTS THAT CARL BERKOWITZ UTILIZED NED EINSTEIN'S REPORT to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 2 TO EXCLUDE ANY REFERENCE OR COMMENTS THAT CARL BERKOWITZ UTILIZED NED EINSTEIN'S REPORT filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]


-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By


LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
8 7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Telephone: (702) 384-7000
Facsimile: (702) 385-7000
efile@alversontaylor.com
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,

CASE NO. A-13-682726-C
DEPT. NO. XXIII

Plaintiffs,

vs.

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-
10, and ROES 1-10, inclusive,

Defendants.

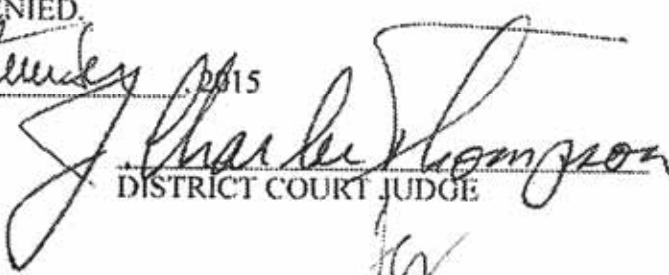
**ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN
LIMINE NO. 2 TO EXCLUDE ANY REFERENCE OR COMMENTS THAT CARL
BERKOWITZ UTILIZED NED EINSTEIN'S REPORT**

WHEREAS Plaintiffs Jack and Elaine Chernikoff's Motion in Limine No. 2 To Exclude Any Reference or Comments that Carl Berkowitz Utilized Ned Einstein's Report came for hearing before the Honorable Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND ELAINE CHERNIKOFF appearing through their counsel of record BENJAMIN CLOWARD, ESQ., of CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY FARRALES, appearing through their counsel of record,

1 KIMBERLEY HYSON, ESQ., of the law firm of ALVERSON, TAYLOR, MORTENSEN
 2 AND SANDERS; and with the Court having reviewed the pleadings and having heard oral
 3 arguments, rules as follows:

4 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Plaintiff's
 5 Motion in Limine No. 2 To Exclude Any Reference or Comments that Carl Berkowitz Utilized
 6 Ned Einstein's Report is hereby DENIED.

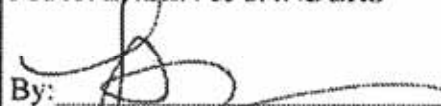
7 Dated this 2nd day of September, 2015

8 
 9 DISTRICT COURT JUDGE

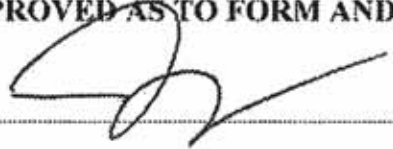
10 Submitted by:

11 ALVERSON, TAYLOR,
 12 MORTENSEN & SANDERS

13 
 14 JUDGE STEFANY A. MILEY

15 By: 
 16 LEANN SANDERS, ESQ.
 17 Nevada Bar No. 000390
 18 KIMBERLEY HYSON, ESQ.
 19 Nevada Bar No.: 11611
 20 7401 W. Charleston Boulevard
 21 Las Vegas, NV 89117-1401
 22 Attorneys for Defendants

23 **APPROVED AS TO FORM AND CONTENT:**

24 By: 
 25 Benjamin P. Cloward, Esq.
 26 CLOWARD HICKS & BRASIER
 27 721 S. Sixth Street
 28 Las Vegas, NV 89101

Attorneys for Plaintiffs

AFFIRMATION

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

The undersigned does hereby affirm that the preceding ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 2 TO EXCLUDE ANY REFERENCE OR COMMENTS THAT CARL BERKOWITZ UTILIZED NED EINSTEIN'S REPORT filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

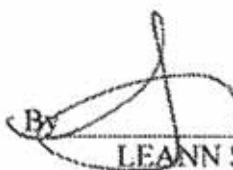
[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

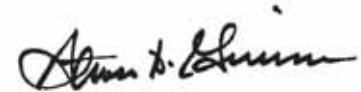
ALVERSON, TAYLOR, MORTENSEN & SANDERS

By  _____
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Attorneys for Defendants

N:\leann.grp\CASES\19969\pleadings\order denying pltf's mil #2.doc

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CLERK OF THE COURT

NESO
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Telephone: (702) 384-7000
 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF STIPULATION AND ORDER TO WITHDRAW PLAINTIFFS
MOTION IN LIMINE NO. 3 TO SEEK EXCLUSION OF ANY REFERENCE OR
COMMENTS THAT THE DECEDENT WAS INCOMPETENT TO RIDE THE BUS
AND ANY ARGUMENTS REGARDING COMPARATIVE NEGLIGENCE

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1
2 A copy of said Stipulation and Order is attached hereto.

3 DATED this 4 day of September, 2015.

4
5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

9 LEANN SANDERS, ESQ.

10 Nevada Bar No. 000390

11 KIMBERLEY HYSON, ESQ.

12 Nevada Bar No.: 11611

13 7401 W. Charleston Boulevard

14 Las Vegas, NV 89117-1401

15 (702) 384-7000

16 Attorneys for Defendants

17
18
19
20
21
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23
24
25
26
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28

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER TO WITHDRAW PLAINTIFFS MOTION IN LIMINE NO. 3 TO SEEK EXCLUSION OF ANY REFERENCE OR COMMENTS THAT THE DECEDENT WAS INCOMPETENT TO RIDE THE BUS AND ANY ARGUMENTS REGARDING COMPARATIVE NEGLIGENCE** to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000203

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

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

-OR-

____ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-Or-

B. For the administration of a public program or for an application for a federal or state grant.

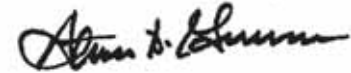
DATED this 14 day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By

LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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CLERK OF THE COURT

1 SAO
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
8 7401 W. Charleston Boulevard
9 Las Vegas, Nevada 89117
10 Telephone: (702) 384-7000
11 Facsimile: (702) 385-7000
12 efile@alversontaylor.com
13 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

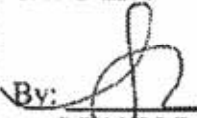
**STIPULATION AND ORDER TO WITHDRAW PLAINTIFFS MOTION IN LIMINE
NO. 3 TO SEEK EXCLUSION OF ANY REFERENCE OR COMMENTS THAT THE
DECEDENT WAS INCOMPETENT TO RIDE THE BUS AND ANY ARGUMENTS
REGARDING COMPARATIVE NEGLIGENCE**


22 WHEREAS Plaintiffs Jack and Elaine Chernikoff's Motion in Limine No. 3 To Seek
23 Exclusion Of Any Reference Or Comments That The Decedent Was Incompetent To Ride The
24 Bus And Any Arguments Regarding Comparative Negligence came for hearing before the
25 Honorable Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND
26 ELAINE CHERNIKOFF appearing through their counsel of record BENJAMIN CLOWARD,
27 ESQ., of CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY
28

1 FARRALES, appearing through their counsel of record, KIMBERLEY HYSON, ESQ., of the
 2 law firm of ALVERSON, TAYLOR, MORTENSEN AND SANDERS. At the time of the
 3 hearing, Plaintiffs agreed to withdraw the instant Motion. As such, the parties stipulate to the
 4 withdrawal of the instant Motion.

5 DATED this 27th day of August 2015 DATED this 26th day of August 2015.

6 ALVERSON, TAYLOR, MORTENSEN & SANDERS CLOWARD HICKS & BRASIER
 7 SANDERS

8 By: 
 9 LEANN SANDERS, ESQ.
 10 Nevada Bar No. 000390
 11 KIMBERLEY HYSON, ESQ.
 12 Nevada Bar No. 011611
 13 7401 W. Charleston Boulevard
 14 Las Vegas, NV 89117-1401
 15 (702) 384-7000
 16 *Attorneys for Defendants*

By: 
 Benjamin R. Cloward, Esq.
 Nevada Bar No. 011087
 CLOWARD HICKS & BRASIER
 721 S. Sixth Street
 Las Vegas, NV 89101

 Charles H. Allen, Esq.
 CHARLES ALLEN LAW FIRM
 191 Peachtree Street N.W., Suite 3300
 Atlanta, GA 30303

 RICHARD HARRIS LAW FIRM
 801 S. Fourth Street
 Las Vegas, NV 89101

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
 7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-1401
 (702) 384-7000

Chernikoff v. First Transit, et al.
CASE NO. A-13-682726-C
DEPT. NO. XXIII

ORDER

IT IS SO ORDERED.


DATED and DONE this 2nd day of September, 2015.


DISTRICT COURT JUDGE

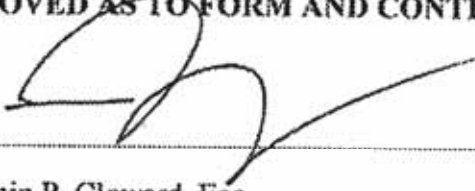
JUDGE STEFANY A. MILEY

Submitted by:

ALVERSON, TAYLOR, MORTENSEN
& SANDERS

By: 
JEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No. 011611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

APPROVED AS TO FORM AND CONTENT:

By: 
Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **STIPULATION AND ORDER TO WITHDRAW PLAINTIFFS MOTION IN LIMINE NO. 3 TO SEEK EXCLUSION OF ANY REFERENCE OR COMMENTS THAT THE DECEDENT WAS INCOMPETENT TO RIDE THE BUS AND ANY ARGUMENTS REGARDING COMPARATIVE NEGLIGENCE** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

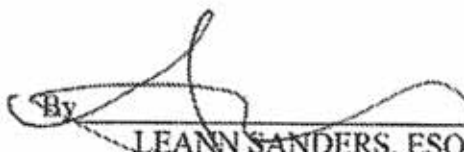
[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August 2015.

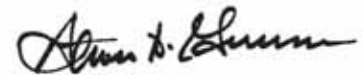
ALVERSON, TAYLOR, MORTENSEN & SANDERS

By  **LEANN SANDERS, ESQ.**
 Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Attorneys for Defendants

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CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Telephone: (702) 384-7000
 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

**NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE
 CHERNIKOFF'S MOTION IN LIMINE NO. 4 TO EXCLUDE ANY REFERENCE OF
 DECEDENT OBTAINING A DRIVERS LICENSE**

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1 A copy of said Order is attached hereto.

2 DATED this 4th day of September, 2015.

3 ALVERSON, TAYLOR, MORTENSEN & SANDERS

4
5
6 By 

7 LEANN SANDERS, ESQ.

8 Nevada Bar No. 000390

9 KIMBERLEY HYSON, ESQ.

10 Nevada Bar No.: 11611

11 7401 W. Charleston Boulevard

12 Las Vegas, NV 89117-1401

13 (702) 384-7000

14 Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000210

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 4 TO EXCLUDE ANY REFERENCE OF DECEDENT OBTAINING A DRIVERS LICENSE to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 4 TO EXCLUDE ANY REFERENCE OF DECEDENT OBTAINING A DRIVERS LICENSE** filed in District Court Case No. A-13-682726-C

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

-OR-

 Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

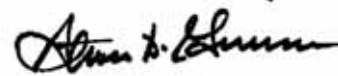
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
8 7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Telephone: (702) 384-7000
Facsimile: &(02) 385-7000
efile@alversontaylor.com
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

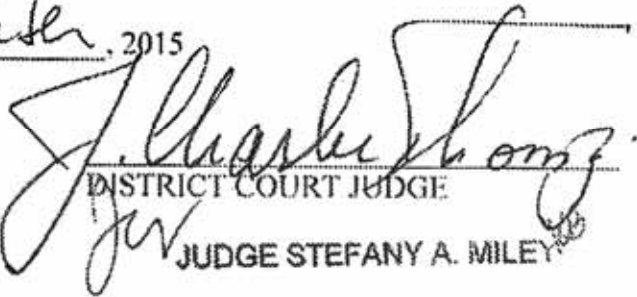
**ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN
LIMINE NO. 4 TO EXCLUDE ANY REFERENCE OF DECEDENT OBTAINING A
DRIVERS LICENSE**

21 WHEREAS Plaintiffs Jack and Elaine Chernikoff's Motion in Limine No. 4 To Exclude
22 any Reference of Decedent Obtaining a Drivers License came for hearing before the Honorable
23 Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND ELAINE
24 CHERNIKOFF appearing through their counsel of record BENJAMIN CLOWARD, ESQ., of
25 CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY
26 FARRALES, appearing through their counsel of record, KIMBERLEY HYSON, ESQ., of the
27
28

law firm of ALVERSON, TAYLOR, MORTENSEN AND SANDERS; and with the Court
having reviewed the pleadings and having heard oral arguments, rules as follows:

IT IS HEREBY ORDERED, ADJUDICATED AND DECREED that Plaintiff's
Motion in Limine No. 4 To Exclude any Reference of Decedent Obtaining a Drivers License is
hereby **DENIED**.

Dated this 2nd day of September, 2015


DISTRICT COURT JUDGE

JUDGE STEFANY A. MILEY

Submitted by:

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

By: 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

Attorneys for Defendants

APPROVED AS TO FORM AND CONTENT:

By: 

Benjamin P. Cloward, Esq.

CLOWARD HICKS & BRASIER

721 S. Sixth Street

Las Vegas, NV 89101

Attorneys for Plaintiffs

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **ORDER DENYING PLAINTIFFS JACK AND ELAINE CHERNIKOFF'S MOTION IN LIMINE NO. 4 TO EXCLUDE ANY REFERENCE OF DECEDENT OBTAINING A DRIVERS LICENSE** filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

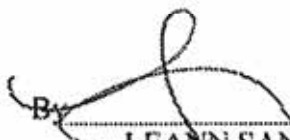
[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Attorneys for Defendants

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33

33

CLERK OF THE COURT

NTSO
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
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 Las Vegas, Nevada 89117
 Telephone: (702) 384-7000
 Facsimile: (702) 385-7000
cfile@alversontaylor.com
 Attorneys for Defendants

**DISTRICT COURT
 CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,

CASE NO. A-13-682726-C

Plaintiffs,

DEPT. NO. XXIII

vs.

**NOTICE OF ENTRY OF
 STIPULATION AND ORDER
 TO RESET TRIAL**

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-
 10, and ROES 1-10, inclusive.

Defendants.

PLEASE TAKE NOTICE that on the 8th day of September, 2015, the Court entered a
 Stipulation and Order in the above-entitled action. A copy of said Stipulation and Order is
 attached hereto.

DATED this 8th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 9th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF STIPULATION AND ORDER TO RESET TRIAL to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs


An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000217

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF STIPULATION AND ORDER TO RESET TRIAL filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 9th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

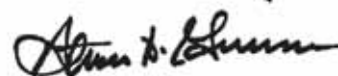
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

1 SAO
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSOON, ESQ.
7 Nevada Bar No.: 11611
8 7401 W. Charleston Boulevard
9 Las Vegas, Nevada 89117
10 Telephone: (702) 384-7000
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12 efile@alversontaylor.com
13 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
13 Plaintiffs,	)	DEPT. NO. XXIII
14 vs.)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
17 Defendants.)	

STIPULATION AND ORDER TO RESET TRIAL


18
19
20 On July 9, 2015, the Court issued a Firm Order Re-Setting Civil Jury Trial and Calendar
21 Call for November 16, 2015. On July 31, 2015, Plaintiffs filed a Motion to Continue Trial due
22 to the fact that they would not be available for the November 16, 2015 trial. Since that time, the
23 parties have met and conferred regarding availability to move the November 16, 2015 trial
24 setting. The parties contacted Department XXIII to obtain the next available trial stack. With
25 an understanding that the next available trial stack commences on February 8, 2016, the parties
26 request to be set for a firm trial setting on February 10, 2016. The parties anticipate that trial
27 will last two (2) weeks. *ca/DC23*
28

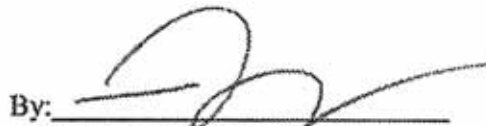
ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

WHEREAS Plaintiffs Jack and Elaine Chernikoff, by and through their attorney of record, Benjamin Cloward, Esq. of CLOWARD HICKS & BRASIER and Defendants First Transit, Inc. and Jay Farrales, by and through their attorneys of record, ALVERSON, TAYLOR, MORTENSEN & SANDERS. hereby stipulate to vacate the current November 16, 2015 trial date and request that Trial be reset to commence on February 16, 2016.
CA/BC 23

DATED this 28 day of August, 2015 DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS CLOWARD HICKS & BRASIER

By: 
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No. 011611
7401 W. Charleston Boulevard
Las Vegas, NV 89117-1401
(702) 384-7000
Attorneys for Defendants

By: 
Benjamin P. Cloward, Esq.
Nevada Bar No. 011087
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
191 Peachtree Street N.W., Suite 3300
Atlanta, GA 30303

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

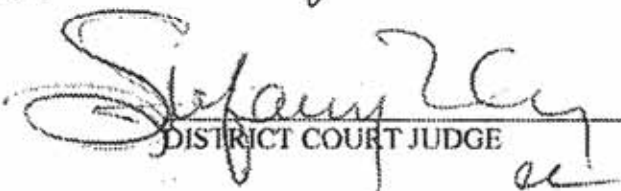
ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

Chernikoff v. First Transit, et al.
CASE NO. A-13-682726-C
DEPT. NO. XXIII

ORDER

IT IS SO ORDERED.


DATED and DONE this 31 day of August, 2015.


DISTRICT COURT JUDGE

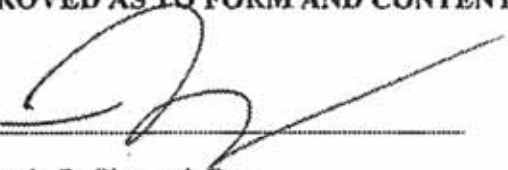
JUDGE STEFANY A. MILEY

Submitted by:

ALVERSON, TAYLOR, MORTENSEN
& SANDERS

By: 
JEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No. 011611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

APPROVED AS TO FORM AND CONTENT:

By: 
Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101
Attorneys for Plaintiffs

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000221

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **STIPULATION AND ORDER TO RESET TRIAL** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 22nd day of May, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

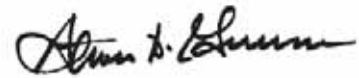
Attorneys for Defendants

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TRAN



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

JACK CHERNIKOFF,
ELAINE CHERNIKOFF,

 Plaintiff,
vs.

FIRST TRANSIT INC.,

 Defendant.

CASE NO. A-13-682726
DEPT NO. XXIII

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

WEDNESDAY, FEBRUARY 17, 2016

APPEARANCES:

For the Plaintiff:

BENJAMIN P. CLOWARD, ESQ.
CHARLES H. ALLEN, ESQ.
ALISON M. BRASIER, ESQ.

For the Defendants:

LEANN SANDERS, ESQ.
KIMBERLEY A. HYSON, ESQ.
J. BRUCE ALVERSON, ESQ.

RECORDED BY MARIA GARIBAY, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

KARR REPORTING, INC.

1 LAS VEGAS, CLARK COUNTY, NEVADA, FEBRUARY 17, 2016, 1:30 P.M.

2 * * * * *

3 (Outside the presence of the panel of prospective jurors.)

4 THE COURT: All right. Thank you for your patience.
5 All right. So this is the time set for trial in Estate of
6 Harvey Chernikoff versus First Transit, Case A682726.

7 Counsel, please introduce yourself.

8 MR. CLOWARD: Yes, Your Honor. Ben Cloward, and
9 cocounsel Charles Allen, and then my partner, Allison Braiser
10 for the plaintiffs.

11 This is Elaine Chernikoff.

12 THE COURT: Hi.

13 MR. CLOWARD: This is her husband Jack Chernikoff,
14 and this is their son Neil Chernikoff.

15 THE COURT: All right. Good afternoon, everybody.
16 And for the defense.

17 MS. SANDERS: Good afternoon, Your Honor. My name is
18 LeAnn Sanders. Bruce Alverson and Kim Hyson are the attorneys
19 that are here with me. My clients are Jay Farrales. and
20 Jennifer McKibbins is here as a representative of First
21 Transit.

22 THE COURT: Perfect.

23 All right. So I think Jason went over selecting a
24 jury in this department. Just a quick overview again. If one
25 of the jurors is dismissed for cause, I just put someone back

KARR Reporting, Inc.

1 in that exact same seat. What I have started doing on the
2 people that are let go for cause, I just relocate them to the
3 back of the room. I found pretty early this year I was having
4 a huge learning curve with my juries, and that seems to slow
5 the learning curve. So they go to the back of the room to sit
6 through the day's proceedings, and they'll be dismissed at the
7 end of the day.

8 I am very liberal on voir dire so long as it's within
9 the rules. I don't care whether you address any of the people
10 individually or as a group. It's just personal preference.
11 You can ask pretty much any question which is within the rules.

12 As far as going over challenges for cause, I just
13 kind of wait for a natural time to do those in the course of
14 the trial. A lot of times we'll have a break, and that may be
15 a time to talk about challenges for cause if someone really
16 stands out. I try to limit the bench conferences as much as I
17 possibly can because it seems to irritate the juries when you
18 have too many of them.

19 Another thing, what Jason does when he goes out there
20 is -- this is a really short trial. I mean, you know, it'll go
21 this week and next week. So I would prefer that you don't ask
22 the attorney -- I mean ask the question of, Can any of you not
23 serve. Jason has already gone out there and given the jury the
24 rundown of things that do not get you out of jury duty. I'm
25 pretty strict on having people in jury duty.

KARR Reporting, Inc.

1 What I am going to do is I'm going to give you a list
2 of names. So there are some people we often just screen from
3 the get-go. These people have provided documentation that they
4 cannot serve as a juror in this case, either it's travel that's
5 been prepaid, preplanned prior to today's date or some kind of
6 medical documentation, or something else indicating that they
7 could not be a juror in this case. So let me go over those
8 with you before I officially release them and send them back
9 down to jury services.

10 All right. On your jury list it is Ann Wozniak, on
11 the bottom of page 1, Badge No. 191. They have travel which
12 has been documented. It will be during the course of the
13 trial. It is prepaid, preplanned. We are going to let them
14 go, send them back down to jury services.

15 On the same page, Lord Michael T. Bautista, Badge No.
16 202, same thing, prepaid, preplanned travel during the course
17 of the trial. We're going to send them back down to jury
18 services.

19 Turning to page 2, three fourths of the way down the
20 page, Darla Philip, Badge No. 256, same thing, prepaid,
21 preplanned travel during the course of the trial. We're going
22 to let them go back down to jury services.

23 Turning to page 3, Jennifer Rohlman, now normally I
24 wouldn't let people out for this, but she has to be -- I guess
25 she has a muni trial for tickets, which is during the course of

KARR Reporting, Inc.

1 the trial. So I was just going to send her down to jury
2 services. They can make the decision whether or not to reseat
3 her in another case. That is on page 3.

4 And lastly, on page 4, Suzanne Samlowski, Badge No.
5 352, had travel documentation of a trip during the course of
6 the trial that's prepaid, preplanned. So those are the
7 individuals I was going to send back down to jury services to
8 be reassigned if they desire.

9 All right. Is there anything else we need to address
10 before we bring the jury in?

11 MR. CLOWARD: Is the Court going to do a general voir
12 dire of the jurors and then --

13 THE COURT: Yes, I'll do just a basic voir dire.

14 MR. CLOWARD: Okay.

15 THE COURT: If there's any particular questions you'd
16 like me to ask -- usually I just ask the basics, make sure they
17 can sit as a juror and find out whether or not they know any of
18 you guys, any of your witnesses.

19 MR. CLOWARD: Okay.

20 THE COURT: Oh, and one more housekeeping matter. I
21 know that we have a late start because I was sick yesterday.
22 Carmen is calling to see if we can get coverage for our
23 evidentiary hearing tomorrow morning. That way we can
24 hopefully make up time. I'm expecting we'll probably pick a
25 jury today, hopefully, and then if we can do it, we can do

KARR Reporting, Inc.

1 openings and instructions to the jury tomorrow morning. That
2 way I know that you guys have some witnesses who are already
3 scheduled to be in town.

4 MR. CLOWARD: Yes.

5 THE COURT: But I'll let you know as soon as Carmen
6 e-mails me.

7 MR. CLOWARD: Thank you, Judge.

8 (Pause in the proceedings.)

9 THE COURT: So Maria is going to give you guys a
10 seating chart, which will help you with the individuals who are
11 over in the box. So it'll probably be just a couple more
12 minutes.

13 I'm sorry. If I can't hear you, I apologize. My
14 ears are stopped up.

15 THE COURT RECORDER: I'm going to go off the record.

16 THE COURT: Okay.

17 (Proceedings recessed 1:34 p.m. to 1:48 p.m.)

18 THE COURT: Hello again. Okay. Since you're already
19 standing, just stay standing because we're going to bring the
20 jury in.

21 MR. CLOWARD: No problem, Judge.

22 THE COURT: Maria, go on, please.

23 THE COURT RECORDER: We're on the record.

24 THE COURT: Jase, my jury.

25 (Pause in the proceedings.)

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1 (Panel of prospective jurors entering 1:52 p.m.)

2 THE COURT: Everyone is here, Jase?

3 THE MARSHAL: Everyone is here, Judge.

4 THE COURT: All right. Counsel, please make yourself
5 comfortable.

6 Ladies and gentlemen of the jury, welcome. I am
7 Judge Stephanie Miley. We're here on the trial of Estate of
8 Harvey Chernikoff versus First Transit. It is Case A682726.

9 Now, all of you guys have met Jason Dean. What we're
10 going to do, we're going to do -- well, actually let me
11 introduce you to my staff first.

12 Sitting to the left is Louisa Garcia. Ms. Garcia is
13 a court clerk. She actually is not my normal court clerk. So
14 for those of you that are selected for jury service in this
15 case, you'll probably see a different person come into court
16 starting on Monday, but she was nice enough to fill in while my
17 other clerk is gone.

18 Now, the clerk does it a lot of things during the
19 course of the trial. You'll see them busily taking notes,
20 working on the computer. One of the main things they do during
21 the course of the trial is they're responsible for all of the
22 exhibits. They're responsible for keeping track of them,
23 marking them, and making note of which ones do and do not come
24 into evidence.

25 Sitting next to her is Maria Garibay. Maria is the

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1 court recorder. Now, for those of you that have not had jury
2 service in a really long time or have never been in jury duty,
3 what you used to see were court reporters, the person who sits
4 on the stenographic machine taking notes during the course of
5 the trial.

6 Now most of the courtrooms in this building have gone
7 to court recording, which means that everything that's said and
8 done in this courtroom is being recorded, and so if you answer
9 a question, because it's being recorded, it's very important
10 that you identify yourself and give me the last three digits of
11 your badge number, and because the recording is the official
12 transcript of what goes on in these proceedings it's very
13 important that I get a verbal response. Even though I can see
14 you nodding your head, obviously I can't take that down on the
15 recording.

16 So what we're going to do now is we're going to do a
17 quick roll call. So if your name is called, please make some
18 kind of a sound so we can count you present.

19 (Roll called.)

20 THE CLERK: Thank you.

21 THE COURT: All right. Welcome, everyone. So this
22 is what we're going to do. Right now I'm going to have the
23 plaintiff's counsel stand up. They're going to introduce
24 themselves. They're going to introduce their client, and
25 they're going to tell you a little bit about the case. They're

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1 also going to list individuals who may be called to testify in
2 this case. When they've had an opportunity to do that, the
3 defense will also have an opportunity to introduce themselves
4 and their client and let you know who could be a witness in
5 this case.

6 It's very important that you listen closely to the
7 list of individuals who may be called to testify in this case.
8 Counsel for the plaintiff.

9 MR. CLOWARD: You bet.

10 Okay. So my name is Ben Cloward. This is my partner
11 Alison Brasier and my cocounsel Charles Allen. We also have
12 another partner who's not here. His name is Jonathan Hicks,
13 and all three of us, we used to work at the Richard Harris Law
14 Firm.

15 And do you want me to go through the attorneys there
16 or not or --

17 THE COURT: How long has it been since you changed
18 firms?

19 MR. CLOWARD: One -- one year but it's still -- we're
20 still associated on there.

21 THE COURT: Then, please.

22 MR. CLOWARD: Okay. So the Richard Harris Law Firm,
23 that's Richard Harris, and then Joshua Harris, Bryan Boyack,
24 Seth Little, Kyle Stucki, Samantha Martin, Brian Blackwell,
25 Kris Helmick, A.J. Sharp, Nia Killebrew, Elaine Marzola, Chris

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1 Henderson, Michael Sandoval, Chris Caulfield [phonetic],
2 Kristina Weller and Garnet Bill [phonetic].

3 And then the witnesses, Judge?

4 THE COURT: Please.

5 MR. CLOWARD: Okay. So the witnesses plaintiffs
6 anticipate calling are Czarina Mendez; Jennifer Dimmers
7 [phonetic], now remarried, and now she goes by Jennifer Jacobs;
8 Daniel Lingamfelter; Kenneth Stein, Neil Chernikoff, and this
9 is Neil right here.

10 Neil, if you'd just stand up for us, please.

11 Jack Chernikoff.

12 Jack, if you want to stand up.

13 And then Elaine Chernikoff.

14 Thank you. You can sit down.

15 And just tell them a little about the case?

16 THE COURT: A little about the case, please.

17 MR. CLOWARD: Okay. So this case is about Harvey
18 Chernikoff. That is Neil's brother, Elaine and Jack's son. He
19 had a mental disability and was on a paratransit bus and choked
20 and ended up dying on the bus. So that's what the case is
21 about.

22 Thank you.

23 THE COURT: Thank you. Counsel for the defense.

24 MS. SANDERS: Yes, Your Honor.

25 Good afternoon. My name is LeAnn Sanders, and my --

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1 myself and my colleagues Bruce Alverson and Kimberly Hyson
2 seated with me at counsel table are with the firm of Alverson,
3 Taylor, Mortenson and Sanders.

4 Your Honor, we've got about 40 attorneys. Can I just
5 go through the partners?

6 THE COURT: Yes, probably.

7 MS. SANDERS: Okay. In addition to Mr. Alverson and
8 myself, our other partners are Eric Taylor, David Mortensen,
9 John Owens, Kurt Bonds, Karie Wilson, Dalton Hooks, Seetal
10 Tejura and Shirley Blazich.

11 THE COURT: All right. And potential witnesses,
12 ma'am.

13 MS. SANDERS: Yes. In addition to the witnesses
14 Mr. Cloward identified, Jay Farrales is seated behind me.
15 He'll be testifying. Jennifer McKibbins is here as a
16 representative of First Transit, my other client. We expect to
17 call Michael MacQuarrie; he's a physician expert witness.
18 Matthew Daecher.

19 I think that's it, Your Honor.

20 THE COURT: All right. Thank you very much. If you
21 want to make yourself comfortable, or did you have something to
22 say about the case?

23 MS. SANDERS: Well, I just wanted to say -- yes, just
24 a word about the case.

25 This is a negligence case. We expect the evidence to

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1 show that the death of party Chernikoff was unrelated to
2 anything that was done or not done by either Jay Farrales or
3 First Transit.

4 THE COURT: All right. Thank you.

5 All right. Ladies and gentlemen, we're about to
6 begin a process called voir dire. All it is is it's the
7 questioning of the jury. It is done under oath. So I'm going
8 to ask that you all stand up. Please raise your right hand to
9 be sworn in.

10 (Panel of prospective jurors sworn.)

11 THE CLERK: Thank you.

12 THE COURT: All right. Make yourself comfortable.

13 All right. Ladies and gentlemen of the jury, so for
14 those of you that have never been in jury duty before, again
15 voir dire is just the questioning of the jury under oath. Now,
16 over the next several hours, what's going to happen is first
17 the Court is going to ask a series of questions, okay, and some
18 of these questions are going to be very general, or they're
19 going to be tailored to a specific individual. When the Court
20 has had an opportunity to lay some background, asked some
21 background questions, then the attorneys for the plaintiff and
22 the attorneys for the defense will also have a chance to ask
23 you guys questions.

24 Now, again some of the questions are just going to be
25 very general questions, and some are going to be tailored to a

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1 specific individual. If you're one of the individuals who gets
2 asked a very specific question, please don't take any offense.
3 The attorneys are just trying to find out a little bit more
4 about each of you, and they're just trying to determine whether
5 or not you're a good fit for this particular trial.

6 So, ladies and gentlemen of the jury, remember I
7 asked you to listen closely as all of those individuals are
8 named off, does anyone know any of the attorneys for the
9 plaintiff? No hands, all right.

10 Does anyone know the Chernikoffs, the individuals
11 seated with the plaintiffs' attorneys?

12 PROSPECTIVE JURORS: No.

13 THE COURT: Everyone says no.

14 And the plaintiffs listed several individuals who may
15 be called to testify in this case. Does anyone know any of the
16 individuals who may be witnesses in this case for the
17 plaintiff?

18 PROSPECTIVE JURORS: No.

19 THE COURT: Everyone says no.

20 All right. Turning to the defense, Mr. Alverson and
21 Ms. Sanders are obviously trial counsel. Does anyone know them
22 or any of the members of their law firm?

23 PROSPECTIVE JURORS: No.

24 THE COURT: Everyone says no, and does anyone know or
25 have any association with the defendant who is First Transit?

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1 Does anyone know either the company representative or anyone
2 who works at First Transit?

3 PROSPECTIVE JURORS: No.

4 THE COURT: Okay. I have a hand in the back.

5 Ma'am, I'm going to need your name and badge number.

6 PROSPECTIVE JUROR NO. 293: Angelique Forte, Badge
7 293.

8 THE COURT: Okay. So tell me what's your association
9 with First Transit.

10 PROSPECTIVE JUROR NO. 293: My mother is a fueler for
11 First Transit.

12 THE COURT: And I have to apologize. I've been kind
13 of sick. So I can't hear very well.

14 PROSPECTIVE JUROR NO. 293: My mother is a fueler
15 four First Transit.

16 THE COURT: A feeler, what is that?

17 PROSPECTIVE JUROR NO. 293: She cleans buses and
18 fills them with gas.

19 THE COURT: Oh, okay. Got it. So and I'm sure
20 there'll probably be some more questions about that. How long
21 has your mom worked for First Transit?

22 PROSPECTIVE JUROR NO. 293: About six years.

23 THE COURT: Okay. And knowing that First Transit is
24 a party to this litigation, would that affect your ability to
25 listen to the plaintiffs' case and the defense case and be fair

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1 to both.

2 PROSPECTIVE JUROR NO. 293: No, it won't affect it.

3 THE COURT: All right. Thank you very much.

4 Does anyone else here either work for First Transit,
5 know someone who works for First Transit, owns stock in First
6 Transit?

7 PROSPECTIVE JURORS: No.

8 THE COURT: Everyone shakes her head no. All right.
9 Okay, everybody. And did I ask you -- again, does anyone know
10 any of the defense witnesses who may testify?

11 PROSPECTIVE JURORS: No.

12 THE COURT: Everyone says no.

13 And does everyone in here still have the right to
14 vote?

15 PROSPECTIVE JURORS: Yes.

16 THE COURT: Everyone says, yes. Great.

17 Is everyone in here a US citizen?

18 PROSPECTIVE JURORS: Yes.

19 THE COURT: Everyone says yes. Very good.

20 All right. I'm going to turn my attention to this
21 group of individuals over here.

22 Thank you very much.

23 Have any -- has anyone sitting over here in the jury
24 box and the chairs in front of the jury box, have any of you
25 ever been a juror before?

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1 PROSPECTIVE JURORS: No.

2 PROSPECTIVE JUROR 156: Yes.

3 THE COURT: I heard one yes. And, ma'am, you are
4 Alitzah Martinez, Badge number 156?

5 PROSPECTIVE JUROR NO. 156: Yes.

6 THE COURT: Okay. Hold on one second. All right.
7 So you were a juror when?

8 PROSPECTIVE JUROR NO. 156: It was my first time
9 being a juror. I'm not sure. It was a while ago, maybe five
10 years.

11 THE COURT: Okay. Was it here in Las Vegas?

12 PROSPECTIVE JUROR NO. 156: Yes.

13 THE COURT: Civil or criminal? Were they fighting
14 over --

15 PROSPECTIVE JUROR NO. 156: I think it was civil.

16 THE COURT: -- money, or was it about a crime?

17 PROSPECTIVE JUROR NO. 156: Oh, it might have been
18 domestic violence I think. I'm not sure.

19 THE COURT: Okay. Do you -- don't tell me what the
20 verdict was, but did your jury reach a verdict?

21 PROSPECTIVE JUROR NO. 156: Yes.

22 THE COURT: All right. And we're you the foreperson
23 of that jury?

24 PROSPECTIVE JUROR NO. 156: Say that again.

25 THE COURT: The foreperson?

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1 PROSPECTIVE JUROR NO. 156: What does that mean
2 exactly?

3 THE COURT: Usually when a jury is selected there's
4 kind of one person who's selected kind of as the leader, you
5 know, who --

6 PROSPECTIVE JUROR NO. 156: No.

7 THE COURT: Okay. So, no, you weren't. All right.
8 Has anyone else over here been a juror before?

9 PROSPECTIVE JURORS: No.

10 THE COURT: Everyone says no, okay.

11 All right. Have any of you ever been involved in a
12 lawsuit, either as a plaintiff or defendant?

13 PROSPECTIVE JURORS: No.

14 THE COURT: Okay. I have two hands.

15 Ms. -- you are Ms. Tamara Collins-Beckum?

16 PROSPECTIVE JUROR NO. 146: Yes.

17 THE COURT: Badge NO. 146. Tell me about the
18 lawsuit.

19 PROSPECTIVE JUROR NO. 146: It was for a car
20 accident.

21 THE COURT: You know what, Jase --

22 Where is he?

23 I can't hear, Maria. My ears are so stopped up.

24 THE COURT RECORDER: I'll give her the microphone.

25 THE COURT: I'm going to give you guys a microphone.

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1 I'm sorry. My ears are so stopped up. I cannot hear very
2 well.

3 All right, ma'am, I'm sorry. So you said you've been
4 involved in a lawsuit before; is that right?

5 PROSPECTIVE JUROR NO. 146: Yes.

6 THE COURT: Were you the plaintiff or the defendant?

7 PROSPECTIVE JUROR NO. 146: Plaintiff.

8 THE COURT: Can you tell me the nature?

9 PROSPECTIVE JUROR NO. 146: It was just for a car
10 accident.

11 THE COURT: So you were injured in a car accident?

12 PROSPECTIVE JUROR NO. 146: Yes.

13 THE COURT: Did it ever go to trial?

14 PROSPECTIVE JUROR NO. 146: I believe before it did
15 they ended up settling out of court.

16 THE COURT: Okay. And tell me about that experience.
17 Does that experience affect your ability to be fair to both the
18 plaintiff and the defendant?

19 PROSPECTIVE JUROR NO. 146: No.

20 THE COURT: Okay. And any other times you've been a
21 party to a lawsuit, ma'am?

22 PROSPECTIVE JUROR NO. 146: No.

23 THE COURT: All right. Thank you.

24 I think I saw another hand, the ma'am in the blue
25 shawl, Ms. Jean Tobin, Badge 183.

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1 Yes, ma'am, can you tell me what happened.

2 PROSPECTIVE JUROR NO. 183: Yes, it was a lawsuit for
3 a trust.

4 THE COURT: Okay. Did it ever go to trial?

5 PROSPECTIVE JUROR NO. 183: It went to evidentiary
6 hearing.

7 THE COURT: Okay. Is it over now?

8 PROSPECTIVE JUROR NO. 183: Yes, it is.

9 THE COURT: All right. And does that affect your
10 ability to be fair to either the plaintiff or the defendant in
11 this case?

12 PROSPECTIVE JUROR NO. 183: Personally I feel that it
13 does.

14 THE COURT: Can you tell me a little bit more about
15 that.

16 PROSPECTIVE JUROR NO. 183: This is not to offend
17 anybody in the courtroom, either attorneys or Your Honor, but
18 my experience was that it was very corrupt, and I really don't
19 hold any respect for the judicial court system in Clark County.

20 THE COURT: All righty. I'll make note of that.
21 Thank you.

22 PROSPECTIVE JUROR NO. 183: Thank you.

23 THE COURT: Okay. So is there anyone else who's been
24 involved in a lawsuit?

25 PROSPECTIVE JURORS: No.

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1 THE COURT: No, no one else?

2 PROSPECTIVE JURORS: No.

3 THE COURT: Okay. All right. So I'm going to go one
4 by one with all of you guys. We're going to start with Gayle
5 Scheeler, Badge No. 133.

6 All right. Ma'am, are you employed?

7 PROSPECTIVE JUROR NO. 133: No, retired.

8 THE COURT: What did you retire from?

9 PROSPECTIVE JUROR NO. 133: I was a 21 dealer for 35
10 years.

11 THE COURT: Same property? Different properties?

12 PROSPECTIVE JUROR NO. 133: The Wynn properties.

13 THE COURT: So did you just kind of move --

14 PROSPECTIVE JUROR NO. 133: Well, the old Wynn.

15 THE COURT: What?

16 PROSPECTIVE JUROR NO. 133: The old Wynn, the --

17 THE COURT: The Bellagio?

18 PROSPECTIVE JUROR NO. 133: Yeah, the Bellagio, the
19 Mirage, the Golden Nugget but, yeah.

20 THE COURT: So you just kind of moved with Mr. Wynn's
21 properties?

22 PROSPECTIVE JUROR NO. 133: Yeah, every time he moved
23 I moved.

24 THE COURT: All right.

25 MR. ALVERSON: Your Honor, I'm having a little

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1 trouble hearing too. Could we use the mic?

2 THE COURT: Does have the microphone?

3 Yes, we need to use the microphone.

4 MR. ALVERSON: Oh, you do, okay.

5 THE COURT: I'm sorry. You know, I think with the
6 weather allergies are starting a little bit earlier this year.

7 Okay. So you said you worked for 21 years as a --

8 PROSPECTIVE JUROR NO. 133: 35.

9 THE COURT: -- 35 years as a 21 dealer?

10 PROSPECTIVE JUROR NO. 133: Yes.

11 THE COURT: Right. And what else -- did you do any
12 other types of jobs other than working as a 21 dealer?

13 PROSPECTIVE JUROR NO. 133: I worked in banks for
14 five years.

15 THE COURT: What did you do for the bank?

16 PROSPECTIVE JUROR NO. 133: I was a teller and then a
17 new accounts -- I worked in the new accounts department, and I
18 worked in the vault for a number of years, and before that I
19 worked in Colorado at a university medical center.

20 THE COURT: What did you do at the medical center?

21 PROSPECTIVE JUROR NO. 133: It was in an accounting
22 section.

23 THE COURT: A what?

24 PROSPECTIVE JUROR NO. 133: An accounting section.

25 THE COURT: Oh, accounting. All right. Any other

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1 jobs?

2 PROSPECTIVE JUROR NO. 133: I worked at a newspaper,
3 the Valley Times.

4 THE COURT: Uh-huh. Anything else?

5 PROSPECTIVE JUROR NO. 133: No.

6 THE COURT: All right. Are you married?

7 PROSPECTIVE JUROR NO. 133: Yes.

8 THE COURT: Does your husband still work?

9 PROSPECTIVE JUROR NO. 133: He is also retired.

10 THE COURT: What did he retire from?

11 PROSPECTIVE JUROR NO. 133: He -- a truck driver, a
12 Teamster for 38 years.

13 THE COURT: All righty. And do you guys have
14 children?

15 PROSPECTIVE JUROR NO. 133: We have three children.

16 THE COURT: Minors or adults?

17 PROSPECTIVE JUROR NO. 133: Adults.

18 THE COURT: Okay. And how long have you lived in
19 Clark County, Nevada?

20 PROSPECTIVE JUROR NO. 133: 65 years.

21 THE COURT: So pretty much a local?

22 PROSPECTIVE JUROR NO. 133: Yes.

23 THE COURT: All righty. Thank you very much.

24 Let's pass it on down to Deanna Smith, Badge NO. 137.

25 Ms. Smith, are you employed?

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1 PROSPECTIVE JUROR NO. 137: Yes.

2 THE COURT: What do you do?

3 PROSPECTIVE JUROR NO. 137: I work in radiology at
4 Sunrise Hospital.

5 THE COURT: How long have you been there?

6 PROSPECTIVE JUROR NO. 137: Six years.

7 THE COURT: What do you do in radiology?

8 PROSPECTIVE JUROR NO. 137: I work in the special
9 procedures department doing, like, strokes and other medical
10 imaging procedures.

11 THE COURT: So do you -- okay. Do you operate a
12 particular type of machine? I know some people do MRIs. Some
13 do CTs.

14 PROSPECTIVE JUROR NO. 137: Yeah, we use fluoro
15 [phonetic] equipment, almost like x-ray equipment.

16 THE COURT: So which types of procedures are you
17 qualified to perform?

18 PROSPECTIVE JUROR NO. 137: Anything using x-rays.

19 THE COURT: Okay. That's a lot.

20 PROSPECTIVE JUROR NO. 137: Yes.

21 THE COURT: So pretty much anything in the radiology
22 department you can do, right?

23 PROSPECTIVE JUROR NO. 137: Correct. That's why we
24 are in special procedures.

25 THE COURT: And can you tell me, how long have you

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1 done that?

2 PROSPECTIVE JUROR NO. 137: I just started in that
3 department three months ago.

4 THE COURT: And then prior to that?

5 PROSPECTIVE JUROR NO. 137: In -- over just specific
6 plain x-rays. I was there for five years.

7 THE COURT: Okay. So, I mean, I know you have to go
8 to the special schooling. So can you give me a little bit of a
9 rundown on your schooling that you went to for these -- for
10 this job.

11 PROSPECTIVE JUROR NO. 137: So I went to UNLV for
12 x-ray imaging.

13 THE COURT: Uh-huh.

14 PROSPECTIVE JUROR NO. 137: And then now I'm
15 currently cross-training and studying to take the state boards
16 for special procedures.

17 THE COURT: Okay. And prior to getting into
18 radiology, what did you do?

19 PROSPECTIVE JUROR NO. 137: I worked for the State of
20 Maryland.

21 THE COURT: Doing what?

22 PROSPECTIVE JUROR NO. 137: In healthcare also.

23 THE COURT: As what?

24 PROSPECTIVE JUROR NO. 137: In healthcare also.

25 THE COURT: What did you do in there with Maryland?

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1 PROSPECTIVE JUROR NO. 137: We were -- I worked at a
2 teen clinic.

3 THE COURT: You said teen?

4 PROSPECTIVE JUROR NO. 137: Yes.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 137: Like a -- like a Planned
7 Parenthood. I guess that would be comparable to what it is
8 here, but it would be for the State there.

9 THE COURT: Okay. And how long were you there?

10 PROSPECTIVE JUROR NO. 137: Five years.

11 THE COURT: Did you have to have some kind of special
12 medical training for that position?

13 PROSPECTIVE JUROR NO. 137: No.

14 THE COURT: And prior to working for the State of
15 Maryland, what did you do?

16 PROSPECTIVE JUROR NO. 137: Then I worked for an
17 eyeglass place before then doing optics.

18 THE COURT: Were you the person who performed all the
19 tests before you see the eye doctor?

20 PROSPECTIVE JUROR NO. 137: No, we actually made the
21 glasses.

22 THE COURT: Oh, okay. All right. Am I getting close
23 to all your jobs?

24 PROSPECTIVE JUROR NO. 137: Yeah.

25 THE COURT: Okay. Are you married?

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1 PROSPECTIVE JUROR NO. 137: No, divorced.

2 THE COURT: And do you have children?

3 PROSPECTIVE JUROR NO. 137: Yes.

4 THE COURT: How many?

5 PROSPECTIVE JUROR NO. 137: Two.

6 THE COURT: Minors or adults?

7 PROSPECTIVE JUROR NO. 137: Minors.

8 THE COURT: All right. Let's go on. Let's move on

9 to Reed --

10 Oh, I didn't ask you this before. How long have you
11 been in Clark County, Nevada?

12 PROSPECTIVE JUROR NO. 137: Six years.

13 THE COURT: Thank you very much.

14 PROSPECTIVE JUROR NO. 137: Going on seven years.

15 THE COURT: Okay. And actually I overlooked a few
16 questions for Ms. Scheeler. I'm sorry. If you could go
17 backwards.

18 You said you have three adult children?

19 PROSPECTIVE JUROR NO. 133: Yes.

20 THE COURT: What do they do for a living?

21 PROSPECTIVE JUROR NO. 133: Okay. My daughter works
22 for Citibank, and my son works at -- he's an agent for
23 insurance. He's an insurance agent.

24 THE COURT: Okay. And you have three?

25 PROSPECTIVE JUROR NO. 133: Yes. And my other son is

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1 in California. He's a chef, a private chef.

2 THE COURT: All right. Thank you so much.

3 All righty. Let's go back to Reed Strobeck, Badge

4 No. 138.

5 Sir, it's your turn. Are you employed?

6 PROSPECTIVE JUROR NO. 138: Yes.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR NO. 138: I do corporate sales for

9 Snap-On.

10 THE COURT: For what?

11 PROSPECTIVE JUROR NO. 138 Snap-On Tools.

12 THE COURT: Okay. How long have you done that?

13 PROSPECTIVE JUROR NO. 138: A little over a year.

14 THE COURT: And prior to that job?

15 PROSPECTIVE JUROR NO. 138: I worked at a pool

16 company.

17 THE COURT: And how long were you at the pool

18 company?

19 PROSPECTIVE JUROR NO. 138: About a year.

20 THE COURT: And prior to that?

21 PROSPECTIVE JUROR NO. 138: Excuse me?

22 THE COURT: Prior to that job?

23 PROSPECTIVE JUROR NO. 138: I was a manager at a

24 pizza place in Reno.

25 THE COURT: And how long were you at the pizza place?

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1 PROSPECTIVE JUROR NO. 138: About two years.

2 THE COURT: All right. And prior to that?

3 PROSPECTIVE JUROR NO. 138: I went to school.

4 THE COURT: Okay. And are you married?

5 PROSPECTIVE JUROR NO. 138: No.

6 THE COURT: Do you have children?

7 PROSPECTIVE JUROR NO. 138: No.

8 THE COURT: And how long have you been in Clark
9 County, Nevada?

10 PROSPECTIVE JUROR NO. 138: When I -- I went to
11 school in Reno, but pretty much my whole life.

12 THE COURT: Okay. Thank you very much.

13 Mr. Strobeck, can you pass it on down to Tamara Collins-Beckum,
14 Badge No. 146.

15 Ms. Beckum, are you employed?

16 PROSPECTIVE JUROR NO. 146: Yes.

17 THE COURT: What do you do?

18 PROSPECTIVE JUROR NO. 146: I work for the State of
19 Nevada Department of Welfare.

20 THE COURT: What do you do there?

21 PROSPECTIVE JUROR NO. 146: I'm a caseworker.

22 THE COURT: How long have you been there?

23 PROSPECTIVE JUROR NO. 146: Two years.

24 THE COURT: Okay. So do you have, like, a specific
25 specialty, like seniors or juvenile?

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I. FINDINGS

A hearing was conducted on the above date and time on Plaintiffs' Motion to Substitute Expert on Order Shortening Time. The Discovery Commissioner, having considered the arguments raised in Plaintiff's Motion and Defendant's Opposition, and the case law, statutory authority and oral arguments concerning the same, recommends as follows:

RECOMMENDATIONS

Upon the review of the facts and circumstances of this matter, and taking into consideration the arguments of the parties in this matter, the Discovery Commissioner hereby makes the following Recommendations:

IT IS HEREBY RECOMMENDED Plaintiffs' Motion to Substitute Expert is hereby GRANTED within parameters.

IT IS FURTHER RECOMMENDED that Defendants are permitted to take the deposition of Carl Berkowitz. Plaintiffs are ordered to pay Mr. Berkowitz's expert fees for the deposition, as well as the deposition fees and costs.

IT IS FURTHER RECOMMENDED that Carl Berkowitz must adopt Ned Einstein's opinions. Carl Berkowitz cannot create new opinions, therefore no further report needed.


IT IS FURTHER RECOMMENDED Mr. Cloward must advise Defense counsel by 11/26/14 of any opinions contained in Ned Einstein's report that Carl Berkowitz does not intend to adopt, by providing a redacted copy of Mr. Einstein's report to Defense counsel.

IT IS FURTHER RECOMMENDED Defense counsel may supplement expert disclosures up to 30 days before Trial.

IT IS FURTHER RECOMMENDED that Discovery cutoff extended to 01/22/2015, Dispositive Motions due 02/23/2015, all other discovery deadlines are closed. Trial date stands.

Discovery Commissioner, having met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED and this 24 day of November 2014.


DISCOVERY COMMISSIONER

Submitted By:


Approved as to form and content by:

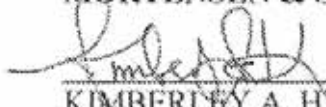
DATED THIS 20th day of November, 2014.

DATED THIS 21st day of November, 2014.

RICHARD HARRIS LAW FIRM

**ALVERSON, TAYLOR,
MORTENSEN & SANDERS**


BENJAMIN P. CLOWARD, ESQ.
Nevada Bar No. 11087
801 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiffs


KIMBERLEY A. HYSOON ESQ.
Nevada Bar No. 11611
7401 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorneys for Defendants.

NOTICE

Pursuant to NRCP 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

Pursuant to E.D.C.R. 2.34(f) an objections must be filed and served no more than five (5) judicial days after receipt of the Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or (3) days after mailing to a party or his attorney, or three (3) days after mailing to a party or his attorney, or three (3) days after the Clerk of the Court deposits a copy of the Report in the folder of a party's lawyer in the Clerk's Office. See E.D.C.R. 2.34(f)]

A copy of the foregoing Discovery Commissioner's Report was:

_____ Mailed to Plaintiff/Defendant at the following address on
the _____ day of _____, 2014:

X Placed in the folder of Plaintiff's & Defendant's counsel in the Clerk's office
on the 25 day of Nov., 2014.

STEVEN D. GRIERSON

By

Jennifer A. Roth
Deputy Clerk

ORDER

The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

— The parties having waived the right to object thereto,

— No timely objection having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34(f),

☒ Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

* * *

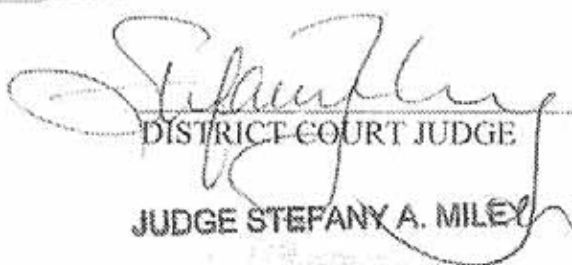
AND

— IT IS HEREBY ORDERED the Discovery Commissioner's Report & Recommendations are affirmed and adopted.

— IT IS HEREBY ORDERED the Discovery Commissioner's Report And Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

☒ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report and Recommendations is set for 1-13, 2015, at 9:30 a.m.

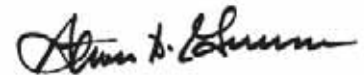
Dated this 15th day of Dec, 2014.


DISTRICT COURT JUDGE

JUDGE STEFANY A. MILEY

15

15

DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

ESTATE OF HARVEY CHERNIKOFF,
Plaintiff(s),CASE NO. A682726
DEPT NO. 23

vs.

FIRST TRANSIST INC.,

Defendant(s),
/**SECOND ORDER RE-SETTING CIVIL JURY TRIAL and CALENDAR CALL****IT IS HEREBY ORDERED** that:

The trial date previously set in this matter for **April 20, 2015**, and all dates associated therewith are hereby VACATED; and

IT IS FURTHER ORDERED that:

A. The above entitled case is set to be tried for seven days to begin on **Monday, June 29, 2015 at 1:00 pm.**

B. A Calendar Call will be held on **Tuesday, June 23, 2015 at 11:00 a.m.**

Trial Counsel (and any party in proper person) must appear. *Trial Counsel* must appear at the calendar call and bring the following:

- (1) Typed exhibit lists and exhibits;
- (2) Original, certified, unopened depositions;
- (3) List of equipment needed for trial;

C. The Pre-trial Memorandum must be filed no later than **June 19, 2015**, with a courtesy copy delivered to chambers. EDCR 2.67 must be complied with.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order and/or any amendments or subsequent orders.

STEFANY A. MILEY
DISTRICT JUDGEDEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

1 E. All motions in limine must be in writing and set for a hearing no later than 30 days
2 prior to Trial. All pretrial motions shall be heard and decided no later than 15 days before the
3 date scheduled for trial.

4 F. Stipulations to continue a trial date will not be considered by the Court. Pursuant to
5 EDCR 2.35, a motion to continue trial due to any discovery issues or deadlines must be made
6 before the Discovery Commissioner.

7 G. Orders shortening time will not be signed except in extreme emergencies.

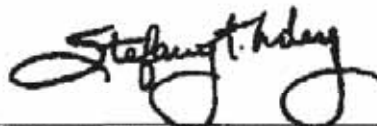
8 ***AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY***

9 Failure of the designated trial attorney or any party appearing in proper person to appear
10 for any court appearances or to comply with this Order shall result in any of the following:

11 (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial
12 date; and/or any other appropriate remedy or sanction.

13 Counsel must advise the Court immediately when the case settles or is otherwise
14 resolved prior to trial. A stipulation which terminates a case by dismissal shall indicate
15 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial.

16 DATED: January 13, 2015.

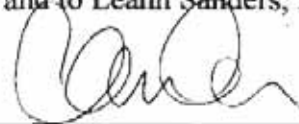


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19 HONORABLE STEFANY A. MILEY
20 DISTRICT COURT JUDGE

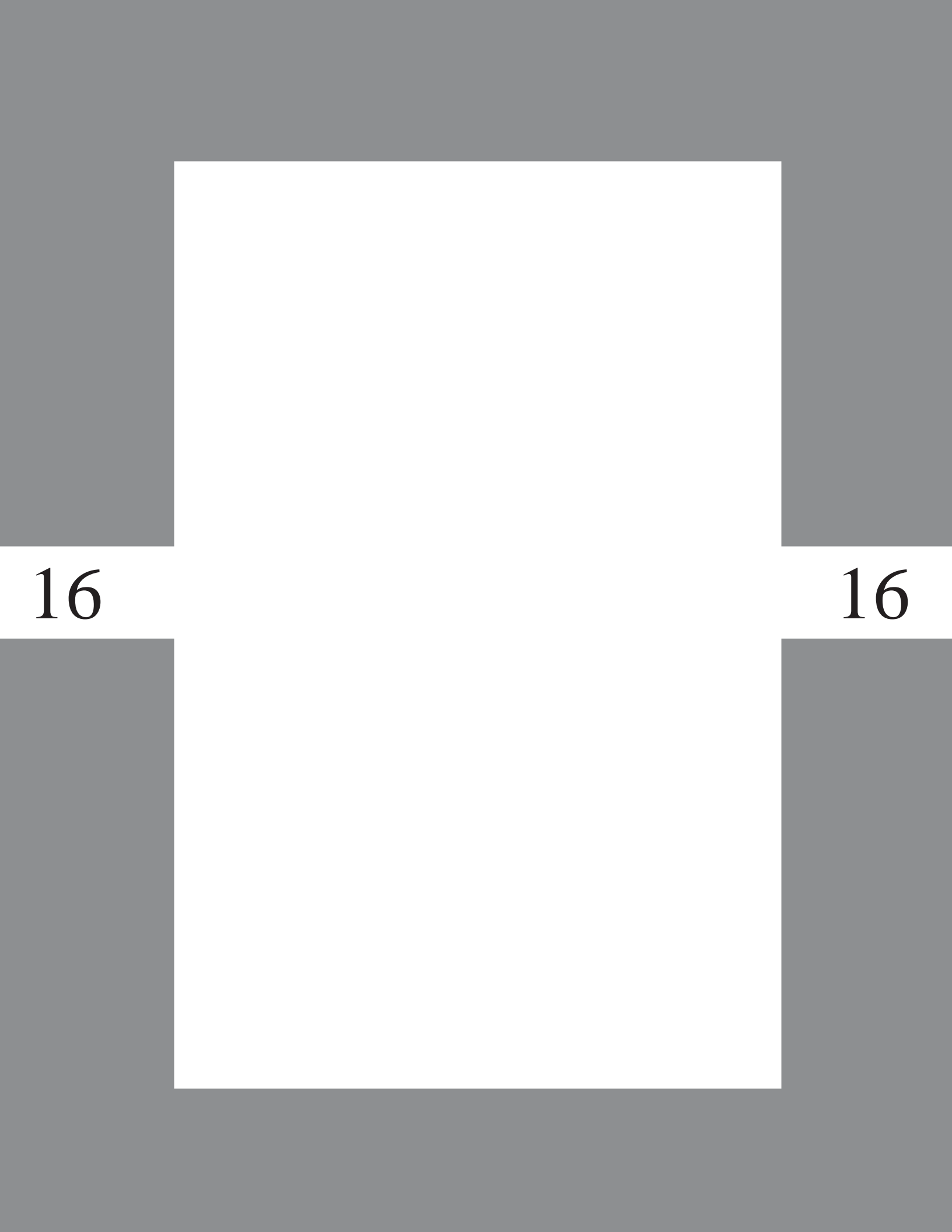
21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on or about the date signed, a copy of this Order was electronically served
23 and/or placed in the attorney's folders maintained by the Clerk of the Court and/or transmitted
24 via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as
25 follows: Benjamin P. Cloward, Esq. at (702) 444-4455 and to Leann Sanders, Esq. at
26 (702) 385-7000.

27 By:

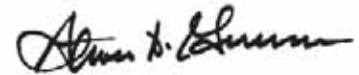


28 Carmen Alper
Judicial Executive Assistant



16

16



CLERK OF THE COURT

NESO
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 (702) 384-7000
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,)
)
 Plaintiffs,)
)
 vs.)
)
 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)
 10, and ROES 1-10, inclusive,)
)
 Defendants.)

CASE NO. A-13-682726-C
 DEPT. NO. XXIII

NOTICE OF ENTRY OF STIPULATION AND ORDER
FOR EXTENSION OF TIME TO COMPLETE DISCOVERY

PLEASE TAKE NOTICE that on the 16th day of January, 2015, the Court entered a
 Stipulation and Order for Extension of Time to Complete Discovery in the above-entitled
 action.

///

///

///

1 A copy of said Stipulation and Order is attached hereto.

2 DATED this 20th day of January, 2015

3 ALVERSON, TAYLOR, MORTENSEN & SANDERS

4
5
6 By  #1148

7 LEANN SANDERS, ESQ.

8 Nevada Bar No. 000390

9 SHIRLEY BLAZICH, ESQ.

10 Nevada Bar No. 008378

11 7401 W. Charleston Boulevard

12 Las Vegas, NV 89117-1401

13 (702) 384-7000

14 Attorneys for Defendants

880000
ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

000088

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 20th day of January, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME TO COMPLETE DISCOVERY to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

Benjamin Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
191 Peachtree Street N.W., Suite 3300
Atlanta, GA 30303

Attorneys for Plaintiffs

Rosemarie Frederick
An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME TO COMPLETE DISCOVERY** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:


[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 20th day of January, 2015

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By  ^{att} HUI
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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LS#19969

STATUS OF DISCOVERY**DISCOVERY COMPLETED TO DATE:**

All parties have been diligent in their discovery efforts and have completed the following discovery to date:

- (a) On or about July 25, 2013, the Early Case Conference was held and attended by all parties;
- (b) On or about August 20, 2013, the Joint Case Conference Report was filed;
- (c) All parties have disclosed their Early Case Conference Disclosure Statements, and provided supplements thereto as needed;
- (d) All parties have propounded multiple sets of written discovery;
- (e) Plaintiff's ELAINE CHERNIKOFF; and JACK CHERNIKOFF (hereinafter "Plaintiffs") have been deposed;
- (f) Defendant JAY FARRALES has been deposed;
- (g) First Transit Road Supervisor SCOTT MCCARTNEY has been deposed;
- (i) Plaintiffs' expert Ned Einstein performed a bus inspection; and
- (j) All parties have disclosed their Initial Expert Disclosure Statements and designated expert witnesses;
- (k) Defendants have disclosed their Rebuttal Expert Disclosure Statements;
- (l) Plaintiffs have substituted their transportation expert Ned Einstein for Carl Berkowitz, and have produced a redacted copy of Mr. Einstein's report indicating the opinions Mr. Berkowitz intends to adopt.

DISCOVERY REMAINING TO BE COMPLETED:

- (a) Defendants First Transit and Jay Farrales (hereinafter "Defendants") anticipate propounding additional written discovery as the need arises;
- (b) Defendants intend on taking the depositions of Plaintiffs' experts;
- (c) Defendants intend on taking any other depositions as the need arises;
- (d) Plaintiffs intend on taking the depositions of Defendant's experts;

(e) Plaintiffs anticipate propounding additional written discovery as the need arises;

(f) Plaintiffs intend on taking the depositions of the Person(s) Most Knowledgeable at the Las Vegas location of First Transit, Inc. regarding safety, operator evaluation, and operator oversight;

(g) Plaintiffs intend on taking any other depositions as the need arises.

REASONS WHY DISCOVERY REMAINING WAS NOT COMPLETED WITHIN THE TIME LIMIT SET BY THE DISCOVERY SCHEDULING ORDER:

On November 7, 2014, Discovery Commissioner Bonnie Bulla granted Plaintiffs' Motion to Substitute Expert, allowing Plaintiffs to substitute their transportation expert Ned Einstein with Carl Berkowitz. Defendants produced a copy of Mr. Einstein's report, including redactions to indicate the opinions that Mr. Berkowitz intended to adopt/abandon, on November 26, 2014. Since that time, the parties have been working to obtain availability for Mr. Berkowitz's deposition. Defendants also recently received the expert file of Plaintiff's emergency physician, Kenneth Stein, M.D., and as such have been working to schedule Dr. Stein's deposition. Due to an illness of Plaintiffs' counsel, the parties have been unable to move forward with these depositions during the current discovery period, which is set to close on January 22, 2015. In order to allow the parties to coordinate and schedule the necessary depositions, the parties ask that the discovery period be extended by ninety (90) days. It should be noted that the parties are only seeking to extend the deadlines for the close of discovery and final date to file dispositive motions.

PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY:

Close of Discovery: January 22, 2015 to April 22, 2015

Final Date to File Dispositive Motions: February 23, 2015 to May 22, 2015

Trial Date: April 20, 2015 to Next Available Stack

CURRENT TRIAL DATE:

Trial in this matter is currently set for April 20, 2015. The parties request the trial date

Chernikoff vs. First Transit
Case No: A682726

ORDER

IT SO ORDERED *The discovery deadlines will be extended as agreed to by the parties herein; a separate amendment*
DATED and DONE this 9 day of January, 2014. *Schedule order will not be issued; the trial date of*

4-20-15
DISCOVERY COMMISSIONER

Submitted by:

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

By *[Signature]* #11611
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

TRIAL DATE TO BE SET
ON OR AFTER 7-20-15

per the parties request. [Signature]

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

LS#19969

AFFIRMATION

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

The undersigned does hereby affirm that the preceding Stipulation and Order for Extension of Time to Complete Discovery (Fourth Request) filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

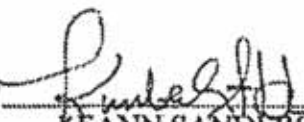
-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 3rd day of DECEMBER, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By

 #11611
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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LS#19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 364-7000

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DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

ESTATE OF
HARVEY CHERNIKOFF,

Plaintiff,

v.

FIRST TRANSIT INC.; JAY
FARRALES; DOES 1-10 AND
ROES 1-10, INCLUSIVE

Defendant.

CASE NO.: A682726

DEPARTMENT XXIII

DECISION

This matter came before the court on January 13, 2015 for Defendants Objection to Discovery Commissioner's Report and Recommendations and the Plaintiff's Reply thereto. The subject Report and Recommendations accompanied Discovery Commissioner Bulla's decision to grant Plaintiff's Motion to Substitute Expert on Order Shortening Time.

Having considered the matters, arguments of parties, and all documents on file herein, the court hereby makes the following order.

COURT ORDERS Discovery Commissioner's Report and Recommendations from the November 7, 2014 hearing AFFIRMED.

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STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

1 Dated this 20 day of JAN, 2014.

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3 

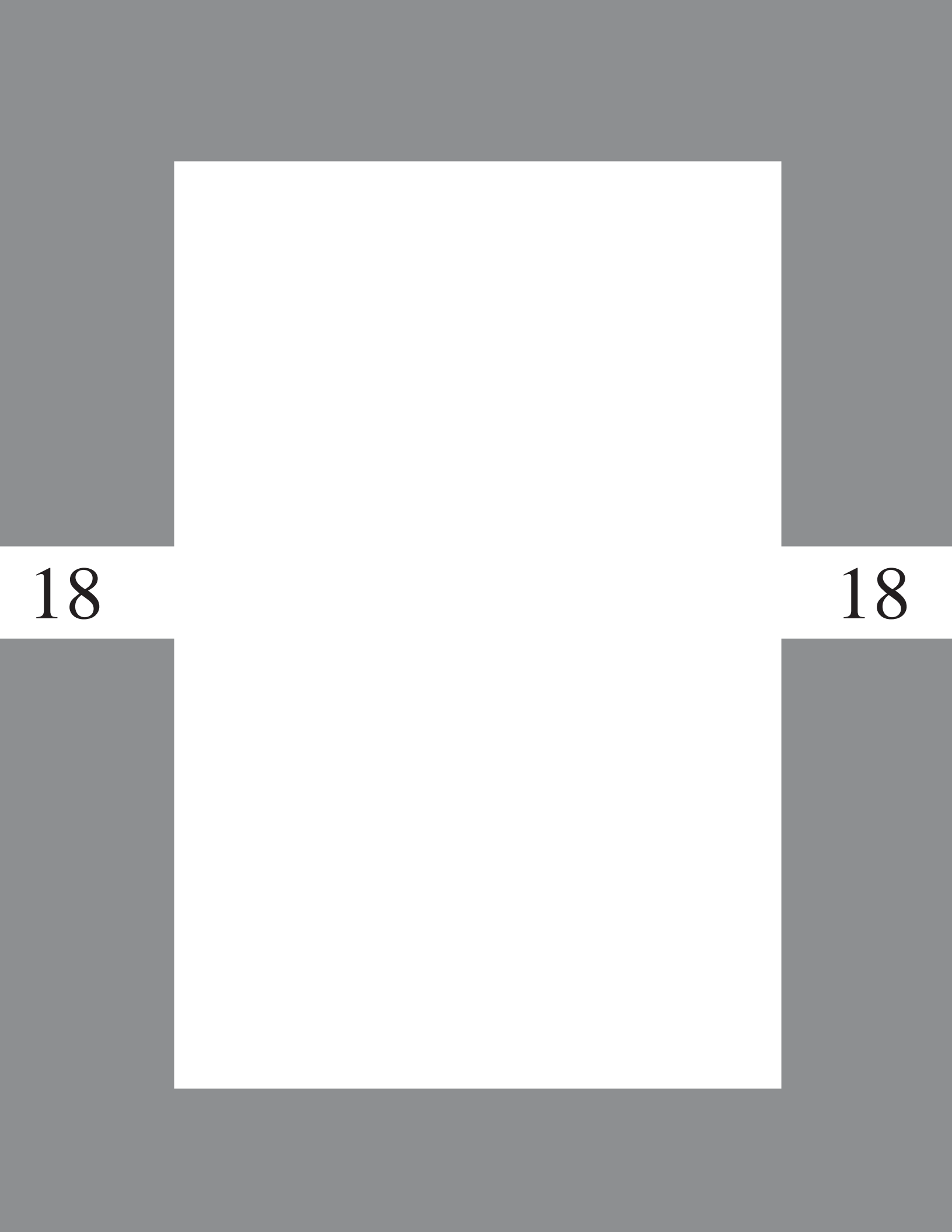
4 HONORABLE STEFANY A. MILEY
5 DISTRICT COURT JUDGE
6 DEPARTMENT XXIII

7 CERTIFICATE OF MAILING

8
9 I hereby certify that on 20th of Jan, 2014, I mailed a copy of the
10 foregoing Decision to Leann Sanders, Esq and Shirley Blasich, Esq. at 7401 W.
11 Charleston Blvd., Las Vegas, NV, 89117 and to Benjamin Cloward, Esq. at 801 S.
12 Fourth Street, Las Vegas, NV, 89101.

13 By: 

14 Carmen Alper
15 Judicial Executive Assistant
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CLERK OF THE COURT

NEOJ

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF STIPULATION AND ORDER

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 3rd day of June, 2015, the Court entered a Stipulation and Order to Dismiss Plaintiffs' Punitive Damages Claim in the above-entitled action.

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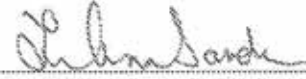
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1 A copy of said Order is attached hereto.

2 DATED this 5th day of June, 2015.

3 ALVERSON, TAYLOR, MORTENSEN & SANDERS

4
5
6 By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

000099

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 5th day of June, 2015, I did cause a true and correct copy of the above and foregoing **Notice of Entry of Order of Stipulation and Order to Dismiss Plaintiffs' Punitive Damages Claim** to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
191 Peachtree Street N.W., Suite 3300
Atlanta, GA 30303

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000100

AFFIRMATION

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

The undersigned does hereby affirm that the preceding Notice of Entry of Order of Stipulation and Order to Dismiss Plaintiffs' Punitive Damages Claim filed in District Court

Case No.

A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]


-OR-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 5th day of June, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

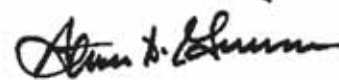
Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

ORIGINAL

Electronically Filed
06/03/2015 11:18:14 AM

CLERK OF THE COURT

SAO

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

(702) 384-7000

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

JACK CHERNIKOFF and ELAINE CHERNIKOFF,)

CASE NO. A-13-682726-C

Plaintiffs,)

DEPT. NO. XXIII

vs.)

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)
10, and ROES 1-10, inclusive,)

Defendants.)

STIPULATION AND ORDER TO DISMISS PLAINTIFFS'
PUNITIVE DAMAGES CLAIMIT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by
and through their counsel of record, that Plaintiffs' punitive damages claim in the Complaint be

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LS#19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000102

Chernikoff v. First Transit, et al.

CASE NO. A-13-682726-C

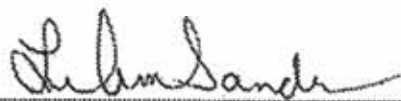
DEPT. NO. XXIII

dismissed from this matter without prejudice, the parties each to bear their own costs.

DATED this 26th day of May, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

DATED this 26th day of May, 2015.

By



RICHARD HARRIS LAW FIRM

801 S. Fourth Street

Las Vegas, NV 89101

Charles H. Allen, Esq.

CHARLES ALLEN LAW FIRM

191 Peachtree Street N.W., Suite 3300

Atlanta, GA 30303

Benjamin P. Cloward, Esq.

CLOWARD HICKS & BRASIER

721 S. Sixth Street

Las Vegas, NV 89101

Attorneys for Plaintiffs

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000


000103

Chernikoff v. First Transit, et al.
CASE NO. A-13-682726-C
DEPT. NO. XXIII

ORDER

IT IS SO ORDERED.

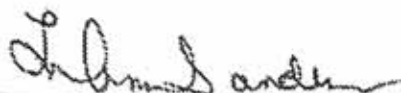
DATED and DONE this 27 day of May, 2015.


DISTRICT COURT JUDGE
JUDGE STEFANY A. MILEY

Submitted by:

ALVERSON, TAYLOR, MORTENSEN
& SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

(702) 384-7000

Attorneys for Defendants

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

The undersigned does hereby affirm that the preceding **STIPULATION AND ORDER TO DISMISS PLAINTIFFS' PUNITIVE DAMAGES CLAIM** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 26th day of May, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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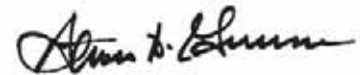
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CLERK OF THE COURT

PMEM
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 W. Charleston Boulevard
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 (702) 384-7000
 Attorneys for Defendants

**DISTRICT COURT
 CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.	)	Trial Date: June 29, 2015
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

DEFENDANTS' PRE-TRIAL MEMORANDUM

COME NOW Defendants FIRST TRANSIT, INC. and JAY FARRALES, by and through their counsel of record, ALVERSON, TAYLOR, MORTENSEN & SANDERS, and submit the following Defendants' Pre-Trial Memorandum pursuant to E.D.C.R. 2.67.

I.

STATEMENT OF FACTS

This is a negligence action brought by Plaintiffs Jack and Elaine Chernikoff based on the death of their son, Harvey Chernikoff while he was a passenger on a paratransit bus operated by First Transit, Inc. and driven by Defendant Jay Farrales on July 29, 2011. In the Complaint, Plaintiffs allege that Harvey died as the result of eating a sandwich on the bus, and have alleged

claims for negligence, Respondeat superior, negligent hiring, training, supervision and retention, and punitive damages. Based on these allegations, Plaintiffs are seeking compensation for pain and suffering. Defendants deny all allegations.

II.

CLAIMS FOR RELIEF

1. Negligence.
2. Respondeat Superior.
3. Negligent Hiring, Training, Retention and Supervision.
4. Punitive Damages (dismissed pursuant to Stipulation and Order).

III.

AFFIRMATIVE DEFENSES

A. Defendants First Transit, Inc. and Jay Farrales have asserted the following affirmative defenses against Plaintiffs:

1. Plaintiffs' Complaint fails to state a claim against these Defendants upon which relief can be granted.
2. Defendants allege that the damages, if any, were caused in whole or in part, or were contributed to by reason of the negligence of the Plaintiffs.
3. All risks and dangers involved in the factual situation described in the Complaint were open, obvious, and known to the Plaintiffs and said Plaintiffs voluntarily assumed said risks and dangers.
4. The incident alleged in the Complaint and the resulting damages, if any, to the Plaintiffs were proximately caused or contributed to by Plaintiffs' own negligence, and such negligence was greater than the alleged negligence of Defendants.
5. Defendants allege that the occurrence referred to in the Complaint, and all injuries

1 and damages, if any, resulting therefrom were caused by the acts or omissions of a third party
2 over whom Defendants had no control.

3 6. Defendants allege that Plaintiffs' claims are time-barred by the applicable statute of
4 limitations.

5 7. Defendants allege that recovery of unlimited punitive or exemplary damages is
6 barred because N.R.S. Chapter 42, as amended, denies these Defendants equal protection of the
7 law under Article Four, Section Twenty of the Nevada Constitution, and the Fourteenth
8 Amendment to the United States Constitution.

9 8. Defendants allege that any award of punitive or exemplary damages in this action is
10 barred as excessive, as the product of bias or passion and/or by proceedings lacking sufficient
11 guidelines and/or the basic elements of fundamental fairness, under the Due Process Clause of
12 the Fourteenth Amendment to the United States Constitution, and Article One, Section Eight, of
13 the Nevada Constitution.

14 9. Plaintiffs failed to mitigate his damages, if any.

15 10. Defendants hereby incorporate by reference those affirmative defenses enumerated
16 in the Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event
17 further investigation or discovery reveals the applicability of any such defenses, Defendants
18 reserve the right to seek leave of Court to amend their Answer to specifically assert the same.
19 Such defenses are herein incorporated by reference for the specific purpose of not waiving the
20 same.
21

22 11. Pursuant to NRCP 11, as amended, all possible Affirmative Defenses may not have
23 been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon
24 the filing of Defendants' Answer and, therefore, Defendants reserve the right to amend their
25 Answer to allege additional Affirmative Defenses if subsequent investigation warrants.
26
27
28

12. Plaintiffs' claims against these answering Defendants are reduced, in whole or in part, as a result of the doctrine of comparative negligence.

13. Defendants allege that recovery of unlimited punitive or exemplary damages is barred because N.R.S. Chapter 42, as amended, denies these Defendants equal protection of the law under Article Four, Section Twenty of the Nevada Constitution, and the Fourteenth Amendment to the United States Constitution.

14. Defendants allege that any award of punitive or exemplary damages in this action is barred as excessive, as the product of bias or passion and/or by proceedings lacking sufficient guidelines and/or the basic elements of fundamental fairness, under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Eight, of the Nevada Constitution.

IV.

DEFENSES TO BE ABANDONED

None at this time.

V.

EXHIBITS

Defendants' Exhibits:

A. Las Vegas Metropolitan Police Department Incident Report, bates-stamped [LVMPD Incident Report 00001-00005];

B. Operator Incident Report for the incident in question, bates-stamped [Operator Incident Report 00001];

C. NetClaim Summary for the incident in question, bates-stamped [Net Claim Summary 00001-00002];

1 D. Jack Chernikoff's medical records from Ricardo Fontillas, M.D., bates-stamped
2 [Ricardo Fontillas, M.D. 00001-00011];

3 E. RTC Paratransit Guide, bates stamped [RTC Guide 00001-00012];

4 F. Photograph of signage on Bus 1790, bates stamped [Bus Sign 00001];

5 G. Harvey Chernikoff's records from the Regional Transportation Commission of
6 Southern Nevada, bates stamped [Paratransit Interview Form 00001-00007];

7 H. First Transit, Inc.'s Minimum Hiring Standards, bates-stamped [Hiring Standards
8 00001];

9 I. First Transit, Inc.'s Las Vegas Operator Training Matrix, bates-stamped [LV
10 Operator Training 00001-00003];

11 J. First Transit, Inc.'s Minimum Training Requirements, bates-stamped [Minimum
12 Training 00001];

13 K. Jay Farrales' Personnel File, bates-stamped [Farrales Employee File 00001-
14 00225];

15 L. First Transit, Inc.'s Nevada Business License, valid until August 31, 2011, bates-
16 stamped [NV Business License 00001];

17 M. Driver's Manifest for Bus 1790 on July 29, 2011, bates-stamped [Manifest
18 00001-00005];

19 N. First Transit, Inc. Employee Handbook, bates-stamped [Employee Handbook
20 00001-00080];

21 O. First Transit, Inc.'s Video Record and Retention Policy, bates-stamped [Video
22 Retention 00001];

23 P. Harvey Chernikoff's records from Transition Services, bates-stamped [Transition
24 Services 00001-00012];

1 Q. Harvey Chernikoff's records from Pomona Valley Hospital, bates-stamped
2 [Pomona Valley Hospital 00001-00171];

3 R. Harvey Chernikoff's records from the State of Nevada Desert Regional Center,
4 bates-stamped [Desert Regional Center 00001-00066];

5 S. Harvey Chernikoff's records from Cedars Sinai Medical Center, bates-stamped
6 [Cedars Sinai Medical Center 00001-00047];

7 T. Harvey Chernikoff's records from St. Rose Hospital-Siena Campus, bates-
8 stamped [St. Rose-Siena 00001-00060];

9 U. Harvey Chernikoff's records from William Gillispie, M.D., bates-stamped
10 [William Gillispie 00001-00021];

11 V. Harvey Chernikoff's records from the San Gabriel/Pomona Regional Center,
12 bates-stamped [San Gabriel/Pomona Ctr 00001-00447];

13 W. Jay Farrales' Medical Examination Reports For Commercial Driver Fitness
14 Determination, dated June 2, 2006, May 24, 2008, and May 21, 2010, bates-stamped [CDL
15 FITNESS DETERMINATION 00001-00008];

16 X. Jay Farrales' Application for Employment with Laidlaw Transit Services, bates-
17 stamped [Farrales Emp App 00001-00016];

18 Y. Documentation regarding Jay Farrales' Safety Classes and Tests, bates-stamped
19 [FARRALES SAFETY 00001-00109];

20 Z. Contract between the Regional Transportation Commission of Southern Nevada
21 and Laidlaw Transit Services, Inc. dated March 8, 2007, bates-stamped [RTC Contract 00001-
22 00110];

23 AA. Title 49 Part 37 of the Code of Federal Regulations;
24
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1 BB. Harvey Chernikoff's records from Gautham Reddy, M.D., bates-stamped
2 [GAUTHAM REDDY MD 00001-00177];

3 CC. Harvey Chernikoff's records from the Clark County Fire Department bates-
4 stamped [CCFD 00001-0003];

5 DD. Harvey Chernikoff's records from The Clark County Coroner's Office bates-
6 stamped [CLARK COUNTY CORONER 00001-00026];

7 EE. Photographs from The Clark County Coroner's Office;

8 FF. Initial report, rebuttal report, curriculum vitae and testimony list of First Transit,
9 Inc.'s expert, Matt Daecher;

10 GG. Initial report, rebuttal report, curriculum vitae and testimony list of First Transit,
11 Inc.'s expert, Michael MacQuarrie, M.D.;

12 HH. Photographs of signs posted inside the First Transit busses; bates-stamped [BUS
13 PHOTOS 00001-00002];

14 II. First Transit Inc.'s Minimum Hours Chart, bates-stamped [MINIMUM
15 TRAINING 00001];

16 JJ. First Transit Inc.'s Classroom Training/Operator Training Matrix, bates-stamped
17 [LV OPERATOR TRAINING 00001-00003];

18 KK. First Transit, Inc.'s MDT Training Manual, bates-stamped [MDT TRAINING
19 MANUAL 00001-00020];

20 LL. First Transit, Inc.'s Position Description regarding Safety & Security Manager,
21 bates-stamped [SAFETY & SEC MGR DESCRIPTION 00001-00005];

22 MM. First Transit, Inc.'s Position Description regarding Director of Safety Manager,
23 bates-stamped [DIRECTOR OF SAFETY DESCRIPTION 00001-00002];

1 NN. First Transit, Inc.'s Position Description regarding Dispatcher, bate-stamped
2 [DISPATCHER DESCRIPTION 00001-00002];

3 OO. First Transit, Inc.'s Position Description regarding Operations Manager, bate-
4 stamped [OP MANAGER DESCRIPTION 00001-00003];

5 PP. First Transit, Inc.'s Position Description regarding Master Scheduler, bate-
6 stamped [SCHEDULER DESCRIPTION 00001-00002];

7 QQ. First Transit, Inc.'s Drug & Alcohol Policy, bate-stamped [POLICY-DRUG &
8 ALCOHOL 00001-00018];

9 RR. First Transit, Inc.'s Collective Bargaining Agreement, bate-stamped [CBA
10 00001-00050];

11 SS. 49 CFR Part 655;

12 TT. Thirty Eight (38) Bus Inspection photographs taken by Defendant's expert, Matt
13 Daecher, bate-stamped [INSPECTION PHOTOS 00001-00038];

14 UU. Customer Service Excellence Award regarding driver Jay Farrales, bate-stamped
15 [CSEA 00001];

16 VV. Supplement to Jay Farrales' Personnel File, bates-stamped [Farrales Employee
17 File-Supp 00001-00034];

18 WW. Disc containing video footage of the incident in question;

19 XX. Disc containing Jack Chernikoff's medical records from Gauthan Reddy, M.D.;

20 YY. Disc containing Elaine Chernikoff's medical records from Gauthan Reddy,
21 M.D.;

22 ZZ. Disc containing video footage of Harvey Chernikoff on a First Transit vehicle on
23 July 27, 2011;

- 1 AAA. Disc containing the 911 call(s) disclosed in Plaintiff's Second Supplement to the
2 Early Case Conference List of Witnesses and Exhibits Pursuant to N.R.C.P. 16.1
3 BBB. Time line of incident;
4 CCC. Charts and Diagrams; and
5 DDD. Various Anatomical renderings, medical illustrations and animations.

6 **Defendants' Documents To Be Offered If The Need Arises:**

7 A. Any of Plaintiffs' medical records, to the extent that they demonstrate physical
8 and/or emotional conditions prior, during, or subsequent to the events at issue in the Complaint,
9 whether they have already been or are yet to be disclosed, including but not limited to the
10 records of those medical care providers identified as witnesses above, or additional care
11 providers who may become known through the course of discovery.

12 B. Depositions, as legally appropriate, and/or statements of any witness or expert
13 and any exhibit attached to any deposition and/or statement;

14 C. All records produced by Plaintiffs in response to Requests for Production of
15 Documents;

16 D. Any party's experts' files, curricula vitae, billing statements, models, charts,
17 diagrams, literature, or other items utilized by or relied upon by the expert;

18 E. Any and all discovery produced and/or responded to by any party;

19 F. Documents necessary for rebuttal or impeachment purposes;

20 G. Demonstratives as necessary;

21 H. Any and all exhibits listed by Plaintiff regardless of whether Plaintiff attempted to
22 de-list the exhibit or fails to use it at the time of trial.
23
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Defendants reserve the right to object to any other party's exhibits and to offer any exhibits listed or referred to by any other party, and for any exhibits deemed necessary to impeach or rebut any testimony or exhibits introduced at trial.

VI.

AGREEMENTS AS TO THE LIMITATION OR EXCLUSION OF EVIDENCE

The parties have agreed not to present Joseph Camarillo as a witness.

VII.

WITNESSES

Witnesses Defendant Expects to Call:

1. First Transit, Inc.
Person(s) Most Knowledgeable
c/o LeAnn Sanders, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117
2. Jay Farrales
c/o LeAnn Sanders, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117
3. Jennifer McKibbins
c/o LeAnn Sanders, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117
4. Michael MacQuarrie, M.D.
P.O. Box 2484
Truckee, California 96160
5. Matt Daecher
2010 Market Street
Camp Hill, Pennsylvania 17011

6. Allyn Keller
c/o LeAnn Sanders, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117
7. Terri Reed
c/o LeAnn Sanders, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117
8. Scott McCartney
c/o LeAnn Sanders, Esq.
ALVERSON, TAYLOR, MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117

Witnesses Who May Be Called:

1. Jack Chernikoff
c/o Benjamin Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101
2. Elaine Chernikoff
c/o Benjamin Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101
3. Neil Chernikoff
c/o Benjamin Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101
4. Person(s) Most Knowledgeable
Transition Services
4545 W. Spring Mountain Road, Suite 111
Las Vegas, NV 89102
5. Kathy Stanley
Transition Services
4545 W. Spring Mountain Road, Suite 111
Las Vegas, NV 89102

6. Jennifer Demers Jacobs
Clark County Coroner/Medical Examiner
1704 Pinto Lane
Las Vegas, Nevada 89106
7. Daniel Lingamfelter, D.O.
Clark County Coroner/Medical Examiner
1704 Pinto Lane
Las Vegas, Nevada 89106
8. Officer A. Beza #8724
Las Vegas Metropolitan Police Department
400 E. Stewart
Las Vegas, Nevada 89101
9. Ray Nelson
Clark County Fire Department
575 East Flamingo Road, Station 18, 3rd Floor
Las Vegas, NV 89119
10. Matt Sagoian
Clark County Fire Department
575 East Flamingo Road, Station 18, 3rd Floor
Las Vegas, NV 89119
11. Regional Transportation Commission of Southern Nevada
Person(s) Most Knowledgeable
600 S. Grand Central Pkwy. Ste. 350
Las Vegas, NV 89106
12. Czarina Mendez
c/o R. Calder Huntington, Esq.
Holland & Hart LLP
13. Dispatcher # 768
Clark County Fire Department
575 E. Flamingo Rd.
Las Vegas, NV 89119
14. Ricardo Fontillas, M.D.
And/or Custodian of Records
1090 Wigwam Pkwy, Suite 100
Henderson, NV 89074

15. Gautham Reddy, M.D.
2401 Horizon Ridge Pkwy
Henderson, Nevada 89052
16. Person(s) Most Knowledgeable
Pomona Valley Medical Center
1798 N. Garey Ave.
Pomona, California 91767
17. Person(s) Most Knowledgeable
State of Nevada Department of Health and Human Services
Aging and Disability Services Division
Desert Regional Center
1391 S. Jones Boulevard
Las Vegas, Nevada 89146
18. Person(s) Most Knowledgeable
Cedars Sinai Medical Center
Health Information Department (Medical Records)
8700 Beverly Blvd, Room 8901
Los Angeles, CA 90048
19. Person(s) Most Knowledgeable
St. Rose Dominican Hospital-Siena Campus
Health Information Management
3001 St. Rose Pkwy.
Las Vegas, NV 89052
20. William Gillespie, M.D.
510 Grand Ave., Suite 200
Glendora, CA 9174
21. Person(s) Most Knowledgeable
San Gabriel/Pomona Regional Center
75 Rancho Camino Dr.
Pomona, CA 91766
22. Laura M. Labay, PhD
Forensic Toxicologist
NMS Labs
3701 Walsh Rd.
PO Box 4334
Willow Grove, PA 19090

Defendants reserve the right to call any witness listed, produced or disclosed by any other party, as well as any rebuttal and/or impeachment witnesses, depending on the nature of the case and unexpected events which may occur at trial.

VIII.

CONTESTED ISSUES OF LAW

Whether Plaintiffs have presented evidence of all elements of their claims for Negligence, Respondeat Superior, and Negligent Hiring, Training, Retention and Supervision, damages and all applicable defenses.

IX.

DEFENDANTS' OBJECTIONS TO PLAINTIFFS' PRE-TRIAL DISCLOSURES OF WITNESSES AND EXHIBITS

A. Witnesses

Defendants assert a standing objection to all witnesses identified by Plaintiff for failure to timely serve Pre-Trial Disclosures pursuant to Nev. R. Civ. P. 16.1(a)(3). Pre-Trial Disclosures were due on May 29, 2015. Plaintiffs did not serve their Pre-Trial Disclosures until June 18, 2015, twenty (20) days late and less than two (2) weeks prior to the trial date in this matter. As a result, Defendants have not had sufficient opportunity to assert individual objections to each witness, as provided by Nev. R. Civ. P. 16.1(a)(3)(C). Moreover, Plaintiffs failed to timely serve any objections to Defendants' Pre-Trial Disclosures, and therefore have waived any objections to Defendants' exhibits, other than objections under NRS 48.025 and 48.035, as set forth under Nev. R. Civ. P. 16.1(a)(3)(C).

Defendants object to any witnesses identified by Plaintiffs if the witness is not relevant, if the witness' testimony would be unfairly prejudicial, if his or her anticipated trial testimony was

1 not identified with particularity, if his or her testimony would lack foundation or would potentially
2 violate the hearsay rule or the best evidence rule.

3 Defendants also object to any testimony by Plaintiffs' treating physicians which goes
4 beyond the scope of that physician's medical chart, which involves information acquired outside
5 the normal course of treatment of Plaintiffs, and which involved expert-type opinions beyond those
6 reasonably expected to be expressed by a treating physician, as Plaintiffs have no designated any
7 treating providers as experts pursuant to Nev. R. Civ. P. 16.1(a)(2)(B).
8

9 Defendants reserve the right to further object as needed at the time of trial, and reserve the
10 right to file objections to Plaintiffs' Pre-Trial Disclosures as provided under Nev. R. Civ. P.
11 16.1(a)(3)(C).

12 **B. Exhibits**

13 Defendants assert a standing objection to all exhibits identified by Plaintiff for failure to
14 timely serve Pre-Trial Disclosures pursuant to Nev. R. Civ. P. 16.1(a)(3). Pre-Trial Disclosures
15 were due on May 29, 2015. Plaintiffs did not serve their Pre-Trial Disclosures until June 18, 2015,
16 twenty (20) days late and less than two (2) weeks prior to the trial date in this matter. As a result,
17 Defendants have not had sufficient opportunity to assert individual objections to each exhibit, as
18 provided by Nev. R. Civ. P. 16.1(a)(3)(C). Moreover, Plaintiffs failed to timely serve any
19 objections to Defendants' Pre-Trial Disclosures, and therefore have waived any objections to
20 Defendants' exhibits, other than objections under NRS 48.025 and 48.035, as set forth under Nev.
21 R. Civ. P. 16.1(a)(3)(C).
22

23 Defendants reserve all objections to foundation for each of Plaintiffs' proposed trial
24 exhibits. Defendants further reserve the right to supplement or amend their objections as exhibits
25 are introduced and to the extent that additional documents/exhibits, if any, are identified.
26

27 Defendants object to all disclosures which are not properly authenticated at the time of trial.
28

Defendants object to each of Plaintiffs' disclosures to the extent that these disclosures contain impermissible hearsay, are irrelevant, are not properly authenticated, are not properly identified, are duplicative, are more prejudicial than probative, contain impermissible character evidence and/or have the tendency to mislead or confuse the jury.

Defendants object to Plaintiffs designation of all expert witness reports as trial exhibits as expert witness reports are improper exhibits for submission to the jury.

Defendants object to the use of all disclosures at the time of trial which Plaintiffs did not timely disclose through the discovery process. Defendants request that they be allowed to view all demonstrative exhibits, including but not limited to Plaintiffs' proposed animations and blow ups, before they are introduced to the jury and further reserve all appropriate objections to such exhibits for the time of trial. Defendants reserve the right to make further objections to Plaintiffs' proposed exhibits and witnesses at the time of trial, including all permissible objections based on the Nev. R. Civ. P. and Nev. R. Evid.

Defendants reserve the right to further object as needed at the time of trial, and reserve the right to file objections to Plaintiffs' Pre-Trial Disclosures as provided under Nev. R. Civ. P. 16.1(a)(3)(C).

X.

TESTIMONY TO BE PRESENTED BY DEPOSITION

None at this time.

XI.

ESTIMATED TIME FOR TRIAL

Ten (10) days.

///

///

XII.

ADDITIONAL MATTERS REQUIRING THE ATTENTION OF THE COURT

1. Pending Motions in Limine, to be heard on June 30, 2015.
2. Pending Motion to Strike, to be heard on June 30, 2015.

DATED this 19 day of June, 2015.

ALVERSON, TAYLOR,
MORTENSEN & SANDERS



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 19th day of June, 2015, I did cause a true and correct copy of the above and foregoing DEFENDANTS' PRE-TRIAL MEMORANDUM to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

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Atlanta, GA 30326

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Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

000123

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **DEFENDANTS' PRE-TRIAL MEMORANDUM** filed in District Court Case No. A-13-682726-C

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

-OR-

 Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]


-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 19 day of June, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By


LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
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Attorneys for Defendants


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PTM
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CLERK OF THE COURT

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Fax (866) 639-0287
Attorney for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

JACK CHERNIKOFF and ELAINE
CHERNIKOFF,

CASE NO. A-13-682726-C
DEPT. NO. XXIII

Plaintiffs,

vs.

FIRST TRANSIT, INC. LAIDLAW
TRANSIT SERVICES, INC dba FIRST
TRANSIT; JAY FARRALES; DOES 1-10,
and ROES 1-10 inclusive,

Defendants.

PLAINTIFFS' PRE-TRIAL MEMORANDUM

COMES NOW, Plaintiffs, JACK CHERNIKOFF and ELAINE CHERNIKOFF, by and
through their attorney of record, BENJAMIN P. CLOWARD, ESQ. of the CLOWARD HICKS &

BRASIER and CHARLES H. ALLEN, ESQ., of ALLEN LAW FIRM submit the following Pre-Trial Memorandum pursuant to E.D.C.R. 2.67:

1. STATEMENT OF THE FACTS

The deceased, Harvey Chernikoff, was mentally challenged, and rode the Defendant, First Transit's handicapped bus five (5) days a week to his job at Transition Services. Harvey worked six (6) hours a day making crafts and items to be sold to the public for charity. Harvey always sat in the seat directly behind the driver. Each day, Harvey would eat his lunch on the way to work. On July 29, 2011, while Harvey enjoyed his sandwich, he began to choke, the Defendant, First Transit's employee driver, Defendant, Jay Farrales failed to pay attention to Harvey began to choke. Harvey was unattended as he slumped over, parallel to the bus floor for over four (4) minutes. Unfortunately, Harvey choked to death on a piece of his sandwich that was lodged in his throat. Harvey was pronounced dead on the bus. Liability is highly contested in this suit.

2. LIST OF ALL CLAIMS FOR RELIEF

Plaintiff alleges Defendants are liable in negligence, Respondent Superior, Negligent hiring, retention and supervisions. Plaintiff seeks general damages, and attorney's fees and costs against Defendants.

3. LIST OF ALL CLAIMS OR DEFENSES TO BE ABANDONED

None.

4. ANY PROPOSED AMENDMENTS TO THE PLEADINGS

No amendments are proposed at this time.

5. PLAINTIFFS' PROPOSED EXHIBITS

Plaintiff may offer the following Exhibits at Trial (subject to redaction per the Court's rulings on the currently pending Motions in Limine), which have been previously identified and/or produced:

A. Exhibits Plaintiffs expect to offer at trial:

1. Las Vegas Metropolitan Police Department Incident Report Number LLV110729001082.
2. Operator Incident Report.
3. Clark County Coroner/Medical Examiner Report of Investigation, Case Number 11-06667.
4. Death Certificate of Harvey Chernikoff.
5. Funeral Charges from King David Memorial Chapel and Cemetery.
6. The CAD Incident Report 1107290001082 and the disc with the 911 calls.
7. Medical records of Harvey Chernikoff generated by Gautham Reddy, M.D of Anthem Medical Center.
8. Color photographs of the bus inspection photos taken by Ned Einstein.
9. Regional Transportation Commission of Southern Nevada documents *Bates Stamped RTC000001-RTC000971*.
10. Eighty-three (83) color photographs of Harvey throughout his life.
11. Harvey Chernikoff eulogy.
12. Video of the subject incident.
13. Jay Farrales Personal File.
14. RTC Contract with Laidlaw
15. Paratransit Guide
16. Employee handbook
17. First Transit Injury Prevention Principal
18. First Transit Training materials
19. RTC Paratransit Interview Form
20. Photographs from the Clark County Coroner.

1
2 21. All documents produced by any party in this litigation.

3 22. The Complaint and Answer and any Amendments thereto.
4

5 **B. Exhibits Plaintiffs may offer at trial should the need arise:**

- 6 1. Kenneth A. Stein, M.D.'s Curriculum Vitae, Expert Witness History, Fee Schedule
7 and Expert Report.
8 2. Carl M. Berkowitz, Ph.D., PE, AICP, Expert Witness History, Fee Schedule and
9 Expert Report

10 **C. Demonstrative/impeachment exhibits:**

11 Plaintiffs may offer at trial certain exhibits for demonstrative/impeachment purposes, including
12 but not limited to:
13

- 14 1. Power Point images/diagrams/animations/story boards of the subject incident scene,
15 parties, accident locations, etc.;
16 2. Diagram/Map of the subject bus;
17 3. Blow-ups, transparencies, digitized images, story boards, charts, and time lines;
18 relating to the parties, and the subject incident;
19 4. Diagrams, drawings, pictures, photos, film, video, DVD and CD ROM of
20 various parts of the human body.
21 5. Computer simulation, finite element and analysis, and similar forms of
22 computer visualization regarding the choking of the Plaintiff.
23 6. Power point images/drawings/diagrams/animations/story boards of the bus
24 and of Harvey Chernikoff and what occurred regarding the subject
25 incident;
26 7. Story boards and computer digitized power point images;
27 8. Blow ups/transparencies/digitized images of photographs and other
28 exhibits;
9. Diagrams of various parts of the human body;

- 1 10. Photographs of the various parts of the human body related to Plaintiff's
2 death.
3 11. All exhibits listed by any other party to this litigation.
4 12. All documents identified during discovery in this litigation.
5 13. All pleadings filed in the case.
6 14. All responses to any Interrogatories and/or Request for Admissions by any Defendant
7 in this litigation.
8

9 15. All depositions including exhibits.

10 16. Any document necessary for impeachment or rebuttal purposes.

11 Plaintiffs hereby reserve the right to utilize any and all exhibits, documents and/or tangible
12 things, and/or items identified and/or produced by Defendants or any other parties to this action,
13 whether or not they have been dismissed from the instant action at the time of trial of this matter.
14

15 Plaintiffs reserve the right to object to any and all exhibits offered by any other party until
16 such time that they are admitted.

17 Defendants hereby reserve the right to utilize any and all exhibits, documents and/or tangible
18 things, and/or items identified and/or produced by Plaintiff.
19

20 Defendants stipulate to the authenticity of the medical records and bills (invoices), but not to
21 the treatment or amounts of bills as being reasonable, necessary, or customary within the Las Vegas
22 community.
23

24 **6. OBJECTIONS TO EXHIBITS**

25 The parties reserve the right to object to exhibits. The parties have agreed to reserve any such
26 objections until the time of trial.

27 Further, the parties agree that each day the parties will meet and confer regarding the exhibits
28 to be presented the following day at trial.

1 **7(a). PLAINTIFFS' LIST OF WITNESSES**

2 **A. Fact Witnesses**

3 Jack Chernikoff

4 Elaine Chernikoff

5 Neil Chernikoff

6 Kathy Stanley

7 PMK for First Transit Services

8 Jay Farrales

9 Sue Joseph

10 Allyn Keller

11 Scott McCartney

12 Officer A. Beza, Badge # 8724

13 Czarina Mendez

14 Daniel Lingamefelter, DO

15 **B. Expert Witnesses:**

16 Kenneth A. Stein, MD

17 Carl M. Berkowitz, PH.D. PE., AICP

18 **8. CONTESTED ISSUES OF LAW**

19 1. The issues raised in Plaintiff's Complaint and Plaintiff's Motions in Limine.

20 2. The issues of law raised by Defendants at trial.

21 **9. ESTIMATED TIME OF TRIAL.**

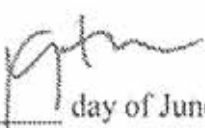
22 The parties anticipate this trial to last 10-14 days.

23 ///

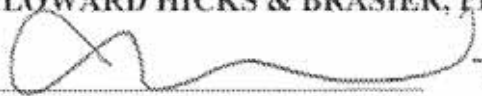
24 ///

1 **10. OTHER MATTERS.**

2 None at this time.

3
4 DATED this  day of June, 2015

6 **CLOWARD HICKS & BRASIER, PLLC**

7 
8 BENJAMIN P. CLOWARD, ESQ.

9 Nevada Bar No. 11087

10 721 South 6th Street

11 Las Vegas, Nevada 89101

12 *Attorneys for Plaintiffs*

10522
Am

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of CLOWARD HICKS &
3 BRASIER, PLLC and that on the 18 day of May 2015, I caused the PLAINTIFFS' PRE-TRIAL
4 MEMORANDUM to be served as follows:

- 5
6 ☐ by placing a true and correct copy of the same to be deposited for mailing in the U.S.
7 Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class
8 postage was fully prepaid; and/or
9 ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or
10 ☒ pursuant to N.E.F.C.R. 9 by serving it via electronic service

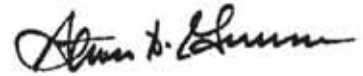
11 to the attorneys listed below:

12
13 Leann Sanders, Esq.
14 Shirley Blazich, Esq.
15 ALVERSON, TAYLOR,
16 MORTENSEN & SANDERS
17 7401 W. Charleston Blvd.
18 Las Vegas, Nevada 89117
19 Fax (702) 385-7000
20 *Attorneys for Defendants*

21 
22 An employee of the CLOWARD HICKS & BRASIER, PLLC
23
24
25
26
27
28

21

21

DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

ESTATE OF HARVEY CHERNIKOFF,
Plaintiff(s),

vs.

CASE NO. A682726
DEPT NO. 23

FIRST TRANSIST INC.,

Defendant(s),
_____ /**THIRD ORDER RE-SETTING CIVIL JURY TRIAL and CALENDAR CALL****IT IS HEREBY ORDERED** that:

The trial date previously set in this matter for **June 29, 2015**, and all dates associated therewith are hereby VACATED; and

IT IS FURTHER ORDERED that:

A. The above entitled case is set to be tried for seven days to begin on **Monday, July 13, 2015 at 1:00 pm.**

B. A Calendar Call will be held on **Tuesday, June 23, 2015 at 11:00 a.m.**

Trial Counsel (and any party in proper person) must appear. *Trial Counsel* must appear at the calendar call and bring the following:

- (1) Typed exhibit lists and exhibits;
- (2) Original, certified, unopened depositions;
- (3) List of equipment needed for trial;

C. The Pre-trial Memorandum must be filed no later than **July 3, 2015**, with a courtesy copy delivered to chambers. EDCR 2.67 must be complied with.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order and/or any amendments or subsequent orders.

STEFANY A. MILEY
DISTRICT JUDGEDEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408RECEIVED
JUN 29 2015
CLERK OF THE COURT

51

1 E. All motions in limine must be in writing and set for a hearing no later than 30 days
2 prior to Trial. All pretrial motions shall be heard and decided no later than 15 days before the
3 date scheduled for trial.

4 F. Stipulations to continue a trial date will not be considered by the Court. Pursuant to
5 EDCR 2.35, a motion to continue trial due to any discovery issues or deadlines must be made
6 before the Discovery Commissioner.

7 G. Orders shortening time will not be signed except in extreme emergencies.

8 ***AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY***

9 Failure of the designated trial attorney or any party appearing in proper person to appear
10 for any court appearances or to comply with this Order shall result in any of the following:
11 (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial
12 date; and/or any other appropriate remedy or sanction.

13 Counsel must advise the Court immediately when the case settles or is otherwise
14 resolved prior to trial. A stipulation which terminates a case by dismissal shall indicate
15 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial.

16 DATED: June 25, 2015.

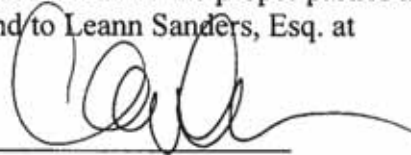


17
18 HONORABLE STEFANY A. MILEY
19 DISTRICT COURT JUDGE

20
21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on or about the date signed, a copy of this Order was electronically served
23 and/or placed in the attorney's folders maintained by the Clerk of the Court and/or transmitted
24 via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as
25 follows: Benjamin P. Cloward, Esq. at (702) 444-4455 and to Leann Sanders, Esq. at
26 (702) 385-7000.

27 By:



28 Carmen Alper
Judicial Executive Assistant

22

22

CLERK OF THE COURT

NTSO
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Telephone: (702) 384-7000
 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS PLAINTIFFS'
CLAIM FOR FUNERAL EXPENSES

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 29th day
 of June, 2015, the Court entered a Stipulation and Order to Dismiss Plaintiffs' Claim for
 Funeral Expenses in the above-entitled action.

///

///

///

1 A copy of said Stipulation and Order is attached hereto.

2 DATED this 20th day of June, 2015.

3 ALVERSON, TAYLOR, MORTENSEN & SANDERS

4
5 By 

6 LEANN SANDERS, ESQ.

7 Nevada Bar No. 000390

8 KIMBERLEY HYSON, ESQ.

9 Nevada Bar No.: 11611

10 7401 W. Charleston Boulevard

11 Las Vegas, NV 89117-1401

12 (702) 384-7000

13 Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 30th day of June, 2015, I did cause a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS PLAINTIFFS' CLAIM FOR FUNERAL EXPENSES** to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7080

000137

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS PLAINTIFFS' CLAIM FOR FUNERAL EXPENSES** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 30th day of June, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

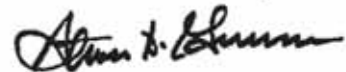
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

SAO

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

(702) 384-7000

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,

Plaintiffs,

vs.

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-
10, and ROES 1-10, inclusive.

Defendants.

CASE NO. A-13-682726-C

DEPT. NO. XXIII

STIPULATION AND ORDER TO DISMISS PLAINTIFFS'
CLAIM FOR FUNERAL EXPENSESIT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by
and through their counsel of record that Plaintiffs' claim for funeral damages be dismissed

///

///

///

///

///

///

///

LS#19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

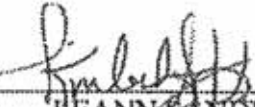
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Chernikoff v. First Transit, et al.
CASE NO. A-13-682726-C
DEPT. NO. XXIII


from this matter without prejudice, the parties each to bear their own costs.

DATED this 23rd day of JUNE, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By  #11411
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, NV 89117-1401
(702) 384-7000
Attorneys for Defendants

DATED this 23rd day of June, 2015.

By 
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
191 Peachtree Street N.W., Suite 3300
Atlanta, GA 30303

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

LS#19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000


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Chernikoff v. First Transit, et al.
CASE NO. A-13-682726-C
DEPT. NO. XXIII

ORDER

IT IS SO ORDERED.

DATED and DONE this 25 day of June, 2015.


DISTRICT COURT JUDGE

Submitted by:

JUDGE STEFANY A. MILEY

ALVERSON, TAYLOR, MORTENSEN
& SANDERS

By  #11011

LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

LS#19969

AFFIRMATION

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

The undersigned does hereby affirm that the preceding STIPULATION AND ORDER
TO DISMISS PLAINTIFFS' CLAIM FOR FUNERAL EXPENSES filed in District Court
 Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application
 for a federal or state grant.

DATED this 23rd day of JUNE, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By

Leann Sanders
 LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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LS#19969

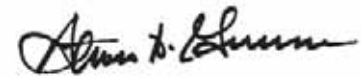
ALVERSON, TAYLOR, MORTENSEN & SANDERS
 LAWYERS

7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-1401
 (702) 354-7000

000142

23

23



CLERK OF THE COURT

NEOJ
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Telephone: (702) 384-7000
Facsimile: (702) 385-7000
efile@alversontaylor.com
Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF ORDER DENYING
DEFENDANTS MOTION TO STRIKE PLAINTIFFS' PASSENGER
TRANSPORTATION EXPERT, CARL BERKOWITZ, PH.D.

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
Order in the above-entitled action.

///

///

///

///

1
2 A copy of said Order is attached hereto.

3 DATED this 4th day of September, 2015.

4
5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

9 LEANN SANDERS, ESQ.

10 Nevada Bar No. 000390

11 KIMBERLEY HYSON, ESQ.

12 Nevada Bar No.: 11611

13 7401 W. Charleston Boulevard

14 Las Vegas, NV 89117-1401

15 (702) 384-7000

16 Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS MOTION TO STRIKE PLAINTIFFS' PASSENGER TRANSPORTATION EXPERT, CARL BERKOWITZ, PH.D. to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick
An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000145

AFFIRMATION

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS MOTION TO STRIKE PLAINTIFFS' PASSENGER TRANSPORTATION EXPERT, CARL BERKOWITZ, PH.D.** filed in District Court Case No. A-13-682726-C

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

-OR-

 Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

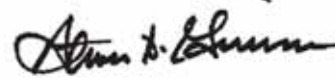
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
8 7401 W. Charleston Boulevard
9 Las Vegas, Nevada 89117
10 Telephone: (702) 384-7000
11 Facsimile: &(02) 385-7000
12 efile@alversontaylor.com
13 Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

**ORDER DENYING DEFENDANTS MOTION TO STRIKE PLAINTIFFS' PASSENGER
TRANSPORTATION EXPERT, CARL BERKOWITZ, PH.D.**

21 WHEREAS Defendants First Transit, Inc. and Jay Farrales' Motion to Strike Plaintiffs'
22 Passenger Transportation expert, Carl Berkowitz, PhD. came for hearing before the Honorable
23 Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND ELAINE
24 CHERNIKOFF appearing through their counsel of record BENJAMIN CLOWARD, ESQ. of
25 CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY
26 FARRALES, appearing through their counsel of record, KIMBERLEY HYSON, ESQ., of the
27

1 law firm of ALVERSON, TAYLOR, MORTENSEN AND SANDERS; and with the Court
 2 having reviewed the pleadings and having heard oral arguments, rules as follows:

3 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Defendants
 4 First Transit, Inc. and Jay Farrales' Motion to Strike Plaintiffs' Passenger Transportation expert.
 5 Carl Berkowitz, PhD. is hereby **DENIED**.

6 Dated this 2nd day of September 2015

7
 8 
 9 DISTRICT COURT JUDGE

10 Submitted by:

JUDGE STEFANY A. MILEY

11 ALVERSON, TAYLOR,
 12 MORTENSEN & SANDERS

13 By: 

14 LEANN SANDERS, ESQ.
 15 Nevada Bar No. 000390
 16 KIMBERLEY HYSON, ESQ.
 17 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, NV 89117-1401
 Attorneys for Defendants

18 **APPROVED AS TO FORM AND CONTENT:**

19
 20 By: 

21 Benjamin P. Cloward, Esq.
 22 CLOWARD HICKS & BRASIER
 23 721 S. Sixth Street
 Las Vegas, NV 89101

24 *Attorneys for Plaintiffs*

AFFIRMATION

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

The undersigned does hereby affirm that the preceding ORDER DENYING DEFENDANTS MOTION TO STRIKE PLAINTIFFS' PASSENGER TRANSPORTATION EXPERT, CARL BERKOWITZ, PH.D. filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By  _____

NEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

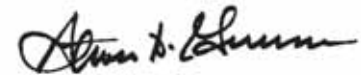
Las Vegas, Nevada 89117

Attorneys for Defendants

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24



CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
 Nevada Bar No.: 11611
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Telephone: (702) 384-7000
 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

**NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART
 DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE
 NO.1 TO EXCLUDE ITEMS PRODUCED BY PLAINTIFFS AFTER THE CLOSE OF
 DISCOVERY**

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1
2 A copy of said Order is attached hereto.

3 DATED this 4th day of September, 2015.

4
5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

9 LEANN SANDERS, ESQ.

10 Nevada Bar No. 000390

11 KIMBERLEY HYSON, ESQ.

12 Nevada Bar No.: 11611

13 7401 W. Charleston Boulevard

14 Las Vegas, NV 89117-1401

15 (702) 384-7000

16 Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000151

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO.1 TO EXCLUDE ITEMS PRODUCED BY PLAINTIFFS AFTER THE CLOSE OF DISCOVERY to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
950 East Paces Ferry Road
NE Suite 1625
Atlanta, GA 30326

Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
721 S. Sixth Street
Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO.1 TO EXCLUDE ITEMS PRODUCED BY PLAINTIFFS AFTER THE CLOSE OF DISCOVERY filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By


LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

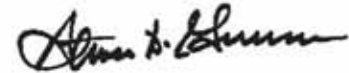
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
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13 Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,)	CASE NO. A-13-682726-C
13 Plaintiffs,	)	DEPT. NO. XXIII
14 vs.)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
17 Defendants.)	

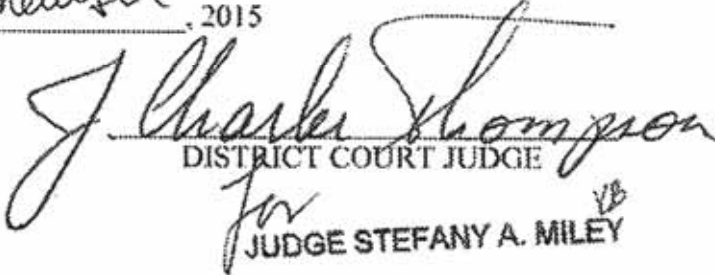
**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST
TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO.1 TO EXCLUDE
ITEMS PRODUCED BY PLAINTIFFS AFTER THE CLOSE OF DISCOVERY**

21 WHEREAS Defendants First Transit, Inc. and Jay Farrales' Motion in Limine No. 1 to
22 Exclude Items Produced by Plaintiffs After the Close of Discovery came for hearing before the
23 Honorable Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m. with Plaintiffs JACK AND
24 ELAINE CHERNIKOFF appearing through their counsel of record BENJAMIN CLOWARD,
25 ESQ. of CLOWARD HICKS & BRASIER; and Defendants FIRST TRANSIT, INC. and JAY
26 FARRALES, appearing through their counsel of record, KIMBERLEY HYSON, ESQ., of the
27

1 law firm of Alverson, Taylor, Mortensen and Sanders; and with the Court having reviewed the
2 pleadings and having heard oral arguments, rules as follows:

3 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Defendants
4 First Transit, Inc. and Jay Farrales' Motion in Limine No. 1 to Exclude Items Produced by
5 Plaintiffs After the Close of Discovery is hereby **GRANTED IN PART AND DENIED IN**
6 **PART**. Specifically, the Court GRANTS the Motion to exclude Harvey Chernikoff's eulogy.
7 The Court DENIES the Motion to exclude all photographs of Harvey Chernikoff. However, the
8 Court limits Plaintiffs to a maximum of fifteen (15) photographs of Harvey Chernikoff at trial.
9 Plaintiffs are to notify Defendants of which photographs they intend to use at trial no later than
10 Monday, July 6, 2015.

11 Dated this 2nd day of September, 2015

12 
13 DISTRICT COURT JUDGE
14 for
15 JUDGE STEFANY A. MILEY

16 Submitted by:

17 ALVERSON, TAYLOR,
18 MORTENSEN & SANDERS

19 By: 
20 LEANN SANDERS, ESQ.

21 Nevada Bar No. 000390

22 KIMBERLEY HYSON, ESQ.

23 Nevada Bar No.: 11611

24 7401 W. Charleston Boulevard

25 Las Vegas, NV 89117-1401

26 Attorneys for Defendants

27 **APPROVED AS TO FORM AND CONTENT:**

28 By: 

Benjamin P. Cloward, Esq.

CLOWARD HICKS & BRASIER

721 S. Sixth Street

Las Vegas, NV 89101

Attorneys for Plaintiffs

AFFIRMATION

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

The undersigned does hereby affirm that the preceding ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO.1 TO EXCLUDE ITEMS PRODUCED BY PLAINTIFFS AFTER THE CLOSE OF DISCOVERY filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 27th day of August, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

Nevada Bar No.: 11611

7401 W. Charleston Boulevard

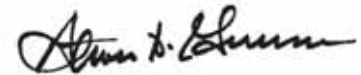
Las Vegas, Nevada 89117

Attorneys for Defendants

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25



CLERK OF THE COURT

NEOJ
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 KIMBERLEY HYSON, ESQ.
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 Facsimile: (702) 385-7000
efile@alversontaylor.com
 Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

**

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE
NO. 2 TO EXCLUDE POST-JULY 2011 POLICY DOCUMENTS AND ANY
REFERENCES OR TESTIMONY RELATED THERETO

PLEASE TAKE NOTICE that on the 4th day of September, 2015, the Court entered an
 Order in the above-entitled action.

///

///

///

1
2 A copy of said Order is attached hereto.

3 DATED this 4th day of September, 2015.

4
5 ALVERSON, TAYLOR, MORTENSEN & SANDERS

6
7
8 By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

KIMBERLEY HYSON, ESQ.

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(702) 384-7000

Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000158

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 8th day of September, 2015, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 2 TO EXCLUDE POST-JULY 2011 POLICY DOCUMENTS AND ANY REFERENCES OR TESTIMONY RELATED THERETO to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM
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Benjamin P. Cloward, Esq.
CLOWARD HICKS & BRASIER
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Las Vegas, NV 89101

Attorneys for Plaintiffs

Rosemarie Frederick

An employee of
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ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000159

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 2 TO EXCLUDE POST-JULY 2011 POLICY DOCUMENTS AND ANY REFERENCES OR TESTIMONY RELATED THERETO filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 4th day of September, 2015.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.
Nevada Bar No. 000390
KIMBERLEY HYSON, ESQ.
Nevada Bar No.: 11611
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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CLERK OF THE COURT

1 ORDR
2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.
5 Nevada Bar No. 000390
6 KIMBERLEY HYSON, ESQ.
7 Nevada Bar No.: 11611
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Telephone: (702) 384-7000
Facsimile: (702) 385-7000
efile@alversontaylor.com
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

**

12 JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
13 Plaintiffs,)	
)	
14 vs.)	
)	
15 FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
16 10, and ROES 1-10, inclusive,)	
)	
17 Defendants.)	

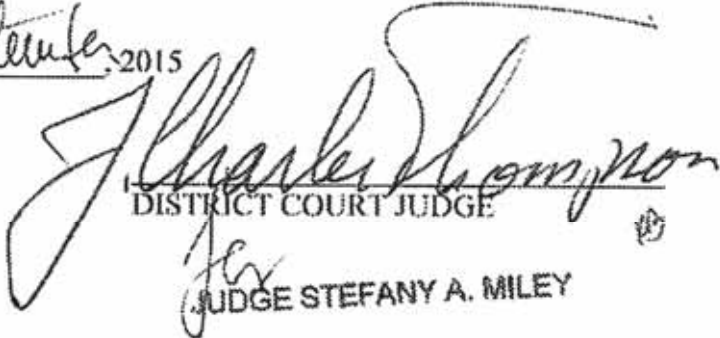
**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS FIRST
TRANSIT, INC. AND JAY FARRALES' MOTION IN LIMINE NO. 2 TO EXCLUDE
POST-JULY 2011 POLICY DOCUMENTS AND ANY REFERENCES OR TESTIMONY
RELATED THERETO**

22 WHEREAS Defendants First Transit, Inc. and Jay Farrales' Motion in Limine No. 2 To
23 Exclude Post-July 2011 Policy Documents and Any References or Testimony Related Thereto
24 came for hearing before the Honorable Stefany Miley on Tuesday, June 30, 2015 at 9:30 a.m.
25 with Plaintiffs JACK AND ELAINE CHERNIKOFF appearing through their counsel of record
26 BENJAMIN CLOWARD, ESQ. of CLOWARD HICKS & BRASIER, and Defendants FIRST
27 TRANSIT, INC. and JAY FARRALES, appearing through their counsel of record,
28

1 KIMBERLEY HYSON, ESQ., of the law firm of ALVERSON, TAYLOR, MORTENSEN
2 AND SANDERS; and with the Court having reviewed the pleadings and having heard oral
3 arguments, rules as follows:

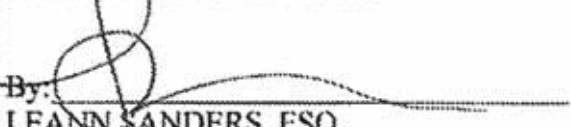
4 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Defendants
5 First Transit, Inc. and Jay Farrales' Motion in Limine No. 2 To Exclude Post-July 2011 Policy
6 Documents and Any References or Testimony Related Thereto is hereby **GRANTED IN**
7 **PART AND DENIED IN PART.** Specifically, the Court GRANTS Defendants' Motion as to
8 any post July, 2011 employment documents for Defendant Jay Farrales. The Court also
9 GRANTS Defendants' Motion as to First Transit, Inc.'s 2014 bid to the Regional
10 Transportation Commission. The Court DENIES the Motion as to post-2011 Road Supervisor
11 Job Description, but limits examination on this document to examination of Road Supervisor
12 Scott McCartney's knowledge of his job description/duties at the time of the July 27, 2011
13 incident herein.

14 Dated this 2nd day of September, 2015

15 
16 DISTRICT COURT JUDGE

17 Submitted by:

18 ALVERSON, TAYLOR,
19 MORTENSEN & SANDERS

20 By: 
21 LEANN SANDERS, ESQ.
22 Nevada Bar No. 000390
23 KIMBERLEY HYSON, ESQ.
24 Nevada Bar No.: 11611
25 7401 W. Charleston Boulevard
26 Las Vegas, NV 89117-1401
27 Attorneys for Defendants
28

Case No. 70164

In the Supreme Court of Nevada

FIRST TRANSIT, INC.; and JAY
FARRALES,

Appellants,

vs.

JACK CHERNIKOFF; and ELAINE
CHERNIKOFF,

Respondents.

Electronically Filed
Oct 20 2017 02:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable STEFANY A. MILEY, District Judge
District Court Case No. A-13-682726-C

**APPELLANTS' APPENDIX
VOLUME 1
PAGES 1-250**

DANIEL F. POLSENBERG
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LSanders@AlversonTaylor.com

Attorneys for Appellants

CHRONOLOGICAL TABLE OF CONTENTS TO APPENDIX

Tab	Document	Date	Vol.	Pages
1	Complaint	05/31/13	1	1–14
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5	Commissioner's Decision on Request for Exemption	07/23/13	1	28–33
6	Scheduling Order	08/28/13	1	34–36
7	Order Setting Civil Jury Trial	08/30/13	1	37–38
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9	Notice of Entry of Stipulation and Order to Dismiss Laidlaw Transit Services, Inc. With Prejudice	04/04/14	1	46–51
10	Notice of Entry of Order Granting Motion for Association of Out of State Counsel Pro Hac Vice	05/29/14	1	52–56
11	Notice of Entry of Stipulation and Order for Extension of Time to Complete Discovery (Second Request)	08/20/14	1	57–66
12	Order Re-Setting Civil Jury Trial and Calendar Call	09/17/14	1	67–68
13	Notice of Entry of Stipulation and Order to Complete Discovery (Third Request)	09/29/14	1	69–79
14	Discovery Commissioner's Report and Recommendations	12/23/14	1	80–84

15	Second Order Re-Setting Civil Jury Trial and Calendar Call	01/13/15	1	85–86
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17	Decision	01/20/15	1	96–97
18	Notice of Entry of Stipulation and Order to Dismiss Plaintiffs' Punitive Damages Claim	06/05/15	1	98–105
19	Defendants' Pre-Trial Memorandum	06/19/15	1	106–124
20	Plaintiffs' Pre-Trial Memorandum	06/19/15	1	125–132
21	Third Order Re-Setting Civil Jury Trial and Calendar Call	06/29/15	1	133–134
22	Notice of Entry of Stipulation and Order to Dismiss Plaintiffs' Claims for Funeral Expenses	06/30/15	1	135–142
23	Notice of Entry of Order Denying Defendants' Motion to Strike Plaintiffs' Passenger Transportation Expert, Carl Berkowitz Ph.D.	09/08/15	1	143–149
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25	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 2 to Exclude Post-July 2011 Policy Documents and Any References or Testimony Related Thereto	09/08/15	1	157–164
26	Notice of Entry of Order on Defendants' Motion in Limine No. 3 to Exclude Postmortem Photographs of Decedent at Trial	09/08/15	1	165–171
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	and Denying in Part Defendants' Motion in Limine No. 4 to Preclude Speculation by Lay Witnesses that First Aid Would Have Saved Decedent's Life			
28	Notice of Entry of Order Deferring Ruling on Plaintiffs' Motion to Strike Impermissible Video	09/08/15	1	180–186
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31	Notice of Entry of Stipulation and Order to Withdraw Plaintiffs' Motion in Limine No. 3 to Seek Exclusion of Any Reference or Comments that the Decedent was Incompetent to Ride the Bus and Any Arguments Regarding Comparative Negligence	09/08/15	1	201–208
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33	Notice of Entry of Stipulation and Order to Reset Trial	09/09/15	1	216–222
34	Recorders Transcript of Hearing: Jury Trial Day 1	02/17/16	1 2	223–250 251–376
35	Recorders Transcript of Hearing: Jury Trial Day 2	02/18/16	2 3	377–500 501–540
36	Recorders Transcript of Hearing: Jury Trial	02/19/16	3	541–750

	Day 3		4	751–770
37	Recorders Transcript of Hearing: Jury Trial Day 4	02/22/16	4	771–908
38	Plaintiffs' Brief re: Common Carrier Jury Instruction	02/23/16	4	909–954
39	Plaintiffs' Bench Brief re: Nevada Pattern Jury Instruction "4NG.45 – Duty to Disabled, Infirm or Intoxicated Person, or Duty to a Child"	02/23/16	4	955–964
40	Recorders Transcript of Hearing: Jury Trial Day 5	02/23/16	4 5	965–1000 1001–1084
41	Recorders Transcript of Hearing: Jury Trial Day 6	02/24/16	5	1085–1209
42	Recorders Transcript of Hearing: Jury Trial Day 7	02/25/16	5 6	1210–1250 1251–1404
43	Plaintiffs' Proposed Jury Instructions	02/25/16	6	1405–1445
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45	Plaintiffs' Proposed Jury Instructions Not Used at Trial	02/26/16	7	1616–1617
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47	Amended Jury List	02/29/16	7	1717
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49	Jury Instructions	02/29/16	7 8	1721–1750 1751–1763
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52	Defendants' Motion for New Trial	03/23/16	8	1786–1827
53	Defendants' Motion to Alter or Amend the	03/23/16	8	1828–1956

	Judgment			
54	Notice of Appeal	04/08/16	8	1957–1972
55	Opposition to Motion to Alter or Amend Judgment	04/11/16	8	1973–1979
56	Opposition to Motion for New Trial; Request to Supplement Opposition When Transcripts are Complete	04/11/16	8 9	1980–2000 2001–2002
57	Notice of Entry of “Order Granting ‘Motion for Stay’ and ‘Motion for Leave to Supplement Post-Trial Motions Upon Receipt of Trial Transcript’”	04/22/16	9	2003–2007
58	Notice of Entry of “Stipulation and Order Setting Briefing Schedule and Conditional Hearing Date on Post-Judgment Motions”	05/19/16	9	2008–2013
59	Appendix of Exhibits to Supplemented Motion for New Trial	05/25/16	9 10	2014–2250 2251–2269
60	Supplemental Motion for New Trial	05/25/16	10	2270–2300
61	Defendants’ Supplemented Motion to Alter or Amend the Judgment	05/25/16	10	2301–2441
62	Opposition to Motion for New Trial and Supplement Thereto	07/05/16	10	2442–2482
63	Stipulation and Order Extending Plaintiffs’ Time to File Supplemental Briefing	07/12/16	10	2483–2484
64	Reply Brief on Motion for New Trial	07/26/16	10 11	2485–2500 2501–2539
65	Reply Brief on Motion to Alter or Amend the Judgment	07/26/16	11	2540–2544
66	Recorders Transcript of Hearing on Motion for Costs and Attorney’s Fees; Motion for New Trial (and Motion for Leave to Supplement); Motion to Alter or Amend Judgment	08/16/16	11	2545–2588

67	Substitution of Attorney	03/24/17	11	2589–2591
68	Amended Judgment	06/06/17	11	2592–2596
69	Notice of Entry of Order Granting in Part and Denying in Part Defendants Motion to Retax; Denying motion to Strike Plaintiffs' Memorandum of Costs and for Sanctions; Denying Farrales' Motion for Fees and Costs	06/07/17	11	2597–2605
70	Notice of Entry of Order Granting in Part and Denying in Part Defendants Motion to Alter or Amend Judgment	06/07/17	11	2606–2613
71	Notice of Entry of Order Denying Motion for New Trial	06/07/17	11	2614–2623
72	Notice of Entry of Amended Judgment	06/07/17	11	2624–2631
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74	Amended Case Appeal Statement	06/07/17	11	2687–2696

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74	Amended Case Appeal Statement	06/07/17	11	2687–2696
68	Amended Judgment	06/06/17	11	2592–2596
47	Amended Jury List	02/29/16	7	1717
73	Amended Notice of Appeal	06/07/17	11	2632–2686
59	Appendix of Exhibits to Supplemented Motion for New Trial	05/25/16	9 10	2014–2250 2251–2269
5	Commissioner's Decision on Request for Exemption	07/23/13	1	28–33
1	Complaint	05/31/13	1	1–14
17	Decision	01/20/15	1	96–97
3	Defendants First Transit, Inc., Laidlaw Transit Services, Inc. d/b/a First Transit and Jay Farrales' Answer to Plaintiffs' Complaint	06/27/13	1	16–24
52	Defendants' Motion for New Trial	03/23/16	8	1786–1827
53	Defendants' Motion to Alter or Amend the Judgment	03/23/16	8	1828–1956
19	Defendants' Pre-Trial Memorandum	06/19/15	1	106–124
61	Defendants' Supplemented Motion to Alter or Amend the Judgment	05/25/16	10	2301–2441
4	Demand for Jury Trial	06/27/13	1	25–27
14	Discovery Commissioner's Report and Recommendations	12/23/14	1	80–84
50	Judgment Upon Jury Verdict	03/08/16	8	1764–1773
49	Jury Instructions	02/29/16	7	1721–1750

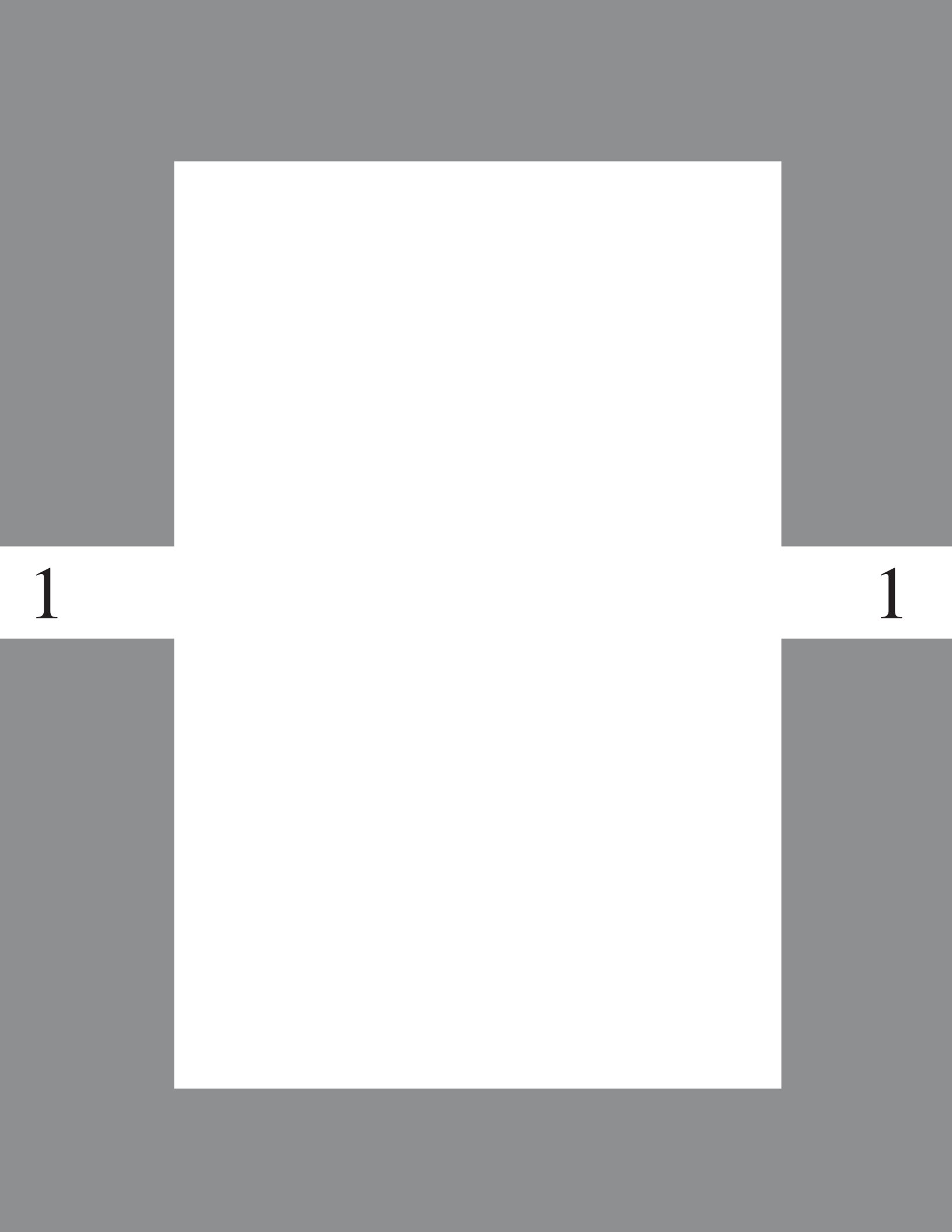
			8	1751–1763
54	Notice of Appeal	04/08/16	8	1957–1972
57	Notice of Entry of “Order Granting ‘Motion for Stay’ and ‘Motion for Leave to Supplement Post-Trial Motions Upon Receipt of Trial Transcript’”	04/22/16	9	2003–2007
58	Notice of Entry of “Stipulation and Order Setting Briefing Schedule and Conditional Hearing Date on Post-Judgment Motions”	05/19/16	9	2008–2013
72	Notice of Entry of Amended Judgment	06/07/17	11	2624–2631
51	Notice of Entry of Judgment	03/09/16	8	1774–1785
28	Notice of Entry of Order Deferring Ruling on Plaintiffs’ Motion to Strike Impermissible Video	09/08/15	1	180–186
23	Notice of Entry of Order Denying Defendants’ Motion to Strike Plaintiffs’ Passenger Transportation Expert, Carl Berkowitz Ph.D.	09/08/15	1	143–149
71	Notice of Entry of Order Denying Motion for New Trial	06/07/17	11	2614–2623
29	Notice of Entry of Order Denying Plaintiffs’ Motion in Limine No. 1 to Exclude Any Discussion, Mention, Reference, Comments Regarding the Retention of Ned Einstein	09/08/15	1	187–193
30	Notice of Entry of Order Denying Plaintiffs’ Motion in Limine No. 2 to Exclude Any Reference or Comments that Carl Berkowitz Utilized Ned Einstein’s Report	09/08/15	1	194–200
32	Notice of Entry of Order Denying Plaintiffs’ Motion in Limine No. 4 to Exclude Any Reference of Decedent Obtaining a Drivers License	09/08/15	1	209–215
24	Notice of Entry of Order Granting in Part	09/08/15	1	150–156

	and Denying in Part Defendants' Motion in Limine No. 1 to Exclude Items Produced by Plaintiffs After the Close of Discovery			
25	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 2 to Exclude Post-July 2011 Policy Documents and Any References or Testimony Related Thereto	09/08/15	1	157–164
27	Notice of Entry of Order Granting in Part and Denying in Part Defendants' Motion in Limine No. 4 to Preclude Speculation by Lay Witnesses that First Aid Would Have Saved Decedent's Life	09/08/15	1	172–179
69	Notice of Entry of Order Granting in Part and Denying in Part Defendants Motion to Retax; Denying motion to Strike Plaintiffs' Memorandum of Costs and for Sanctions; Denying Farrales' Motion for Fees and Costs	06/07/17	11	2597–2605
70	Notice of Entry of Order Granting in Part and Denying in Part Defendants Motion to Alter or Amend Judgment	06/07/17	11	2606–2613
10	Notice of Entry of Order Granting Motion for Association of Out of State Counsel Pro Hac Vice	05/29/14	1	52–56
26	Notice of Entry of Order on Defendants' Motion in Limine No. 3 to Exclude Postmortem Photographs of Decedent at Trial	09/08/15	1	165–171
11	Notice of Entry of Stipulation and Order for Extension of Time to Complete Discovery (Second Request)	08/20/14	1	57–66
16	Notice of Entry of Stipulation and Order for Extension of Time to Complete Discovery	01/20/15	1	87–95

13	Notice of Entry of Stipulation and Order to Complete Discovery (Third Request)	09/29/14	1	69–79
9	Notice of Entry of Stipulation and Order to Dismiss Laidlaw Transit Services, Inc. With Prejudice	04/04/14	1	46–51
22	Notice of Entry of Stipulation and Order to Dismiss Plaintiffs' Claims for Funeral Expenses	06/30/15	1	135–142
18	Notice of Entry of Stipulation and Order to Dismiss Plaintiffs' Punitive Damages Claim	06/05/15	1	98–105
8	Notice of Entry of Stipulation and Order to Dismiss the Estate of Harvey Chernikoff With Prejudice	04/04/14	1	39–45
33	Notice of Entry of Stipulation and Order to Reset Trial	09/09/15	1	216–222
31	Notice of Entry of Stipulation and Order to Withdraw Plaintiffs' Motion in Limine No. 3 to Seek Exclusion of Any Reference or Comments that the Decedent was Incompetent to Ride the Bus and Any Arguments Regarding Comparative Negligence	09/08/15	1	201–208
62	Opposition to Motion for New Trial and Supplement Thereto	07/05/16	10	2442–2482
56	Opposition to Motion for New Trial; Request to Supplement Opposition When Transcripts are Complete	04/11/16	8 9	1980–2000 2001–2002
55	Opposition to Motion to Alter or Amend Judgment	04/11/16	8	1973–1979
12	Order Re-Setting Civil Jury Trial and Calendar Call	09/17/14	1	67–68
7	Order Setting Civil Jury Trial	08/30/13	1	37–38

39	Plaintiffs' Bench Brief re: Nevada Pattern Jury Instruction "4NG.45 – Duty to Disabled, Infirm or Intoxicated Person, or Duty to a Child"	02/23/16	4	955–964
38	Plaintiffs' Brief re: Common Carrier Jury Instruction	02/23/16	4	909–954
20	Plaintiffs' Pre-Trial Memorandum	06/19/15	1	125–132
43	Plaintiffs' Proposed Jury Instructions	02/25/16	6	1405–1445
45	Plaintiffs' Proposed Jury Instructions Not Used at Trial	02/26/16	7	1616–1617
66	Recorders Transcript of Hearing on Motion for Costs and Attorney's Fees; Motion for New Trial (and Motion for Leave to Supplement); Motion to Alter or Amend Judgment	08/16/16	11	2545–2588
34	Recorders Transcript of Hearing: Jury Trial Day 1	02/17/16	1 2	223–250 251–376
35	Recorders Transcript of Hearing: Jury Trial Day 2	02/18/16	2 3	377–500 501–540
36	Recorders Transcript of Hearing: Jury Trial Day 3	02/19/16	3 4	541–750 751–770
37	Recorders Transcript of Hearing: Jury Trial Day 4	02/22/16	4	771–908
40	Recorders Transcript of Hearing: Jury Trial Day 5	02/23/16	4 5	965–1000 1001–1084
41	Recorders Transcript of Hearing: Jury Trial Day 6	02/24/16	5	1085–1209
42	Recorders Transcript of Hearing: Jury Trial Day 7	02/25/16	5 6	1210–1250 1251–1404
44	Recorders Transcript of Hearing: Jury Trial Day 8	02/26/16	6	1446–1500

			7	1501–1615
46	Recorders Transcript of Hearing: Jury Trial Day 9	02/29/16	7	1618–1716
64	Reply Brief on Motion for New Trial	07/26/16	10 11	2485–2500 2501–2539
65	Reply Brief on Motion to Alter or Amend the Judgment	07/26/16	11	2540–2544
6	Scheduling Order	08/28/13	1	34–36
15	Second Order Re-Setting Civil Jury Trial and Calendar Call	01/13/15	1	85–86
63	Stipulation and Order Extending Plaintiffs' Time to File Supplemental Briefing	07/12/16	10	2483–2484
67	Substitution of Attorney	03/24/17	11	2589–2591
60	Supplemental Motion for New Trial	05/25/16	10	2270–2300
21	Third Order Re-Setting Civil Jury Trial and Calendar Call	06/29/15	1	133–134
48	Verdict	02/29/16	7	1718–1720



1

1

CIVIL COVER SHEET A-13-682726-C

Clark County, Nevada

XXXX

Case No. _____

(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): The Estate of HARVEY
CHERNIKOFF

Defendant(s) (name/address/phone): FIRST TRANSIT INC.,

Attorney (name/address/phone):

BENJAMIN P. CLOWARD, 801 S. 4th Street, Las Vegas,
NV 89101

702-444-4444

Attorney (name/address/phone):

Unknown

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases

Real Property	Negligence	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input checked="" type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <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	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Agmt/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"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	
	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <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.)

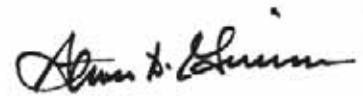
- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input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

May 31, 2013

Date

Signature of initiating party or representative

#7584



CLERK OF THE COURT

1 **COMP**
 2 BENJAMIN P. CLOWARD, ESQ.
 3 Nevada Bar No. 11087
 4 Utah Bar No. 12336
 5 **RICHARD HARRIS LAW FIRM**
 6 801 South Fourth Street
 7 Las Vegas, Nevada 89101
 8 Telephone: (702) 385-1400
 9 Facsimile: (702) 385-9408
 10 *Attorney for Plaintiff*

DISTRICT COURT**CLARK COUNTY, NEVADA**

11 The Estate of HARVEY CHERNIKOFF,
 12 Deceased; by JACK CHERNIKOFF as
 13 personal representative, individually and as
 14 heir; ELAINE CHERNIKOFF individually
 15 and as heir,

CASE NO. A-13-682726-C
 DEPT. NO. XXIII

COMPLAINT

16 Plaintiffs,

17 vs.

18 FIRST TRANSIT, INC. LAIDLAW
 19 TRANSIT SERVICES, INC dba FIRST
 20 TRANSIT; JAY FARRALES; DOES 1-10,
 21 and ROES 1-10 inclusive,

Defendants.

22 COMES NOW Plaintiff JACK CHERNIKOFF, personal representative of the Estate of
 23 HARVEY CHERNIKOFF, individually, and as heir, and ELAINE CHERNIKOFF
 24 individually and as heir of the Estate of HARVEY CHERNIKOFF by and through their
 25 attorneys, RICHARD A. HARRIS, ESQ, and BENJAMIN P. CLOWARD, ESQ., of
 26 RICHARD HARRIS LAW FIRM, and for their causes of action against Defendants, and each
 27 of them, allege as follows:
 28

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PARTIES

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4
5 1. That at all times relevant to these proceedings, HARVEY CHERNIKOFF,
6 deceased (hereinafter "HARVEY") was a resident of Clark County, Nevada.

7 2. That at all times relevant to these proceedings, Plaintiff, JACK CHERNIKOFF
8 the personal representative, individually and as heir of the Estate of HARVEY CHERNIKOFF,
9 was and is a resident of Clark County, Nevada.

10 3. That at all times relevant to these proceedings, Plaintiff, ELAINE CHERNIKOFF
11 individually and as heir of the Estate of HARVEY CHERNIKOFF, was and is a resident of
12 Clark County, Nevada.

13 4. That at all times relevant to these proceedings and upon information and belief,
14 Defendants, FIRST TRANSIT, INC., LAIDLAW TRANSIT SERVICES, INC dba FIRST
15 TRANSIT, were corporations doing business in Las Vegas, Clark County, Nevada.

16 5. That at all times relevant to these proceedings, Defendant JAY FARRALES,
17 was and is a resident of Clark County, Nevada.

18 6. That the true names and capacities whether individual, corporate, associate,
19 partnership or otherwise of the Defendant herein designated as DOES 1-10, inclusive, are
20 unknown to the Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff
21 alleges that Defendant DOE 1 -5 were the actual operator/employee of Defendant and in the
22 event said Defendants were acting within the course, scope and authority of such agency or
23 employment, each said Defendant is liable or whose are statutorily or vicariously liable for the
24 acts and omissions of those person(s) and or entities who caused or contributed to the injuries
25 and death of HARVEY CHERNIKOFF as described below Plaintiffs further allege that
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27
28

1 Defendants DOES 6-10, are unknown at this time and may be individuals, corporations,
2 associations, partnerships, subsidiaries, holding companies, owners, predecessor or successor
3 entities, joint venturers, parent corporations or related business entities of Defendants,
4 inclusive, who were acting on behalf of or in concert with, or at the direction of Defendants
5 and may be responsible for the injurious activities and wrongfully death of the other
6 Defendants. Plaintiffs allege that each named Defendant and Doe Defendant negligently,
7 willfully, intentionally, recklessly, vicariously, or otherwise, caused, directed, allowed or set in
8 motion the injurious events and wrongful death set forth herein. Each named and Doe
9 Defendant is legally responsible for the events and happenings stated in this Complaint, and
10 thus proximately caused injury, death and damages to Plaintiffs. Plaintiffs request leave of the
11 Court to amend this Complaint to specify the Doe Defendants when their identities become
12 known. Plaintiff will ask leave of this court to insert the true names and capacities of such
13 Defendants when the same have been ascertained and will further ask leave to join said
14 Defendants in these proceedings.

15
16 6. That Defendant, JAY FARRALES, was the operator of a certain First Transit
17 Bus at all times relevant to this action, and at all times relevant hereto, was operating the same
18 within the course and scope of his employment with Defendants, FIRST TRANSIT, INC.,
19 LAIDLAW TRANSIT SERVICES, INC dba FIRST TRANSIT.

20
21 7. That at all times relevant to this action, Defendants, FIRST TRANSIT, INC.
22 LAIDLAW TRANSIT SERVICES, INC dba FIRST TRANSIT, employed Defendant, JAY
23 FARRALES

24
25 8. All the facts and circumstances that give rise to the subject lawsuit occurred in
26 Clark County, Nevada.
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1 20. Defendant, JAY FARRALES, and Defendants, were acting as common carriers
2 and had a duty to use the highest degree of care to assist Plaintiff while a passenger on the
3 vehicle at issue, according to the laws of the State of Nevada and as a reasonable and prudent
5 common carrier would under similar circumstances.
6

7 21. Defendant, JAY FARRALES, and Defendants, breached the duty to use the
8 highest degree of care and act reasonably in this matter when they neglected to take
9 precautionary measures, including but not limited to, failing to contact emergency services and
10 assisting Plaintiff while he choked. Defendant JAY FARRALES and Defendants were negligent
11 and careless.
12

13 22. The sole and proximate cause of the subject incident was due to the negligent
14 actions or inactions of the Defendants and Doc Defendant.
15

16 23. That HARVEY CHERNIKOFF' s estate is entitled to special damages for
17 medical, funeral and burial expenses in an amount according to proof at trial.
18

19 24. From the time of his injuries until his death, HARVEY CHERNIKOFF suffered
20 intense physical and mental pain, shock and agony all to his damage recoverable by his heirs,
21 JACK CHERNIKOFF and ELAINE CHERNIKOFF in an amount in excess of TEN
22 THOUSAND DOLLARS (\$10,000.00).
23

24 25. As a proximate result of HARVEY CHERNIKOFF death, Plaintiffs, JACK
25 CHERNIKOFF and ELAINE CHERNIKOFF, have been deprived of his support and the value
26 of the accumulations of his estate had he lived his normal life expectancy, all to Plaintiff JACK
27 CHERNIKOFF and ELAINE CHERNIKOFF , special damage in an amount according to proof
28 at trial.

1 26. HARVEY CHERNIKOFF was a loving and devoted son, and by reason of the
2 premises, Plaintiffs JACK CHERNIKOFF and ELAINE CHERNIKOFF have suffered extreme
3 grief and sorrow and have been deprived of his companionship, society, comfort and consortium,
5 all to their general damage in an amount in excess of TEN THOUSAND DOLLARS
6 (\$10,000.00).

8 27. Punitive and exemplary damages are warranted in this action as a punishment for
9 reckless and wanton acts that consciously disregarded the safety of HARVEY CHERNIKOFF, to
10 serve as a deterrent to the Defendants and others for committing the same or similar acts that
11 endanger the general safety of patrons and the public in an amount in excess of TEN
12 THOUSAND DOLLARS (\$10,000.00).

14 **SECOND CLAIM FOR RELIEF**
15 *RESPONDEAT SUPERIOR*

16 28. Plaintiffs incorporate by this reference each and every paragraph previously made
17 in this Complaint, as if here fully set forth.

18 29. Because Defendant JAY FARRALES was acting within the course and scope of
19 his employment, service or agency, each and every other Defendant is vicariously liable for the
20 injuries and damages sustained by Plaintiff, alleged herein.

22 30. That Defendant JAY FARRALES was acting in the course and scope of his
23 employment with Defendant FIRST TRANSIT, INC. LAIDLAW TRANSIT SERVICES, INC
24 dba FIRST TRANSIT and as such, Defendant FIRST TRANSIT, INC. LAIDLAW TRANSIT
25 SERVICES, INC dba FIRST TRANSIT is responsible for the negligent acts of its employee
26 under the doctrine of respondent superior.
27
28

1 31. Whenever it is alleged in this Complaint that a Defendant did any act or thing, it
2 is meant that such Defendant's officers, agents, servants, employees, or representatives did such
3 act or thing and at the time such act or thing was done, it was done with full authorization or
5 ratification or such defendant or was done in normal and routine course and scope of business or
6 with the actual apparent and/or implied authority of such Defendant's officers, agents servants,
7 employees, or representatives. Specifically Defendants are liable for the actions of its officers,
8 agents, servants, employees and representatives.
9

10 32. Plaintiffs, allege that the Defendants, being a large corporation, can only act
11 through their employees, servants agents, contracts, associates, security personnel, plain clothes
12 employees, bartenders, porters and others paid directly or indirectly by the Defendants for the
13 purpose of running the corporate enterprises, to make a profit, and to service their patrons and
14 invitees.
15

16 33. Plaintiffs, allege that the above-described employees and agents of FIRST
17 TRANSIT, INC. LAIDLAW TRANSIT SERVICES, INC dba FIRST TRANSIT and other
18 Defendants were in various positions on the Defendants premises where they, if properly hired,
19 trained, and supervised, and if properly acting within the scope of their employment, could have
20 acted rather than omitting to act, in such a manner that they could have taken reasonable action
21 to prevent the death of HARVEY CHERNIKOFF.
22

23 34. That Defendants breached their duty and negligently, disregarded the safety of
24 HARVEY CHERNIKOFF, by failing, among other things, to have adequate first aid training, to
25 prevent such an occurrence, by failing to have employees adequately trained or competent
26 personnel on duty at the time of the incident to respond to the presence of a medical problem, or
27
28

1 to enforce ruled already in place to prevent HARVEY or others from being allowed to eat food
2 on the bus.

3 35. As a direct and proximate result, Defendants are responsible for the wrongful
5 death of HARVEY CHERNIKOFF and the special and general damages as stated herein.
6

7 **THIRD CAUSE OF ACTION**
8 ***NEGLIGENT HIRING, RETENTION AND SUPERVISION***

9 36. Plaintiffs incorporate by this reference each and every allegation previously made
10 in this Complaint, as if here fully set forth.

11 37. Defendants were negligent in the selection, hiring, training, supervision and/or
12 retention of JAY FARRALES and Doe Defendants at all times relevant herein.
13

14 38. Defendants knew or reasonably should have known that management was
15 engaging in wrongful protocol, safety and/or supervision of their drivers in first aid response of
16 disabled parties and were unfit for their management position.

17 39. Defendants' management employees engaged in actions including, but not limited
18 to, lack of establishing a policy, and deficient in directing employees to respond to a medical
19 emergency of disabled parties causing a hazardous condition.
20

21 40. At all material times, Defendants knew or reasonably should have known that the
22 conduct, acts, or failures to act of management, and the conduct, acts, or failures to act of other
23 employees or agents of Defendant's (including Doe and Roe Defendants,) that managed and
24 supervised directly injured Plaintiff.
25

26 41. At all material times, Defendants knew or reasonably should have known that the
27 incidents and conduct of management and other employees described above, would and did
28 proximately result in the wrongful death of HARVEY CHERNIKOFF, including but not limited

1 to, mental anguish and emotional distress.

2 42. At all material times, Defendants knew, or in the exercise of reasonable care
3 should have known and could have reasonably foreseen, that unless Defendants intervened to
5 protect HARVEY CHERNIKOFF, and or to adequately supervise, control, regulate, train,
6 discipline, and/or otherwise penalize the conduct, acts, and failures to act, and/or terminate the
7 employment of managers or employees who failed to act, such conduct would continue, thereby
8 subjecting Plaintiffs to injury and severe emotional distress, and would have the effect of
9 encouraging, ratifying, condemning, exacerbating, increasing, and worsening the conduct, acts,
10 and failures to act described above.
11

12 43. At all times Defendants had the power, ability, authority and duty to intervene,
13 supervise, train, prohibit, control, regulate, discipline and/or penalize the conduct and/or
14 terminate the employment of Defendants and other agents or employees described above.
15

16 44. That of FIRST TRANSIT, INC. LAIDLAW TRANSIT SERVICES, INC dba
17 FIRST TRANSIT and other Defendants and each of them, owed duties to HARVEY
18 CHERNIKOFF to exercise reasonable care in hiring, training, retention, supervision and
19 management of the personnel responsible for safety at the time and place of the events described
20 above.
21

22 45. By their acts and omissions herein, Defendants breached these duties.
23

24 46. As a direct and proximate result, Defendants are responsible for the wrongful
25 death of HARVEY CHERNIKOFF and the special and general damages as stated herein.
26

27 ///

28 ///

FOURTH CLAIM FOR RELIEF
PUNITIVE DAMAGES

47. Plaintiffs incorporate by this reference each and every paragraph previously made in this Complaint, as if here fully set forth.

48. Defendants' actions were wrongful, willful, oppressive, malicious, and done with the intent to harm Plaintiff or in reckless disregard for Plaintiff. Plaintiff is therefore entitled to an award of punitive damages in amount sufficient to punish and deter the defendants and all others firm engaging in such conduct.

49. The acts complained of herein were willfully, unlawfully, violently and maliciously done by Defendants, and each of them, with a capricious and wanton disregard for the health and safety of Plaintiff, thereby entitling Plaintiff to exemplary or punitive damages in an amount in excess of \$10,000.00.

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1 WHEREFORE, Plaintiffs respectfully pray that Judgment be entered against Defendants,
2 and each of them, as follows:

- 3 1. General damages in an amount of to be proven at the time of trial;
5 2. Medical and incidental expenses incurred and to be incurred;
6 3. For punitive damages in in an amount in excess of \$10,000.00;
7 4. Attorney's fees and cost of suit; and
8 5. For such other relief as is just and proper.
9

10 DATED this 31st day of May, 2013
11

12 RICHARD HARRIS LAW FIRM

13 

14 By: _____
15 BENJAMIN P. CLOWARD, ESQ.
16 Nevada Bar No. 11087
17 801 South Fourth Street
18 Las Vegas, Nevada 89101
19 *Attorney for Plaintiff*
20
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25
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27
28

1 IAFD
 2 BENJAMIN P. CLOWARD, ESQ.
 3 Nevada Bar No. 11087
 4 Utah Bar No. 12336
 5 **RICHARD HARRIS LAW FIRM**
 6 801 South Fourth Street
 7 Las Vegas, Nevada 89101
 8 Telephone: (702) 385-1400
 9 Facsimile: (702) 385-9408
 10 *Attorney for Plaintiff*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 The Estate of HARVEY CHERNIKOFF,
 12 Deceased; by JACK CHERNIKOFF as
 13 personal representative, individually and as
 14 heir; ELAINE CHERNIKOFF individually
 15 and as heir,

16 Plaintiffs,

17 vs.

18 FIRST TRANSIT, INC. LAIDLAW
 19 TRANSIT SERVICES, INC dba FIRST
 20 TRANSIT; JAY FARRALES; DOES 1-10,
 21 and ROES 1-10 inclusive,

CASE NO. A - 13 - 682726 - C
 DEPT. NO. XXIII

**INITIAL APPEARANCE FEE
 DISCLOSURE**

22 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are
 23 submitted for parties appearing in the above entitled action as indicated below:

24 The Estate of HARVEY CHERNIKOFF	\$ 270.00
25 JACK CHERNIKOFF	\$ 30.00
26 ELAINE CHERNIKOFF	\$ 30.00

27 ///

1 TOTAL REMITTED:

\$ 330.00

2
3 DATED this 31st day of May, 2013

4 RICHARD HARRIS LAW FIRM

5
6
7
8 By:  #9584

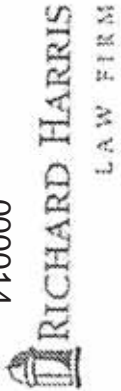
9 BENJAMIN P. CLOWARD, ESQ.

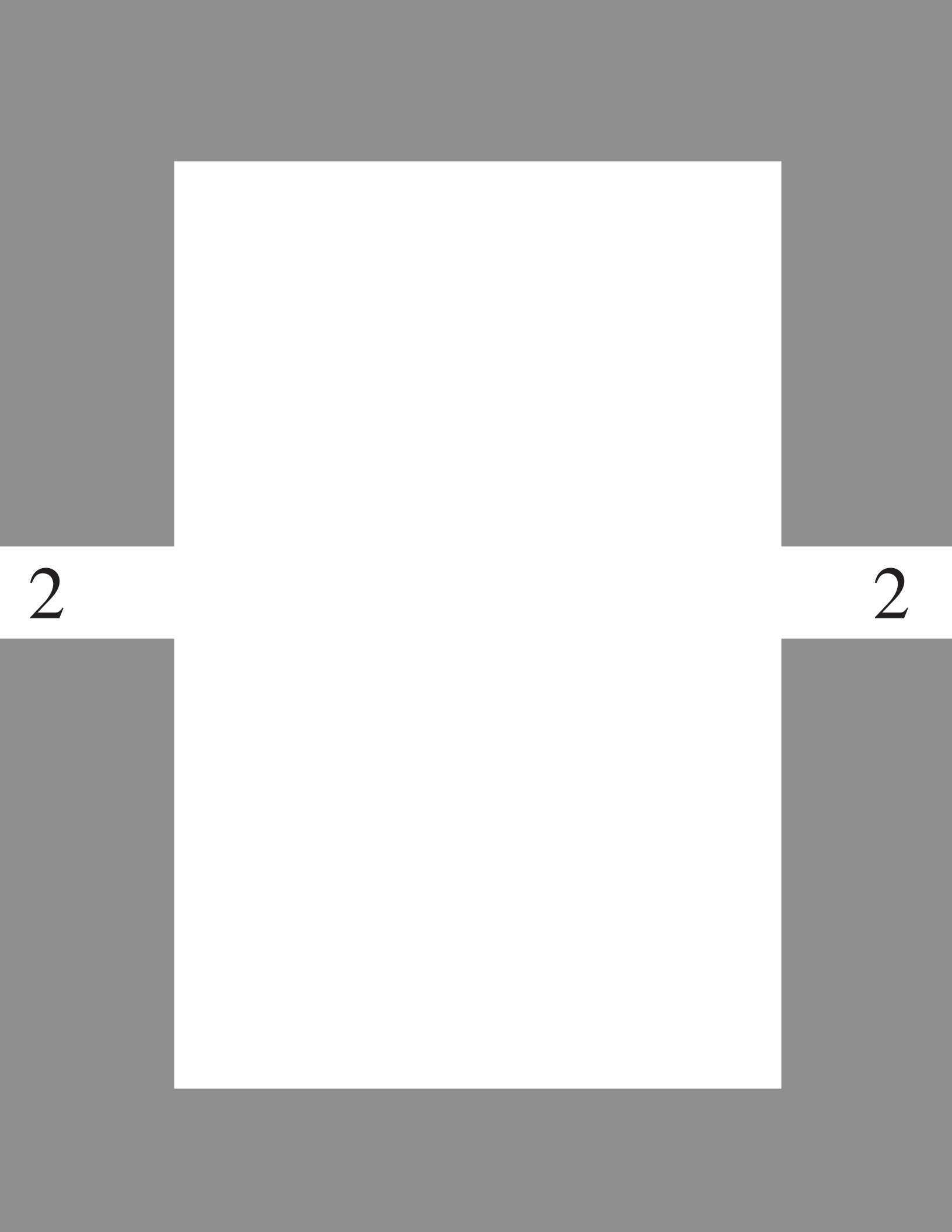
10 Nevada Bar No. 11087

11 801 South Fourth Street

12 Las Vegas, Nevada 89101

13 *Attorney for Plaintiff*





2

2

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1 **AFFT**
2 Richard Harris Law Firm
3 Benjamin P. Cloward, Esq.
4 801 S. 4th St.
5 Las Vegas, NV 89101
6 State Bar No.: 11087
7 Attorney(s) for: Plaintiff(s)

Alana Duggan
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY NEVADA

8
9 The Estate of Harvey Chernikoff, Deceased; by Jack Chernikoff as
10 personal representative, individually and as heir; et al.

11 vs

Plaintiff(s)

12 First Transit, Inc. Laidlaw Transit Services, Inc dba First Transit, et al.
13 Defendant(s)

Case No.: A-13-682726-C

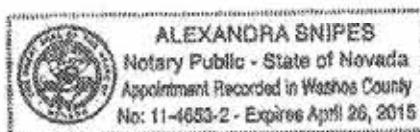
Dept. No.: XXIII

Date:

Time:

AFFIDAVIT OF SERVICE

15 I, Kelly Danner, being duly sworn deposes and says: That at all times herein affiant was and is a citizen of the
16 United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #604, and
17 not a party to or interested in the proceeding in which this affidavit is made. The affiant received 1 copy(ies) of the:
18 Summons, Complaint, Civil Cover Sheet, Initial Appearance, Fee Disclosure on the 7th day of June, 2013 and
19 served the same on the 7th day of June, 2013 at 2:35pm by serving the Defendant(s), First Transit, Inc. Laidlaw
20 Transit Services, Inc. dba First Transit by personally delivering and leaving a copy at Registered Agent: The
21 Corporation Trust Company of Nevada, 311 South Division Street, Carson City, Nevada 89703 with
22 Alana Duggan, Administrative Assistant pursuant to NRS 14.020 as a person of suitable age and discretion at
23 the above address, which address is the address of the registered agent as shown on the current certificate of
24 designation filed with the Secretary of State.



32
33 State of Nevada, County of Washoe

34 SUBSCRIBED AND SWORN to before me on this

35 11th day of June 2013

36 *Alexandra Snipes*
Notary Public Alexandra Snipes

Kelly Danner
Affiant Kelly Danner # R-057577
Legal Process Service License # 604
Work Order No 1304659

000015

Legal Process Service 105 Mary Street Reno, Nevada 89509

3

3

1 ANSC

2 ALVERSON, TAYLOR,
3 MORTENSEN & SANDERS
4 LEANN SANDERS, ESQ.

5 Nevada Bar No. 000390

6 SHIRLEY BLAZICH, ESQ.

7 Nevada Bar No. 008378

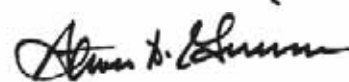
8 7401 W. Charleston Boulevard

9 Las Vegas, Nevada 89117

10 (702) 384-7000

11 Attorneys for Defendants

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06/27/2013 09:02:47 AM



CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

11 The Estate of HARVEY CHERNIKOFF, Deceased;)
12 by JACK CHERNIKOFF as personal representative,)
13 individually and as heir; ELAINE CHERNIKOFF)
14 individually and as heir,)

14 Plaintiffs,)

15 vs.)

16 FIRST TRANSIT, INC., LAIDLAW TRANSIT)
17 SERVICES, INC. d/b/a FIRST TRANSIT; JAY)
18 FARRALES; DOES 1-10, and ROES 1-10, inclusive,)
19 Defendants.)

CASE NO. A-13-682726-C
DEPT. NO. XXIII

20 **DEFENDANTS FIRST TRANSIT, INC., LAIDLAW TRANSIT SERVICES,**
21 **INC., d/b/a FIRST TRANSIT AND JAY FARRALES' ANSWER**
22 **TO PLAINTIFFS' COMPLAINT**

23 COME NOW Defendants, FIRST TRANSIT, INC., LAIDLAW TRANSIT SERVICES,
24 INC., d/b/a FIRST TRANSIT and JAY FARRALES (hereinafter "Answering Defendants" or
25 "Defendants"), by and through their attorneys of record, ALVERSON, TAYLOR,
26 MORTENSEN & SANDERS, and hereby submit the following answer to Plaintiffs' Complaint
27 by admitting, denying, and alleging as follows:
28

LS#19969

PARTIES

1
2 1. Answering Paragraphs 1, 2, 3, 6 (the first Paragraph 6, on page 2) and 8 of Plaintiffs'
3 Complaint, Defendants state that they are without sufficient knowledge or information upon
4 which to base a belief as to the truth of the allegations contained therein, and upon said ground,
5 deny each and every allegation contained therein.

6 2. Answering Paragraphs 4, 5 and 6 (the second Paragraph 6, on page 3) of Plaintiffs'
7 Complaint, Defendants admit each and every allegation contained therein.

8
9 3. Answering Paragraph 7 of Plaintiffs' Complaint, Answering Defendants admit that
10 Defendant, FIRST TRANSIT, INC. employed Defendant, JAY FARRALES. Answering
11 Defendants deny the remaining allegations contained within Paragraph 7 of Plaintiffs'
12 Complaint.

13 4. Answering Paragraph 9 of Plaintiffs' Complaint, Answering Defendants deny each and
14 every allegation contained therein.

FACTS

15
16
17 5. Answering Paragraph 10 of Plaintiffs' Complaint, Answering Defendants admit that on
18 or about July 29, 2011, HARVEY was a passenger on Defendant FIRST TRANSIT, INC. As
19 to the remaining allegations contained within Paragraph 10 of Plaintiffs' Complaint,
20 Defendants state that they are without sufficient knowledge or information upon which to base
21 a belief as to the truth of the allegations contained therein, and upon said ground, deny each
22 and every allegation contained therein.

23
24 6. Answering Paragraphs 11, 12, 13, 14, 16, 17 and 18 of Plaintiffs' Complaint, Defendants
25 state that they are without sufficient knowledge or information upon which to base a belief as
26 to the truth of the allegations contained therein, and upon said ground, deny each and every
27 allegation contained therein.
28

1 7. Answering Paragraph 15 of Plaintiffs' Complaint, Answering Defendants admit each and
2 every allegation contained therein.

3 **FIRST CAUSE OF ACTION**
4 **(Negligence)**

5 8. These Answering Defendants repeat and reallege their answers to the allegations
6 contained within Paragraphs 1 through 18 of Plaintiffs' Complaint, as if the same were more
7 fully set forth herein.

8 9. Answering Paragraphs 20, 24, 25 and 26 of Plaintiffs' Complaint, Defendants state that
9 they are without sufficient knowledge or information upon which to base a belief as to the truth
10 of the allegations contained therein, and upon said ground, deny each and every allegation
11 contained therein.

12 10. Answering Paragraphs 21, 22, 23, and 27 of Plaintiffs' Complaint, Defendants deny each
13 and every allegation contained therein.

14 **SECOND CLAIM FOR RELIEF**

15 **(Respondent Superior)**

16 11. These Answering Defendants repeat and reallege their answers to the allegations
17 contained within Paragraphs 1 through 27 of Plaintiffs' Complaint, as if the same were more
18 fully set forth herein.

19 12. Answering Paragraphs 29, 30, 31, 32 and 33 of Plaintiffs' Complaint, Defendants state
20 that they are without sufficient knowledge or information upon which to base a belief as to the
21 truth of the allegations contained therein, and upon said ground, deny each and every allegation
22 contained therein.

23 13. Answering Paragraphs 34 and 35 of Plaintiffs' Complaint, Defendants deny each and
24 every allegation contained therein.
25
26
27
28

THIRD CAUSE OF ACTION**(Negligent Hiring, Retention and Supervision)**

14. These Answering Defendants repeat and reallege their answers to the allegations contained within Paragraphs 1 through 35 of Plaintiffs' Complaint, as if the same were more fully set forth herein.

15. Answering Paragraphs 37, 38, 39, 40, 41, 42, 43, 45, 46 of Plaintiffs' Complaint, Defendants deny each and every allegation contained therein.

16. Answering Paragraph 44 of Plaintiffs' Complaint, Defendants admit each and every allegation contained therein.

FOURTH CAUSE OF ACTION**(Punitive Damages)**

17. These Answering Defendants repeat and reallege their answers to the allegations contained within Paragraphs 1 through 46 of Plaintiffs' Complaint, as if the same were more fully set forth herein.

18. Answering Paragraphs 48 and 49 of Plaintiffs' Complaint, Defendants deny each and every allegation contained therein.

AFFIRMATIVE DEFENSES**FIRST AFFIRMATIVE DEFENSE**

Defendants allege that Plaintiffs' Complaint on file herein fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants allege that the damages, if any, were caused in whole or in part, or were contributed to by reason of the negligence of the Plaintiffs.

THIRD AFFIRMATIVE DEFENSE

All risks and dangers involved in the factual situation described in the Complaint were open, obvious, and known to the Plaintiffs and said Plaintiffs voluntarily assumed said risks and dangers.

FOURTH AFFIRMATIVE DEFENSE

The incident alleged in the Complaint and the resulting damages, if any, to the Plaintiff were proximately caused or contributed to by Plaintiffs' own negligence, and such negligence was greater than the alleged negligence of Defendants.

FIFTH AFFIRMATIVE DEFENSE

Defendants allege that the occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom were caused by the acts or omissions of a third party over whom Defendants had no control.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are time-barred by the applicable statute of limitations.

SEVENTH AFFIRMATIVE DEFENSE

Defendants allege that recovery of unlimited punitive or exemplary damages is barred because N.R.S. Chapter 42, as amended, denies these Defendants equal protection of the law under Article Four, Section Twenty of the Nevada Constitution, and the Fourteenth Amendment to the United States Constitution.

EIGHTH AFFIRMATIVE DEFENSE

Defendants allege that any award of punitive or exemplary damages in this action is barred as excessive, as the product of bias or passion and/or by proceedings lacking sufficient guidelines and/or the basic elements of fundamental fairness, under the Due Process Clause of

1 the Fourteenth Amendment to the United States Constitution, and Article One, Section Eight, of
2 the Nevada Constitution.

3 **NINTH AFFIRMATIVE DEFENSE**

4 Plaintiffs failed to mitigate his damages, if any.

5 **TENTH AFFIRMATIVE DEFENSE**

6 Defendants hereby incorporate by reference those affirmative defenses enumerated in
7 Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further
8 investigation or discovery reveals the applicability of any such defenses, Defendants reserve the
9 right to seek leave of Court to amend their Answer to specifically assert the same. Such defenses
10 are herein incorporated by referenced for the specific purpose of not waiving the same.

11 **ELEVENTH AFFIRMATIVE DEFENSE**

12 Pursuant to NRCP 11, as amended, all possible Affirmative Defenses may not have been
13 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
14 filing of Defendants' Answer and, therefore, Defendants reserve the right to amend their Answer
15 to allege additional affirmative defenses if subsequent investigation warrants.

16 **TWELFTH AFFIRMATIVE DEFENSE**

17 Plaintiffs' claims against these answering Defendants are reduced, in whole or in part, as
18 a result of the doctrine of comparative negligence.

19 **THIRTEENTH AFFIRMATIVE DEFENSE**

20 Defendants allege that recovery of unlimited punitive or exemplary damages is barred
21 because N.R.S. Chapter 42, as amended, denies these Defendants equal protection of the law
22 under Article Four, Section Twenty of the Nevada Constitution, and the Fourteenth Amendment
23 to the United States Constitution.

24 ///

FOURTEENTH AFFIRMATIVE DEFENSE

Defendants allege that any award of punitive or exemplary damages in this action is barred as excessive, as the product of bias or passion and/or by proceedings lacking sufficient guidelines and/or the basic elements of fundamental fairness, under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and Article One, Section Eight, of the Nevada Constitution.

GENERAL DENIAL

Answering Defendants deny each and every allegation contained in Plaintiffs' Complaint that is not specifically admitted to be true.

PRAYER FOR RELIEF

These Answering Defendants deny that Plaintiff is entitled to any of the requested relief as contained within Plaintiffs' Complaint.

DATED this 26th day of June, 2013.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

CERTIFICATE OF SERVICE

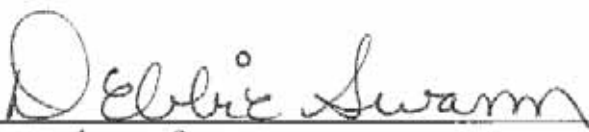
Pursuant to NRCP 5(b), I hereby certify that I am an employee of ALVERSON, TAYLOR, MORTENSEN & SANDERS and that on the 26 day of June, 2013, I caused to be served a true and correct copy of the document described herein by U.S. mail, postage prepaid addressed to the following:

Document Served:

**DEFENDANTS FIRST TRANSIT, INC., LAIDLAW
TRANSIT SERVICES, INC., d/b/a FIRST
TRANSIT AND JAY FARRALES' ANSWER TO
PLAINTIFFS' COMPLAINT**

Person(s) served:

Benjamin Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff


An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 364-7000

000023

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

The undersigned does hereby affirm that the preceding **DEFENDANTS FIRST TRANSIT, INC., LAIDLAW TRANSIT SERVICES, INC., d/b/a FIRST TRANSIT AND JAY FARRALES' ANSWER TO PLAINTIFFS' COMPLAINT** filed in District Court Case No. A-13-682726-C

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

-OR-

___ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 26th day of June, 2013.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

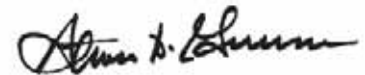
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LS#19969

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CLERK OF THE COURT

DMJT

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

The Estate of HARVEY CHERNIKOFF, Deceased;) CASE NO. A-13-682726-C
by JACK CHERNIKOFF as personal representative,) DEPT. NO. XXIII
individually and as heir; ELAINE CHERNIKOFF)
individually and as heir,)

Plaintiffs,)

vs.)

FIRST TRANSIT, INC., LAIDLAW TRANSIT)
SERVICES, INC. d/b/a FIRST TRANSIT; JAY)
FARRALES; DOES 1-10, and ROES 1-10, inclusive,)
Defendants.)

DEMAND FOR JURY TRIAL

COME NOW, Defendants, by and through their attorneys of record, ALVERSON,

///

///

///

///

///

LS#19969

TAYLOR, MORTENSEN & SANDERS, and demand a trial by jury of all issues herein.

DATED this 26th day of June, 2013.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By Leann Sanders
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 W. Charleston Boulevard
 Las Vegas, NV 89117-1401
 (702) 384-7000
 Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of ALVERSON, TAYLOR, MORTENSEN & SANDERS and that on the 26 day of June, 2013, I caused to be served a true and correct copy of the document described herein by U.S. mail, postage prepaid addressed to the following:

Document Served:

Demand for Jury Trial

Person(s) served:

Benjamin Cloward, Esq.
 RICHARD HARRIS LAW FIRM
 801 S. Fourth Street
 Las Vegas, NV 89101
Attorneys for Plaintiff

Debbie Swann
 An employee of
 ALVERSON, TAYLOR, MORTENSEN & SANDERS

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

The undersigned does hereby affirm that the preceding **Demand for Jury Trial** filed in
District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

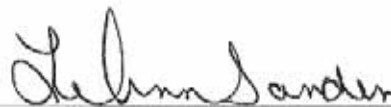
[Insert specific law]**-or-**

B. For the administration of a public program or for an application for
a federal or state grant.

DATED this 26th day of June, 2013.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

n:\leann.grp\cases\19969\pleadings\jury demand.doc

5

5

COMS

DISTRICT COURT
CLARK COUNTY, NEVADA
CLERK OF THE COURTThe Estate of HARVEY CHERNIKOFF,
Deceased; by JACK CHERNIKOFF as
personal representative, individually and as
heir; ELAINE CHERNIKOFF individually
and as heir,

Plaintiffs,

v.

FIRST TRANSIT, INC. LAIDLAW TRANSIT
SERVICES, INC dba FIRST TRANSIT; JAY
FARRALES; DOES 1-10, and ROES 1-10
inclusive,

Defendants.

CASE NO. A-13-682726-C
DEPT NO. XXIII**COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION**NATURE OF ACTION: Personal injury - wrongful deathDATE OF FILING REQUEST FOR EXEMPTION: July 8, 2013EXEMPTION FILED BY: Plaintiffs OPPOSITION: NoATTORNEY FOR PLAINTIFFS: Benjamin P. Cloward, Esq., Richard Harris Law FirmATTORNEY FOR DEFENDANTS: LeAnn Sanders, Esq., Alverson, Taylor, Mortensen &Sanders

...

...

...

...

...

...

THE ESTATE OF HARVEY CHERNIKOFF/A-13-682726-C

FINDINGS

DECISION: EXEMPTION GRANTED XX
 EXEMPTION DENIED

DATED this 22nd day of July, 2013.


 ADR COMMISSIONER

NOTICE

Pursuant to Nevada Arbitration Rule 5(D), you are hereby notified you have five (5) days from the date you are served with this document within which to file written objections with the Commissioner at the ADR Office and serve all parties. The Commissioner's Decision is deemed served three (3) days after the Commissioner's designee deposits a copy of the Decision in the U.S. Mail.

A copy of the foregoing ADR Commissioner's Decision was:

✓

Mailed to the Plaintiff's/Defendant's counsel at their last known address(es) on the 24th day of July, 2013.

Mailed to Plaintiff/Defendant at the following address(es) on the day of July, 2013.

By 

ADR COMMISSIONER'S DESIGNEE

MOAMS
6/27/13

Pet

~~COMP~~

BENJAMIN P. CLOWARD, ESQ.
Nevada Bar No. 11087
Utah Bar No. 12336

RICHARD HARRIS LAW FIRM

801 South Fourth Street
Las Vegas, Nevada 89101
Telephone: (702) 385-1400
Facsimile: (702) 385-9408
Attorney for Plaintiff

FILED

2013 JUL -8 P 3:53

ADR

DISTRICT COURT

CLARK COUNTY, NEVADA

The Estate of HARVEY CHERNIKOFF,
Deceased; by JACK CHERNIKOFF as
personal representative, individually and as
heir; ELAINE CHERNIKOFF individually
and as heir,

Plaintiffs,

vs.

FIRST TRANSIT, INC. LAIDLAW
TRANSIT SERVICES, INC dba FIRST
TRANSIT; JAY FARRALES; DOES 1-10,
and ROES 1-10 inclusive,

Defendants.

CASE NO. A-13-682726-C
DEPT. NO. XXIII

**PETITION FOR EXEMPTION FROM
ARBITRATION**

Plaintiff hereby requests the above-entitled matter be exempted from arbitration pursuant to Nevada Arbitration rules 3 and 5, because this case involves an amount in issue in excess of \$50,000.00, exclusive of interest and costs.

FACTS

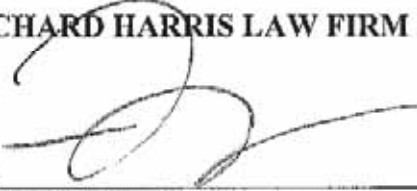
A summary of the facts which support my contention for exemption are as follows:

1 Plaintiffs, the Estate of HARVEY CHERNIKOFF, Deceased; by JACK CHERNIKOFF
2 as personal representative, individually and as heir, ELAINE CHERNIKOFF individually and
3 as heir, are the parents of the deceased, Harvey Chernikoff and has claims for the wrongful death
4 of Harvey Chernikoff resulting from a choking incident on Defendant's Transit Bus on July 29,
5 2011.

6
7
8 I hereby certify, pursuant to NRCP 11, this case to be within the exemption(s) marked
9 above and am aware of the sanctions which may be imposed against any attorney or party who
10 without good cause or justification attempts to remove a case from the arbitration program.
11

12
13 DATED this 4th day of June, 2013

14 RICHARD HARRIS LAW FIRM

15
16
17 By: 
18 BENJAMIN P. CLOWARD, ESQ.
19 Nevada Bar No. 11087
20 801 South Fourth Street
21 Las Vegas, Nevada 89101
22 Attorney for Plaintiff
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of RICHARD HARRIS
 LAW FIRM and that on the 5 day of July 2013, I caused the foregoing **PETITION FOR
 EXEMPTION FROM ARBITRATION** to be served as follows:

- ☒ [X] by placing a true and correct copy of the same to be deposited for mailing in the
 U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first
 class postage was fully prepaid; and /or
- ☒ [X] pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ [] by hand delivery

to the attorney listed below:

Leann Sanders, Esq.
 Shirley Blazich, Esq.
 ALVERSON, TAYLOR,
 MORTENSEN & SANDERS
 7401 W. Charleston Blvd
 Las Vegas, Nevada 89117
 Fax (702) 385-7000
Attorneys for Defendants


 An employee of RICHARD HARRIS LAW FIRM

 RICHARD HARRIS
 LAW FIRM

TRANSACTION REPORT:

Timestamp: 7/5/2013 4:45:34 PM
 Destination: 7023857000
 Sender: Tina@richardharrislaw.com
 Duration: 81
 Page Count: 4
 Result: SUCCESS
 Extended Result: Fax sent successfully : Success

COMP
BENJAMIN P. CLOWARD, ESQ.
 Nevada Bar No. 11087
 Utah Bar No. 12336
RICHARD HARRIS LAW FIRM
 801 South Fourth Street
 Las Vegas, Nevada 89101
 Telephone: (702) 385-1400
 Facsimile: (702) 385-9408
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

The Estate of HARVEY CHERNIKOFF,
 Deceased; by JACK CHERNIKOFF as
 personal representative, individually and as
 heir; ELAINE CHERNIKOFF individually
 and as heir,

Plaintiffs,

vs.

FIRST TRANSIT, INC. LAIDLAW
 TRANSIT SERVICES, INC dba FIRST
 TRANSIT; JAY FARRALES; DOES 1-10,
 and ROES 1-10 inclusive,

Defendants.

CASE NO. A-13-682726-C
 DEPT. NO. XXIII

**PETITION FOR EXEMPTION FROM
 ARBITRATION**

Plaintiff hereby requests the above-entitled matter be exempted from arbitration pursuant to Nevada Arbitration rules 3 and 5, because this case involves an amount in issue in excess of \$50,000.00, exclusive of interest and costs.

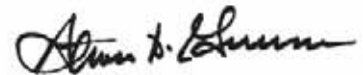
FACTS

A summary of the facts which support my contention for exemption are as follows:



6

6



CLERK OF THE COURT

DSO

DISTRICT COURT

CLARK COUNTY, NEVADA

The Estate of HARVEY CHERNIKOFF,
Deceased; by JACK CHERNIKOFF as
personal representative,
individually and as heir; ELAINE
CHERNIKOFF individually and as
heir,

CASE NO. A682726
DEPT NO. XXIII

Plaintiffs,

v.

FIRST TRANSIT, INC. LAIDLAW
TRANSIT SERVICES, INC dba FIRST
TRANSIT; JAY FARRALES; DOES 1-10,
and ROES 1-10 inclusive,

Defendants.

SCHEDULING ORDER

(Discovery/Dispositive Motions/Motions to Amend or Add Parties)

NATURE OF ACTION: **Wrongful death**DATE OF FILING JOINT CASE CONFERENCE REPORT(S): **8/20/13**TIME REQUIRED FOR TRIAL: **5-7 days**DATES FOR SETTLEMENT CONFERENCE: **None Requested**

Counsel for Plaintiffs:

Benjamin P. Cloward, Esq., Richard Harris Law Firm

Counsel for Defendants:

LeAnn Sanders, Esq., Alverson, Taylor, Mortensen & Sanders

Counsel representing all parties have been heard and after
consideration by the Discovery Commissioner,

. . .

DISCOVERY
COMMISSIONEREIGHTH JUDICIAL
DISTRICT COURT

000034

RECEIVED

AUG 28 2013

CLERK OF THE COURT

000034

1 IT IS HEREBY ORDERED:

2 1. all parties shall complete discovery on or before
3 7/25/14.

4 2. all parties shall file motions to amend pleadings or
5 add parties on or before 4/28/14.

6 3. all parties shall make initial expert disclosures
7 pursuant to N.R.C.P. 16.1(a)(2) on or before 4/28/14.

8 4. all parties shall make rebuttal expert disclosures
9 pursuant to N.R.C.P. 16.1(a)(2) on or before 5/28/14.

10 5. all parties shall file dispositive motions on or
11 before 8/25/14.

12 Certain dates from your case conference report(s) may have
13 been changed to bring them into compliance with N.R.C.P. 16.1.

14 Within 60 days from the date of this Scheduling Order, the
15 Court shall notify counsel for the parties as to the date of
16 trial, as well as any further pretrial requirements in addition
17 to those set forth above.

18 Unless otherwise directed by the court, all pretrial
19 disclosures pursuant to N.R.C.P. 16.1(a)(3) must be made at
20 least 30 days before trial.

21 Motions for extensions of discovery shall be made to the
22 Discovery Commissioner in strict accordance with E.D.C.R. 2.35.
23 Discovery is completed on the day responses are due or the day
24 a deposition begins.

25 . . .
26
27
28


DISCOVERY
COMMISSIONER

EIGHTH JUDICIAL
DISTRICT COURT

000035

1 Unless otherwise ordered, all discovery disputes (except
2 disputes presented at a pre-trial conference or at trial) must
3 first be heard by the Discovery Commissioner.

4 Dated this 27 day of August, 2013.

5
6
7 
8 DISCOVERY COMMISSIONER

9 **CERTIFICATE OF SERVICE**

10 I hereby certify that on the date filed, I placed a copy
11 of the foregoing DISCOVERY SCHEDULING ORDER in the folder(s) in
12 the Clerk's office or mailed as follows:

13 Benjamin P. Cloward, Esq.
14 LeAnn Sanders, Esq.

15 
16 COMMISSIONER DESIGNEE
17
18
19
20
21
22
23
24
25
26
27
28

7

7

DISTRICT COURT
CLARK COUNTY, NEVADA
CLERK OF THE COURTESTATE OF HARVEY CHERNIKOFF,
Plaintiff(s),

vs.

CASE NO. A682726
DEPT NO. 23

FIRST TRANSIST INC.,

Defendant(s),
_____ /**ORDER SETTING CIVIL JURY TRIAL**

IT IS HEREBY ORDERED THAT:

A. The above entitled case is set to be tried for seven days to begin on **MONDAY,**
November 10, 2014 at 1:00 pm.B. A Calendar Call will be held on **Tuesday, October 28, 2014 at 11:00 a.m.**Trial Counsel (and any party in proper person) must appear. *Trial Counsel* must appear at the
calendar call and bring the following:

- (1) Typed exhibit lists and exhibits;
- (2) Original, certified, unopened depositions;
- (3) List of equipment needed for trial;

C. The Pre-trial Memorandum must be filed no later than **October 30, 2014**, with a
courtesy copy delivered to chambers. EDCR 2.67 must be complied with.D. All discovery deadlines, deadlines for filing dispositive motions and motions to
amend the pleadings or add parties are controlled by the previously issued Scheduling Order
and/or any amendments or subsequent orders.E. All motions in limine must be in writing and set for a hearing no later than 45 days
prior to Trial. All pretrial motions shall be heard and decided no later than 15 days before the

1 date scheduled for trial.

2 F. Stipulations to continue a trial date will not be considered by the Court. Pursuant to
3 EDCR 2.35, a motion to continue trial due to any discovery issues or deadlines must be made
4 before the Discovery Commissioner.

5 G. Orders shortening time will not be signed except in extreme emergencies.

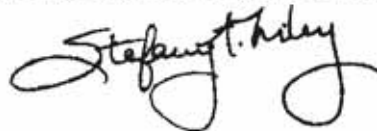
6 ***AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY***

7
8 Failure of the designated trial attorney or any party appearing in proper person to appear
9 for any court appearances or to comply with this Order shall result in any of the following:

10 (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial
11 date; and/or any other appropriate remedy or sanction.

12 Counsel must advise the Court immediately when the case settles or is otherwise
13 resolved prior to trial. A stipulation which terminates a case by dismissal shall indicate
14 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial.

15 DATED: August 30, 2013.

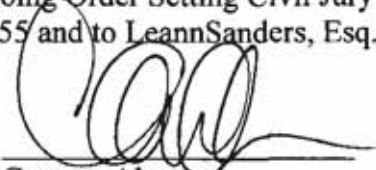


16
17 HONORABLE STEFANY A. MILEY
18 DISTRICT COURT JUDGE

19
20 **CERTIFICATE OF FACSIMILE**

21 On the 30th day of August, 2013 a copy of the foregoing Order Setting Civil Jury Trial was
22 faxed to Benjamin P. Cloward, Esq. at (702) 444-4455 and to Leann Sanders, Esq. at
23 (702) 385-7000.

24 By:

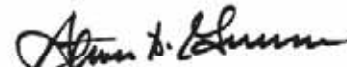


25 Carmen Alper
26 Judicial Executive Assistant

8

8

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CLERK OF THE COURT

NEO

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

The Estate of HARVEY CHERNIKOFF, Deceased;)
by JACK CHERNIKOFF as personal representative,)
individually and as heir; ELAINE CHERNIKOFF)
individually and as heir,)

Plaintiffs,)

vs.)

FIRST TRANSIT, INC., LAIDLAW TRANSIT)
SERVICES, INC. d/b/a FIRST TRANSIT; JAY)
FARRALES; DOES 1-10, and ROES 1-10, inclusive,)
Defendants.)

CASE NO. A-13-682726-C
DEPT. NO. XXIII

**NOTICE OF ENTRY OF
STIPULATION AND ORDER**

NOTICE OF ENTRY OF STIPULATION AND ORDER

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 31st day of
March, 2014, the Court entered a Stipulation and Order To Dismiss The Estate of Harvey
Chernikoff With Prejudice in the above-entitled action.

///


///

///

A copy of said Order is attached hereto.

DATED this 3 day of April, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

CERTIFICATE OF SERVICE


Pursuant to NRCP 5(b), I hereby certify that I am an employee of ALVERSON, TAYLOR, MORTENSEN & SANDERS and that on the 4 day of April, 2014, I caused to be served a true and correct copy of the document described herein by U.S. mail, postage prepaid addressed to the following:

Document Served:

NOTICE OF ENTRY OF STIPULATION AND ORDER

Person(s) served:

Benjamin Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff


An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF STIPULATION AND ORDER** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:


[Insert specific law]**-or-**

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 3 day of April, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

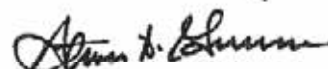
Las Vegas, Nevada 89117

Attorneys for Defendants

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CLERK OF THE COURT

SODW

ALVERSON, TAYLOR,
MORTENSEN & SANDERS

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

(702) 384-7000

Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

The Estate of HARVEY CHERNIKOFF, Deceased;
by JACK CHERNIKOFF as personal representative,
individually and as heir; ELAINE CHERNIKOFF
individually and as heir,

Plaintiffs,

vs.

FIRST TRANSIT, INC., LAIDLAW TRANSIT
SERVICES, INC. d/b/a FIRST TRANSIT; JAY
FARRALES; DOES 1-10, and ROES 1-10, inclusive,
Defendants.

CASE NO. A-13-682726-C
DEPT. NO. XXIII

STIPULATION AND ORDER
TO DISMISS
THE ESTATE OF HARVEY
CHERNIKOFF WITH
PREJUDICE

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

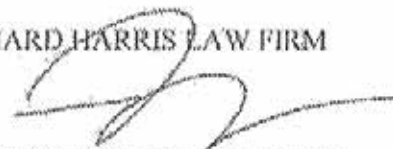
LS#19969

STIPULATION AND ORDER TO DISMISS
THE ESTATE OF HARVEY CHERNIKOFF WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by and through their counsel of record, that any and all claims made by the Estate of Harvey Chernikoff be dismissed from this matter with prejudice, the parties each to bear their own costs and jointly move this Honorable Court for an Order of dismissal of any and all claims of the Estate of Harvey Chernikoff with prejudice.


DATED this 11th day of March, 2014.

RICHARD HARRIS LAW FIRM

By: 
 BENJAMIN CLOWARD, ESQ.
 Nevada Bar No. 011087
 801 S. 4th St.
 Las Vegas, Nevada 89101
 Attorney for Plaintiff

DATED this 12 day of March, 2014.

ALVERSON, TAYLOR,
 MORTENSEN, & SANDERS

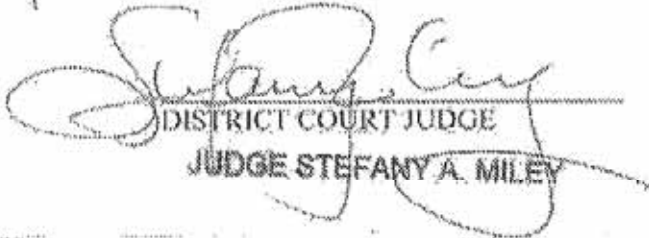
By: 
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 (702) 384-7000
 Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
 7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-4001
 (702) 384-7000

ORDER

IT IS SO ORDERED.

DATED and DONE this 13 day of March, 2014.

 DISTRICT COURT JUDGE

JUDGE STEFANY A. MILEV

Submitted by:

ALVERSON, TAYLOR,
MORTENSEN & SANDERSBy 

LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

(702) 384-7000

Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
480 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89101
(702) 384-7000

12010969

AFFIRMATION

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

The undersigned does hereby affirm that the preceding STIPULATION AND ORDER TO DISMISS THE ESTATE OF HARVEY CHERNIKOFF WITH PREJUDICE filed in Eighth Judicial District Court Case No. A-13-682726-C

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

-OR-

 Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]


-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 12 day of March 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By


 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 West Charleston Boulevard
 Las Vegas, Nevada 89117
 (702) 384-7000
 Attorneys for Defendants

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LS# 19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
 7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-1401
 (702) 384-7000

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9

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CLERK OF THE COURT

NEO
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

The Estate of HARVEY CHERNIKOFF, Deceased;) CASE NO. A-13-682726-C
by JACK CHERNIKOFF as personal representative,) DEPT. NO. XXIII
individually and as heir; ELAINE CHERNIKOFF)
individually and as heir,)

Plaintiffs,)

vs.)

FIRST TRANSIT, INC., LAIDLAW TRANSIT)
SERVICES, INC. d/b/a FIRST TRANSIT; JAY)
FARRALES; DOES 1-10, and ROES 1-10, inclusive,)
Defendants.)

**NOTICE OF ENTRY OF
STIPULATION AND ORDER**

NOTICE OF ENTRY OF STIPULATION AND ORDER

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 31st day of
March, 2014, the Court entered a Stipulation and Order To Dismiss Laidlaw Transit Services,
Inc., Without Prejudice in the above-entitled action.

///

///

///

A copy of said Order is attached hereto.

DATED this 3 day of April, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, NV 89117-1401
(702) 384-7000
Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of ALVERSON, TAYLOR, MORTENSEN & SANDERS and that on the 4 day of April, 2014, I caused to be served a true and correct copy of the document described herein by U.S. mail, postage prepaid addressed to the following:

Document Served:

NOTICE OF ENTRY OF STIPULATION AND ORDER

Person(s) served:

Benjamin Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff



An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

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

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF STIPULATION AND ORDER** filed in District Court Case No. A-13-682726-C

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

-OR-

— Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]**-or-**

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 3 day of April, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By

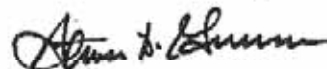


LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendants

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CLERK OF THE COURT

SAO

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

The Estate of HARVEY CHERNIKOFF, Deceased;
by JACK CHERNIKOFF as personal representative,
individually and as heir; ELAINE CHERNIKOFF
individually and as heir,

Plaintiffs,

vs.

FIRST TRANSIT, INC., LAIDLAW TRANSIT
SERVICES, INC. d/b/a FIRST TRANSIT; JAY
FARRALES; DOES 1-10, and ROES 1-10, inclusive,
Defendants.

CASE NO. A-13-682726-C
DEPT. NO. XXIII

STIPULATION AND ORDER TO DISMISS
LAIDLAW TRANSIT SERVICES, INC. WITHOUT PREJUDICE

IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by
and through their counsel of record, that Defendant, Laidlaw Transit Services, Inc. be dismissed

///

///


LS#19969

from this matter without prejudice, the parties each to bear their own costs.

DATED this 12 day of March, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By


LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401


(702) 384-7000

Attorneys for Defendants

DATED this 11th day of March, 2014.

RICHARD HARRIS LAW FIRM

By


Benjamin Cloward, Esq.

RICHARD HARRIS LAW FIRM

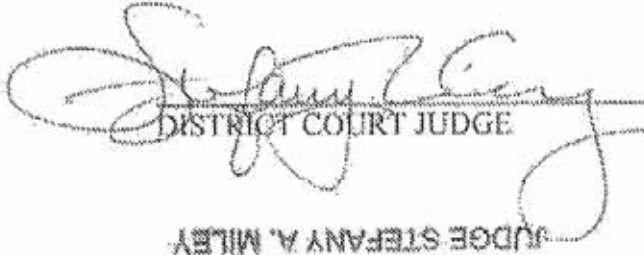
801 S. Fourth Street

Las Vegas, NV 89101

Attorneys for Plaintiff

ORDER

IT IS SO ORDERED.


DATED and DONE this 13 day of March, 2014.

 DISTRICT COURT JUDGE

Submitted by:

JUDGE STEFANY A. MILEY

ALVERSON, TAYLOR, MORTENSEN
& SANDERS

By


 LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

(702) 384-7000

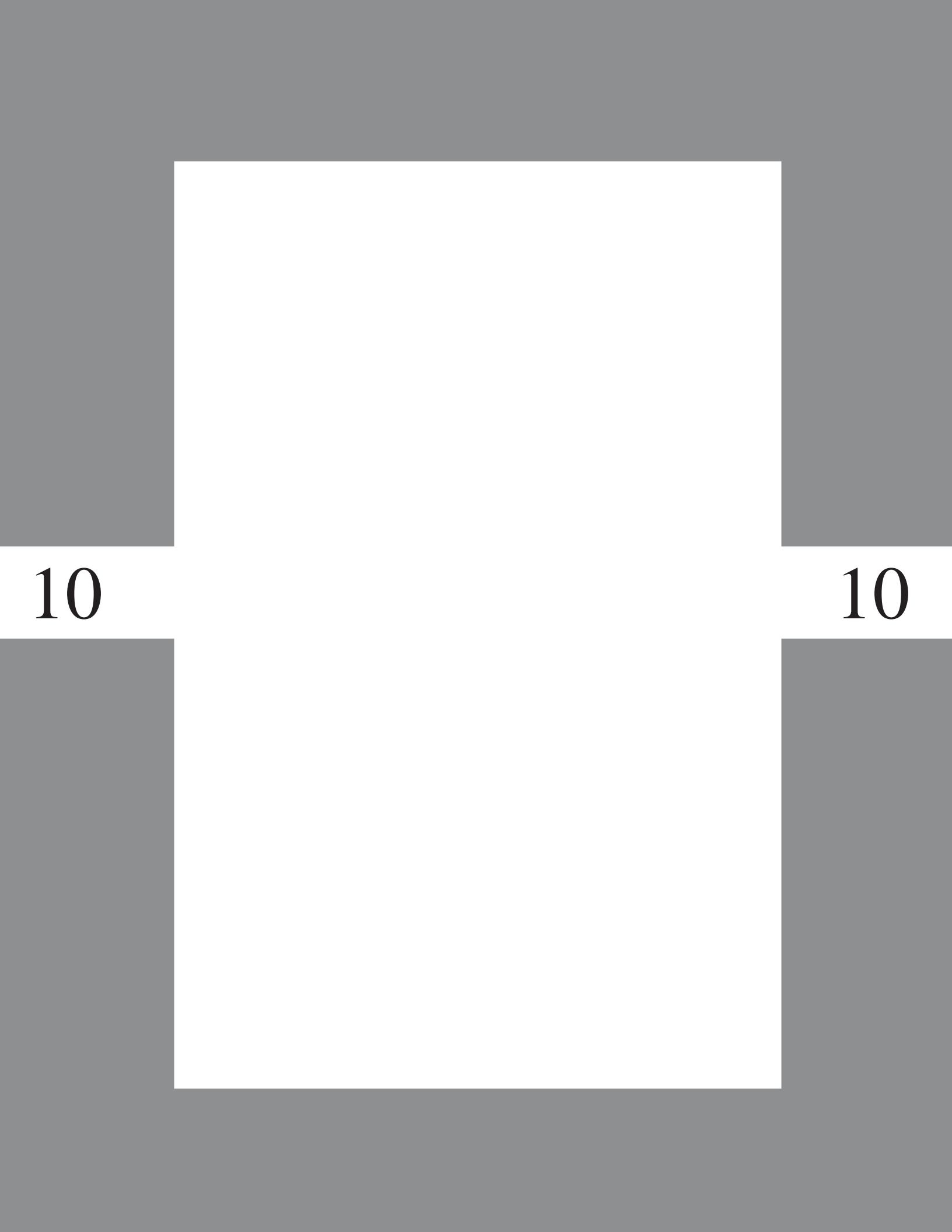
Attorneys for Defendants

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LS#19969

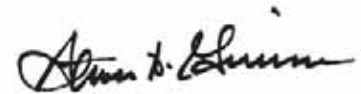
 ALVERSON, TAYLOR, MORTENSEN & SANDERS
 LAWYERS
 7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-1481
 (702) 384-7000

000051



10

10



CLERK OF THE COURT

1 NOE
 2 BENJAMIN P. CLOWARD, ESQ.
 Nevada Bar No. 11087
 3 **RICHARD HARRIS LAW FIRM**
 801 South Fourth Street
 5 Las Vegas, Nevada 89101
 Phone: (702) 444-4444
 6 Fax: (702) 444-4455
 7 E-Mail: Benjamin@RichardHarrisLaw.com
Attorneys for Plaintiff

DISTRICT COURT**CLARK COUNTY, NEVADA**

11
 12 JACK CHERNIKOFF, ELAINE
 13 CHERNIKOFF,

CASE NO. A-13-682726-C
 DEPT. NO. XXIII

14 Plaintiffs,

15 vs.

16
 17 FIRST TRANSIT, INC. LAIDLAW
 TRANSIT SERVICES, INC dba FIRST
 18 TRANSIT; JAY FARRALES; DOES 1-10,
 and ROES 1-10 inclusive,

19 Defendants.
 20

NOTICE OF ENTRY OF ORDER

21
 22 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD.

23 PLEASE TAKE NOTICE that an Order Granting Motion for Association of Out of State
 24 Counsel Pro Hac Vice was filed with the Court on May 27, 2014.

25
 26 ///

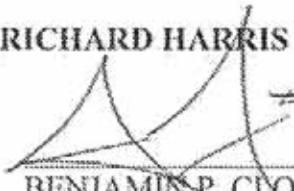
27 ///

28 ///

1 A copy of which is attached hereto.

2 DATED this 28th day of May 2014.

3
4
5
6 RICHARD HARRIS LAW FIRM

7  #10664
8 BENJAMIN P. CLOWARD, ESQ.

9 Nevada Bar No. 11087
10 801 South Fourth Street
11 Las Vegas, NV 89101

12
13
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RICHARD HARRIS
LAW FIRM

000053

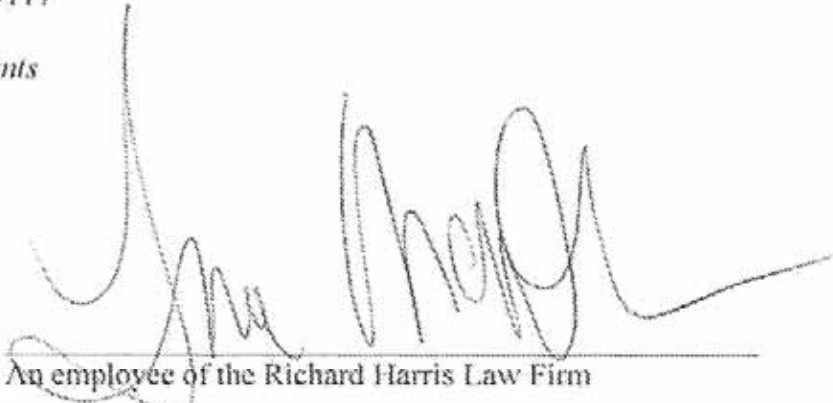
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of RICHARD HARRIS
LAW FIRM, and that on this 22 day of May, 2014, I served a copy of the foregoing

NOTICE OF ENTRY OF ORDER as follows:

- ☒ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below; and/or
- ☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile number(s) shown below and in the confirmation sheet filed herewith. Consent to service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by facsimile transmission is made in writing and sent to the sender via facsimile within 24 hours of receipt of this Certificate of Service; and/or
- ☐ Hand Delivery—By hand-delivery to the addresses listed below.

Leann Sanders, Esq.
Shirley Blazich, Esq.
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
7401 W. Charleston Blvd.
Las Vegas, Nevada 89117
Fax (702) 385-7000
Attorneys for Defendants


An employee of the Richard Harris Law Firm

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CLERK OF THE COURT

1 ORD
2 BENJAMIN P. CLOWARD, ESQ.
3 Nevada Bar No. 11087
4 Utah Bar No. 12336
5 **RICHARD HARRIS LAW FIRM**
6 801 South Fourth Street
7 Las Vegas, Nevada 89101
8 Telephone: (702) 444-4444
9 Facsimile: (702) 444-4455
10 *Attorney for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 The Estate of HARVEY CHERNIKOFF,
12 Deceased; by JACK CHERNIKOFF as
13 personal representative, individually and as
14 heir; ELAINE CHERNIKOFF individually
15 and as heir,

16 Plaintiffs,

17 vs.

18 FIRST TRANSIT, INC. LAIDLAW
19 TRANSIT SERVICES, INC dba FIRST
20 TRANSIT; JAY FARRALES; DOES 1-10,
21 and ROES 1-10 inclusive,

22 Defendants.

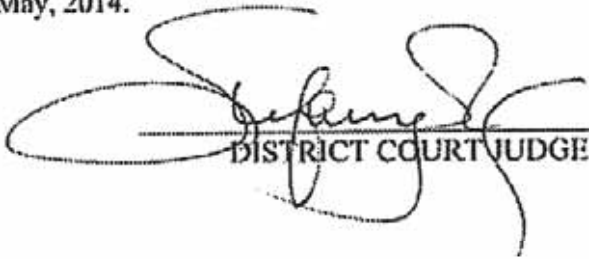
CASE NO. A-13-682726-C
DEPT. NO. XXIII

**ORDER GRANTING MOTION FOR
ASSOCIATION OF OUT OF STATE
COUNSEL PRO HAC VICE**

23 CHARLES H. ALLEN, ESQ, having filed his Motion to Associate as Counsel under
24 Nevada Supreme Court Rule 42, together with a Verified Application for Association of
25 Counsel, a Certificate of Good Standing in the state of Georgia, and the State Bar of Nevada
26 Statement; said application having been noticed, no objections having been made, and the Court
27 being fully appraised in the matter, and good cause appearing, it is hereby ORDERED that said
28

1 application is hereby granted, and CHARLES H. ALLEN, ESQ. is hereby associated as counsel
 2 for this action only.

3 Dated this 22 day of May, 2014.

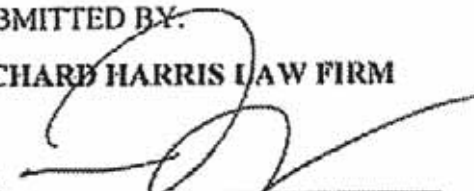
5 
 6
 7 DISTRICT COURT JUDGE
 8

K

9 SUBMITTED BY:

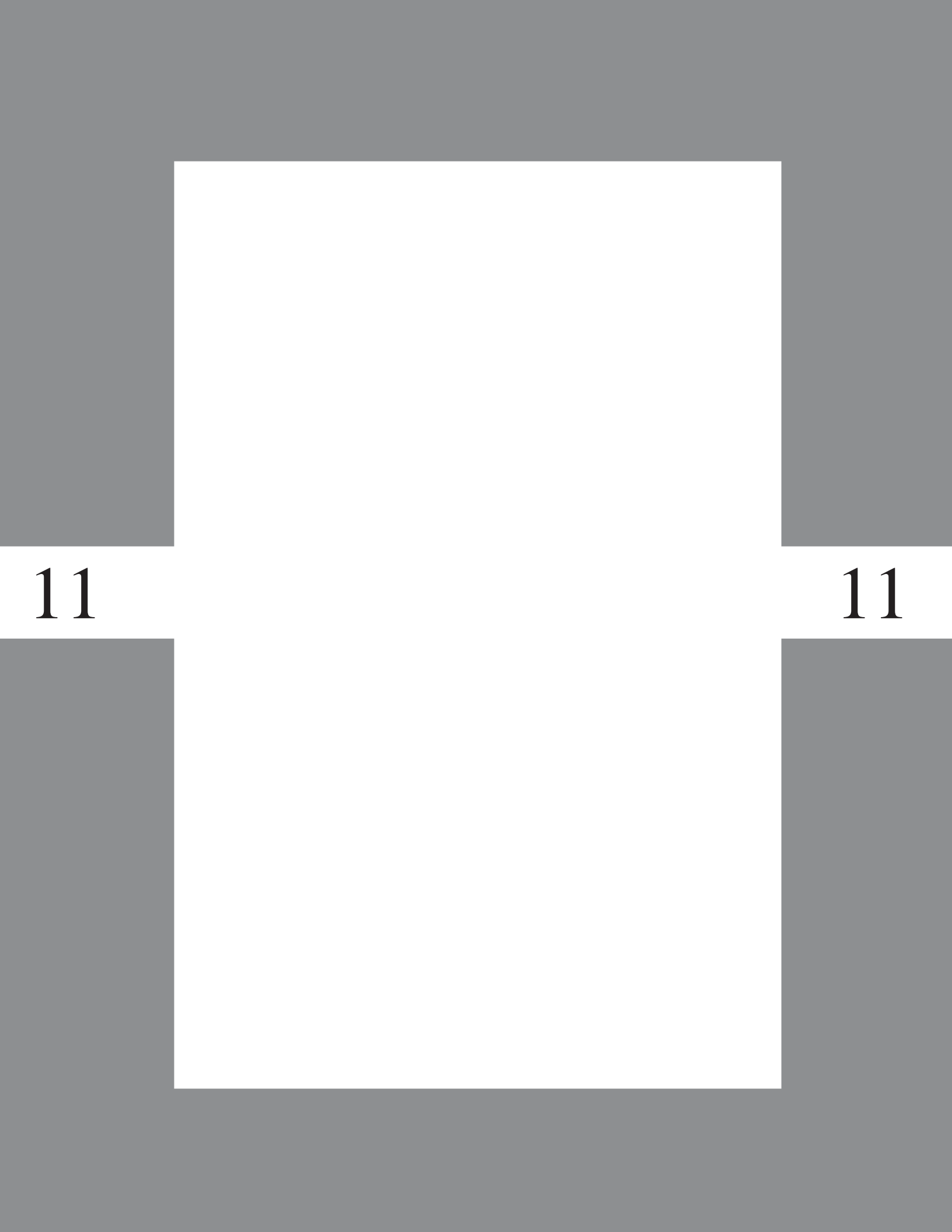
JUDGE STEFANY A. MILEY

10 RICHARD HARRIS LAW FIRM

11
 12 By: 
 13 BENJAMIN P. CLOWARD, ESQ.
 14 Nevada Bar No. 11087
 15 801 South Fourth Street
 16 Las Vegas, Nevada 89101
 17 Attorney for Plaintiffs

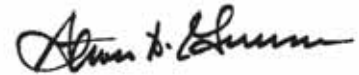
000056
 RICHARD HARRIS
 LAW FIRM

000056



11

11



CLERK OF THE COURT

NEOJ

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT**CLARK COUNTY, NEVADA**

%

JACK CHERNIKOFF and ELAINE CHERNIKOFF,	)	CASE NO. A-13-682726-C
	)	DEPT. NO. XXIII
Plaintiffs,)	
)	
vs.)	
)	
FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)	
10, and ROES 1-10, inclusive,)	
)	
Defendants.)	

NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 5th day of July, 2014, the Court entered a Stipulation and Order for Extension Of Time to Complete Discovery (Second Request), in the above-entitled action.

///

///

///


///

A copy of said Order is attached hereto as Exhibit "A."

DATED this 20th day of August, 2014.

ALVERSON, TAYLOR, MORTENSEN &
SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS


7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

000058

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- 28



An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVIERSON, TAYLOR & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1491
(702) 384-7000

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME TO COMPLETE DISCOVERY filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 20th day of August, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard


Las Vegas, Nevada 89117

Attorneys for Defendants

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EXHIBIT A

ORIGINAL

Electronically Filed
08/05/2014 10:35:06 AM

CLERK OF THE COURT

STED

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

JACK CHERNIKOFF and ELAINE CHERNIKOFF,)

CASE NO. A-13-682726-C
DEPT. NO. XXIII

Plaintiffs,)

vs.)

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-
10, and ROES 1-10, inclusive,)

Defendants.)

STIPULATION AND ORDER FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY
(Second Request)

IT IS HEREBY STIPULATED AND AGREED, by and between all parties, by and
through their respective counsel of record, to extend the discovery deadlines pursuant to
E.D.C.R. 2.35 as detailed within this Stipulation.

///

///

///

///

LS#19969

STATUS OF DISCOVERY

DISCOVERY COMPLETED TO DATE:

All parties have been diligent in their discovery efforts and have completed the following discovery to date:

- (a) On or about July 25, 2013, the Early Case Conference was held and attended by all parties;
- (b) On or about August 20, 2013, the Joint Case Conference Report was filed;
- (c) All parties have disclosed their Early Case Conference Disclosure Statements, and provided supplements thereto as needed;
- (d) All parties have exchanged written discovery;
- (e) Plaintiff's ELAINE CHERNIKOFF; and JACK CHERNIKOFF (hereinafter "Plaintiffs") have been deposed;
- (f) Defendant JAY FARRALES has been deposed;
- (g) First Transit Road Supervisor SCOTT MCCARTNEY has been deposed;
- (h) Plaintiffs' expert Ned Einstein performed a bus inspection; and
- (h) All parties have disclosed their Initial Expert Disclosure Statements and designated expert witnesses.

DISCOVERY REMAINING TO BE COMPLETED:

- (a) Defendants First Transit and Jay Farrales (hereinafter "Defendants") anticipates propounding additional written discovery as the need arises;
- (b) Defendants intends on taking the depositions of Plaintiffs' experts;
- (c) Defendant intends on taking any other depositions as the need arises;
- (d) Plaintiffs intends on taking the depositions of Defendant's experts;
- (e) Plaintiff anticipates propounding additional written discovery as the need arises;
- (f) Plaintiff intends on taking any other depositions as the need arises.

REASONS WHY DISCOVERY REMAINING WAS NOT COMPLETED WITHIN THE TIME LIMIT SET BY THE DISCOVERY SCHEDULING ORDER:

The deadline to submit Initial Expert Disclosures just passed on June 27, 2014 and the deadline for Rebuttal Expert Disclosures is on July 28, 2014. Both parties designated two expert witnesses each, all of whom are from out of state. Discovery is currently set to close on August 25, 2014, which would give the parties less than a month to depose the four experts after Rebuttal Disclosures have been made. In order to allow the parties to coordinate and schedule the necessary depositions, the parties ask that the discovery period be extended by sixty (60) days. It should be noted that the parties are only seeking to extend the deadlines for the close of discovery and final date to file dispositive motions.

Proposed Schedule for Completing Discovery:

Close of Discovery:	October 24, 2014
Last Day to Amend Pleadings & Add Parties:	June 27, 2014
Initial Expert Disclosures:	June 27, 2014
Rebuttal Expert Disclosures:	July 28, 2014
Final Date to File Dispositive Motions:	November 24, 2014

Current Trial Date:

Trial in this matter is currently set for November 10, 2014. The parties request that this trial date be vacated and this matter to be set for the next available trial stack.

Dated this 30th day of July, 2014

Benjamin Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101
and
Charles H. Allen, Esq.
CHARLES ALLEN LAW FIRM

Dated this 29 day of July, 2014

LeAnn Sanders, Esq.
Nevada Bar No. 00390
Shirley Blazich, Esq.
Nevada Bar No. 008378
7401 West Charleston Boulevard
Las Vegas, Nevada 89117
Attorneys for Defendant

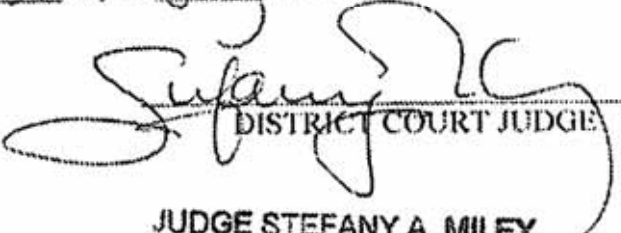
1 191 Peachtree Street N.W., Suite 3300
 2 Atlanta, GA 30303

3 *Attorneys for Plaintiffs*

4
 5 ORDER

6 IT SO ORDERED


7 DATED and DONE this 30 day of July, 2014.

8
 9 
 10 DISTRICT COURT JUDGE

11 Submitted by:

JUDGE STEFANY A. MILEY

12 ALVERSON, TAYLOR,
 13 MORTENSEN & SANDERS

14
 15 By 
 16 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 17 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 18 7401 W. Charleston Boulevard
 19 Las Vegas, Nevada 89117
 (702) 384-7000
 20 Attorneys for Defendants

AFFIRMATION

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

The undersigned does hereby affirm that the preceding Stipulation and Order for Extension of Time to Complete Discovery (Second Request) filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 29 day of July, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By

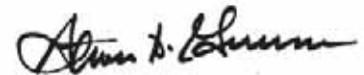
Shirley Blazich
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 Attorneys for Defendants

n:\shirley.grp\christi\z-hold for review\19969-220 to extend discovery (second request).doc

LS#19969

12

12

DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

ESTATE OF HARVEY CHERNIKOFF,
Plaintiff(s),

vs.

CASE NO. A682726
DEPT NO. 23

FIRST TRANSIST INC.,

Defendant(s),
/**ORDER RE-SETTING CIVIL JURY TRIAL and CALENDAR CALL****IT IS HEREBY ORDERED** that:The trial date previously set in this matter for **November 10, 2014**, and all dates associated therewith are hereby VACATED; and**IT IS FURTHER ORDERED** that:A. The above entitled case is set to be tried for seven days to begin on **Monday, April 20, 2015 at 1:00 pm.**B. A Calendar Call will be held on **Tuesday, April 14, 2015 at 11:00 a.m.**Trial Counsel (and any party in proper person) must appear. *Trial Counsel* must appear at the calendar call and bring the following:

- (1) Typed exhibit lists and exhibits;
- (2) Original, certified, unopened depositions;
- (3) List of equipment needed for trial;

C. The Pre-trial Memorandum must be filed no later than **April 10, 2015**, with a courtesy copy delivered to chambers. EDCR 2.67 must be complied with.

D. All discovery deadlines, deadlines for filing dispositive motions and motions to amend the pleadings or add parties are controlled by the previously issued Scheduling Order and/or any amendments or subsequent orders.

STEFANY A. MILEY
DISTRICT JUDGEDEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

1 E. All motions in limine must be in writing and set for a hearing no later than 30 days
2 prior to Trial. All pretrial motions shall be heard and decided no later than 15 days before the
3 date scheduled for trial.

4 F. Stipulations to continue a trial date will not be considered by the Court. Pursuant to
5 EDCR 2.35, a motion to continue trial due to any discovery issues or deadlines must be made
6 before the Discovery Commissioner.

7 G. Orders shortening time will not be signed except in extreme emergencies.

8 ***AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY***

9 Failure of the designated trial attorney or any party appearing in proper person to appear
10 for any court appearances or to comply with this Order shall result in any of the following:

11 (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial
12 date; and/or any other appropriate remedy or sanction.


13 Counsel must advise the Court immediately when the case settles or is otherwise
14 resolved prior to trial. A stipulation which terminates a case by dismissal shall indicate
15 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial.
16

17 DATED: September 17, 2014.

18 
19 HONORABLE STEFANY A. MILEY
20 DISTRICT COURT JUDGE

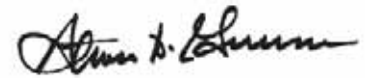
21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on or about the date signed, a copy of this Order was electronically served
23 and/or placed in the attorney's folders maintained by the Clerk of the Court and/or transmitted
24 via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as
25 follows: Benjamin P. Cloward, Esq. at (702) 444-4455 and to Leann Sanders, Esq. at
26 (702) 385-7000.

27 By: 
28 Carmen Alper
Judicial Executive Assistant

13

13



CLERK OF THE COURT

NEOJ
ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

JACK CHERNIKOFF and ELAINE CHERNIKOFF,)

CASE NO. A-13-682726-C

Plaintiffs,)

DEPT. NO. XXIII

vs.)

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-)
10, and ROES 1-10, inclusive,)

Defendants.)

NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY (THIRD REQUEST)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 25th day of
September, 2014, the Court entered a Stipulation and Order for Extension Of Time to Complete
Discovery (Third Request), in the above-entitled action.

///

///

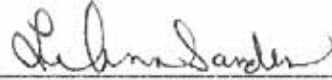
///

1 A copy of said Order is attached hereto as Exhibit "A."

2 DATED this 29th day of September, 2014.

3 ALVERSON, TAYLOR, MORTENSEN & SANDERS

4
5
6 By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, NV 89117-1401

(702) 384-7000

Attorneys for Defendants

020000
ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-1401

(702) 384-7000

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, I hereby certify that on this 29th day of September, 2014, I did cause a true and correct copy of the above and foregoing NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME TO COMPLETE DISCOVERY(THIRD REQUEST) to be e-filed and e-served through the Eighth Judicial District Court EFP system pursuant to the Electronic Filing and Service Order entered on the Court's docket in the above-referenced matter.

Benjamin Cloward, Esq.
RICHARD HARRIS LAW FIRM
801 S. Fourth Street
Las Vegas, NV 89101

Charles H. Allen, Esq.
Attorneys for Plaintiffs
CHARLES ALLEN LAW FIRM
191 Peachtree Street N.W., Suite 3300
Atlanta, GA 30303

Attorneys for Plaintiffs



An employee of
ALVERSON, TAYLOR, MORTENSEN & SANDERS

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1401
(702) 384-7000

000071

AFFIRMATION

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

The undersigned does hereby affirm that the preceding NOTICE OF ENTRY OF STIPULATION AND ORDER FOR EXTENSION OF TIME TO COMPLETE DISCOVERY (THIRD REQUEST) filed in District Court Case No. A-13-682726-C

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

-OR-

___ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 29th day of September, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

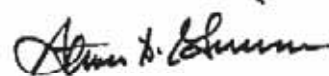
7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

EXHIBIT A

ORIGINAL

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CLERK OF THE COURT

STED

ALVERSON, TAYLOR,
MORTENSEN & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 000390
SHIRLEY BLAZICH, ESQ.
Nevada Bar No. 008378
7401 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 384-7000
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

%

JACK CHERNIKOFF and ELAINE CHERNIKOFF,

Plaintiffs,

vs.

FIRST TRANSIT, INC.; JAY FARRALES; DOES 1-10, and ROES 1-10, inclusive.

Defendants.

CASE NO. A-13-682726-C
DEPT. NO. XXIII

STIPULATION AND ORDER FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY

(3rd Request)
IT IS HEREBY STIPULATED AND AGREED, by and between all parties, by and through their respective counsel of record, to extend the discovery deadlines pursuant to E.D.C.R. 2.35 as detailed within this Stipulation.

///

///

///

///

LS#19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS
LAWYERS
7401 WEST CHARLESTON BOULEVARD
LAS VEGAS, NEVADA 89117-1001
(702) 384-7000

000074

STATUS OF DISCOVERY

DISCOVERY COMPLETED TO DATE:

All parties have been diligent in their discovery efforts and have completed the following discovery to date:

- (a) On or about July 25, 2013, the Early Case Conference was held and attended by all parties;
- (b) On or about August 20, 2013, the Joint Case Conference Report was filed;
- (c) All parties have disclosed their Early Case Conference Disclosure Statements, and provided supplements thereto as needed;
- (d) All parties have exchanged written discovery;
- (e) Plaintiff's ELAINE CHERNIKOFF; and JACK CHERNIKOFF (hereinafter "Plaintiffs") have been deposed;
- (f) Defendant JAY FARRALES has been deposed;
- (g) First Transit Road Supervisor SCOTT MCCARTNEY has been deposed;
- (h) Plaintiffs' expert Ned Einstein performed a bus inspection;
- (h) All parties have disclosed their Initial Expert Disclosure Statements and designated expert witnesses; and
- (i) Defendants have disclosed their Rebuttal Expert Disclosure Statements.

DISCOVERY REMAINING TO BE COMPLETED:

- (a) Defendants First Transit and Jay Farrales (hereinafter "Defendants") anticipates propounding additional written discovery as the need arises;
- (b) Defendants intend on taking the depositions of Plaintiffs' experts;
- (c) Defendant intend on taking any other depositions as the need arises;
- (d) Plaintiffs anticipate propounding additional written discovery as the need arises;

1 (f) Plaintiffs intend on taking the depositions of the Person(s) Most Knowledgeable at
2 the Las Vegas location of First Transit, Inc. regarding safety, operator evaluation,
3 and operator oversight;

4 (g) Plaintiff intends on taking any other depositions as the need arises.

5 **REASONS WHY DISCOVERY REMAINING WAS NOT COMPLETED WITHIN THE TIME LIMIT SET**
6 **BY THE DISCOVERY SCHEDULING ORDER:**

7 The deadline to submit Initial Expert Disclosures passed on June 27, 2014 and the
8 deadline for Rebuttal Expert Disclosures was on July 28, 2014. Both parties designated two
9 expert witnesses each, all of whom are from out of state. We are currently trying to obtain
10 availability from the out of state experts to schedule their depositions. Further, Plaintiffs noticed
11 four depositions that were supposed to take place on September 16, 2014 and September 17,
12 2014. Specifically, Plaintiffs noticed the depositions of the following individuals: (1) C.
13 Mendez; (2) 30(b)(6) Designee Jennifer McKibbins; (3) 30(b)(6) Designee Driver Supervisor;
14 and (4) 30(b)(6) Dispatcher. Defendants had identified and were ready to provide its employees
15 for deposition. However, due to some issues with service, as well as some confusion regarding
16 the topics that were to be covered at the time of the depositions, they were vacated.
17

18 As such, the parties need to reschedule those depositions, as well as the depositions of
19 Plaintiffs' experts and possibly some additional witnesses. Discovery is currently set to close on
20 October 24, 2014. In order to allow the parties to coordinate and schedule the necessary
21 depositions, the parties ask that the discovery period be extended by ninety (90) days. It should
22 be noted that the parties are only seeking to extend the deadlines for the close of discovery and
23 final date to file dispositive motions.
24

25 ///

26 ///

1 Proposed Schedule for Completing Discovery:

2 Close of Discovery: January 22, 2015
 3 Last Day to Amend Pleadings &
 4 Add Parties: June 27, 2014
 5 Initial Expert Disclosures: June 27, 2014
 6 Rebuttal Expert Disclosures: July 28, 2014
 7 Final Date to File Dispositive Motions: February 23, 2015

8 Current Trial Date:

9 Trial in this matter had previously been set for trial for November 10, 2014, but was
 10 continued to April 20, 2015 on September 17, 2014.

11 Dated this 18th day of September, 2014

Dated this 17th day of September,
 2014

13 Benjamin Gloward, Esq.
 14 RICHARD HARRIS LAW FIRM
 15 801 S. Fourth Street
 Las Vegas, NV 89101
 and
 16 Charles H. Allen, Esq.
 17 CHARLES ALLEN LAW FIRM
 18 191 Peachtree Street N.W., Suite 3300
 Atlanta, GA 30303

13 LeAnn Sanders, Esq.
 Nevada Bar No. 00390
 Shirley Blazich, Esq.
 Nevada Bar No. 008378
 7401 West Charleston Boulevard
 Las Vegas, Nevada 89117
 Attorneys for Defendant

19 Attorneys for Plaintiffs

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

AL82724

CHERNIKOFF & FIRST

ORDER

IT SO ORDERED *The discovery deadlines will be extended as agreed to by the parties hereto, a separate amended*
 DATED and DONE this 23 day of September, 2014. *Scheduling*

SS
 DISCOVERY COMMISSIONER *order*

Submitted by:

ALVERSON, TAYLOR,
 MORTENSEN & SANDERS

will not be issued, the trial date of 4-20-15 stands.

By *Leann Sanders*
 LEANN SANDERS, ESQ.
 Nevada Bar No. 000390
 SHIRLEY BLAZICH, ESQ.
 Nevada Bar No. 008378
 7401 W. Charleston Boulevard
 Las Vegas, Nevada 89117
 (702) 384-7000
 Attorneys for Defendants

ALVERSON, TAYLOR, MORTENSEN & SANDERS

LAWYERS
 7401 WEST CHARLESTON BOULEVARD
 LAS VEGAS, NEVADA 89117-5402
 (702) 384-7000

LS#19969

AFFIRMATION

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

The undersigned does hereby affirm that the preceding Stipulation and Order for Extension of Time to Complete Discovery filed in District Court Case No. A-13-682726-C

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

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]


-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 17th day of September, 2014.

ALVERSON, TAYLOR, MORTENSEN & SANDERS

By



LEANN SANDERS, ESQ.

Nevada Bar No. 000390

SHIRLEY BLAZICH, ESQ.

Nevada Bar No. 008378

7401 W. Charleston Boulevard

Las Vegas, Nevada 89117

Attorneys for Defendants

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LS#19969

ALVERSON, TAYLOR, MORTENSEN & SANDERS

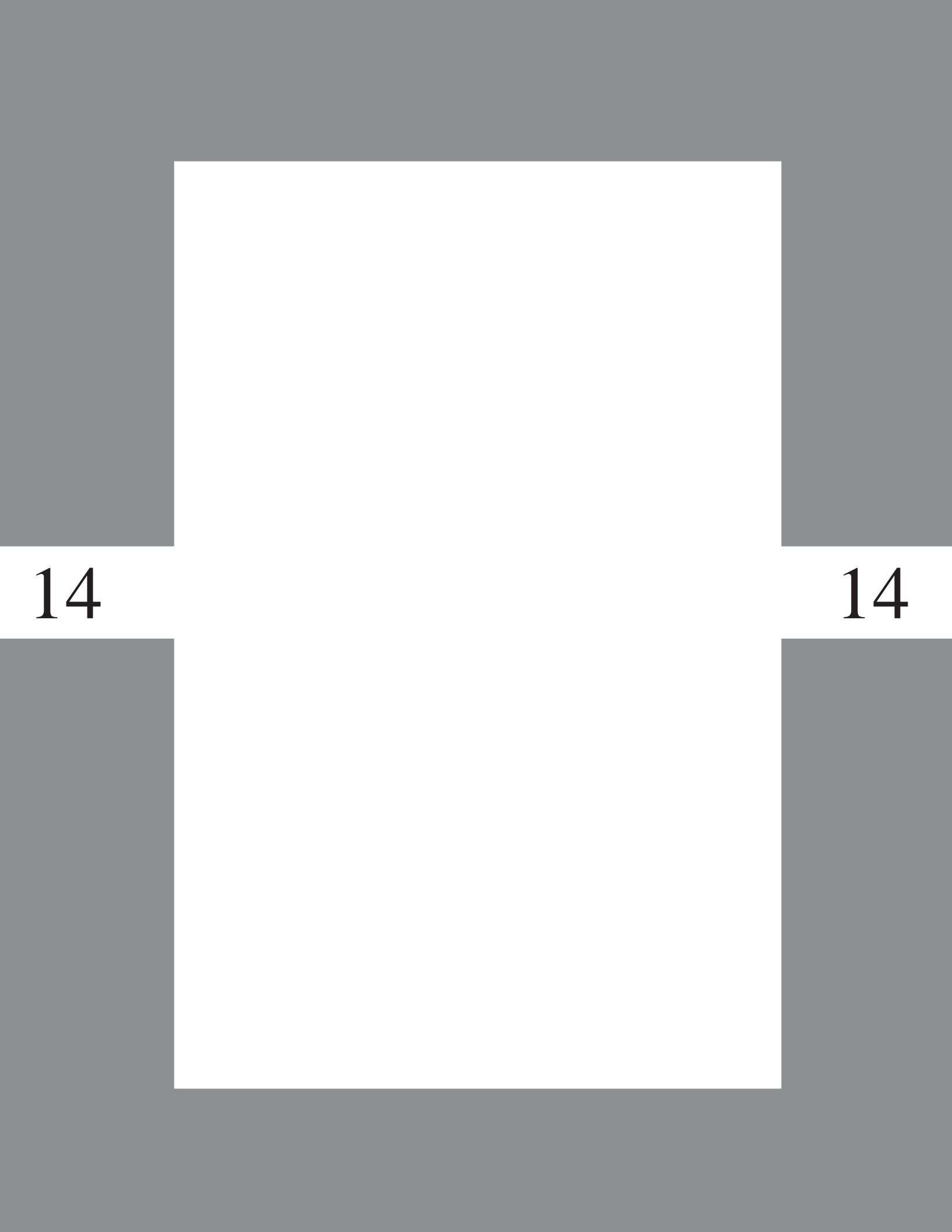
LAWYERS

7401 WEST CHARLESTON BOULEVARD

LAS VEGAS, NEVADA 89117-2401

(702) 384-7880

000079



14

14


 CLERK OF THE COURT

1 **DCRR**
 2 **BENJAMIN P. CLOWARD, ESQ.**
 3 Nevada Bar No. 11087
 4 **RICHARD HARRIS LAW FIRM**
 5 801 South Fourth Street
 6 Las Vegas, Nevada 89101
 7 Phone: (702) 444-4444
 8 Fax: (702) 444-4455
 9 E-Mail: Benjamin@RichardHarrisLaw.com
 10 *Attorneys for Plaintiff*

DISTRICT COURT**CLARK COUNTY, NEVADA**

11
 12 **JACK CHERNIKOFF and ELAINE**
 13 **CHERNIKOFF,**

CASE NO. A-13-682726-C
 DEPT. NO. XXIII

14 **Plaintiffs,**

15 **vs.**

16
 17 **FIRST TRANSIT, INC.; JAY FARRALES;**
 18 **DOES 1-10, and ROES 1-10 inclusive,**

19 **Defendants.**

DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS

20
 21 **HEARING DATE:** November 7, 2014

22 **HEARING TIME:** 9:30 a.m.

APPEARANCES:

23
 24 **Attorney for Plaintiffs:** Benjamin P. Cloward, Esq., of the Richard Harris Law Firm.

25 **Attorney for Defendants:** Kimberley A. Hyson Esq., of Alverson Taylor, Mortensen, &
 26 Sanders

27 **///**

28 **///**