EXHIBIT "4"

EXHIBIT "4"

Electronically Filed
11/17/2014 12:11:52 PM

CLERK OF THE COURT

Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780-C DEPT. NO. II **NOTICE OF TAKING DEPOSITION OF CHRISTINE MURRAY, R.N.** **DATE: December 9, 2014** **TIME: 9:30 a.m.**

TO: ALL DEFENDANTS HEREIN; and

TO: THEIR RESPECTIVE COUNSEL OF RECORD

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Pursuant to Rules 26 and 30 of the Nevada Rules of Civil Procedure, please take notice that on Tuesday, December 9, 2014, at 9:30 a.m. at Murdock & Associates, Chtd., 521 South Third Street, Las Vegas, Nevada 89101, Plaintiff will take the deposition of Christine Murray, R.N.

Said deposition will be taken by stenographic and video tape means before a notary public, or before some other officer authorized by law to administer oaths. Testimony shall continue from day to day until completed. You are invited to attend and cross-examine.

DATED this 17th day of November, 2014.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
521 South Third Street
Las Vegas, NV 89101
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2014, I served a copy of the foregoing PLAINTIFFS' NOTICE OF TAKING DEPOSITION OF CHRISTINE MURRAY, R.N., upon the parties to this action via the court's Wiznet mandatory electronic service, addressed as follows:

John F. Bemis, Esq.
Hall Prangle & Schoonveld, LLC
1160 North Town Center Dr., Suite 200
Las Vegas, NV 89144

Robert C. McBride, Esq.
Carroll, Kelly, Trotter, Franzen, McKenna & Peabody
701 North Green Valley Parkway, Suite 200
Henderson, NV 89074

S. Brent Vogel, Esq.
Amanda J. Brookhyser, Esq.
Lewis Brisbois Bisgaard & Smith
6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118

James P.C. Silvestri, Esq.
Pyatt Silvestri
701 Bridger Avenue, Suite 600
Las Vegas, NV 89101

Kim Irene Mandelbaum, Esq. (via courtesy copy Wiznet)
Mandelbaum, Ellerton & Kelly
2012 Hamilton Lane
Las Vegas, NV 89106

/s/ Niccole Parker
An employee of Murdock & Associates, Chtd.

Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780-C DEPT. NO. II **SUBPOENA RE: DEPOSITION OF CHRISTINE MURRAY, R.N.** **DATE: December 9, 2014** **TIME: 9:30 a.m.**

THE STATE OF NEVADA SENDS GREETINGS TO:

CHRISTINE MURRAY, R.N.
c/o Centennial Hills Hospital
6900 North Durango Drive
Las Vegas, NV 89149

YOU ARE HEREBY COMMANDED that all and singular business and excuses set aside, you appear and attend on the 9th day of December, 2014 at 9:30 a.m., at Murdock & Associates, Chtd., 521 South Third Street, Las Vegas, Nevada 89101 (702-685-6111). If you fail to attend, you will be deemed guilty of contempt of court and liable to pay all losses and damages caused by your failure to appear and in addition, forfeit the sum of One Hundred Dollars ($100.00).

DATED this 17th day of November, 2014.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
521 South Third Street
Las Vegas, NV 89101
Attorneys for Plaintiffs

EXHIBIT "5"

EXHIBIT "5"

HPS | Hall Prangle and Schoonveld LLC
Attorneys at Law

1160 North Town Center Drive, Suite 200
Las Vegas, Nevada 89144
P 702.889.6400
F 702.384.6025
www.hpslaw.com

John F. Bemis, Esq.
jbemis@hpslaw.com

ELECTRONICALLY SERVED
12/08/2014 09:15:11 AM

December 8, 2014

VIA ELECTRONIC SERVICE
Robert Murdock, Esq.
521 South Third Street
Las Vegas, Nevada 89101

Re: Estate of Jane Doe vs. Centennial Hills Hospital

Dear Mr. Murdock,

Christine Murray is not employed by Centennial Hills Hospital. We have attempted to contact her at her last known address: 9051 Echelon Point Drive, Building 1, Unit 1006, Las Vegas, NV 89149.

Additionally, we have attempted to contact her by telephone. Her number is no longer in service. Please advise if you have been able to serve her with a subpoena and whether tomorrow's deposition is going forward. Should we get in contact with Ms. Murray, we will immediately advise.

Sincerely,

HALL PRANGLE & SCHOONVELD, LLC

/s/: John Bemis

Dictated but not read

John F. Bemis, Esq.

JFB/djc

4838-8033-4368, v. 1

EXHIBIT "6"

EXHIBIT "6"

Electronically Filed
01/30/2014 08:08:14 AM

CLERK OF THE COURT

Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780-C DEPT. NO. II **PLAINTIFF'S SEVENTEENTH SUPPLEMENT TO CASE CONFERENCE DISCLOSURES PURSUANT TO NRCP 16.1**

COMES NOW Plaintiff Estate of Jane Doe, by and through its Special Administrator, Misty Petersen, by and through its attorneys of record, Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., and hereby supplements her early case conference disclosures pursuant to NRCP 16.1 as follows. **New information appears in bold.**

DOCUMENTS

1. Plaintiff's medical and billing records from Centennial Hills Hospital Medical Center. Said records will be provided upon receipt of same.

2. Medical records from Centennial Hospital Medical Center for date of admission of May 14, 2008.

3. Indictment filed on November 19, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C249693.

4. Indictment Warrant filed on November 19, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C249693.

5. Indictment Warrant Return filed on November 20, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C249693.

6. Notice dated November 26, 2008.

7. Reporter's Transcript of Proceedings of November 18, 2008 Before the Grand Jury Impaneled by the Aforesaid District Court in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. 08AGJ078X.

8. Information filed July 2, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

9. Reporter's Transcript of Preliminary Hearing on July 1, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. 08F10344X.

10. Certificate filed on July 31, 2008, Commitment and Order to Appear, Register of Appearances – Hearing, Amended Criminal Complaint, Criminal Complaint, Las Vegas Metropolitan Police Department Temporary Custody Record, Declaration of Arrest for Event No. 080516-1021, Arrest Report of Steven Dale Farmer, Charge/Bail Review Request, Justice Court, Las Vegas Township, four Pretrial Services Information Sheets, two Media Request & Order in Las Vegas Justice Court Case No. 08F10344X, Facsimile Transmission cover sheet dated 6/18/08 to JCT 8 from Summer Clarke with Amended Criminal Complaint.

11. "Received of Justice Court the Following Items: Justice Court Proceedings and Documents" dated July 3, 2008.

12. Media Request and Order for Camera Access to Court Proceedings filed July 24, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

13. Notification of Media Request filed July 24, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

14. Motion for Discovery filed December 30, 2008 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

15. State's Opposition to Defendant's Motion for Discovery filed January 16, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

16. Motion to Continue Trial Date filed January 20, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

17. Defendant's Reply to State's Opposition to Motion for Discovery filed January 21, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

18. Ex Parte Motion for Release of Medical Records relating to Denise Hanna filed January 22, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

19. Ex Parte Motion for Release of Medical Records relating to Frances Rose filed January 22, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

20. Ex Parte Motion for Release of Medical Records filed January 22, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

21. Ex Parte Motion for Release of Medical Records relating to Roxanne Cagnina filed January 22, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

22. Ex Parte Motion for Release of Medical Records relating to Heather Shank filed January 22, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

23. Ex Parte Motion for Release of Medical Records relating to Ledahlia Spurlock filed January 22, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

24. Order Releasing Medical Records of Ledahlia Spurlock filed February 4, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

25. Order Releasing Medical Records of Denise Hanna filed February 4, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

26. Order Releasing Medical Records filed February 4, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

27. Order Releasing Medical Records of Frances Rose filed February 4, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

28. Order Releasing Medical Records of Heather Shank filed February 4, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

29. Notification of Media Request filed February 9, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

30. Media Request and Order for Camera Access to Court Proceedings filed February 9, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

31. Order Releasing Medical Records of Roxanne Cagnina filed February 12, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

32. Expedited Ex Parte Order for Transcript filed May 15, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

33. Motion to Continue Trial Date filed June 5, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

34. Amended Notice of Witnesses and/or Expert Witnesses filed June 5, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

35. Notice of Witnesses and/or Expert Witnesses filed June 4, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

36. Documents received from Rawson-Neal Psychiatric Hospital pursuant to a subpoena duces tecum.

37. Recorder's Transcript Re: Calendar Call, Defendant's Motion for Discovery and Defendant's Motion to Continue Trial filed on June 9, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

38. Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on September 28, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

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39. Second Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on September 28, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

40. Third Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on October 16, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

41. Ex Parte Order for Transport filed on October 23, 2009 with Receipt of Copy signed by Clark County Detention Center in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

42. Ex Parte Order for Transport filed on November 3, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

43. Ex Parte Order for Transport filed on November 3, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

44. Ex Parte Order for Transport filed on November 5, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

45. Deposition transcript of Christine Murray taken on January 27, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

46. Deposition transcript of Karen Sue Goodhart taken on January 27, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

47. Deposition transcript of Lisa Doty taken on February 2, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

48. Deposition transcript of Harold Collins Suto taken on February 3, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

49. Deposition transcript of Lorraine Wescott taken on February 4, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

50. Deposition transcript of Carine Antoinette Brown taken on February 8, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

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51. Deposition transcript of Amy Bochenek taken on March 10, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

52. Deposition transcript of Douglas Nichols taken on March 24, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

53. Deposition transcript of Evette Wilson taken on April 7, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

54. Documents received from the Henderson Police Department pursuant to a subpoena duces tecum to the Henderson Detention Center.

55. CD of photos and audio recording from the Henderson Detention Center relating to Defendant Steven Dale Farmer.

56. Declaration and documents produced by Michelle Simmons pursuant to a subpoena duces tecum.

57. Correspondence dated February 14, 2013 and documents produced by Nevada State Board of Nursing pursuant to a subpoena duces tecum.

58. Motion to Continue Trial Date filed on February 14, 2013 in the case of *State v. Farmer*, Case No. C245739.

59. Exemplar of Centennial Hills Hospital Medical Center staff badge.

60. Order Denying Motion for Modification of an Order Lifting Stay by American Nursing Services, Inc. filed on June 24, 2013 in the case of *In Re: American Nursing Services, Inc., et al.*, Case No. 09-13411 (PJW), United States Bankruptcy Court for the District of Delaware.

61. Six (6) pages of notes from Jane Doe (Bates JD0001-JD0006) (redaction on JD0005 – see Privilege Log).

62. Transcript of Jane Doe's testimony on January 20, 2012 in the case of *State of Nevada v. Steven Dale Farmer*, Case No. C245739 in the District Court, State of Nevada.

63. CD containing Jane Doe's diary (Bates JDD00001-JDD00025) (redaction on JDD00015 and JDD00021 - see Plaintiff's Second Privilege Log).

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64. **Criminal discovery provided to Steven Farmer. (This is protected but will be released after the criminal trial of Mr. Farmer and as soon as Plaintiff receives same pursuant to earlier subpoenas.)**

65. **All documents from the Las Vegas Metropolitan Police Department investigation of Steven Farmer. (This is protected but will be released after the criminal trial of Mr. Farmer and as soon as Plaintiff receives same pursuant to earlier subpoenas.)**

66. Plaintiff reserves the right to supplement this list of documents as further information becomes available.

67. Plaintiff further reserves the right to identify any and all documents identified by any of the Defendants.

WITNESSES

1. Jane Doe, c/o Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., 520 South Fourth Street, Las Vegas, Nevada 89101, will testify regarding the facts and circumstances of the subject incident.

2. Person(s) Most Knowledgeable of Centennial Hills Hospital Medical Center, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

3. Person(s) Most Knowledgeable of Universal Health Services, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

4. Person(s) Most Knowledgeable of Valley Health System, LLC, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

5. Person(s) Most Knowledgeable of American Nursing Services, c/o Lewis Brisbois Bisgaard & Smith, LLP, 400 South Fourth Street, Suite 500, Las Vegas, Nevada 89101, is/are

expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

6. Steven Dale Farmer, c/o Mandelbaum, Schwarz, Ellerton & McBride, 2012 Hamilton Lane, Las Vegas, Nevada 89106, is expected to testify regarding his knowledge of the facts and circumstances of the subject incident.

7. Investigating Personnel, Las Vegas Metropolitan Police Department, 400 Stewart Avenue, Las Vegas, Nevada 89101, are expected to testify regarding the investigated conducted of the subject incident.

8. Plaintiff's treating medical personnel are expected to testify regarding the treatment provided to Plaintiff following the subject incident.

9. Custodian of Records of Centennial Hills Hospital Medical Center, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify regarding the search for and authenticity of the records produced.

10. Custodian of Records of the Eighth Judicial District Court, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the search for and authenticity of the records produced.

11. Frances V. Rose, 2104 Club Pacific Way, No. 19-102, Las Vegas, Nevada 89128, is expected to testify regarding her sexual assault by Steven Dale Farmer while she was a patient at Rawson-Neal Psychiatric Hospital.

12. Ledahlia Spurlock, 4408 San Gabriel Hill Avenue, Las Vegas, Nevada 89115, is expected to testify regarding her sexual assault by Steven Dale Farmer while she was a patient at Centennial Hills Hospital Medical Center.

13. Heather Shank, 5209 Fireside Ranch Avenue, Las Vegas, Nevada 89131, is expected to testify regarding her sexual assault by Steven Dale Farmer while she was a patient at Centennial Hills Hospital Medical Center.

14. Denise Hanna, 7932 Olympus Avenue, Las Vegas, Nevada 89131, is expected to testify regarding the sexual assault by Steven Dale Farmer while she was a patient at Centennial Hills Hospital Medical Center.

15. Person Most Knowledgeable of Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected is testify regarding various allegations concerning Steven Dale Farmer and Rawson-Neal advising American Nursing Services, Inc. about said allegations.

16. Custodian of Records of Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected is testify regarding the search for and authenticity of the records produced.

17. Custodian of Records of the Eighth Judicial District Court, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the search for and authenticity of the records produced.

18. Custodian of Records of Litigation Services, 1640 Alta Drive, Suite 4, Las Vegas, Nevada 89106, is expected to testify regarding the search for and authenticity of the transcripts produced.

19. Kristen Grega, Custodian of Records of Henderson Police Department, 223 Lead Street, Henderson, Nevada 89015, is expected to testify regarding the search for and authenticity of the records produced.

20. Michelle Simmons, c/o Lewis Brisbois Bisgaard & Smith LLP, 6385 South Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118, is expected to testify regarding the search for and authenticity of the records produced, as well as her knowledge of American Nursing Services, Inc.

21. Frederick R. Olmstead, General Counsel, Nevada State Board of Nursing, 5011 Meadowood Mall Way, Suite 300, Reno, Nevada 89502, is expected to testify regarding the search for and authenticity of the records produced.

22. Jeff Maningo, Esq., Deputy Public Defender, 309 South Third Street, Suite 226, Las Vegas, Nevada 89155, is expected to testify regarding Defendant Steven Farmer's criminal matter and the Motion to Continue Trial Date filed on February 14, 2013.

23. Philip J. Kohn, Esq., Public Defender, 309 South Third Street, Suite 226, Las Vegas, Nevada 89155, is expected to testify regarding Defendant Steven Farmer's criminal matter.

24. Amy Feliciano, Deputy Public Defender, 309 South Third Street, Suite 226, Las Vegas, Nevada 89155, is expected to testify regarding Defendant Steven Farmer's criminal matter.

25. Person Most Knowledgeable of Valley Health System LLC, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Dr., Suite 200, Las Vegas, Nevada 89144, is expected to testify regarding the authenticity of the exemplar of Centennial Hills Hospital Medical Center staff badge produced at the deposition of Person(s) Most Knowledgeable of Valley Health System LLC on March 12, 2013.

26. John F. Bemis, Esq., Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify regarding his meeting with the Public Defender for Steven Dale Farmer and documents being provided to the Public Defender's Office for Steven Dale Farmer.

27. S. Brent Vogel, Esq., Lewis Brisbois Bisgaard & Smith LLP, 6385 South Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118, is expected to testify regarding his meeting with the Public Defender for Steven Dale Farmer and documents being provided to the Public Defender's Office for Steven Dale Farmer.

28. Amanda J. Brookhyser, Esq., Lewis Brisbois Bisgaard & Smith LLP, 6385 South Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118, is expected to testify regarding her meeting with the Public Defender for Steven Dale Farmer and documents being provided to the Public Defender's Office for Steven Dale Farmer.

29. Person(s) Most Knowledgeable, Chubb Commercial Insurance, 15 Mountain View Road, Warren, New Jersey 07059, is expected to testify regarding the payments made for attorney's fees for Steven Dale Farmer.

30. Person(s) Most Knowledgeable, Interstate Fire and Casualty Company, 33 West Monroe Street, Suite 1400, Chicago, Illinois 60603, is expected to testify regarding the payments made for attorney's fees for Steven Dale Farmer.

31. Johnette Spellman, c/o Ochsner Health System, Human Resources Department, 1601 Jefferson Highway, New Orleans, Louisiana 70121, is expected to testify regarding her knowledge of American Nursing Services, Inc.

32. Timothy J. Fagan, c/o Jay C. Ong, Esq., Munsch Hardt Kopf & Harr, 401 Congress Avenue, Suite 3050, Austin, Texas 78701, is expected to testify regarding his knowledge of American Nursing Services, Inc.

33. Deann Anderson, c/o Rawson Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

34. Dr. Frederick M. Brown, c/o Rawson Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

35. Carol Butler, Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

36. Roxanne Cagnina, 3717 Lower Saxon Avenue, North Las Vegas, Nevada 89085, is expected to testify regarding her knowledge of the subject incident.

37. Michelle Casper, LVMPD #06549, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the the subject incident.

38. Lora Cody, LVMPD #07294, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the the subject incident.

39. John Coldsmith, Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

40. Kimberly Davis, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the proper protocols and procedures when treating patients in a nursing capacity.

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41. Luke Doty, LVMPD #09368, Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

42. Christen Edwards, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

43. Craig Fabert, CCDA, SVU Investigations, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the investigation of the subject incident.

44. Karen Goodhart, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

45. Thomas Hanna, 7932 Olympus Avenue, Las Vegas, Nevada, is expected to testify regarding his knowledge of the subject incident.

46. Jeanine James, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

47. Craig Jex, LVMPD #05597, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

48. Elaine Knepp, CCDA, SVU Investigations, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the investigation of the subject incident.

49. Timothy Lehan, 5209 Fireside Ranch Avenue, Las Vegas, Nevada 891131, is expected to testify regarding his knowledge of the subject incident.

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50. Ruth Leon, CCDA, SVU Investigations, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the investigation of the subject incident.

51. Raymond McCormick, 1841 Leonard, Las Vegas, Nevada, is expected to testify regarding his knowledge of the subject incident.

52. Ronald Miller, LVMPD #03233, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

53. Julie Montero, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

54. Christine Murray, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

55. Sandra Pagain, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

56. Misty Pence, LVMPD #04950, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

57. Julie Rackley, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

58. Pam Robertson, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven

Farmer.

59. Michael Saunders, LVMPD #06076, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

60. Jackie Schumacher, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

61. Jeffery Smith, LVMPD #08177, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

62. Margaret Wolfe, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

63. Plaintiff reserves the right to supplement this list of documents as discovery continues.

64. Plaintiff further reserves the right to identify any and all documents identified by any of the Defendants.

DATED this 29th day of January, 2014.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
520 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

CERTIFICATE OF MAILING

The undersigned hereby declares she is an employee of Murdock & Associates, Chtd. and that on January 29, 2014 she deposited a true copy of the foregoing PLAINTIFF'S SEVENTEENTH SUPPLEMENT TO EARLY CASE CONFERENCE DISCLOSURES in the United States mail, postage fully prepaid, addressed as follows:

John F. Bemis, Esq.
Hall Prangle & Schoonveld, LLC
1160 North Town Center Dr., Suite 200
Las Vegas, NV 89144

Robert C. McBride, Esq.
Mandelbaum, Ellerton & McBride
2012 Hamilton Lane
Las Vegas, NV 89106

S. Brent Vogel, Esq.
Lewis Brisbois Bisgaard & Smith
6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118

James P.C. Silvestri, Esq.
Pyatt Silvestri
701 Bridger Avenue, Suite 600
Las Vegas, NV 89101

/s/ Karen A. Kilmartin
An employee of Murdock & Associates, Chtd.

EXHIBIT "7"

EXHIBIT "7"

DISTRICT COURT

CLARK COUNTY, NEVADA

JANE DOE,

Plaintiff,

vs.

CASE NO. 09-A-595780

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

DEPOSITION OF

CHRISTINE MURRAY, RN

Thursday, January 8, 2015

1:30 p.m.

521 S. Third Street

Las Vegas, Nevada

Carol O'Malley, CCR 178, RMR

Q. You're talking about the --
A. Patient.
Q. -- what you termed the little crazy old lady patient, is that correct?
A. The patient, yes.
Q. But that's the patient we're talking about here, right?
A. Yes.
Q. Now, outside of telling the police about this -- what you termed "the little crazy old lady," and the incident with Mr. Farmer -- did you ever tell anybody else about that?
A. No.
Q. After the incident took place, after the arrest, and Ms. Cagnina, things like that, did you ever tell anybody at the hospital about this incident?
A. No.
Q. So the first and only time you ever discussed this patient, the little crazy old lady patient with anyone, would have been with this detective. Is that correct?
A. No. Wait a minute. The director of nursing called me down and we talked about this, too, after I talked to the police. When she got a copy of

this, I talked to her. And that was it.

Q. Who was the director of nursing at the time?

A. I really don't know.

Q. But the director of nursing called you down after she read the statement, is that correct?

A. Yes. She talked to all of us.

Q. What do you mean, she talked to all of you?

A. She talked to all the nurses that were involved in this.

Q. Did you go through the statement with her?

A. She asked me what happened. I told her what I knew. We didn't pick this up and go through it line by line like we are now, but she knew what was -- I mean she had read it.

Q. Did she ask you about the little crazy old lady patient? Was that something you discussed?

A. You know, I'm not sure. She just asked about what I knew. No, I don't believe we did go through that. We went through the other part, because that was what was coming up.

Q. And outside of me asking you about this little crazy old lady patient, and the detective, has anybody else ever asked you about it?

A. No.

REPORTER'S CERTIFICATE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, Carol O'Malley, Nevada Certified Court Reporter 178, do hereby certify:

That I reported the taking of the deposition of CHRISTINE MURRAY, RN on January 8, 2015 commencing at the hour of 1:30 p.m.;

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcription of said deposition is a complete, true, and accurate transcription of my said shorthand notes taken down at said time. Review of the transcript was not requested.

I further certify that I am not a relative or employee of an attorney or counsel involved in said action, nor financially interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 15th day of January, 2015.

Carol O'Malley

Carol O'Malley, CCR No. 178

EXHIBIT "8"

EXHIBIT "8"

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO. 09-A-595780-C
DEPT. NO. II

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

DEPOSITION OF AMY BLASING, MSN, RN

1:00 p.m.
July 28, 2015
Williams & Associates
1608 Fifth Street, NW
Albuquerque, New Mexico

PURSUANT TO THE RULES OF CIVIL PROCEDURE, this deposition was:

TAKEN BY: MR. ROBERT E. MURDOCK
Attorney for the Plaintiffs

REPORTED BY: Dawn Redwine, RPR, CRI, NM CCR #165
WILLIAMS & ASSOCIATES, LLC
1608 Fifth Street, NW
Albuquerque, NM 87102
(505) 843-7789
www.WilliamsNM.com

A. Not that I recall.

Q. Okay. In other words, did you give a recorded statement to anybody?

A. Not that I recall.

Q. Did you ever give a written statement?

A. Not -- As part of an investigation, I'm not sure if -- I don't know that I ever wrote anything down.

Q. Okay.

A. I know that we had discussions, internal discussions about the incident, following.

Q. Okay. And who did you have internal discussions with?

A. Carol Butler, Quality and Risk.

Q. Who was at Quality and Risk?

A. I believe that was Janet Callahan and Yvette Wilson at the time.

Q. Okay. Any other people that you had discussions with?

A. Carol and I had discussions with employees after the incident.

Q. Where did those discussions take place?

A. In the hospital.

Q. I understand that. Where?

A. But I couldn't tell you specifically.

Q. Was it in a conference room?

A. I'd be guessing if I answered. It could've been an office or a conference room.

Q. Was it on the floor?

A. I don't recall.

Q. Okay. Do you believe -- Is it more likely than not that it occurred in an office or a conference room type of setting?

A. That would be more likely.

Q. Okay. And it was you and Carol. Is that correct?

A. To my knowledge, yes.

Q. Was there anybody else there?

A. Not that I recall.

Q. Was there a lawyer there?

A. Not that I recall.

Q. Okay. Who did you speak with?

A. I remember speaking with Ray Sumera, Karen Goodhart, Darby Curlee.

Q. Anybody else?

A. Margaret Wolfe later. There may have been more people, but those are the names I recall.

Q. When you say "later," how much later?

A. I don't know the timing, but the conversation with Margaret was more specific to additional concerns that she shared, so I know it was later for that reason.

Q. Would you agree with me that it would've been

within two months of the initial conference you had with Sumera, Goodhart, and Curlee?

A. That sounds right.

Q. Okay. So if the initial conference occurred in late May, could we put an outside date on it of about August 1st? Would you agree with that?

A. That sounds fair. I don't recall the exact date.

Q. Okay. And were there notes taken at that meeting?

A. Not that I recall.

Q. Did you take any notes?

A. Not that I recall.

Q. Did Carol take any notes?

A. Not that I recall.

Q. Were the meetings tape-recorded?

A. No.

Q. Were they video-taped?

A. No.

Q. I'm sorry?

A. No.

Q. I'm curious. Why didn't you take any notes?

A. I just don't remember taking notes. It doesn't mean that I didn't.

Q. Oh, okay. So it's possible you took notes?

A. It was several years ago, so...

Q. I understand. So it's possible you took notes?

A. It's possible, but I don't recall taking them.

Q. Okay. When you're in a meeting-type setting like that, would you agree with me it's more likely than not that you actually took notes?

A. Depends on the situation. If I'm having a conversation with someone, I don't always write anything down.

Q. Okay. This was more -- more than a conversation, though. You were actually investigating what occurred. Right?

A. Investigations were more Risk and Quality.

Q. Okay. So why were you talking to these people?

A. Our conversations, Carol and I, were more about did we miss anything, did the staff know that they could come forward if they felt uncomfortable about anything. Just more kind of follow-up to the concerns that we had become aware of, and making sure that we weren't missing any opportunities.

Q. Okay. So you don't know if you took notes or not.

A. Correct.

Q. If you took notes -- let's assume, just for the sake of argument, you did -- where would those notes be today?

A. I don't have any way of knowing that.

Q. Okay. What would you have done with them after the meeting? In other words, did you have a secretary who you would say, you know, "Type these up" --

A. No.

Q. -- or did you have a file, things like that?

A. I did not.

Q. Okay. Did you have anything at all where you would have put notes?

A. Not formally, no.

Q. What about informally?

A. If I were to take notes on a notepad, it might be something that I used, like, to work with that day.

Q. Okay.

A. But if it wasn't part of any formal investigation or anything that I was typing up, I don't know where it would end up. I honestly don't recall taking any notes specific to this case.

Q. Okay. So, in other words, it's possible you did. You're just not sure. Is that right?

A. I don't remember taking any.

Q. Okay. So it's more likely than not that you didn't take any.

A. That's correct.

Q. Okay. Do you recall Carol Butler taking any notes at these meetings?

A. I don't.

Q. After the meetings, did you have discussions with Carol about your -- about your meetings with these nurses?

A. It's fair to say that that would have happened, but I couldn't tell you specifics.

Q. How long afterwards would you have had that meeting?

A. Most likely, immediately.

Q. Okay. Now, the Margaret Wolfe meeting took place a couple of months later. Right?

A. I don't know the exact date. I just --

Q. No.

A. -- know it was after.

Q. I know.

A. But within a couple of months is fair.

Q. Within a couple of months.

A. Uh-huh.

Q. When did -- Did you have a discussion with Carol Butler about the Margaret Wolfe meeting?

A. I'm sure that we did. I can't tell you specifics.

Q. Why did you meet with Carol -- with Margaret Wolfe?

A. What I remember is that we were made aware that Margaret had expressed concerns, and we were following up to find -- it was new information to us, so we were both following up to get more information and making sure that people knew what the proper channel would be if they had concerns in the future.

Q. In fact, my understanding is that you became aware that a -- that Margaret had spoken with the police about the situation. Is that right?

A. That sounds familiar, but I couldn't tell you specifics.

Q. Right. And as a -- as a matter of fact, you became aware, and this was back in -- In between May of 2008 and August of 2008, you became aware that there actually was a police report, where Margaret spoke to the police. Right?

A. I don't remember the specifics.

Q. Well --

A. I became aware that she had shared information. I don't know that I had knowledge of the police report or not.

Q. Okay. Did you ever ask for a police report?

A. No.

Q. Have you ever read a police report?

A. Not that I recall.

Q. It's possible you did? You just don't know?

A. I don't recall ever seeing a police report related to this case.

Q. Okay. Well, that's funny, because I understand that you had a meeting with several of the nurses where you actually went over some of the police reports. Do you remember that?

A. I remember meeting with the nurses about how to escalate concerns, but I don't remember ever having copies of police reports or sharing them.

Q. Okay. Do you remember meeting with a nurse by the

name of Christine Murray?

A. I don't.

Q. Okay.

A. I don't remember who that is.

Q. Margaret Wolfe told the police on May 30th, 2008, that -- about conversations she had with Mr. Ray Sumera. Do you remember that?

A. I remember that, yes.

Q. Okay. Did you ever confirm that with Mr. Sumera?

A. Carol and I, I believe, spoke to Ray.

Q. And Ray confirmed it, I assume.

A. Ray remembered having a conversation with Margaret, but the content was different.

Q. Okay. Did you ever speak to Margaret about that? In other words, did you confront her with that and say, "Well, wait a minute. Ray says you had a different conversation"?

A. I believe that we did, but I don't know the specifics.

Q. Okay. And, of course, did you make a report of it?

A. Report?

Q. Well, she lied to you.

A. I think we --

MR. PRANGLE: Well, that's argumentative.

Q. I don't know. If she lied to you or -- I mean, she told you something that Ray didn't remember.

A. I don't remember.

Q. Okay. So, in other words, you testified earlier today you've never seen a report, but now you know about the report.

A. I still haven't seen it.

Q. So tell me when the first time you found out about the report.

A. I couldn't tell you the details. I don't know if Margaret came and told us or if someone else did, but somehow it got back to us that Margaret had shared concerns with law enforcement. I don't -- I don't know that details were shared initially. And then we started talking about it with the team.

Q. Was that before you met with her in between May and August?

A. We became aware of it and then met with her, yes.

Q. Okay. But you -- as you sit here today, you have no idea how you became aware of it?

A. I can't remember. I don't want to guess.

Q. I don't want you to guess. Okay. So you have no idea how you became aware of it, but you actually became aware of the contents of it, as well. Right?

A. I became aware that she shared information. Contents of the police report, those are two different things to me.

Q. Well, you were aware, as you just told me before,

that Margaret was saying that Ray came to her.

A. When she told the story of how she expressed the concerns, yes.

Q. When did she tell you that?

A. When we met with her and talked to her.

Q. Okay. So let's put it this way. As of August of 2008, you, as the Department of Emergency -- as the head of Department of Emergency Services at Centennial Hills Hospital, you were aware that Margaret Wolfe was alleging that Ray Sumera had come to her and expressed concerns about Ray Sumera. Is that correct?

A. She didn't express concerns about Ray Sumera.

Q. I'm sorry. I'm sorry. Let me restate the question. That was my bad.

In between May and August 1 of 2008, you, as the department -- as the head of the Department of Emergency Services at Centennial Hills, became aware that -- through Margaret Wolfe that Ray Sumera had come to Margaret Wolfe with concerns about Steven Farmer. Is that correct?

A. I don't remember the details enough to say if I heard that directly from her or from someone else. What I remember is that Margaret had expressed concerns to Ray. Who initiated the conversation, I don't know what I was told initially.

Q. Well, you already -- you just testified somehow you

were aware that Margaret stated that Ray told her about concerns. Right? About Farmer.

A. I remember there being several different versions of the story. One was that --

Q. Okay.

A. -- Ray went to Margaret and initiated a conversation. The other was that Margaret went to Ray and initiated the conversation.

Q. Let's just keep those two for right now. Whatever it is, okay, those two versions, at least.

A. Yes.

Q. You knew those two versions as of August 1, 2008. Would you agree with that?

A. At some point within a few --

Q. Is that fair?

A. -- months if we say August. I -- I can't validate the date, but that sounds fair, yes.

Q. Okay. When was the first time you spoke with counsel about this matter?

A. Cagnina case?

Q. Any. I don't care.

A. I don't -- I don't know that I could tell you.

Q. Okay. Did you ever investigate -- You said you had two different versions here. Did you have each of them, Mr. Sumera and Ms. Wolfe, write down their respective versions?

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO. 09-A-595780-C
DEPT. NO. II

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

REPORTER'S CERTIFICATE

I, DAWN REDWINE, RPR, CRI, NM CCR #165, DO HEREBY CERTIFY that on July 28, 2015, the deposition of AMY BLASING, MSN, RN, was taken before me at the request of, and the sealed original thereof was retained by attorney for plaintiffs:

Mr. Robert E. Murdock
KEACH MURDOCK
521 South Third Street
Las Vegas, NV 89101

I FURTHER CERTIFY that copies of this Certificate have been mailed or delivered to all counsel, and parties to the proceedings not represented by counsel, appearing at the

taking of the deposition.

I FURTHER CERTIFY that examination of this transcript and signature of the witness was requested by the witness and/or all parties present. On _____, a letter was mailed or delivered to the witness or his/her attorney regarding obtaining signature of the witness; and corrections, if any, will be appended to the original transcript, and copies sent to place in each copy of the deposition.

I FURTHER CERTIFY that the recoverable cost of the original and one copy of the deposition, including exhibits, to MR. ROBERT E. MURDOCK is $

I FURTHER CERTIFY that I did administer the oath to the witness herein prior to the taking of this deposition; that I did thereafter report in stenographic shorthand the questions and answers set forth herein, and the foregoing is a true and correct transcript of the proceeding had upon the taking of this deposition to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules) any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

Dawn Redwine, RPR, CCR, CRI
NM Certified Court Reporter #165
License Expires: 12/31/15

EXHIBIT "9"

EXHIBIT "9"

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM, LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	Case No. 09-A-0595780-C DEPT. No. II

DEPOSITION OF CAROL BUTLER
June 19, 2015

that refresh your recollection?

A -- in person or on the phone.

Q Do you remember you were in a conference room with them?

A No. I don't.

Q Okay. Who did you speak with? Can you name me some of them?

A I can't.

Q Did you speak with Ray Sumera?

A I don't recall.

Q Do you know who Ray Sumera was?

A I do know Ray.

Q What was Ray?

A Ray was one of our charge nurses in the emergency department.

Q Okay. And Ray, wouldn't he have been one of the people that you would normally talk to, assuming he was there that night?

A If he was on shift; yes.

Q Right. Okay. Margaret Wolfe? You might want to talk to her; right?

A If she was on shift --

Q Okay.

A -- that day.

Q Okay. And so if these people were on

shift, am I correct that you did talk to them? You believe you talked to them at least?

A I believe so.

Q Okay. And when you talked to them, did you write notes about that?

A I don't recall.

Q I'm -- I'm trying to figure out how you cannot recall whether or not you took notes from conversations with staff members. How is that possible?

MR. PRANGLE: Objection. Argumentative.

A How many years ago was this?

Q (BY MR. MURDOCK) Oh, so, again, if I asked you five years ago, you might have a better answer; right? Your memory?

A Certainly.

Q So I guess you went home that night; right?

A Eventually, I'm sure I did.

Q Okay. By the way, that entire day, did you ever go look to see if there was a policy and procedure that you should follow?

A I don't recall.

Q That entire day, did you ever go speak with Ms. Cagnina?

investigation under patient safety; is that correct?

A Correct.

Q Okay. Are you back and forth from Sitka?

A Yes.

Q How often?

A Every other weekend.

Q Oh, okay, good. Just in case. Okay. So you -- do you, by the way, present at the internal investigation? Is that something that you did? Was there actual committee meetings?

A There was a meeting to review the incident.

Q Okay. When was it?

A I don't recall.

Q Can you give me an estimate as to when it was?

A To my recollection, it was within a few days.

Q Okay. That would have been, I assume, after you spoke with all of the staff who was on duty that night; is that correct?

A I believe that we had spoken with everyone that was present at that time before that

At some point, did you obtain witness statements that nurses or staff members, CNAs or whoever might have given to the police?

A No. Police. No.

Q Do you remember a nurse by the name of Christine Murray? Does that name sound familiar?

A I do remember.

Q Do you remember speaking with Christine Murray about this incident?

A I don't remember specifically speaking with Christine about this incident.

Q Okay. Do you remember attending a meeting where you spoke with not just Christine Murray, but all the staff in one setting about this incident?

A All the staff ... you mean all the staff that might have witnessed this incident?

Q Yeah. Yes.

A I -- I guess I would assume that those were the people that were present for the sentinel event meeting.

Q Okay. And the reason I'm asking you that is -- let's mark this.

(Exhibit 1 marked.)

MR. VOGEL: What are you looking at, Rob?

MR. PRANGLE: It's Christine Murray's.

Q (BY MR. MURDOCK) Showing you what's been marked as Plaintiff's Exhibit 1, have you ever seen that document before?

A I don't recall ever seeing this document before.

Q (BY MR. MURDOCK) Okay. Christine Murray testified under oath, quote, The director of nursing called me down and we talked about this, too, after I talked to the police. When she got a copy of this, I talked to her. And this -- she's talking about her report, by the way -- or this statement, Plaintiff's Exhibit 1.

A Okay.

Q So does that refresh your recollection a little bit?

A No.

Q Okay.

"Question: Who was the director of nursing at the time?"

She answered:

"I really don't know."

"Question: But the director of nursing called you down after she read the statement; is that correct?

a look and read through pages 14 through 16 of that statement. Maybe that will refresh your recollection a little bit.

A (Deponent reviewing exhibit.)

So I'm --

MR. PRANGLE: Wait for a question.

Q (BY MR. MURDOCK) Does that refresh your recollection --

A Refresh my recollection?

Q -- of speaking with Ms. Murray about this incident?

A No.

Q Does that refresh your recollection as to whether or not you reviewed that incident -- that transcribed witness statement before today?

A No.

Q So, just so I'm clear, today, June of 2015 is the first time you are ever seeing that witness statement; is that right?

A As far as I recall, yes.

Q Do you recall speaking with Ms. Murray at all?

A I do not recall speaking with Ms. Murray specifically, no.

Q Do you recall that she was part of the

incident? That she was a witness to the incident?

A I do not. As I've said, I couldn't --

Q So if --

A -- bring forth the names.

Q If she says she met with you and you say you don't recall, you're not saying you didn't meet with her? You're just saying you don't recall?

A I don't recall.

Q It's possible you did; right?

A It's possible.

Q And if she says she did meet with you, you're not calling her a liar, are you?

A I am saying I don't recall meeting with her.

Q Okay. Now --

A Is she saying she met before the incident with Ms. Cagnina, or after?

Q After.

A Okay.

Q Does that make a difference to you?

A Maybe.

Q Why is that? In your memory?

A No. It doesn't make a difference in my memory at all.

Q What does it make a difference about?

and the quality and risk manager at the time --

Q Okay.

A -- if there were people who had knowledge of these incidents or had witnessed anything that had not come forward to raise the red flag, and what I was told was that no, no one had witnessed anything and that no one had knowledge of inappropriate actions on his part.

Q Well, in May of 2008, Ms. Wolfe gave a statement to the Las Vegas Metropolitan Police Department. Are you aware of that?

A I think I became aware of it at some point. Someone informed me of that.

MR. SILVESTRI: Can you read back the question, please? I'm sorry.

(The referred-to question was read by the reporter.)

MR. SILVESTRI: And the answer?

(The referred-to answer was read by the reporter.)

Q (BY MR. MURDOCK) When was that?

MR. PRANGLE: Again, he doesn't want to know anything that I told you.

Q (BY MR. MURDOCK) Not in the past couple of weeks, but before the past couple weeks, were you

aware of that?

A I think someone told me after she gave a statement that a statement had been made.

Q Okay. Did you ever talk to her about the statement?

A I don't recall talking to her about the statement.

Q But you knew she had given a statement? It was pretty close to the time that she gave a statement; correct? I mean, she gave it to -- if she gave it on May 30, 2008, would you agree with me that you found out that she gave a statement about the incident, let's say, by August 1, 2008? Would that make sense?

A Probably.

Q Okay. That would make sense; right?

A Yes.

Q It's more likely than not; correct?

A Correct.

Q Okay. Ms. Wolfe stated in her statement Ray Sumera had told me to watch Steve Farmer around her female patients. Do you remember that?

A No. I do not.

Q She said that Ray Sumera was concerned because he was very overly attentive to female patients

and very anxious to connect them to the monitors and disconnect -- and disconnect them from the monitors, which would require him to reach into their clothing. Are you aware of that?

A No.

Q Okay. You never asked to see the statement; right?

A No, I did not.

Q But you knew she had made a statement; right?

A I knew she had made a statement.

Q By August 1 of 2008, you knew she had made a statement?

A Sure.

(There was a discussion off the record.)

Q (BY MR. MURDOCK) Do you know what a shift report is?

A Yes.

Q Were there notes taken at shift reports?

A Yes.

Q What happens to those notes? Are they thrown out?

A Usually, at the end of the shift.

Q They're thrown out?

A Because they are notes simply from one

pre-huddle?

A There was a handoff between the two charge nurses.

Q That's what it's called? The handoff?

A Uh-huh.

Q Okay. Try and let me finish my question. I know you're anticipating it, but our court reporter -- we're going to try and be kind to her without taking down two of us speaking at the same time.

The statement that -- that Ms. Wolfe gave that somebody told you about -- I mean, they told you she gave a statement to the police; right?

A Correct.

Q And it just -- you would ask -- wouldn't you ask your nurses, What did you talk to the police about?

A I asked Amy Bochenek and -- because my concern was, again, did someone know something prior to this. Her response to me was that Margaret had some vague concerns about him being overly attentive to women. And again, I said, Okay, who did she tell? And --

Q Did she tell you she told the police?

A I asked Amy, Did you ever hear about

this prior to this? And she said no.

Q She told you she told the police? Amy said that?

MR. PRANGLE: Amy said Amy told the police?

Q (BY MR. SILVESTRI) Did Amy tell you that Margaret told the police that?

A Amy told me that Margaret had made that statement to her.

Q Oh, to her. Okay. And did she tell you when she had made that statement to Amy?

A It was after Ms. Cagnina had complained and we had already started the police investigation. So -- and that was my question to Amy was had you ever heard about any of this prior to this? And she said no.

Q Was there some reason you didn't just call Ms. Wolfe in and ask her directly? You're the director of nursing.

A Again, the internal investigation was being handled by -- by risk and quality management.

Q But this was a different investigation, wasn't it? This was concerns that, now, you're hearing that one of your nurses have and you're the director of nursing. Would it not have been appropriate for you

to -- either yourself go to Ms. Wolfe, or call the risk manager and both of you go and talk to Ms. Wolfe?

A I don't know because I don't recall if Ms. Wolfe was involved in the meetings that we were having to -- to investigate or not.

Q Was -- did -- did you ever take Ms. Bochenek's statement to you to the risk manager?

A I don't recall. I know the risk manager spoke with Amy directly.

Q That wasn't my question. My question was is Ms. Bochenek comes and tells you that one of your nurses has come and talked to the cops -- excuse me -- has said that a nurse has concerns about Mr. Farmer. Did you take that statement to the risk manager?

A I don't recall.

Q That wasn't something you would have written up and sent up the line of command?

A It -- it completely depends on how that information was conveyed to me.

Q Okay. Mr. Murdock asked you some questions about whether you would want to know if a particular nurse or CNA was being overly attentive with respect to female patients. Do you remember that line of questioning?

C E R T I F I C A T E

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

I, Bonnie Carpenter, duly appointed to take the deposition of CAROL BUTLER, do hereby certify that previous to the commencement of the examination of the said above-named Deponent, she was first by me duly sworn to testify the truth, the whole truth and nothing but the truth touching and concerning the matters in controversy between the parties hereto, so far as she should be interrogated concerning the same;

That said deposition was stenographically reported by me at the time and place heretofore set forth, and was reduced to typewritten form under my supervision as per the foregoing;

That the foregoing is a true and correct transcript of my shorthand notes then and there taken;

That after the deposition was transcribed, the same was submitted by letter to the Deponent for reading and signing, a copy of which is hereto annexed;

That I am not kin or in anywise associated with any of the parties to said cause of action or their counsel and that I am not interested in the event thereof;

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2015.

_____
Bonnie Carpenter
12510 East Iliff
Suite 120
Aurora, CO 80014

EXHIBIT "10"

EXHIBIT "10"

ELECTRONICALLY SERVED
06/16/2015 06:08:17 PM

SUPP
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Nevada Bar No. 8619
JOHN F. BEMIS, ESQ.
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Centennial Hills Hospital Medical Center

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DISTRICT COURT

CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. A595780 DEPT NO. II

DEFENDANT VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER'S TENTH SUPPLEMENT TO IT'S INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES AND DOCUMENTS

DEFENDANT VALLEY HEALTH SYSTEM, LLC, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER (hereafter Centennial Hills Hospital), by and through its attorneys of record, the law firm of HALL PRANGLE & SCHOONVELD, LLC, hereby submits its Ninth Supplement to its NRCP 16.1 List of Witnesses and Documents as follows (supplements provided in **bold**):

I.

WITNESSES

1. Jane Doe
c/o Robert E. Murdock, Esq.
MURDOCK & ASSOCIATES, CHTD.
521 South Third Street
Las Vegas, Nevada 89101

Jane Doe is expected to testify as to the facts and circumstances surrounding this matter and her alleged damages.

2. Jane Doe's two sons

Jane Doe's two sons are expected to testify as to the facts and circumstances surrounding this matter, their mother's alleged damages and conversations they had with their mother about the incident.

3. Steven Dale Farmer
c/o Robert C. McBride, Esq.
CARROLL, KELLY, TROTTER, FRANZEN, MCKENNA & PEABODY
701 North Green Valley Parkway, Suite 200
Henderson, Nevada 89074

Mr. Farmer is expected to testify as to the facts and circumstances surrounding this matter and the allegations made against him.

4. Debra Scott, MSN, RN, FRE
Executive Director
Nevada State Board of Nursing
5011 Meadowwood Mall Way, Suite 300
Reno, NV 89502-6567

Ms. Scott is expected to testify regarding The certification process, background check and investigation performed by the Nevada Board of Nursing prior to certification. The

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Certification Process for a Certified Nurses Assistant. Revocation of Steven Dale Farmer's CNA Certificate (CNA021509). Investigation of Steven Dale Farmer by the Nevada Board of Nursing prior to revocation of Steven Dale Farmer's CNA certificate (CNA021509).

5. Michael Egstad, Manager I
Licensing and Certification Program
California Department of Public Health (CDPH)
ATCS - MS 3301
P.O. Box 997416
1615 Capitol Avenue
Sacramento, CA 95899-7416

Mr. Egstad is expected to testify regarding The certification process, background check and investigation performed by the California Board of Nursing prior to CNA certification. The Certification Process for a Certified Nurses Assistant. The Certification Process for Steven D. Farmer (Home Health Certificate Number 00199703, Nurse Assistant Certificate 00659300). Revocation of Steven Dale Farmer's CNA Certificate (Home Health Certificate Number 00199703, Nurse Assistant Certificate 00659300).

6. Collado Jeunnesse, RN
Kim Moon, RN
Abraham Deppa, CNA
Nikki Carter, CNA
Marina McDowell, CNA
Alana Schons, CNA
Nelina Arante, RN
Ronald Lodevico
Venise Abelard, CNA
Paula Mosley, RN
Pamela Flagg, CNA
Amber Vergara
Loretta Korinis
Michelle Lucas

The above identified nurses and certified Nurses' Assistants are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

7. Curtis E. Bazemore, M.D.
Cobinder S. Chopra, M.D.
James E. Mock, M.D.

The above identified physicians are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

. . .

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8. Employees, former employees, representatives of and former representatives of American Nursing Services, Inc.,
c/o LEWIS BRISBOIS BISGAARD & SMITH
6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118

The above described witnesses are expected to be identified during discovery and to testify in regards to all facts and circumstances surrounding Steven Farmer and the incident in questions including but not limited to investigations performed, background checks performed regarding Steven Farmer and the assignment of Steven Farmer to Centennial Hills Hospital.

9. Crystal Johnson
4650 North Rainbow Blvd., #2109
Las Vegas, NV 89108
714-580-5383

Ms. Johnson is expected to testify as to the facts and circumstances surrounding this matter. THIS INDIVIDUAL IS REPRESENTED BY COUNSEL.

10. Douglas Nichols
c/o John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

Mr. Nichols is expected to testify as to the facts and circumstances surrounding this matter.

11. Mary Jo Solon
Southwest Medical Associates

Ms. Solon is expected to testify as to the facts and circumstances surrounding this matter.

12. Matthew Ross
Rawson-Neal Psychiatric Hospital
1650 Community College Dr.
Las Vegas, NV 89146

Mr. Ross is expected to testify as to the facts and circumstances surrounding this matter.

13. Michelle Simmons
5336 Fireside Ranch Ave.
Las Vegas, NV 89131

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Ms. Simmons is expected to testify as to the facts and circumstances surrounding this matter.

14. Salvatore Sparacino
c/o John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

Mr. Sparacino is expected to testify as to the facts and circumstances surrounding this matter.

15. Nida Ibasco Canque, RN
7940 Quail Breast Lane
Las Vegas, NV 89131
(*This is last known address*)

Nurse Canque was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

16. Asuncion Layug, RN
8920 Rendon Street
Las Vegas, NV 89143
(*This is last known address*)

Nurse Layug was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

17. Alxenia Priscilla Brown-Gay, RN
5973 Spinnaker Point Avenue
Las Vegas, NV 89110
(*This is last known address*)

Nurse Brown-Gay was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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18. Emma Birrey Cortez, RN
1835 Pallid Swift Court
North Las Vegas, NV 89084
(*This is last known address*)

Nurse Cortez was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

19. Maria Asuncion Katri E. Dakudao, RN
5201 Meadows Lily Avenue
Las Vegas, NV 89108
(*This is last known address*)

Nurse Dakudao was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

20. Jenette Luoang Banas, RN
c/o Michael E. Prange, Esq., and
John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

Nurse Banas was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

21. Tiffiney Diane Bills, CNA
4230 Valley Regents Drive
North Las Vegas, NV 89032
(*This is last known address*)

Ms. Bills was a night-shift CNA during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

22. Deepa Abraham, LPN
4515 N. Las Vegas Blvd., Bldg. 78, #1003
Las Vegas, NV 89115
(*This is last known address*)

Ms. Abraham was a night-shift CNA during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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23. Cindy L. Parmelee
4516 Mohawk River Avenue
North Las Vegas, NV 89031
(*This is last known address*)

Ms. Parmelee was a night-shift RN during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

24. Marie Bayrotie Pierre, RN
8914 Bonneville Peak Court
Las Vegas, NV 89148
(*This is last known address*)

Nurse Pierre was a night-shift RN during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

25. Ana Maria P. Salcedo, RN
3832 Kettle Falls Avenue
North Las Vegas, NV 89085
(*This is last known address*)

Nurse Salcedo was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

26. Charlene Walker-Lexing,
3829 Moonshine Falls Avenue
North Las Vegas, NV 89085
(*This is last known address*)

Ms. Walker-Lexing was a LPN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

27. Virginia D. De Chavez
12338 Holly Jane Court
Orlando, FL 32824
(*This is last known address*)

De Chavez was an RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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28. Maria Amoy Hutchinson, CNA a.k.a. Maria Gayle
3937 Sierra Sun Street
North Las Vegas, NV 89032
(*This is last known address*)

On information and belief, Ms. Hutchinson was a night-shift CNA during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

29. Carol A. Mosley, RN a.k.a. Carol A. Broughton, RN
224 Algiers Drive
Venice, FL 34293
(*This is last known address*)

Nurse Mosley was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

30. Paula L. Mosley, RN
5880 Boulder Falls Street
Henderson, NV 89011
(*This is last known address*)

Nurse Mosley was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

31. Amy Dee Schuele, RN
5277 Drifting Sands Court
Las Vegas, NV 89149
(*This is last known address*)

Nurse Schuele was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

32. Victoria Stringer, RN
2208 Frostproof Street
Las Vegas, NV 89128
(*This is last known address*)

Nurse Stringer was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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33. Lorraine F. Wescott, RN
8888 Sparkling Creek Avenue
Las Vegas, NV 89143
(*This is last known address*)

Nurse Wescott was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

34. Ma Ramona Ticao Albunan
10 Forest Grove Drive, #21
Daly City, CA 94015
(*This is last known address*)

Nurse Albunan was a RN who sometimes worked as the evening Nurse Clinical Supervisor during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

35. Vickie A. Johnson, RN
9129 Amber Waves Street
Las Vegas, NV 89123
(*This is last known address*)

Nurse Johnson was a former Director of Nursing during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

36. Lilibeth Parejas, RN
37. Bernadine Rebogio, RN
38. Janice Collado, RN
39. Darlene Infante Carbonell, RN
40. Maria Dacquell, CNA
41. Rhona Lopez
42. Aman McPherson
43. Ailynne Belbis
44. Larena Abdul
45. Rebecca Cronister
c/o John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

The above-named individuals, Parejas – Cronister (#36-45), are current employees of Defendant, Valley Health System, LLC, and have been identified by Defendant as having worked with Defendant Steven Farmer and Christine Murray, RN on the same shift and/or floor

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in February and/or March of 2008, and may have knowledge and information about the alleged incident with the elderly patient to which Nurse Murray referred in her deposition testify.

46. **Carol Butler**
9079 William Cody Dr.
Evergreen, CO 80439

Ms. Butler is the former Chief Nursing Officer at Centennial Hills during the time of the events surrounding the instant litigation.

47. **Amy Blasing, formerly Amy Bochenek**
9521 San Mateo Blvd. NE
Albuquerque, NM 87113

Ms. Blasing is the former director of the Emergency Department at the time of the events surrounding the instant litigation.

48. **Darby Curly**
4021 Cherokee Rose Ave
N Las Vegas, NV 89031

Mr. Curly is a former charge nurse in the Emergency Department at the time of the events surrounding the instant litigation.

49. Defendant reserves the right to supplement its list of witnesses.

50. Defendant reserves the right to call any witnesses identified by any other parties in this litigation.

II.

DOCUMENTS

1. Jane Doe's medical records Bates Stamped CH00001 through CH00317 (Exhibit A on CD).

2. Centennial Hills Hospital Daily Security Logs Bates Numbered SDAL 000001 – 001421 (Exhibit B on CD).

3. Records produced by Nevada State Board of Nursing (Exhibit C on CD).

4. Centennial Hills Hospital Job Description for CNA Bates Numbered Unit Coord/C N A – 1 -8 (Exhibit D on attached CD).

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5. Daily Patient Assignment Sheets for the 6th Floor dated 05/13/2008 – 05/18/2008. Bates Numbered ASSIGN000001 – 000012
(Exhibit E)

6. Critical Care Services Assignment Sheets for the 5th Floor dated 05/13/2008 – 05/18/2008. Bates Numbered ASSIGN000013 – 000023
(Exhibit F)

7. Emergency Department Daily Assignments dated 05/13/2008 – 05/18/2008. Bates Numbered ASSGIN000024 – 000035
(Exhibit G)

8. Steven Dale Farmer Staffing Sheets.
Bates Numbered STAFF000001 – 000003
(Exhibit H)

9. Broadlane, Inc. Contract dated 08/12/2007
Bates Numbered BROADLANE000001 – 000050
(Exhibit I)

10. Privilege Log for Schedule of Steven Dale Farmer
(Exhibit J)

11. Schedule of Steven Dale Farmer at Centennial Hills Hospital from April 13, 2008 through June 7, 2008 bates labeled CHH00318 – CHH00321
(Exhibit K)

12. Privilege Log for Schedule of Steven Dale Farmer
(Exhibit L)

13. Schedule of Steven Dale Farmer at Centennial Hills Hospital on May 14, 2008 bates labeled CHH00322 – CHH00325
(Exhibit M)

14. Privilege Log for Centennial Hills Hospital HR File for Steven Dale Farmer
(Exhibit N)

15. Centennial Hills Hospital HR File for Steven Dale Farmer bates labeled CHH00326 – CHH00365
(Exhibit O)

16. Privilege Log for Agency Payroll Spreadsheets for February 2008, March 2008, April 2008 and May 2008
(Exhibit P)

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17. Agency Payroll Spreadsheets for February 2008, March 2008, April, 2008, and May 2008 bates labeled CHH00366 – CHH00372 (Exhibit Q)

18. Medical Records from Clark County Adult Mental Health bates labeled CCAMH00001 – CCAMH00022 (Exhibit R attached hereto via CD)

19. Medical Records from Gary Chopra Gobinder, MD bates labeled Chop00001 – Chop00038 (Exhibit S attached hereto via CD)

20. Medical Records from MountainView Hospital bates labeled MVH00001 – MVH00159 (Exhibit T attached hereto via CD)

21. Medical Records from Southern Hills Hospital bates labeled Shills00001 – Shills00241 (Exhibit U attached hereto via CD)

22. Medical Records from University Medical Center bates labeled UMC00001 – UMC00209 (Exhibit V attached hereto via CD)

23. Las Vegas Metropolitan Police Department's Criminal File of Steven Dale Farmer bates labeled LVMPD00001 – LVMPD0190 with Privilege Log. (Exhibit W attached hereto via CD)
CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER.

24. Las Vegas Metropolitan Police Department's Color Photos of Steven Dale Farmer bates labeled LVMPD0191 – LVMPD0196.
(Exhibit X attached hereto via CD)
CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER.

25. Las Vegas Metropolitan Police Department's Audio File of 911 Call
(Exhibit Y attached hereto via CD)
CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER.

26. Policy and Procedure – Domestic Violence (or Spousal Abuse)
(Exhibit Z attached hereto bates labeled P&P0001 - 0005)

27. Policy and Procedure – Abuse/Neglect of Neonates/Children
(Exhibit AA attached hereto bates labeled P&P0006 – 0010)

28. Policy and Procedure – Abuse/Neglect of the Elderly
(Exhibit BB attached hereto bates labeled P&P0011 – 0013)

29. Privilege Log regarding Patient Safety Committee Minutes and Documentation from June, July, August and September of 2008. (Exhibit CC)

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30. Defendant reserves the right to supplement this list of documents.

31. Defendant reserves the right to utilize any document utilized or identified by any other party to this litigation.

DATED this 16th day of June, 2015.

HALL PRANGLE & SCHOONVELD, LLC

By: */s/: John Bemis*
MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
JOHN F. BEMIS, ESQ.
Nevada Bar No. 9509
1160 North Town Center Drive, Suite 200
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Attorneys for Defendant
Valley Health System, LLC d/b/a
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 16th day of June, 2015, I served a true and correct copy of the foregoing **DEFENDANT VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER'S TENTH SUPPLEMENT TO IT'S INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES AND DOCUMENTS** via E-Service on Wiznet pursuant to mandatory NEFCR 4(b) to the following parties:

Robert E. Murdock, Esq.
MURDOCK & ASSOCIATES, CHTD.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

Eckley M. Keach, Esq.
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

S. Brent Vogel, Esq.
LEWIS BRISBOIS BISGAARD & SMITH
6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118
-and-
James P.C. Silvestri, Esq.
PYATT SILVESTRI
701 Bridger Ave., Suite 600
Las Vegas, NV 89101
Attorneys for Defendant
American Nursing Services, Inc.

Robert C. McBride, Esq.
CARROL, KELLY, TROTTER, FRANZEN, MCKENNA & PEABODY
8329 W. Sunset Road, Suite 260
Las Vegas, NV 89113
Attorneys for Defendant
Steven Dale Farmer Attorneys for Defendant
Steven Dale Farmer

An employee of HALL PRANGLE & SCHOONVELD, LLC

4841-6653-5205, v. 1

EXHIBIT "CC"

PRIVILEGE LOG
PATIENT SAFETY REPORTS

Document ID No.	Description of Document	Date of Document	Privilege Claimed
PTSAFETY JUNE0001 – 0005	Minutes from patient safety committee meeting	June 26, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JUNE0006	Patient Safety Committee Agenda	June 26, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JUNE0007-0009	Risk Alert Flyer regarding prevention of medication dosing errors	May, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JUNE0010	Flyer regarding documentation seminar	June, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JUNE 0011-39	2009 Joint Commission National Patient Safety Goals	2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JULY0001-0003	Minutes from patient safety committee meeting	July 18, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JULY 0004	Patient Safety Committee Agenda	July 18, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-

			439.890; Relevancy.
PTSAFETY JULY0005-0007	Patient safety committee email regarding wireless systems interacting with medical devices	July 8, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY JULY0008-0011	Joint Commission Sentinel Event Alert	July 9, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFTEY JULY0012-0016	Patient safety committee memorandum regarding appropriate vs. inappropriate physician behavior and the fair hearing plan	July 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0001	Patient safety committee sign in	August 15, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0002	Patient safety committee agenda	August 15, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0003-0007	Patient safety committee minutes	August 15, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0008	Core Risk Assessment Worksheet	Undated	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0009-0023	Risk management term survey presentation to	August, 2008	Review Committee privileges: NRS 49.117,

	patient safety committee		NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0024	Email from HR to risk manager regarding hostile work environment reporting	August 11, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0025-0026	Risk Solutions #7 "back to basics on medication safety"	July 24, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0027-0030	Recall letter regarding anesthesia machine	August, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY AUG0031-0065	Patient safety performance review	July 25, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY SEPT0001-0003	Patient safety minutes	September 19, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY SEPT0004	Patient safety committee agenda	September 19, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY SEPT0005-0013	Sentinel Event Report	September 17, 2008	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.

PTSAFETY SEPT0014-0016	Risk management medication issues year to date report	Undated	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.
PTSAFETY SEPT0017-0018	Risk management fall issues year to date report	Undated	Review Committee privileges: NRS 49.117, NRS 49.119, NRS 49.265, NRS 439.875, and NRS 439.800-439.890; Relevancy.

EXHIBIT "11"

EXHIBIT "11"

ELECTRONICALLY SERVED
08/28/2015 08:38:55 AM

SUPP
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Nevada Bar No. 8619
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Universal Health Services, Inc.

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DISTRICT COURT

CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

CASE NO. A595780
DEPT NO. II

DEFENDANT VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER'S SIXTEENTH SUPPLEMENT TO IT'S INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES AND DOCUMENTS

DEFENDANT VALLEY HEALTH SYSTEM, LLC, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER (hereafter Centennial Hills Hospital), by and through its attorneys of record, the law firm of HALL PRANGLE & SCHOONVELD, LLC, hereby submits its Sixteenth Supplement to its NRCP 16.1 List of Witnesses and Documents as follows (supplements provided in **bold**):

I.

WITNESSES

1. Jane Doe
c/o Robert E. Murdock, Esq.
MURDOCK & ASSOCIATES, CHTD.
521 South Third Street
Las Vegas, Nevada 89101

Jane Doe is expected to testify as to the facts and circumstances surrounding this matter and her alleged damages.

2. Jane Doe's two sons

Jane Doe's two sons are expected to testify as to the facts and circumstances surrounding this matter, their mother's alleged damages and conversations they had with their mother about the incident.

3. Steven Dale Farmer
c/o Robert C. McBride, Esq.
CARROLL, KELLY, TROTTER, FRANZEN, MCKENNA & PEABODY
701 North Green Valley Parkway, Suite 200
Henderson, Nevada 89074

Mr. Farmer is expected to testify as to the facts and circumstances surrounding this matter and the allegations made against him.

4. Debra Scott, MSN, RN, FRE
Executive Director
Nevada State Board of Nursing
5011 Meadowwood Mall Way, Suite 300
Reno, NV 89502-6567

Ms. Scott is expected to testify regarding The certification process, background check and investigation performed by the Nevada Board of Nursing prior to certification. The

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Certification Process for a Certified Nurses Assistant. Revocation of Steven Dale Farmer's CNA Certificate (CNA021509). Investigation of Steven Dale Farmer by the Nevada Board of Nursing prior to revocation of Steven Dale Farmer's CNA certificate (CNA021509).

5. Michael Egstad, Manager I
Licensing and Certification Program
California Department of Public Health (CDPH)
ATCS - MS 3301
P.O. Box 997416
1615 Capitol Avenue
Sacramento, CA 95899-7416

Mr. Egstad is expected to testify regarding The certification process, background check and investigation performed by the California Board of Nursing prior to CNA certification. The Certification Process for a Certified Nurses Assistant. The Certification Process for Steven D. Farmer (Home Health Certificate Number 00199703, Nurse Assistant Certificate 00659300). Revocation of Steven Dale Farmer's CNA Certificate (Home Health Certificate Number 00199703, Nurse Assistant Certificate 00659300).

6. Collado Jeunnesse, RN
Kim Moon, RN
Abraham Deppa, CNA
Nikki Carter, CNA
Marina McDowell, CNA
Alana Schons, CNA
Nelina Arante, RN
Ronald Lodevico
Venise Abelard, CNA
Paula Mosley, RN
Pamela Flagg, CNA
Amber Vergara
Loretta Korinis
Michelle Lucas

The above identified nurses and certified Nurses' Assistants are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

7. Curtis E. Bazemore, M.D.
Cobinder S. Chopra, M.D.
James E. Mock, M.D.

The above identified physicians are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

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8. Employees, former employees, representatives of and former representatives of American Nursing Services, Inc.,
c/o LEWIS BRISBOIS BISGAARD & SMITH
6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118

The above described witnesses are expected to be identified during discovery and to testify in regards to all facts and circumstances surrounding Steven Farmer and the incident in questions including but not limited to investigations performed, background checks performed regarding Steven Farmer and the assignment of Steven Farmer to Centennial Hills Hospital.

9. Crystal Johnson
4650 North Rainbow Blvd., #2109
Las Vegas, NV 89108
714-580-5383

Ms. Johnson is expected to testify as to the facts and circumstances surrounding this matter. THIS INDIVIDUAL IS REPRESENTED BY COUNSEL.

10. Douglas Nichols
c/o John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

Mr. Nichols is expected to testify as to the facts and circumstances surrounding this matter.

11. Mary Jo Solon
Southwest Medical Associates

Ms. Solon is expected to testify as to the facts and circumstances surrounding this matter.

12. Matthew Ross
Rawson-Neal Psychiatric Hospital
1650 Community College Dr.
Las Vegas, NV 89146

Mr. Ross is expected to testify as to the facts and circumstances surrounding this matter.

13. Michelle Simmons
5336 Fireside Ranch Ave.
Las Vegas, NV 89131

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Ms. Simmons is expected to testify as to the facts and circumstances surrounding this matter.

14. Salvatore Sparacino
c/o John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

Mr. Sparacino is expected to testify as to the facts and circumstances surrounding this matter.

15. Nida Ibasco Canque, RN
7940 Quail Breast Lane
Las Vegas, NV 89131
(*This is last known address*)

Nurse Canque was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

16. Asuncion Layug, RN
8920 Rendon Street
Las Vegas, NV 89143
(*This is last known address*)

Nurse Layug was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

17. Alxenia Priscilla Brown-Gay, RN
5973 Spinnaker Point Avenue
Las Vegas, NV 89110
(*This is last known address*)

Nurse Brown-Gay was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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18. Emma Birrey Cortez, RN
1835 Pallid Swift Court
North Las Vegas, NV 89084
(*This is last known address*)

Nurse Cortez was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

19. Maria Asuncion Katri E. Dakudao, RN
5201 Meadows Lily Avenue
Las Vegas, NV 89108
(*This is last known address*)

Nurse Dakudao was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

20. Jenette Luoang Banas, RN
c/o Michael E. Prangle, Esq., and
John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

Nurse Banas was a night-shift nurse during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

21. Tiffiney Diane Bills, CNA
4230 Valley Regents Drive
North Las Vegas, NV 89032
(*This is last known address*)

Ms. Bills was a night-shift CNA during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

22. Deepa Abraham, LPN
4515 N. Las Vegas Blvd., Bldg. 78, #1003
Las Vegas, NV 89115
(*This is last known address*)

Ms. Abraham was a night-shift CNA during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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23. Cindy L. Parmelee
4516 Mohawk River Avenue
North Las Vegas, NV 89031
(*This is last known address*)

Ms. Parmelee was a night-shift RN during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

24. Marie Bayrotie Pierre, RN
8914 Bonneville Peak Court
Las Vegas, NV 89148
(*This is last known address*)

Nurse Pierre was a night-shift RN during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

25. Ana Maria P. Salcedo, RN
3832 Kettle Falls Avenue
North Las Vegas, NV 89085
(*This is last known address*)

Nurse Salcedo was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

26. Charlene Walker-Lexing,
3829 Moonshine Falls Avenue
North Las Vegas, NV 89085
(*This is last known address*)

Ms. Walker-Lexing was a LPN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

27. Virginia D. De Chavez
12338 Holly Jane Court
Orlando, FL 32824
(*This is last known address*)

De Chavez was an RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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28. Maria Amoy Hutchinson, CNA a.k.a. Maria Gayle
3937 Sierra Sun Street
North Las Vegas, NV 89032
(*This is last known address*)

On information and belief, Ms. Hutchinson was a night-shift CNA during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

29. Carol A. Mosley, RN a.k.a. Carol A. Broughton, RN
224 Algiers Drive
Venice, FL 34293
(*This is last known address*)

Nurse Mosley was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

30. Paula L. Mosley, RN
5880 Boulder Falls Street
Henderson, NV 89011
(*This is last known address*)

Nurse Mosley was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

31. Amy Dee Schuele, RN
5277 Drifting Sands Court
Las Vegas, NV 89149
(*This is last known address*)

Nurse Schuele was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

32. Victoria Stringer, RN
2208 Frostproof Street
Las Vegas, NV 89128
(*This is last known address*)

Nurse Stringer was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

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33. Lorraine F. Wescott, RN
8888 Sparkling Creek Avenue
Las Vegas, NV 89143
(*This is last known address*)

Nurse Wescott was a RN who sometimes worked double shifts (from day to night) during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

34. Ma Ramona Ticao Albunan
10 Forest Grove Drive, #21
Daly City, CA 94015
(*This is last known address*)

Nurse Albunan was a RN who sometimes worked as the evening Nurse Clinical Supervisor during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

35. Vickie A. Johnson, RN
9129 Amber Waves Street
Las Vegas, NV 89123
(*This is last known address*)

Nurse Johnson was a former Director of Nursing during the time period of February through June 2008, and therefore, may have knowledge and information about the facts and circumstances surrounding this matter.

36. Lilibeth Parejas, RN
37. Bernadine Rebogio, RN
38. Janice Collado, RN
39. Darlene Infante Carbonell, RN
40. Maria Dacquell, CNA
41. Rhona Lopez
42. Aman McPherson
43. Ailynne Belbis
44. Larena Abdul
45. Rebecca Cronister
c/o John F. Bemis, Esq.
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144

The above-named individuals, Parejas – Cronister (#36-45), are current employees of Defendant, Valley Health System, LLC, and have been identified by Defendant as having worked with Defendant Steven Farmer and Christine Murray, RN on the same shift and/or floor

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in February and/or March of 2008, and may have knowledge and information about the alleged incident with the elderly patient to which Nurse Murray referred in her deposition testify.

46. Carol Butler
9079 William Cody Dr.
Evergreen, CO 80439

Ms. Butler is the former Chief Nursing Officer at Centennial Hills during the time of the events surrounding the instant litigation.

47. Amy Blasing, formerly Amy Bochenek
9521 San Mateo Blvd. NE
Albuquerque, NM 87113

Ms. Blasing is the former director of the Emergency Department at the time of the events surrounding the instant litigation.

48. Darby Curly
4021 Cherokee Rose Ave
N Las Vegas, NV 89031

Mr. Curly is a former charge nurse in the Emergency Department at the time of the events surrounding the instant litigation.

49. Christine Murray
9051 Echelon Point Drive, Building 1, Unit 1006
Las Vegas, NV 89149

50. Renato Sumera
9461 Canyon Hollow Ave.
Las Vegas, NV 89149

51. Margaret Wolfe
P.O. Box 751322
Las Vegas, NV 89136

52. Defendant reserves the right to supplement its list of witnesses.

53. Defendant reserves the right to call any witnesses identified by any other parties in this litigation.

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II.

DOCUMENTS

1. Jane Doe's medical records Bates Stamped CH00001 through CH00317 (Exhibit A on CD).

2. Centennial Hills Hospital Daily Security Logs Bates Numbered SDAL 000001 – 001421 (Exhibit B on CD).

3. Records produced by Nevada State Board of Nursing (Exhibit C on CD).

4. Centennial Hills Hospital Job Description for CNA Bates Numbered Unit Coord/C N A – 1 -8 (Exhibit D on attached CD).

5. Daily Patient Assignment Sheets for the 6th Floor dated 05/13/2008 – 05/18/2008. Bates Numbered ASSIGN000001 – 000012 (Exhibit E)

6. Critical Care Services Assignment Sheets for the 5th Floor dated 05/13/2008 – 05/18/2008. Bates Numbered ASSIGN000013 – 000023 (Exhibit F)

7. Emergency Department Daily Assignments dated 05/13/2008 – 05/18/2008. Bates Numbered ASSGIN000024 – 000035 (Exhibit G)

8. Steven Dale Farmer Staffing Sheets. Bates Numbered STAFF000001 – 000003 (Exhibit H)

9. Broadlane, Inc. Contract dated 08/12/2007 Bates Numbered BROADLANE000001 – 000050 (Exhibit I)

10. Privilege Log for Schedule of Steven Dale Farmer (Exhibit J)

11. Schedule of Steven Dale Farmer at Centennial Hills Hospital from April 13, 2008 through June 7, 2008 bates labeled CHH00318 – CHH00321 (Exhibit K)

12. Privilege Log for Schedule of Steven Dale Farmer (Exhibit L)

13. Schedule of Steven Dale Farmer at Centennial Hills Hospital on May 14, 2008 bates labeled CHH00322 – CHH00325
(Exhibit M)

14. Privilege Log for Centennial Hills Hospital HR File for Steven Dale Farmer
(Exhibit N)

15. Centennial Hills Hospital HR File for Steven Dale Farmer bates labeled CHH00326 – CHH00365
(Exhibit O)

16. Privilege Log for Agency Payroll Spreadsheets for February 2008, March 2008, April 2008 and May 2008
(Exhibit P)

17. Agency Payroll Spreadsheets for February 2008, March 2008, April, 2008, and May 2008 bates labeled CHH00366 – CHH00372
(Exhibit Q)

18. Medical Records from Clark County Adult Mental Health bates labeled CCAMH00001 – CCAMH00022 (Exhibit R attached hereto via CD)

19. Medical Records from Gary Chopra Gobinder, MD bates labeled Chop00001 – Chop00038 (Exhibit S attached hereto via CD)

20. Medical Records from MountainView Hospital bates labeled MVH00001 – MVH00159 (Exhibit T attached hereto via CD)

21. Medical Records from Southern Hills Hospital bates labeled Shills00001 – Shills00241 (Exhibit U attached hereto via CD)

22. Medical Records from University Medical Center bates labeled UMC00001 – UMC00209 (Exhibit V attached hereto via CD)

23. Las Vegas Metropolitan Police Department's Criminal File of Steven Dale Farmer bates labeled LVMPD00001 – LVMPD0190 with Privilege Log.
(Exhibit W attached hereto via CD)
CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER.

24. Las Vegas Metropolitan Police Department's Color Photos of Steven Dale Farmer bates labeled LVMPD0191 – LVMPD0196.
(Exhibit X attached hereto via CD)
CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER.

25. Las Vegas Metropolitan Police Department's Audio File of 911 Call
(Exhibit Y attached hereto via CD)

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26. Policy and Procedure – Domestic Violence (or Spousal Abuse)
(Exhibit Z attached hereto bates labeled P&P0001 - 0005)

27. Policy and Procedure – Abuse/Neglect of Neonates/Children
(Exhibit AA attached hereto bates labeled P&P0006 – 0010)

28. Policy and Procedure – Abuse/Neglect of the Elderly
(Exhibit BB attached hereto bates labeled P&P0011 – 0013)

29. Privilege Log regarding Patient Safety Committee Minutes and Documentation from June, July, August and September of 2008. (Exhibit CC)

30. Centennial Hills Hospital Managerial Hierarchy Chart
(Exhibit DD attached hereto and bates labeled CHH00373)

31. Job Description – RN I
(Exhibit EE attached hereto and bates labeled CHH00374 – 00380)

32. Job Description – RN III
(Exhibit FF attached hereto and bates labeled CHH00381 – 00387)

33. Job Description – Unit Coordinator/ED Tech
(Exhibit GG attached hereto and bates labeled CHH00388 – 00395)

34. Policy and Procedure – Chain of Command
(Exhibit HH attached hereto and bates labeled P&P0014-0017)

35. Privilege Log Regarding Patient Relations Log from February, March, April and May, 2008 (Exhibit II attached hereto)

36. Patient Relations Log
(Exhibit JJ attached hereto and bates labeled PtRelations0001-0009)

37. Privilege Log Regarding Risk Events from February, March, April and May, 2008 (Exhibit KK attached hereto)

38. Risk Events
(Exhibit LL attached hereto and bates labeled RiskEvents0001-0026)

39. Privilege Log Regarding Grievance Log (Exhibit MM attached hereto)

40. Grievance Log
(Exhibit NN attached hereto and bates labeled Grievance0001-0018)

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41. Bureau of Health Care Quality and Compliance for Centennial Hills Hospital Medical Center (Exhibit OO attached hereto and bates Labeled BHCQ0001-0038)

42. Privilege Log Regarding Incident Report (Exhibit PP attached hereto)

43. Centennial Hills Hospital Incident Report (Exhibit QQ attached hereto and bates labeled CHH Incident Report00001-00005)

44. 2009 Patient Safety Fair Documents (Exhibit RR attached hereto and bates labeled 09PTSFTY00001-00002)

45. Service Excellence Commitment Agreement (Exhibit SS attached hereto and bates labeled Service00001-00006)

46. Policy and Procedure – Event Reporting System (Midas RDE) (Exhibit TT attached hereto and bates labeled P&P00018-00022)

47. Valley Health System Supplemental Staffing Orientation (Exhibit UU attached hereto and bates labeled CHH00369-00414)

48. Defendant reserves the right to supplement this list of documents.

49. Defendant reserves the right to utilize any document utilized or identified by any other party to this litigation.

DATED this 28th day of August, 2015.

HALL PRANGLE & SCHOONVELD, LLC

By: */s/: John Bemis*

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Nevada Bar No. 8619
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Valley Health System, LLC d/b/a
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 28th day of August, 2015, I served a true and correct copy of the foregoing **DEFENDANT VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER'S SIXTEENTH SUPPLEMENT TO IT'S INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES AND DOCUMENTS** via E-Service on Wiznet pursuant to mandatory NEFCR 4(b) to the following parties:

Robert E. Murdock, Esq.
Eckley M. Keach, Esq.
KEACH MURDOCK, LTD.
521 South Third Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

Robert C. McBride, Esq.
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/s/: Diana Cox
An employee of HALL PRANGLE & SCHOONVELD, LLC

4811-7854-3399, v. 1

EXHIBIT "12"

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, ET AL., Plaintiffs, vs. VALLEY HEALTH SYSTEM LLC, ET AL., Defendants.	CASE NO. A595780 DEPT. II

BEFORE THE HONORABLE BONNIE A. BULLA, DISCOVERY COMMISSIONER

WEDNESDAY, JUNE 3, 2015

RECORDER'S TRANSCRIPT OF PROCEEDINGS
PLAINTIFFS' MOTION FOR NRCP 37 SANCTIONS AGAINST VALLEY HEALTH SYSTEM LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES

RECORDED BY: FRANCESCA HAAK, COURT RECORDER

DISCOVERY COMMISSIONER: Do you know if these individuals had any input into that meeting?

MR. BEMIS: I do not know that.

DISCOVERY COMMISSIONER: Do you have a way of finding out?

MR. BEMIS: I do.

DISCOVERY COMMISSIONER: See, here's the problem. Mr. Murdock, I know the Rule 37 solution that you want, but, quite candidly, I think it's probably cleaner just to strike an answer, but in order to do that, you'd have to have an evidentiary hearing to determine whether or not it's intentional. And, quite candidly, that's a hearing I'm going to defer to the District Court Judge because of the facts and circumstances of the case since it may, in fact, require almost a mini trial, and I don't want to be in the position of doing that and then having the Judge have to redo it.

MR. MURDOCK: I understand.

DISCOVERY COMMISSIONER: However, having said that, I am dismayed when I look back at the 16.1 disclosure and I see the identity of multiple nurses, and these individuals are not listed; why not?

MR. BEMIS: I can't give you a good answer, Your Honor. The only answer I can give you is at that time not all the identities were known.

DISCOVERY COMMISSIONER: Okay. Even though they talked to the charge nurses, even though you indicated to me that Ms. Murray's statement was different than what she told you all, which I'm assuming was prior to 2009?

MR. BEMIS: That is correct.

DISCOVERY COMMISSIONER: Unless you can find some information for me that suggests that the identity of Ms. Murray, Ms. Wolfe, and Mr. Sumera were not known at the time that you made your initial disclosures, there is a significant problem here.

EXHIBIT "13"

EXHIBIT "13"

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Robert E. Murdock

May 15, 2015

John F. Bemis, Esq.
Hall Prangle & Schoonveld, LLC
1160 N. Town Center Drive, #200
Las Vegas, Nevada 89144

Re: Jane Doe v. Valley Health System, LLC *et al.*
Case No.: 09-A-595780-C

Dear Mr. Bemis,

As you are aware, Rule 3.3 of the Nevada Rules of Professional Conduct states "(a) A lawyer shall not knowingly: (1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."

In the Writ to the Nevada Supreme Court, you state that Centennial Hills "urged that there were no known prior acts or any other circumstances that could have put Centennial Hills on notice that Farmer would sexually assault Ms. Doe." While it is certainly true that your statement is correct in what you advised the District Court, at least at the time of filing your Writ, you were well aware of Nurse Wolfe's statement to the LVMPD and what Charge Nurse Ray Sumera told her weeks before the sexual assault upon Jane Doe (among the others). Though I am giving you the benefit of the doubt, *at this point*, that you were unaware of same in October of 2014 and until the PD's Office produced the discovery, when you filed the Writ you had Ms. Wolfe's statement, and, presumably, had even contacted her (and "offered" your services).

Hence, when you filed the Writ, you were well aware that Nurse Wolfe told the LVMPD in May of 2008 that:

> A: **Um, the same nurse, Ray Sumera, had told me um, another time that he—to watch him around my female patients. That he was concerned because he was very overly attentive with female patients** and very anxious to connect them to the monitors and disconnect them from the monitors which would require him to reach into their clothing.
>
> ...
>
> A: **He was just very suspicious in his activities. Um, such as going into rooms with doors closed with female patients when he was not asked to.**

And, after you filed the writ you were aware that Nurse Wolfe testified (under oath) that:

> Q: ... So at some point several weeks prior to the Denise Hanna situation, Mr. Sumera came to you and told you to watch Mr. Farmer around your female patients, correct?
>
> A: Correct.
>
> Q: And he told you that he was concerned because Mr. Farmer was overly attentive with female patients, correct?
>
> A: Yes.
>
> Q: And he told you that Mr. Farmer was very anxious to connect them to the monitors, correct?
>
> A: Yes.
>
> Q: And when you say "connect them to the monitors," was that the heart monitors that we talked about before?
>
> A: Yes.
>
> Q: The 5 leads?
>
> A: Correct.
>
> Q: And also disconnect them from the monitors?
>
> A: Yes.
>
> Q: And that's the same heart monitors, the 5 leads, correct?
>
> A: Correct.
>
> Q: And of course that would require him to reach into their clothing, correct?
>
> A: Yes.

///

Accordingly, you are well aware that your "urge" to the District Court, *repeated to the Supreme Court*, was **false**. You have a duty to immediately correct such a false statement. Demand is hereby made that you do so by Monday, May 18, 2015. **Hence, you must immediately file a corrective Writ to the Supreme Court and, you must inform the District Court that your earlier "urge" was false.**

Failing that, we will take any and all appropriate measures to advise the Court(s) of the truth and of the falsity of your statements. We will also seek severe sanctions for your conduct.

Very truly yours,

MURDOCK & ASSOCIATES, CHTD.

Robert E. Murdock, Esq.

REM/tnd

EXHIBIT "14"

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780-C DEPT. NO. II **MOTION FOR SUMMARY JUDGMENT AGAINST VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC.** **DATE:** **TIME:**

COMES NOW Plaintiff Estate of Jane Doe (hereinafter "Plaintiff"), by and through its Special Administrator, Misty Petersen, by and through its attorneys of record, Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., and hereby submits its Motion for Summary Judgment against Valley Health System LLC, d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc. (hereinafter "UHS"), as follows.

POINTS AND AUTHORITIES

In the fall winter of 2014, the UHS Defendants (Centennial, Valley Health Systems, and UHS collectively "UHS") came to this Court and argued that the actions of Steven Farmer (hereinafter "Farmer") weren't remotely foreseeable as Farmer had done nothing at all to arouse suspicion. What was fascinating at the time was that the UHS Defendants simply told this Court the aforementioned without any Affidavits whatsoever. The UHS Defendants specifically told this Court, *without an Affidavit*, that Farmer's conduct was not foreseeable in that "there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial Hills on notice that Mr. Farmer would assault a patient." Centennial Opp. MSJ at 9. Now, we know why there was no Affidavit--**IT WAS FALSE.** Incredibly, the UHS Defendants recently reiterated this fiction before the Nevada Supreme Court. See Writ of Mandamus at 14-15.[1] Plaintiff recently came into the possession of Nurse Margaret Wolfe's (hereinafter "Wolfe") 5/30/08 statement to the LVMPD. There is no way the UHS Defendants did not have this document---as the UHS Defendants' counsel was a consultant to the criminal attorneys of Farmer and it would be hard to fathom that a criminal defendant's consultant would not have all of the statements.

While the conduct of the UHS Defendants is seriously an issue for this Court's review in that Mr. Bemis has violated Nev. R. Pro. Resp. 3.3 (and this Court should *sua sponte* take action regarding same), the issue herein is that there is no genuine issue of material fact regarding foreseeability. Summary judgment on the Affirmative Defense of NRS 41.745 must be granted and the UHS Defendants must be vicariously liable for the actions of Farmer. The UHS Defendants were well on notice of Farmer's actions.

///

///

[1] Then, in an Amended Writ, they did so again. See Amended Writ at 13.

EXHIBIT "15"

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CLERK OF THE COURT

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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780-C DEPT. NO. II **EVIDENTIARY HEARING BRIEF IN SUPPORT OF THE STRIKING OF DEFENDANT CENTENNIAL HILLS HOSPITAL'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES** DATE: TIME:

I. INTRODUCTION

This case has been going on since 2009. It has had numerous twists and turns, stays and starts. Between discovery and pleadings, this case has kept all counsel busy. But, the Motion for Sanctions, which was heard by the Discovery Commissioner, and resulted in $18,000 worth of sanctions and an evidentiary hearing to determine whether Centennial's answer should be struck, is different. Centennial has blatantly and flagrantly ignored the rules in this case in an effort to prevent Plaintiff from discovering information that goes to the heart of foreseeability. Their

and were certainly known in 2009, at the initial 16.1 and there was no identification. There was no Privilege Log or any indication that there was something "out there" that, as Centennial concedes could be relevant to Plaintiff's case."

Now in terms of misleading look at the timing again. Rule 3.3 of the Nevada Rules of Professional Conduct states "(a) A lawyer shall not knowingly: (1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer." Giving Centennial every benefit of the doubt, **at the very least, as of May of 2013, Centennial had the Wolfe and Murray LVMPD Statements, knew that Nurse Murray discussed a sitter situation with Farmer and Nurse Wolfe discussed what Nurse Sumera told her, and they knew it "could be relevant" to Plaintiff's case.** Still, Centennial and its counsel told this Court in **October of 2014**, a minimum of eighteen (18) months after admitting they had the criminal file with the names and statements, that "In the instant situation, there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial on notice that Mr. Farmer would assault a patient." CH. Opp. to MSJ at 9. **That was simply untrue**. Then, to make matters worse, Centennial filed a Writ in **May 2015** with the Nevada Supreme Court and made the same statement: Centennial "urged that there were no known prior acts or any other circumstances that could have put Centennial on notice that Farmer would sexually assault Ms. Doe." Writ at 14-15. **That was simply untrue**.

Centennial concedes that it knew the witnesses and documents could be relevant to Plaintiff's case. So, telling this Court and the Nevada Supreme Court that Centennial had no knowledge about any issues with Farmer, was misleading. And, intentionally so.

The impact on this case is memory loss. Centennial doesn't remember much. See Butler at 75-76, Blasing at 32-35. Centennial cannot even determine when the "sitter" incident occurred with Nurse Murray. (Attorney Ken Webster will confirm this). And, as this Court knows, Nurse

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DISTRICT COURT
CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. A595780 DEPT NO. II **DEFENDANTS VALLEY HEALTH SYSTEM LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC.'S BRIEF IN SUPPORT OF THEIR POSITION RE: EVIDENTIARY HEARING** **HEARING DATE: August 28, 2015** **HEARING TIME: 9:00 a.m.**

COME NOW, Defendants, VALLEY HEALTH SYSTEMS, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UHS OF DELAWARE, INC., (hereinafter "Hospital Defendants") by and through their attorneys, HALL PRANGLE & SCHOONVELD, LLC, and hereby file their Brief In Support of Their Position Concerning the Court's Evidentiary

C. The Hospital Defendants Have Not Misled The Court.

While the Discovery Commissioner was not specific on this point, Plaintiff has previously asserted that given the knowledge of Nurses Wolfe, Sumera and Murray and the content of the police file in May of 2013, the Hospital Defendants should not thereafter have argued in their court papers that Farmer's criminal sexual assaults on Ms. Doe were not reasonably foreseeable to them. The unfounded nature of this assertion is reflected in this Court's July 7, 2015 Order (**Exhibit N**), denying Plaintiff's Motion for Summary Judgment on the ground that considering the deposition testimony of these three nurses, their interactions with Farmer, and the content of the police file, a reasonable juror could conclude that Farmer's criminal sexual assaults on Ms. Doe were not reasonably foreseeable to the Hospital Defendants under the facts and circumstances of this case.

III.

CONCLUSION

Based on the foregoing, Defendants Centennial Hills Hospital and UHS respectfully request this Honorable Court decide against issuing case-terminating sanctions.

DATED this 26th day of August, 2015.

HALL PRANGLE & SCHOONVELD, LLC

/s/: John Bemis

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EXHIBIT "17"

EXHIBIT "17"

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. A-09-595780-C DEPT. NO. II **NOTICE OF ASSOCIATION OF COUNSEL**

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///

PLEASE TAKE NOTICE that Dennis L. Kennedy, Joseph A. Liebman, Joshua P. Gilmore, and Mark D. Hesiak of the law firm Bailey❖Kennedy, are associating with Michael E. Prangle, Esq. and John F. Bemis, of the law firm Hall Prangle and Schoonveld, LLC as counsel of record for Defendant Valley Health System LLC, dba Centennial Hills Hospital Medical Center and Universal Health Services, Inc.

Request is made that Dennis L. Kennedy, Joseph A. Liebman, Joshua P. Gilmore, and Mark D. Hesiak, of the law firm Bailey❖Kennedy, be included on the service or mailing list for all pleadings, correspondence, and other papers filed or served.

DATED this 16th day of November, 2015.

BAILEY❖KENNEDY

By: _____

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

Attorneys Appearing for Defendants Centennial Hills Hospital and Universal Health Services, Inc.

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY❖KENNEDY and that on the 16th day of November, 2015, service of the foregoing **NOTICE OF ASSOCIATION OF COUNSEL** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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Eckley M. Keach, Esq. ECKLEY M. KEACH, CHTD. 521 South Third Street Las Vegas, Nevada 89101	*Attorneys for Plaintiff*
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Karen Rodman

Karen Rodman, an Employee of
BAILEY❖KENNEDY

EXHIBIT "18"

EXHIBIT "18"

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CLERK OF THE COURT

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Centennial Hills Hospital and
Universal Health Services, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

CASE NO. A595780
DEPT NO. II

DEFENDANTS CENTENNIAL HILLS HOSPITAL AND UNIVERSAL HEALTH SERVICES, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT RE: LIABILITY AND JOINDER TO DEFENDANT STEVEN DALE FARMER'S LIMITED OPPOSITION

COMES NOW, Defendants, CENTENNIAL HILLS HOSPITAL and UNIVERSAL HEALTH SERVICES, INC., by and through their attorneys of record, the law firm of HALL,

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The Nevada Supreme Court has quoted, with approval, the California Court of Appeal in explaining foreseeability in the context of respondeat superior as follows:

> Foreseeability, as a test for respondeat superior merely means that in the context of the particular enterprise an employee's conduct is not so unusual or startling that it would seem unfair to include the loss resulting from it among other costs of the employer's business. In other words, where the question is one of vicarious liability, the inquiry should be whether the risk was one 'that may fairly be regarded as typical of or broadly incidental' to the enterprise undertaken by the employer.
> Under the modern rationale for respondeat superior, the test for determining whether an employer is vicariously liable for the tortuous conduct of his employee is closely related to the test applied in workers' compensation cases for determining whether an injury arose out of or in the course of employment. *See Wood*, 121 Nev. at 740 (citing *Rodgers v. Kemper Construction Co.*, 50 Cal.App.3d 608, 124 Cal.Rptr. 143, 148-49 (1975)).

In *Wood*, the Nevada Supreme Court concluded that the because the assailant had no prior criminal record in the United States or Mexico, and because there was no prior complaints against the assailant for sexual harassment, that it was not reasonably foreseeable that the assailant would sexually assault a Safeway employee. 121 Nev. at 740. In *Vaughan*, the Nevada Supreme Court held that based on a lack of a criminal record and no worker complaints of violent assault, Harrah's could not be held liable for its employee assaulting a patron in the bathroom. *Exhibit C*, 2008 WL 6124455, 2.

In the instant situation, there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial Hills on notice that Mr. Farmer would assault a patient. Prior to the alleged incident, Steven Farmer was a certified nurses' assistant in California and Nevada. Mr. Farmer went through a background check to receive his certification in both states. Centennial Hills was provided with a criminal background check, proof of negative drug test and employment background information prior to booking shifts with Mr. Farmer. Thereafter, Centennial Hills performed a primary source verification with the Nevada State Board of Nursing prior to hiring Mr. Farmer. Further, in reviewing Mr. Farmer's employment file at

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EXHIBIT "19"

EXHIBIT "19"

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC, a Delaware limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER and UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation,

Petitioners,

vs.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, and THE HONORABLE RICHARD F. SCOTTI,

Respondents,

and

AMERICAN NURSING SERVICES, INC., a Louisiana corporation; ESTATE OF JANE DOE, by and through its Special Administrator, Misty Peterson; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Real Parties in Interest.

Supreme Court Case No.: ____

District Court No. 09-A-595780-C

Dept. II

Electronically Filed
Apr 29 2015 08:40 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

PETITIONERS VALLEY HEALTH SYSTEM,LLC, d/b/a CENTENNIAL HILLS MEDICAL CENTER'S AND UNIVERSAL HEALTH SERVICES, INC.'S PETITION FOR WRIT OF MANDAMUS AND/OR WRIT OF PROHIBITION

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Attorneys for Petitioners Valley Health System, LLC, d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.

Docket 67886 Document 2015-12947

against Jane Doe, which included sexual assault, open or gross lewdness, and indecent exposure. (WA0122-24, Vol. I).

C. Plaintiff Moves For Summary Judgment On Liability

On September 29, 2014, Plaintiff moved for summary judgment on the issue of liability against all defendants, including ANS, Centennial Hills and UHS. (WA0053-124, Vol. I). Plaintiff urged that each of these corporate entities was vicariously liable as a matter of law for Farmer's criminal assaults on Ms. Doe. (WA0062-64, Vol. I). However, Plaintiff's initial motion did not cite to NRS 41.745, or even argue the issue of foreseeability as to any of the corporate defendants. (WA0053-124, Vol. I).

Centennial Hills and UHS opposed Plaintiff's summary judgment motion, citing NRS 41.745 and urging that Plaintiff could not recover even at a jury trial, much less as a matter of law, as Centennial Hills and UHS urged that in criminally assaulting Ms. Doe, Farmer was engaged in a truly independent venture; that he was not acting within the course and scope of any assigned task or duties as nurse assistant; and that his criminal assaults of Ms. Doe were not reasonably foreseeable to Centennial Hills. (WA0129-38, Vol. I). Specifically, Centennial Hills and UHS relied upon this Court's decision in *Wood v. Safeway, Inc.*, 121 Nev. 724, 737, 121 P.3d 1026, 1035 (2005), and urged that there were no known prior acts or any

other circumstances that could have put Centennial Hills on notice that Farmer would sexually assault Ms. Doe. (WA0132-35, Vol. I). ANS provided Centennial Hills with documentation showing that Farmer was certified as a CNA in both California and Nevada, that he had passed a criminal background test in both states, as well as a negative drug test. (WA0133-34, WA0170-72, WA0183; Vol. I). ANS also provided Centennial Hills with Farmer's prior employment information, which contained no reports of improper conduct or bad character. (WA0133-34, Vol. I).

In her Reply, Plaintiff urged that she was required to prove only the "general foreseeability" standard discussed in *State Dep't of Hum. Res. v. Jimenez*, 113 Nev. 735, 941 P.2d 969 (1997), a Nevada Supreme Court opinion that was subsequently withdrawn. (WA0521, Vol. III). Although Plaintiff acknowledged that the Nevada legislature intended to overrule *Jimenez* when it drafted NRS 41.745 (WA0519, fn. 9; Vol. III); nevertheless, she urged that it was sufficient for her to show that Farmer's sexual assaults were "not so unusual or startling," given that CNAs and other hospital personnel often have physical contact with a patient. (WA0521-24, Vol. III). Plaintiff even urged that foreseeability was established as to ANS by the fact that ANS had purchased liability insurance to cover sexual assaults. (WA0523, Vol. III). Plaintiff also provided "expert" affidavits asserting the

CASE NO.

IN THE
SUPREME COURT OF NEVADA

HALL PRANGLE & SCHOONVELD, LLC, MICHAEL PRANGLE, ESQ., KENNETH M. WEBSTER, ESQ. AND JOHN F. BEMIS, ESQ.

Petitioners,

vs.

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

Respondent,

-and-

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE,

Real Party in Interest

District Court Case No.: A-09-595780-C

PETITIONERS' APPENDIX TO
PETITION FOR EXTRAORDINARY WRIT RELIEF
VOLUME IX of XVII

Docket 71045 Document 2016-25544

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APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIA HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

CASE NO. 09-A-595780-C
DEPT. NO. II

PLAINTIFF'S OPPOSITION TO DEFENDANT'S VALLEY HEALTH SYSTEM, LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC. MOTION FOR RECONSIDERATION OF COURT'S NOVEMBER 4, 2015 ORDER

Date: December 7, 2015
Time: 9 a.m.

COMES NOW Plaintiff Estate of Jane Doe, by and through its Special Administrator, Misty Petersen (hereinafter "Plaintiff"), by and through its attorneys of record, Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., and hereby submits its Opposition to Defendant's Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.

(hereafter "Valley Health") Motion for Reconsideration of Court's November 4, 2015 Order as follows.

This Opposition is made and based upon the papers and pleadings on file herein, the attached Points and Authorities, and any oral argument as may be had by this Court.

DATED this 2nd day of December, 2015.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
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Attorneys for Plaintiff

POINTS AND AUTHORITIES

The point of a Motion to reconsider is to advise the Court of something it missed or did wrong. It is not a place for a party to create new arguments based upon the same evidence or reargue all that went before. Valley Health wants to re-litigate briefs, arguments in front of the Discovery Commissioner, facts, the briefs before the Evidentiary Hearing, and the Evidentiary Hearing itself. While the Motion adds a new affidavit of a Metro Officer (who cannot definitively say anything about the evidence and is hearsay anyway), and a new affidavit of the Risk Manager at Centennial (Ms. Bell--who tells us that Ms. Butler and Ms. Bochenek were still employed at Centennial at the time of the filing of Plaintiff's lawsuit and for the 16.1—despite what Mr. Prangle told this Court time and again at the evidentiary hearing), no other "new" evidence is produced. And, regarding the Metro Officer and Ms. Bell, Valley Health forgets to advise why this couldn't have been produced at the evidentiary hearing (where they would have been subject to cross examination). That aside, in terms of alleged error, Valley Health faults this Court for using the

"collective knowledge doctrine" which this Court did not use, and, faults the Court for a due process issue about notice that ignores that Valley Health and Hall Prangle were absolutely on notice. Incredibly, Valley Health faults this Court for "creating" a conflict of interest which Hall Prangle (and presumably Valley Health) were well aware of at the time of the evidentiary hearing. Finally, Valley Health wants to reargue the prejudice issue but does not even bother to allege any new evidence or error. Instead, in violation of the rules, Valley Health just wants to reargue.

Before its ruling, this Court had before it witnesses, depositions, arguments of counsel, briefs, and time. The parties submitted the evidence at the hearing without reservation.[1] This Court wrote a painstakingly comprehensive Order that Valley Health wants to pick apart as a Monday Morning Quarterback as if the evidentiary hearing was simply a meaningless prelude to the Motion for Reconsideration. The problem for Valley Health is that there is a record. And that record is its Achilles heel.

1. Law Governing This Motion

The primary purpose of a petition for reconsideration is to inform the Court that it has overlooked an important argument or fact, or misread or misunderstood a case or fact in the record. See **Moore vs. City of Las Vegas**, 92 Nev. 402, 551 P.2d 244 (1976). "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." Id. at 405. However, a motion to reconsider is not a chance to simply reargue. See, e.g., **Barron v. Cate**, 2013 U.S. Dist. LEXIS 178485 (E.D. Cal. Dec. 18, 2013)("A motion to reconsider is not a vehicle to permit a party to reargue points previously presented, or to present contentions that might have been raised prior to the challenged

[1] At the conclusion of the Plaintiff's case in chief, Mr. Prangle advised that Valley Health had decided to "stand on our briefs [and] the openings and closings." Tr. At 187. Now, apparently, Mr. Prangle wants to change that. This is similar to a roulette player betting on black and when the ball lands in red, the player says that he meant to bet on red. Mr. Prangle and Valley Health made their bed with their briefs and arguments. At this late date after the Order, they should not be allowed a "redo."

order."). Absent highly unusual circumstances, a district court should not grant a motion for reconsideration unless the court "(1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." **School Dist. No. 1J. Mutlinomah County v. ACandS, Inc.**, 5 F.3d 1255, 1263 (9th Cir. 1993)(discussing FRCP 59(e) motions); see also **Allstate Ins. v. Herron**, 634 F.3d 1101, 1111 (9th Cir. 2011). Furthermore, although the court enjoys discretion in granting or denying a motion under this rule, "amending a judgment after its entry remains an extraordinary remedy which should be used sparingly." **Herron**, 634 F.3d at 1111 (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1255 n.1 (9th Cir. 1999)) (internal quotations omitted).

Motions for reconsideration are not "the proper vehicles for rehashing old arguments," **Resolution Trust Corp. v. Holmes,** 846 F.2 Supp. 1310, 1316 (S.D. Tex. 1994) (footnotes omitted), and are not "intended to give an unhappy litigant one additional chance to sway the judge." **Durkin v. Taylor**, 444 F. Supp.4 879, 889 (E.D. Va. 1977). A motion for reconsideration "is not a vehicle to reargue" previously litigated issues "or to present evidence which should have been raised before." **United States v. Westlands Water District**, 134 F.Supp. 2d 1111, 1131 (E.D. Cal. 2001).

The sanctions issue is resolved under **Bahena v. Goodyear Tire & Rubber Co.**, 235 P.3d 592 (Nev. 2010) and **Young v. Johnny Ribeiro Bldg.**, 106 Nev. 88 (Nev. 1990). The Court went through the so-called "Johnny Ribeiro factors" in a detailed fashion and, after weighing the evidence and the credibility of the witnesses, concluded that administrators at Valley Health and their counsel intentionally concealed witnesses and evidence prejudicing Plaintiff to the extent that the only proper sanction was the striking of Valley Health's answer.

Now, after it received the Order, Valley Health and Hall Prangle want to add inadmissible evidence, change their arguments, complain about the process, and reargue the evidence. However,

instead of changing the Court's Order, the Motion makes it even more clear that the Court's Order was well within its discretion[2] and, Hall Prangle has mislead the Court again. This Court should take the opportunity to not only deny the Motion, but to very seriously consider additional sanctions for the pattern of misleading statements.

2. Facts and Factual Analysis

Pages 5-12 of the Motion are an attempt at "recapping" the events that brought us to where we are. Of course, it does so in the light most favorable to the movants as opposed to the wealth of facts that place Valley Health and its counsel in a poor light. This Court has made factual findings though and seemingly, despite the 7 pages of "facts" in the Motion, Valley does not challenge the factual findings. Accordingly, the Court's "Findings of Fact" set forth in the Order at 5-21 govern the analysis.

There is no point in rearguing the facts of what occurred. Valley Health does not get to reargue facts in a Motion for Reconsideration, especially when there was a complete and detailed evidentiary hearing and the time for arguing the facts (and the law) was at the evidentiary hearing. Hence, the 7 pages of fact argument is improper.

a. The "New" Evidence

Valley seeks to introduce a "new" piece of evidence in the matter, an Affidavit of Officer Saunders. However, Valley Health does not explain why Officer Saunders testimony could not have been produced before, why it wasn't produced at the evidentiary hearing, or why Officer Saunders wasn't produced at the evidentiary hearing since the testimony about the witness statements (which Officer Saunders Affidavit discusses) was well known by all parties before the evidentiary hearing. Mr. Prangle told this Court that he would rely on the Briefs and argument at the hearing. Tr. At 187.

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[2] Sanctions issues are within the discretion of the District Court. See **Bahena v. Goodyear Tire & Rubber Co.**, 126 Nev., 235 P.3d 592, 598-99 (2010)

Now, after some thought, he has decided that additional evidence is necessary. But, this is troubling for more reasons than the obvious hearsay nature of the affidavit.

Nurse Murray's testimony about the police statement was well known to all of the parties in this matter since her deposition was taken in January 2015[3]. Valley Health had from then until (and through) the Evidentiary Hearing to attempt to rebut her testimony. Valley Health could have taken his deposition. Or, Valley Health could have subpoenaed Officer Saunders for the Evidentiary Hearing. If there was a problem, they could have asked for a continuance to obtain his testimony. There was nothing to stop Valley Health from presenting Officer Saunders at the Hearing. At the hearing, Mr. Prangle never advised the parties or this Court that he wished to call another witness. Instead, they waited until after the Order to realize that they might have needed Officer Saunders testimony. But, doing so now, after the Order comes out smacks of bad faith. And, of course, it allows Valley Health the ability to produce testimony in an un-cross-examined form. This is inappropriate. The parties agreed to use depositions at the evidentiary hearing. See Tr. At 66-67. However, there was never any agreement to use affidavits or declarations. So, attempting to add Officer Saunders testimony via Declaration at this point in time should not be countenanced by the Court and is inadmissible hearsay. NRS 51.035; NRS 51.065. His Affidavit should be struck.

Additionally, this Court well knows that "new" evidence is not "new" if it could have been "found" during the relevant time frame. Evidence qualifies as newly discovered if "it could not have been discovered and produced for trial even with the exercise of reasonable diligence." **Servin v. State**, 117 Nev. 775, 791 (Nev. 2001). Officer Saunders was identified by the parties and has been known about for years. See Plaintiff's 17th 16.1 Supplement 1/29/14. As stated above, Nurse

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[3] The deposition was originally set for December 9, 2014 after being noticed on 11/17/14. See Exhibit 4. However, the day before the deposition, Mr. Bemis advised Mr. Murdock that she was not employed by Centennial and Centennial could not find her. See Exhibit 5. Ms. Bell's affidavit states that she left in March 2009. For some reason, Mr. Bemis decided not to tell Plaintiff that and waited until the day before her deposition to advise that she could not be located.

Murray's testimony about the police report has been known by the parties from January 2015 when her deposition was taken. There is no reason that Officer Saunders testimony could not have been produced at the Evidentiary Hearing had Valley Health wanted to. Officer Saunders testimony is not new evidence and has no place in Valley's Motion.

Officer Saunders doesn't even directly oppose Nurse Murray's testimony. He states that generally transcripts are not given to the employer of a witness. He also states his file contains no evidence that the transcripts were given to anyone nor does he have a recollection of giving them. Then, he states that giving them would be "highly unusual." Saunders Dec. at Par 10. Of course, conversely, that means in some circumstances, transcripts have been given. So, though he doesn't remember giving them, it is certainly possible he did, and, Nurse Murray was unequivocal that Ms. Butler had the statement (or had at least read it). See Murray Depo at 60-61.

The fact that Officer Saunders does not remember giving it to Centennial and says it would be unusual to give it to them, does not negate the fact that Murray testified that Butler had it. And Butler "doesn't recall" if she had it. So, Officer Saunders truly adds little to the discussion and his affidavit should be stricken anyway due to its inadmissibility.

The other "new" evidence argued by Valley is that Butler and Bochenek were employed by Valley when Jane Doe filed her lawsuit. This is amazing because it completely refutes Mr. Prangle's many statements on the subject, not to mention Mr. Prangle's argument time and again at the evidentiary hearing, that this Court cannot sanction Valley Health for the actions of Butler and Bochenek when they weren't even there—but they were.

Jane Doe filed her lawsuit on July 23, 2009. Centennial Hills Answered on September 10, 2009. Centennial's 16.1 disclosures were made on November 9, 2009. The 16.1 Case Conference was held on November 9, 2009. **According to Ms. Bell's affidavit, at the time of the Case Conference (November 9, 2009), both Ms. Butler and Ms. Bochenek were still employed at**

Centennial. This is somewhat amazing since Mr. Prangle told this Court that at the time the Jane Doe case was filed, both Butler and Bochenek were no longer employed at Centennial Hills. He asserted such in his opening statement. See Tr. At 47:20-22. He reaffirmed this so in his closing argument. Tr. At 220: 9-11. (Plaintiff will discuss this further, *infra*, because Mr., Prangle went on and on about them not being employed trying to defuse their conduct.)

Amy Bochenek and Carol Butler, along with Quality and Risk people (Ms. Calliham and Ms. Wilson) had discussions with employees after the incident. Bochenek Depo at 28. She had a specific conversation with Sumera (Id. at 29) and later on, Ms. Wolfe. Id. And, that conversation with Ms. Wolfe occurred within two months of the initial conversations immediately following Farmer's arrest on May 18, 2008. Id. at 29-30. Ms. Bochenek does not recall taking notes, but she could have. Id. at 30. The reasons for her conversations with the nurses: "were more about did we miss anything, did the staff know that they could come forward if they felt uncomfortable about anything, just more kind of follow-up to the concerns that we had become aware of, and making sure that we weren't missing any opportunities." Id. at 31. After the meetings, it is fair to say she would have discussed such with Ms. Butler. Id. at 32. She is sure that she had a conversation with Ms. Butler after the Wolfe meeting. Id. at 33. **While she did not recall seeing the police report, Id. at 34, Ms. Bochenek then testified that she did recall that Ms. Wolfe told the police on May 30, 2008 about conversations Ms. Wolfe had with Mr. Sumera.** Id at 35. She explained that she did not see the report but certainly knew about Ms. Wolfe and Mr. Sumera's issues with Farmer. Id. at 38-39. To be sure, her memory in 2015 was hazy about what she was told first and the contents of the issues. Id. at 39-40. However, by August 1 2008, she was aware that Wolfe and Sumera had expressed concerns about Farmer's inappropriate conduct with female patients, and that Wolfe provided a statement to the police regarding these concerns. Id. at 40.

Ms. Butler could not remember who she spoke with (Butler Depo at 75-76), but does recall that there was a meeting to review the incident. Id. at 86. She became aware that Ms. Wolfe gave a statement to the police—someone informed her of it. Id. at 113. She knew this by August 1, 2008. Id. at 114-115. She asked Amy Bochenek about the Wolfe statement and Ms. Bochenek told her that Wolfe had vague concerns about Farmer being overly attentive to female patients, Id. at 119. Bochenek told Butler that Wolfe described these concerns to Bochenek. Id. at 120. The internal investigation was being handled by risk and quality management. Id. at 120. She does not recall if she discussed the issue with the Risk person but she knows that the Risk Manager spoke with Bochenek directly. Id. at 121.

The point is, at the time of the 16.1, via the Director of Nursing Ms. Butler and the Director of Emergency Services Ms. Bochenek, as well as the Risk Manager, Centennial had specific knowledge that there was an issue with Farmer and that involved Mr. Sumera and Ms. Wolfe. And, each of them were aware, at the very least, of the existence of a police statement by Wolfe. Neither were identified. Indeed, until June 2015, neither Butler nor Bochenek were identified.[4] Each of them was specifically aware of issues relating to Farmer prior conduct and foreseeability. And, neither Murray, Wolfe, or Sumera were identified until August 28, 2015. (Valley Health's 16th Supplement).

Regarding Nurse Murray, Nurse Murray testified at her deposition that she had a conversation with the Director of Nursing specifically about the Police Report she gave:

> Q. Now, outside of telling the police about this -- what you termed "the little crazy old lady," and the incident with Mr. Farmer -- did you ever tell anybody else about that?
> A. No.
> Q. After the incident took place, after the arrest, and Ms. Cagnina, things like that, did you ever tell anybody at the hospital about this incident?
> A. No.

[4] Both Ms. Butler and Ms. Bochenek were not identified until June 16, 2015 (Valley Health's 10th Supplement).

Q. So the first and only time you ever discussed this patient, the little crazy old lady patient with anyone, would have been with this detective. Is that correct?
A. No. Wait a minute. The director of nursing called me down and we talked about this, too, after I talked to the police. When she got a copy of this, I talked to her. And that was it.
Q. Who was the director of nursing at the time?
A. I really don't know.
Q. But the director of nursing called you down after she read the statement, is that correct?
A. Yes. She talked to all of us.
Q. What do you mean, she talked to all of you?
A. She talked to all the nurses that were involved in this.
Q. Did you go through the statement with her?
A. She asked me what happened. I told her what I knew. We didn't pick this up and go through it line by line like we are now, but she knew what was -- I mean she had read it.
Q. Did she ask you about the little crazy old lady patient? Was that something you discussed?
A. You know, I'm not sure. She just asked about what I knew. No, I don't believe we did go through that. We went through the other part, because that was what was coming up.

Murray Depo at 60-61. Now, the Director of Nursing at the time was Ms. Butler. If Ms. Butler had read the report as Nurse Murray makes clear that she had, Ms. Butler would have known about the "sitter" situation with Farmer since it was in the police report. Ms. Butler remembers Nurse Murray, but does not recall specifically meeting with her. Butler Depo at 92. But, she did attend a meeting with all of the staff for the "sentinel event" meeting. Id. At her deposition taken in the summer of 2015, Ms. Butler does not recall seeing the transcribed police statement of Nurse Murray before. Id. at 93, 96.[5] Nor does she recall ever specifically meeting with Nurse Murray. Id. at 97.

So, Nurse Murray says one thing and Ms. Butler doesn't deny she had read the report, and, doesn't deny meeting with Nurse Murray. She merely says that she cannot recall such. That is a far cry from saying it did not happen. Indeed, not remembering something does not equate with a denial. See **Bevers v. D.R. Horton, Inc.**, 2011 U.S. Dist. LEXIS 8102 (D. Nev. Jan. 26, 2011); **Wendell v. Johnson & Johnson**, 2014 U.S. Dist. LEXIS 89576 (N.D. Cal. June 30, 2014)(doctor's

[5] However, at first she did deny "obtaining" the statement. Id. at 92.

testimony that he did not remember reading medication label does not create question of fact); **Serton v. Lockheed Martin Corp.**, 2011 U.S. Dist. LEXIS 66738(S.D. Miss. June 22, 2011)("I don't remember" is not the type of evidence sufficient to rebut a proper motion for summary judgment); **Petrunti v. Cablevision**, 2009 U.S. Dist. LEXIS 21370 (E.D.N.Y. Dec. 30,2009)(lack of recollection is insufficient to create a triable issue of fact). If lack of recall does not create a question of fact, when the standard is the light most favorable which is NOT the standard herein, this Court can certainly make a proper finding based upon the party who recalls. So, Ms. Butler's lack of recall does not equate with a denial. And, without such, Nurse Murray's testimony is unrebutted.

All in all, what we know is this: As of the date of the Case Conference Report in November 2009, Centennial Hills, via Ms. Butler and Ms. Bochenek, was absolutely aware of the Nurse Wolfe/Sumera issue and that she had given a statement to the police regarding Farmer's suspected prior misconduct. Those same Administrators who investigated the Wolfe/Sumera issues (Butler and Bochenek) were still employed by Centennial at the time of the Case Conference Report. And, according to Nurse Murray, Ms. Butler had read her police statement and the Administrator who spoke with Nurse Murray (Ms. Butler) was still employed at Centennial Hills on the date of the Case Conference report.

Let us recall that these two issues (Wolfe/Sumera and Murray) go specifically to foreseeability. And, despite whatever spin Valley wants to place upon them, they are the smoking guns regarding foreseeability.

3. **Willfulness**

The primary focus of the Motion for Reconsideration is the "willfulness" factor of **Young v. Johnny Ribiero Building, Inc.**, 106 Nev. 88, 93, 787 P.2d 777 (1990). Valley Health contends that this Court violated the "collective knowledge" doctrine in its Order in order to get to the

"willfulness" factor. However, Valley Health misses the mark on this as the Court did not aggregate the errors of Centennial and Hall Prangle personnel but, in actuality, found separate instances of willful misconduct any which of those could be the basis for the sanctions. See Order at 25-26. Each one of the Findings was based upon individual acts that the Court detailed in its Paragraphs 19-85.

Valley Health argues the collective knowledge doctrine as if no Court allows it. They don't even tell this Court that our own Federal bench has offered differing opinions.

The seminal case that established the collective knowledge doctrine was **United States v. Bank of New England,** a First Circuit case from 1987 involving criminal violations of the Currency Transaction Reporting Act. The act imposed criminal liability if a financial institution "willfully" violated currency reporting requirements, interpreted as requiring "proof of the defendant's knowledge of the reporting requirements and his specific intent to commit the crime." The court upheld a jury instruction that instructed: "A financial institution's knowledge is the sum of the knowledge of all of the employees. That is, the bank's knowledge is the totality of what all of the employees know within the scope of their employment. So, if Employee A knows one facet of the currency reporting requirement, B knows another facet of it, and C a third facet of it, the bank knows them all." **United States v. Bank of New England**, 821 F.2d 844, 855 (1st Cir. 1987). On appeal, the bank challenged that instruction. The First Circuit held that "the [trial] court's collective knowledge instruction was not only proper but necessary." The Circuit court explained that "[c]orporations compartmentalize knowledge, subdividing the elements of specific duties and operations into smaller components. The aggregate of those components constitutes the corporation's knowledge of a particular operation." Id. at 856. To be sure, the doctrine has its critics and its supporters. Nevada has not ruled on the issue.

Valley Health cites this Court to Judge Hick's opinion in **Ginena v. Alaska Airlines**, 2013 U.S. Dist. Lexis 86162 (2013). The case did not involve sanctions[6] but, instead, involved defamation. The "willfulness" issue was based upon the need to establish "actual malice" in the defamation action. In essence, Valley Health is arguing that the Nevada Supreme Court would refuse to adopt the **Bank of New England** collective knowledge doctrine.

What Valley Health neglects to tell this Court is the Hon. Robert C. Jones seems to differ with Judge Hicks on the collective knowledge doctrine:

> "Under well-established law, Citigroup possesses the collective knowledge of its officers, employees and agents, including the knowledge of Schofield (who knew the SWX trust assets were exchangers' funds) and DeMarigny, an active participant in the Ponzi scheme. See *U.S. v. Bank of New England, N.A.*, 821 F.2d 844, 855-56 (1st Cir. 1987). Plaintiffs properly alleged the necessary knowledge of Citigroup's officers and employees to establish liability for the actions of Schofield and DeMarigny. **Since Bank of New England, courts continue to allow the knowledge of agents and employees to be aggregated and imputed to the corporation.** See e.g., *U.S. Sun-diamond Growers*, 964 F.Supp. 486, 491 n. 10 (D.D.C. 1997), reversed on other grounds, 329 U.S. App. D.C. 149, 138 F.3d 961 (D.C. Cir. 1998), aff'd, 526 U.S. 398, 119 S.Ct. 1402, 143 L. Ed. 2d 576 (1992); *In re WorldCom, Inc. Sec. Litig.*, 352 F.Supp.2d 472 (S.D.N.Y. 2005)."

Hawkes v. Qualified Exch. Servs., 2008 U.S. Dist. LEXIS 118509, 11-12 (D. Nev. Mar. 25, 2008).[7]

Importantly, a close reading of the rationale used by Judge Hicks against using the collective knowledge doctrine does not support Valley Health's argument. Judge Hicks relies upon a 1997 law review article, Thomas A. Hagemann & Joseph Grinstein, *The Mythology of Aggregate Corporate Knowledge: A Deconstruction*, 65 Geo. Wash. L. Rev. 210, 226-36 (1997) to support his

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[6] None of the cases cited by Valley Health regarding the doctrine concern sanctions. **Reed v. Northwest Publishing**, 530 NE2d 474 (1988) is a defamation actual malice case. **First Equity v. Standard & Poors**, 690 F. Supp 256 (1988) is a defamation actual malice case. **Lind v. Jones Lang**, 135 F. Supp. 2d 616 (2001) is a defamation and fraudulent inducement case.

[7] **Hawkes** involved the Southwest Exchange Ponzi scheme and was not a sanctions case.

conclusions. (Of course, this article was not adopted by Judge Jones in his decision ten years after the article was published.) Furthermore, Judge Hicks explains why Hagemann and Grinstein disfavor adoption of the collective knowledge doctrine.

> "As Hagemann and Grinstein argue, the collective knowledge doctrine conflates "knowing" culpability with "negligent" culpability, at least when applied to corporate wrongdoing. See Hagemann and Grinstein, supra, at 238-41. For instance, the collective knowledge doctrine favors liability where various corporate agents have different pieces of information, but the corporation was negligent in compiling these pieces of information. See id. But then liability is premised on negligence, not on the "intentional" conduct that is at the heart of the higher levels of mens rea, knowing and willful conduct."

This rationale is inapplicable in the instant case. Butler and Bochenek both knew the same basic information by August 2008:

> Sumera and Wolfe were concerned about Farmer's inappropriate conduct with female patients.
>
> Wolfe gave a statement to the police regarding this conduct.
>
> Murray knew of an incident while Farmer was a sitter.
>
> Murray gave a statement to the police regarding this conduct.

This scenario is unlike the rationale relied upon by Judge Hicks "where various corporate agents have different pieces of information, but the corporation was negligent in compiling these pieces of information." Here Butler and Bochenek both had the same information—not separate pieces that were used to connect the dots. In fact they shared and discussed the information. This is clearly distinguishable from the concerns expressed by Judge Hicks—each agent had all the same information. Each agent individually could bind Valley Health.

Similarly, Bemis and Prangle both knew the same basic information by February 2013 when they received Murray's recorded statement; and then in May 2013, they both became aware Sumera and Wolfe were concerned about Farmer's inappropriate conduct with female patients and Wolfe

gave a statement to the police regarding this conduct. This is not what Judge Hicks disapproved. Valley Health has not cited, and Plaintiff has not found, any cases that discuss the willfulness issue regarding sanctions and the collective knowledge doctrine. And, the USDC in Nevada differs in its evaluation of the doctrine.

Nevertheless, even assuming the collective knowledge doctrine is applicable to a Rule 37 sanction hearing, the Court did not use it here. This Court's evaluation of the evidence set out in detail at pages 25-26 of the Order is specific to the individuals involved and is based upon the factual analysis in preceding numerous paragraphs. The Court is not required to "re-state" the factual analysis as it proceeds with its legal analysis. It is obvious that the factual analysis is wrapped in with the legal analysis. Each one of the findings is specific to the individuals involved as set forth in the factual findings. Any, and many, of the findings standing alone would subject Valley Health to severe sanctions.

Valley Health is flat wrong when it argues willfulness was only established through the collective knowledge doctrine. On the contrary, the detailed findings by this Court showed Butler, Bochenek, Bell, Bemis and Prangle, <u>each on their own</u>, willfully concealed the evidence regarding the Wolfe/Sumera and Murray issues. The Court's Order at 25-26 details the individual acts of willfulness by Valley Health. Though the Court went through the acts and assigned them to Centennial, each separate act also identified the individual(s) involved via the factual predicates for the Court's Findings at Paragraphs 19-85.

In an oddly worded admission of malpractice on the part of Hall Prangle, or, "negligence" on the part of Valley Health, the Motion states:

> "To be clear, Centennial admits that it should have disclosed Wolfe, Murray and Sumera as witnesses pursuant to NRCP 16.1. That is not the issue. The manifest error of law is this Court's finding that Centennial willfully and intentionally concealed the existence of these witnesses from Plaintiff. <u>Nondisclosure of these witnesses, and the corresponding Metro statements, was the result of a failure to</u>

> thoroughly investigate the facts and circumstances underlying this matter (i.e. negligence)—not willful misconduct."

Motion at 16.[8] However, this ignores the facts. Centennial did an investigation in 2008. Centennial met with Wolfe, Sumera and Murray. As of August 2008, Centennial was aware of the Wolfe/Sumera and Murray issues and was well aware of the existence of Wolfe's police statement and Murray's police statement. At the same time, Centennial had counsel who also investigated the case, and, met with Wolfe, Sumera and Murray. Tr. At 48.[9] So, who failed to investigate the facts? Hall Prangle? Centennial? Neither. They all knew the facts. They all decided not to disclose same.

If this Court's findings on these issues is wrong:

> Where was the testimony from anyone on the Valley Health side saying they did not know about the Wolfe/Sumera and Murray issues?
>
> Where was the testimony from Valley Health stating in no uncertain terms when they first became aware of the police reports, and when anyone with Valley Health first saw either report?
>
> Where was the testimony from all of the lawyers involved in the Farmer cases from Hall Prangle saying they did not know about the Wolfe/Sumera and Murray issues?
>
> Where was the testimony from Hall Prangle stating in no uncertain terms when they first became aware of the police reports, and when anyone with Hall Prangle first saw either report?

Incredibly, Hall Prangle did not bring its partner who first worked on the case, David Ferrainolo, to testify at the hearing. While Mr. Ferrainolo now works in Hall Prangle's Florida office, one would think that the lawyer who was first on the case, and actually did the investigation,

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[8] This admission is contrary to everything that was argued in prior briefs and at the evidentiary hearing.

[9] When queried as to why Wolfe/Sumera and Murray were not identified in the 16.1, Mr. Bemis misrepresented to the Discovery Commissioner stating "The only answer I can give you is at the time not all the identities were known." D.C. Tr. 6/3/15 at 13. But, indeed, they were and the Motion for Reconsideration concedes this.

might have provided some testimony for Hall Prangle. Instead, Hall Prangle did not bring him to the hearing.[10] Mr. Ferrainolo's silence on the matter is deafening.[11] Indeed, one might even presume that Hall Prangle's failure to bring Mr. Ferrainolo to the evidentiary hearing and have him testify was an admission that his testimony would not be helpful to the Hall Prangle cause.

The circumstantial evidence in this matter is clear and convincing that Valley Health willfully and intentionally concealed the witnesses and the evidence. It is important to recall that this was not simply a delay in producing the information. There was an active "conspiracy"[12] to withhold the information. By failing to identify the witnesses, failing to acknowledge the existence of known statements, providing false discovery answers, and providing misleading information to this Court and the Supreme Court, it is clear that the intention of the individual actors was to hide the most relevant information in this case.

Though it is sad to say, in 2008 Hall Prangle was involved in the original investigation, and interviewed Wolfe, Sumera and Murray. In January 2013, Hall Prangle met with the Public Defender's Office, exchanged documents and evidence, discussed witnesses, and received the evidence from the PD. None of this information was disclosed until after Plaintiff discovered the evidence on its own, that is to say, until Plaintiff caught them.[13] The overwhelming evidence established that Hall Prangle either conspired with Centennial to withhold the information, at a minimum, and/or, concealed the information on their own. The myriad of stories and explanations

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[10] Before the hearing, Mr. Murdock emailed Mr. Prangle and asked him if Mr. Ferrainolo was coming for it. Mr. Prangle advised that he would not be bringing him. Indeed, Mr. Prangle advised in an email that if Plaintiff wanted him here, we would have to pay for his ticket. See Declaration of Mr. Murdock.

[11] It would be improper for Hall Prangle to have Mr. Ferrainolo attempt to provide an affidavit at this point. Hall Prangle knew the issues and presumably knew what he would have testified to. Hence, any affidavit from him at this point would be hearsay and not "new" evidence as is required.

[12] Plaintiff is using the term in its colloquial sense and is not alleging an actual conspiracy per NRS 199.480.

[13] Valley Health and Hall Prangle seem to suggest a *mea culpa* because they ultimately disclosed the information. Of course, all of the new admissions come after Plaintiff caught what was going on. And, it was a FOIA Request that ultimately found the truth. It wasn't discovery. So, Valley Health and Hall Prangle actually were successful in hiding the truth based upon the discovery rules—but they were found out when a simple FOIA Request began to shake things up.

told to this Court by Mr. Prangle and Mr. Bemis test the credibility of these Officers of the Court. Indeed, as will be shown *infra,* their credibility is weakened even more within the pending Motion.

Similarly, the Court recited a detailed analysis of the facts that directly and circumstantially described the willfulness of Bemis and Prangle. Accordingly, independent of the collective knowledge doctrine, individual acts of willfulness necessary to support the Court's sanctions were delineated.

4. Additional Misleading Arguments

The Motion is very disturbing as it admits additional misleading arguments by Mr. Prangle at the evidentiary hearing but does so with no apology or explanation.

As has been stated, Mr. Prangle told this Court in opening and closing that Ms. Butler and Ms. Bochenek were not employees of Centennial when the Jane Doe lawsuit was filed in July 2009. Mr. Prangle's argument was that their conduct should not be attached to Centennial because they were no longer employees when Jane Doe filed her lawsuit:

> "But in Mr. Keach's closing, you know, he focuses so much on the hospital. And I believe the egregious conduct done by the hospital that he wants to put the focus on would be Amy Bochenek or Blasing, and Donna -- or nurse Butler, the CNO. Ms. Bochenek was the director of emergency services in 2008, and nurse Butler was the CNO in 2008. When this lawsuit was filed in 2009, both of them were no longer employees of Centennial Hills. **So anything in connection with this case that would be from their conduct I believe would be, would be unfair to hold Centennial Hills responsible for the conduct of former employees.**"

Tr. At 220: 1-14.

We now know that this argument was false and misleading. Valley Health attached an affidavit from Ms. Bell, the Risk Manager at Centennial, to its Motion. Ms. Bell's affidavit states that Mr. Prangle was wrong: **Ms. Butler's last date of employment was January 3, 2010 and Ms. Bochenek's last date of employment was September 26, 2010.**

Hence, Mr. Prangle's statement about their employment dates was not true. It was an attempt by Mr. Prangle to persuade this Court that it could not connect the dots from Bochenek or Butler to Centennial. Now we know that Mr. Prangle's premise was incorrect. And, Bochenek's and/or Butler's conduct in failing to disclose the Wolfe/Sumera/Murray issues is made even more outrageous because both Butler and Bochenek were not only still working at Centennial when Jane Doe's lawsuit was filed, they were there when the 16.1 Case Conference was completed and when Valley Health provided initial disclosures.[14]

Mr. Prangle reiterated these misrepresentations at the hearing when Mr. Prangle attempted to evade "case concluding sanctions" based upon the same falsity. He told the Court:

> As to the case terminating sanction, **I don't believe anything comes close to that, certainly as to Centennial Hills because the two people that would serve as the basis for that were not even employees when this lawsuit was filed. So I don't know how you can hold Centennial Hills responsible for the conduct of Bochenek and Butler when they were no longer there and supposedly duty bound to do something. They were no longer duty bound to do anything**. They didn't work for us. And again, as I've said, I don't believe they had the statements. So I don't believe ~~case terminating sanctions~~ are appropriate as well.

Tr. 236: 24-25, 237: 1-11. As Ms. Bell's affidavit makes clear, both Butler and Bochenk did work for Centennial not only at the time of the lawsuit being filed, but also at the time of the 16.1. Thus, the converse of Mr. Prangle's arguments are clear: they did have a duty to disclose.

Despite the affidavit of Ms. Bell, Valley Health amazingly **continues** its misleading argument about the employees in its Motion. For example, Valley Health states:

> "This Court's attempt to impute knowledge and willful intent to Centennial based on the aggregate knowledge of Butler, Bochenek, Murray and Wolfe is even more precarious in light of the fact that all of the employees left the employ of Centennial before (or soon after) this lawsuit was filed."

[14] Mr. Prangle said it ***again*** at Tr. 235 9-14 in an attempt to fall on the sword for his client.

Motion at 16 (parenthetical in Original). First, Sumera was there and is there. Yes, Murray and Wolfe were not there and Valley states that. **But, Butler and Bochenek were at Centennial for some time.[15] The lawsuit was filed in August 2009. Butler left in January 2010 and Bochenek in September 2010. The 16.1 report was in November 2009.** Both Butler and Bochenek who had the knowledge at the heart of this matter were still at Centennial. Spin is one thing; misrepresentations are another. In light of the severe sanctions already imposed in this case, it is frankly amazing that Valley Health continues its assault on the truth and attempts to have this Court withdraw the sanctions based upon outright misrepresentations.

The Court also made clear that Hall Prangle's conduct was equally egregious. Mr. Prangle told the Court that Hall Prangle was hired six days after the RC event on May22, 2008. Tr. at 48. He also told the Court that Hall Prangle interviewed Wolfe, Sumera and Murray. Id. Mr. Bemis testified that there was a letter to Centennial in their file regarding the meetings with them. Tr. at 109. It would be almost inconceivable for lawyers with the reputation and experience of Hall Prangle not to ask about previous issues with Farmer. Foreseeability is the central issue in these type of cases and though the attorney client privilege at this point protects those discussions, to assume that Hall Prangle did not ask the question about Farmer would be unreasonable.

That tells us that in 2008 either Centennial (meaning Bochenek and/or Butler) did not tell Hall Prangle about Wolfe, Sumera and Murray, or, they did tell them and Hall Prangle was the one who did not disclose the information. Of course, at the end of the day, Hall Prangle is the agent of Valley Health and if Hall Prangle failed to disclose, their actions are imputed to Valley Health.

All of this doesn't even mention the credibility issues related to Mr. Bemis' and Mr. Prangle's testimony about when they received the various police statements. Counsel simply have

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[15] In fact, when Ms. Bochenek left Centennial, she went to Summerlin, another Valley Health facility.

not told a linear story about this. They say one thing and then they say another. This Court understood the disturbing testimony and set it out clearly. See Order at 16.

In any event, this Court's factual findings are sufficient to establish the willful intent factor of the **Ribiero** case.

5. Due Process

Valley's significant other argument goes to the conduct of Hall Prangle. Valley argues that Hall Prangle received no due process because Hall Prangle had no notice that Plaintiff was arguing Hall Prangle's conduct violated Rule 3.3 (duty of candor) of the Nevada Rules of Professional Conduct. Hall Prangle does not argue that it was unaware of Rule 3.3 or that Rule 3.3 doesn't apply to their misconduct. Instead, they make an incredible argument that they were not on notice that Plaintiff was claiming their misconduct violated the Nevada Rules of Professional Conduct. Not only is this argument wrong, it misstates the truth.

Time and again in pleadings, Hall Prangle makes statements about themselves or Valley Health that are not backed up with an affidavit. **Similarly, there is no Affidavit from Mr. Prangle, or anyone else at Hall Prangle stating that they had no notice.** Instead, all we have is argument. And, the most likely reason that there is no affidavit is that it would be perjury if there was one.

Specifically, Hall Prangle argues they are entitled to notice if the Court was going to consider the misleading statements in their briefs as a violation of NRPC Rule 3.3. It is axiomatic that if Hall Prangle was on notice, they concede they received due process. The problem is, **they were on notice about alleged violations of Rule 3.3—for months**.

On May 15, 2015, Mr. Murdock wrote to Mr. Bemis about issues specifically related to Hall Prangle's statement that "there were no known prior acts or any other circumstances that could have put Centennial Hills on notice that Farmer would sexually assault Ms. Doe." Mr. Murdock started

off the letter referencing Rule 3.3. See May 15, 2015 Correspondence from Murdock to Bemis, Exhibit 13 attached hereto.

On May 18, 2015, Plaintiff filed a Motion for Summary Judgment in this matter and, within the first two paragraphs of the Motion **specifically advised that Hall Prangle violated Rule 3.3 and asked the Court to sua sponte take action about the misleading statements in their briefs:**

> In the fall winter of 2014, the UHS Defendants (Centennial, Valley Health Systems, and UHS collectively "UHS") came to this Court and argued that the actions of Steven Farmer (hereinafter "Farmer") weren't remotely foreseeable as Farmer had done nothing at all to arouse suspicion. What was fascinating at the time was that the UHS Defendants simply told this Court the aforementioned without any Affidavits whatsoever. The UHS Defendants specifically told this Court, *without an Affidavit*, that Farmer's conduct was not foreseeable in that "there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial Hills on notice that Mr. Farmer would assault a patient." Centennial Opp. MSJ at 9. Now, we know why there was no Affidavit--**IT WAS FALSE**. Incredibly, the UHS Defendants recently reiterated this fiction before the Nevada Supreme Court. See Writ of Mandamus at 14-15. Plaintiff recently came into the possession of Nurse Margaret Wolfe's (hereinafter "Wolfe") 5/30/08 statement to the LVMPD. There is no way the UHS Defendants did not have this document—as the UHS Defendants' counsel was a consultant to the criminal attorneys of Farmer and it would be hard to fathom that a criminal defendant's consultant would not have all of the statements.
>
> While **the conduct of the UHS Defendants is seriously an issue for this Court's review in that Mr. Bemis has violated Nev. R. Pro. Resp. 3.3 (and this Court should *sua sponte* take action regarding same)**, the issue herein is that there is no genuine issue of material fact regarding foreseeability. Summary judgment on the Affirmative Defense of NRS 41.745 must be granted and the UHS Defendants must be vicariously liable for the actions of Farmer. The UHS Defendants were well on notice of Farmer's actions.

See May 18, 2015 Motion for Summary Judgment at 3.

But the deathblow to this argument is in the brief for the Evidentiary Hearing filed by Plaintiff on August 26, 2015 which is specific that Plaintiff is asking the court to find Hall Prangle violated Rule 3.3:

> "Now in terms of misleading look at the timing again. **Rule 3.3 of the Nevada Rules of Professional Conduct states "(a) A lawyer shall not knowingly: (1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."** Giving Centennial every benefit of the doubt, at the very least, as of May

of 2013, Centennial had the Wolfe and Murray LVMPD Statements, knew that Nurse Murray discussed a sitter situation with Farmer and Nurse Wolfe discussed what Nurse Sumera told her, and they knew it "could be relevant" to Plaintiff's case. Still, Centennial and its counsel told this Court in October of 2014, a minimum of eighteen (18) months after admitting they had the criminal file with the names and statements, that "In the instant situation, there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial on notice that Mr. Farmer would assault a patient." CH. Opp. to MSJ at 9. That was simply untrue. Then, to make matters worse, Centennial filed a Writ in May 2015 with the Nevada Supreme Court and made the same statement: Centennial "urged that there were no known prior acts or any other circumstances that could have put Centennial on notice that Farmer would sexually assault Ms. Doe." Writ at 14-15. That was simply untrue. Centennial concedes that it knew the witnesses and documents could be relevant to Plaintiff's case. So, telling this Court and the Nevada Supreme Court that Centennial had no knowledge about any issues with Farmer, was misleading. And, intentionally so."

Evidentiary Hearing Brf. At 9: 5-25.[16]

How much notice does Hall Prangle need? Hall Prangle received all of the process that they were due. Time and again Plaintiff placed Hall Prangle on notice their misleading statements before this Court and the Nevada Supreme Court violated Rule 3.3.

Frankly, the argument put forth by Hall Prangle is somewhat incredulous. Hall Prangle was quite aware of the misleading issue and Rule 3.3 as Mr. Prangle specifically argued that he did not intend to mislead the Court in briefs or to the Supreme Court during his remarks to this Court at the evidentiary hearing. Tr. At 231-234. He did so because he was on notice. So, the argument about due process is misleading in and of itself. Indeed, it is frivolous.[17]

Towards the end of its argument about this, Valley Health is critical of the Court for "creating a potential conflict of interest." Motion at 18. That is laughable. Hall Prangle was placed on notice their conduct violated Rule 3.3 months before the Evidentiary Hearing in correspondence and pleadings, as well as in the Evidentiary Hearing Brief submitted by Plaintiff describing the misconduct giving rise to the request for sanctions. Yet, they failed to do anything about any

[16] In their own Evidentiary Hearing Brief, Valley Health provided a specific section on the "misleading" issue. See Section C at p.10.

[17] This Court should consider additional sanctions against counsel for this flagrantly false argument.

conflict then, ignoring the conflict. So, when Valley Health argues that Centennial would have retained separate counsel, that is nice, but, as is typical, there is no affidavit or declaration from anyone at Centennial even suggesting that. Indeed, *even after the Order*, when counsel's conduct is crystal clear and at issue, Centennial has not retained separate counsel.[18] It is noteworthy that the Motion has seven lawyers' names on it, three of which are from Hall Prangle.[19] All of them are stated as representing the Valley Health parties. If there was a conflict before the hearing, there clearly is one now—yet, still there is no separate counsel.

Finally, Valley Health argues that the "misleading" statements were mere spin and a lawyer is entitled to minimize the evidence and take a narrow view of same. Motion at 20-21. Then, Valley Health argues this Court "misinterpreted" the misleading statements. Though this is simply reargument not properly before this Court, frankly, this argument itself is misleading. The sentences written by Hall Prangle in the arguments in the Writ and in the motion require no parsing to determine what was meant. Indeed, at the evidentiary hearing, Mr. Prangle told the Court that the sentences meant what they said. Tr. At 231-232. In fact, when questioned about this issue during the evidentiary hearing, Mr. Bemis testified that as an advocate for his client, he could readily tell the Court that there was nothing that could potentially put Centennial on notice. Tr. At 126-127.

Now, Valley Health wants to change that argument by stating that Centennial had no prior knowledge of Farmer assaulting a patient. Yet, the briefs don't say this.[20] Notably, Valley Health

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[18] Mr. Kennedy and his firm filed a Notice of Association of Counsel. He did not file any documentation advising that he was "separate" counsel.

[19] During the interim period between the Order being filed and the Motion for Reconsideration being filed, settlement discussions were had. Plaintiff was specifically advised that Hall Prangle's malpractice carrier was involved. Yet, Hall Prangle is still a part of this case, is still filing pleadings, and, is still on the Motion for Reconsideration as representing Valley health. See Declaration of Mr. Murdock.

[20] In its Opposition to a Motion for Summary Judgment, Centennial stated "In the instant situation, there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial on notice that Mr. Farmer would assault a patient." CH. Opp. to MSJ at 9. Centennial filed a Writ in April 2015 with the Nevada Supreme Court and made the same statement: Centennial "urged that there were no known prior acts or any other circumstances that could have put Centennial on notice that Farmer would sexually assault Ms. Doe." Writ at 14-15

produces no affidavit or declaration from Mr. Prangle or Mr. Bemis stating the "new" argument. And, it's not like the prior argument took a narrow view of the evidence—it told this Court and all readers that there was NOTHING, NOTHING AT ALL, regarding Farmer to place Valley Health on notice—"there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial on notice." Words like "absolutely" and "potentially" are clear and unambiguous. The Thesaurus gives the following synonyms: absolutely—categorically unequivocally definitely unconditionally unquestionably, and potentially—possibly, hypothetically, theoretically. These are the descriptive words used by Hall Prangle to emphasize the point that Centennial knew nothing at all. Had Valley simply told this Court what Valley now tells this Court (i.e. that Centennial had no prior knowledge that Farmer had ever assaulted a patient) the statement would not be misleading.[21] But, Valley Health's prior statements were untrue—not spin. It was misleading and intentionally so.

6. Prejudice

Valley Health provides no new evidence nor does it even argue that this Court "misunderstood" or "misapprehended" the prejudice issues. Instead, it simply wants to reargue the exact same arguments that Valley Health has already made. Compare Motion at 25-28 with Tr. 52-54, 61-62, 228, 231, 236-237. And that argument is simple—it's Mr. Murdock's fault. Mr. Murdock could have deposed every employee and former employee at the hospital but didn't. It doesn't matter that Valley Health had 16.1 obligations and those obligations are not just to identify witnesses but to advise what their testimony would be about. Mr. Murdock just should have taken the shotgun approach and deposed each and every current and former employee. Or, every person the DA identified (without a subject). This argument flies in the face of Mr. Prangle's admission

[21] However, one could very well make the argument that Mr. Sumera's discussion with Ms. Wolfe actually references a sexual assault.

that no one would have known the significance of Murray, Wolfe and Sumera until they were aware of the facts described in the police statements. Transcript, P. 40, L. 24-25; P. 41, L. 1-5. It is also, ludicrous. Valley Health argues (as it did in Court) that Mr. Murdock has not "bothered" to depose the fourteen witnesses Valley Health originally identified. First, depositions are just one tool. Without violating attorney work product, meeting with a witness may be just as productive without the need for an official deposition. And, witnesses who are not employees or who are not management level employees who cannot bind the defendant (See **Palmer v. Pioneer Inn Assocs., LTD.**, 118 Nev. 943 (Nev. 2002)) are free game and may very well have been spoken with.

But, as for official depositions, Plaintiff's counsel have been far from shrinking violets and have taken over fifty depositions in this case. Valley Health has taken NONE. In addition, Plaintiff has sent out 24 sets of Requests for production, 11 sets of Interrogatories, and 6 sets of Requests for Admission. (See Declaration of Mr. Murdock). And that's just to Valley Health.

So, the argument that counsel would not have taken Wolfe, Sumera or Murray had they been identified and had counsel been told the subject of their testimony is flaccid at best. And, of course, immediately upon figuring out that these witnesses knew something (again, Valley Health didn't even disclose them until August of 2015) Mr. Murdock began setting their depositions (and having to move them based upon the requests of Mr. Bemis).

As for the issue concerning the memory of the various witnesses, that too was argued *ad nauseum* at the evidentiary hearing. Tr. At 51, 60-61, 228-230, 236. Valley Health argues nothing new and simply wants another bite of the same apple. The Court's Order at 28-32 details the numerous and problematic memory issues of the witnesses and how such impacts this case. Valley Health argues nothing now that it didn't argue before. A Motion for Reconsideration is not the proper vehicle for a party to come in and simply reargue.

The Court had before it all of the evidence and all of the arguments. Based upon same, the Court concluded that because of the time involved, and the obvious and stated memory lapses, the severe sanction of striking was proper. Valley Health has provided no new evidence to dispute the Findings of this Court.

CONCLUSION

Accordingly, for the foregoing reasons, Plaintiff respectfully requests that this Court deny the Motion for Reconsideration.

Dated this 2nd day of December, 2015.

Respectfully submitted,

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
521 South Third Street
Las Vegas, NV 89101
Attorneys for Plaintiff

DECLARATION OF ROBERT E. MURDOCK

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

ROBERT E. MURDOCK, being first duly sworn deposes and says:

1. I am an attorney duly licensed to practice law in the State of Nevada and, along with Eckley M. Keach, am the attorney for Plaintiff in the captioned action.

2. I have personal knowledge of the facts set forth herein and am capable and willing to testify to same if called upon to do so.

3. Attached hereto as Exhibit 1 is a true and correct copy of the first page and the relevant pages of Transcript of Evidentiary Hearing and Motions from August 28, 2015.

4. Attached hereto as Exhibit 2 is a true and correct copy of the file stamped page and the relevant pages of Defendant's Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.'s Motion for Reconsideration of This Court's November 4, 2015 Order, including Declaration of Amanda Bell and Declaration of Michael Saunders, filed on November 19, 2015.

5. Attached hereto as Exhibit 3 is a true and correct copy of the file stamped page and the relevant pages of Order Striking Answer of Defendant Valley Health System LLC as Sanction for Discovery Misconduct, filed on November 4, 2015.

6. Attached hereto as Exhibit 4 is a true and correct copy of Notice of Taking Deposition of Christine Murray, R.N., filed on November 17, 2014.

7. That in this matter, we have taken over 50 depositions, and, just to Centennial, have sent out 24 sets of Requests for production, 11 sets of Interrogatories, and 6 sets of Requests for Admission.

8. That prior to the Evidentiary Hearing, I communicated with Mr. Prangle regarding Mr. Ferrainolo. He advised me that they would not bring him to the hearing and that if I wanted him there, we would have to provide him with a ticket.

9. Attached hereto as Exhibit 5 is a true and correct copy of Letter from John F. Bemis to Mr. Murdock, dated December 8, 2014.

10. Attached hereto as Exhibit 6 is a true and correct copy of Plaintiff's 17th 16.1 Supplement, dated January 29, 2014.

11. Attached hereto as Exhibit 7 is a true and correct copy of the relevant pages of Deposition of Christine Murray from January 8, 2015.

12. Attached hereto as Exhibit 8 is a true and correct copy of the relevant pages of Deposition of Amy Blasing, formerly Bochenek from July 28, 2015.

13. Attached hereto as Exhibit 9 is a true and correct copy of the relevant pages of Deposition of Carol Butler from June 19, 2015.

14. Attached hereto as Exhibit 10 is a true and correct copy of Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center's Tenth Supplement to Its Initial Early Case Conference List of Witnesses and Documents, electronically served on June 16, 2015.

15. Attached hereto as Exhibit 11 is a true and correct copy of Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center's Sixteenth Supplement to Its Initial Early Case Conference List of Witnesses and Documents, electronically served on August 28, 2015.

16. Attached hereto as Exhibit 12 is a true and correct copy of the first page and relevant page of Transcript of Proceedings before the Discovery Commissioner from June 3, 2015.

17. Attached hereto as Exhibit 13 is a true and correct copy of Correspondence from Murdock to Bemis, dated May 15, 2015.

18. Attached hereto as Exhibit 14 is a true and correct copy of the file stamped page and the relevant page of Motion for Summary Judgment against Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc., filed on May 18, 2015.

19. Attached hereto as Exhibit 15 is a true and correct copy of the file stamped page and the relevant page of Evidentiary Hearing Brief in Support of the Striking of Defendant Centennial Hills Hospital's Answer to Plaintiff's Amended Complaint and Affirmative Defenses, filed on August 26, 2015.

20. Attached hereto as Exhibit 16 is a true and correct copy of the file stamped page and the relevant page of Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.'s Brief in Support of Their Position Re: Evidentiary Hearing, filed on August 26, 2015.

21. Attached hereto as Exhibit 17 is a true and correct copy of Notice of Association of Counsel, filed on November 16, 2015.

22. Attached hereto as Exhibit 18 is a true and correct copy of the file stamped page and the relevant page of Defendants Centennial Hills Hospital and Universal Health Services, Inc.'s Opposition to Plaintiff's Motion for Summary Judgment Re: Liability and Joinder to Defendant Steven Dale Farmer's Limited Opposition, filed on October 14, 2014.

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23. Attached hereto as Exhibit 19 is a true and correct copy of the file stamped page and the relevant pages of Petitioners Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.'s Petition for Writ of Mandamus and/or Writ of Prohibition, filed on April 29, 2015.

FURTHER YOUR DECLARANT SAYETH NAUGHT.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

ROBERT E. MURDOCK

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of December, 2015, I served a copy of the foregoing Opposition to Defendant's Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc. Motion for Reconsideration of Court's November 4, 2015 Order upon the parties to this action via the court's Wiznet mandatory electronic service, addressed as follows:

Dennis L. Kennedy, Esq.
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/s/ Vera Minkova
An employee of Murdock & Associates, Chtd.

EXHIBIT "1"

EXHIBIT "1"

CASE NO. A-09-595780-C

DEPT. NO. II

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE,

Plaintiff,

vs.

STEVEN DALE FARMER; AMERICAN NURSING SERVICES, INC.; UNIVERSAL HEALTH SERVICES, INC.; VALLEY HEALTH SYSTEM, LLC,

Defendant.

Reporter's Transcript
of
Evidentiary Hearing
and Motions

BEFORE THE HONORABLE RICHARD F. SCOTTI,

DISTRICT COURT JUDGE

FRIDAY, AUGUST 28, 2015

9:00 A.M.

Reported by: JoAnn Melendez, CCR No. 370

of his, of his testimony, and he says yeah, I thought he was a nice guy, that -- which flies in the face of the statements that Margaret Wolfe made, we would have had an opportunity to confront him at the point and confront these other witnesses at that point in time; Blasing, Butler, Murray, and other people who we don't know, and gotten to the bottom of that.

All of that goes to foreseeability. All of that has been denied plaintiff and that is the focus of our motion, Your Honor.

THE COURT: All right. Thank you very much, Mr. Keach. And you went over the time, but I had -- that was because of me. So thank you for addressing all of my questions.

Mr. Prangle, are you gonna present the argument?

MR. PRANGLE: Yes, sir.

THE COURT: Okay, Great. You may proceed on behalf of the defendant.

MR. PRANGLE: May it please the court.

THE COURT: Yes.

MR. PRANGLE: In listening to Mr. Keach's opening statement, and I'm glad that we have agreement on what I believe is one key point, is

that before we had the statements of Wolfe and Murray, no one could foresee that they had important information about the Doe case. I could not agree more with any statement at all.

The reality, however, is is that -- and I'm also appreciative of Mr. Keach not accusing me or John or Ken or anyone else at my firm of intentional misconduct. I appreciate that.

The reality is, is that --

THE COURT: Well, at least not before May of 2013.

MR. PRANGLE: No, no. Fair enough.

THE COURT: Okay.

MR. PRANGLE: And I'll address that.

THE COURT: Okay.

MR. PRANGLE: But it wasn't until May of 2013 that the statements became known to us. We had no idea about -- well, we had no idea the content before then.

So but to put this into context of why we're here today, we just didn't know that information. We didn't know that nurse Murray was going to testify about the sitter incident. She gave a deposition, and I'm gonna call the other case the RC case, the initials of the plaintiff. Nurse

statements were ever provided to the hospital or any hospital official prior to -- prior to the criminal files being released pursuant to an official request for production?

MR. PRANGLE: Motion to compel.

THE COURT: Or motion to compel, yeah.

MR. PRANGLE: In the RC case.

THE COURT: Okay. And that was, that was --

MR. PRANGLE: May --

THE COURT: May of 2013.

MR. PRANGLE: Correct.

THE COURT: I understand your position.

MR. PRANGLE: Okay.

THE COURT: Thank you. Keep going.

MR. PRANGLE: And also on that point while I'm on it, this lawsuit was filed I believe of August of 2009. It was summer of 2009.

THE COURT: Right.

MR. PRANGLE: Both Bochenek and Butler were gone from Centennial Hills when this lawsuit was filed. They are no longer employees.

But taking a step back, this chronology, we know now, given that Mr. Farmer was convicted, that the assault on Ms. Doe occurred on

May 14th, 2008. There was no report made to Centennial Hills by Ms. Doe that the assault occurred. We had no knowledge of it whatsoever.

Two days later, Mr. Farmer also assaulted a patient by the name of RC. RC is the person who advised the hospital this guy inappropriately touched me. The hospital immediately placed Mr. Farmer on a do-not-return list, called the police. Mr. Farmer was arrested that afternoon.

My firm was retained six days later on May 22nd, 2008 specifically to investigate the RC case. As of that time, we were unaware that Ms. Doe was going to be making an allegation. Our focus was solely on RC.

We then undertook to do an investigation of the RC case. We met with, among others, nurse Murray, nurse Wolfe and nurse Sumera because they were involved with the RC case. That's why we met with them.

At the time -- and we met with nurse Wolfe I believe it was mid-June of 2008. We met with nurse Murray in mid-July in of 2008, and we met with nurse Sumera in mid-August 2008.

At the time that these meetings

discloses the depositions of -- I think it was Bochenek, and I forget which one, but in those depositions, they testify as to Ray Sumera's possible involvement with Mr. Farmer in connection with the RC matter.

So as of May of 2010, and I think Mr. Keach even acknowledges, they were aware at least of the name. And I believe his point was we didn't understand the significance of it. We didn't either.

But in any event, as of March of --

THE COURT: Well, but let's be clear. When you say "we," you're referring to your law firm, you're not referring to Centennial.

MR. PRANGLE: Well, and I would include them in that. And I would -- Amy Bochenek and Carol Butler, admittedly they had some lapses of memory, but both were consistent. And Bochenek was the director of emergency services in the emergency department at the time. Carol Butler was the chief nursing officer.

THE COURT: Uh-huh.

MR. PRANGLE: After the RC event happens, they do an investigation themselves. One of the things that they were concerned about is was there

something in this guy's background that we missed. So they interviewed many of the staff. And even though they didn't remember the dates they met with people, who specifically they met with, they were clear about one point is that there was nothing about Farmer's background that anybody told them consistent with what we see in Wolfe's statement and even Murray's statement.

So Mr. Keach is right that they say I don't remember a lot, but they were clear on that point.

In our initial supplement to the ECC, and I don't have the date that we filed, we disclosed 14 individuals who we believed had relevant information in the case.

To today, plaintiff's counsel -- and this goes to the prejudice issue a little bit, judge, is that to today, plaintiff's counsels deposed only one of those 14 people. And that was nurse Janesse (phonetic) who was deposed earlier this year.

So I guess the point being is that here we gave plaintiff 14 names of people who might have relevant information. And for, you know, their own reasons, they chose not to depose any of them.

I agree with Mr. Keach wholeheartedly that they have been dogged in doing discovery in this case, but it's been focused on other areas. It hasn't been focused on the 14 people we identified.

So the idea of being that if we had had Wolfe, Sumera and Murray and had 17 people instead of 14, you know, I think it's somewhat speculative to say that they would have deposed them automatically.

What gives them value --

THE COURT: Well --

MR. PRANGLE: What gives them --

THE COURT: -- if you had identified in your disclosure and said these two nurses gave statements to Metro about Mr. Farmer's conduct, I'm sure they would have followed up on that.

I mean, it's different than a witness that you designate this security guard was on duty at the time that this alert came in.

MR. PRANGLE: And I certainly don't want to argue with the court, but let's not forget intent. The reason they met with Metro was because of RC. It wasn't because of Doe. So you may be right, you might not be right in terms of the depositions.

There were many people who were deposed in the RC case that have not been deposed in this case.

THE COURT: Okay. All right. I -- I understand your position.

MR. PRANGLE: In any event, moving forward to May 6th of 2013, in the RC case, a joint motion was done by all the parties, including plaintiff, to compel the production of the police file. That motion was granted. And I believe it was either May 6th or May 8th that we actually get physical possession of the file that includes now the statements of Wolfe and Murray.

I confess to Your Honor I have no specific memory of when I first read those statements. I will acknowledge constructive receipt of them on May 6th, 2013.

THE COURT: Understood.

MR. PRANGLE: But because of the sensitive nature of it in the ongoing criminal case, there was a protective order that precluded us from disclosing the statements. We couldn't in the Doe case say here are the statements we got in the RC case. We couldn't do that until the stay was lifted.

Sumera in the RC case. We weren't trying to hide them. We just didn't know that this information was out there.

And let me address one of the things Your Honor raised.

THE COURT: Well, could the argument be made that you were seeking to delay ultimate disclosure knowing that there would be a day in reckoning where you'd have to disclose but seeking to delay it, so that memories would fade through the passage of time?

MR. PRANGLE: I suppose any argument could be made, but I'll be honest, I'm not that crafty. I really am not. Your Honor doesn't know me, but as an officer of the court, I'm not that sneaky.

THE COURT: Okay.

MR. PRANGLE: What I would tell you -- but then why would we have disclosed them in the RC case? You know, so -- you know, and I believe it was only nurse Murray who was actually deposed in the RC case. And again, this subject just never came out. And actually in her deposition in the RC case, nurse Murray said that she never had any problems with Mr. Farmer. So I understand that it's

not either consistent necessarily or inconsistent with what's in her statement, but it just never came out.

So switching to the, I guess the issue of prejudice, is that in addition to the 14 witnesses that we disclosed in 2009 in our first supplement to the ECC, that plaintiff didn't depose any of those people until they deposed only one of them in 2015, I think it's somewhat speculative to say that had we added these three names they would have been deposed.

I think I've been clear that I acknowledge I should have supplemented a list in 2013, but that's the first point that we had reason to believe they had relevant information.

So the point that they could reasonably have been disclosed, such as their depositions should have been taken in this case, I believe is 2013, not 2009.

And, you know, we know memories fade. And Mr. Murdock knows memories fade. So when we disclosed the 14, you know, why didn't he depose. And I'm not at all critical of Mr. Murdock, but he chose to do very diligent discovery in other theatres and he has been very dogged in that, I will

concede to that, but he never chose to depose any of those 14 that we said may have relevant information.

Again, I'm not faulting him, but I think it's somewhat speculative to say that if we would have had these three names on there, even if we had reason to believe they should have been disclosed, that he would have taken the depositions.

It's not until 2013 that we get the information as to their significance. But again, because of the protective order, it's really not until again 2014 that the statements themselves can be produced to plaintiff.

And I know the depositions occurred I think in the spring of this year. So really the delay is from November of 2014 to March of 2015 or whenever it is that the depositions occurred.

So I don't believe there's any meaningful prejudice here to plaintiff based on the information we had and when we can produce it based on the protective orders.

So for all these reasons, Your Honor, I believe that is the severity of the sanction entered by Commissioner Bulla at her invitation to you that if we can show that it wasn't until later that we had reason to know this, then

deposition from 2010. Those were in the RC case.

We move for their admission, Your Honor.

MR. PRANGLE: Again, no objection for this hearing.

THE COURT: So 6 and 7 shall be admitted for purposes of the hearing.

MR. KEACH: Ms. Bochenek is also --

THE COURT: And just to clarify, I'm certain that -- that the statements in those depositions are admitted for the purposes of determining whether there was notice, not for purposes of the truth of the matter asserted in those depositions for purposes of this hearing?

MR. PRANGLE: I guess my concern, I just want to make sure that it's clear --

THE COURT: I just want to clarify.

MR. PRANGLE: This is, this is not for purposes of this trial later down the road.

MR. KEACH: These depositions are only --

THE COURT: Well, they only come in --

MR. KEACH: -- solely for -- for the issues that are before the court today.

THE COURT: Perfect.

MR. KEACH: That's it.

MR. PRANGLE: That's fine.

MR. KEACH: That's it.

THE COURT: I just wanted to clarify that. Go ahead. 6 and 7 are admitted.

MR. KEACH: Exhibit 8, Your Honor, is Ms. Blasing/Bochenek's deposition in 2015. We move for its admission.

MR. PRANGLE: No objection.

THE COURT: 8 is admitted.

MR. KEACH: No. 10, Your Honor, those series of emails from the public defenders office, we would move for their admission.

MR. PRANGLE: Same -- as to all the exhibits, I have no objections for purposes of this hearing.

THE COURT: All right. Well, then why don't you identify all the exhibits that you intend to admit and over -- and defendant is not objecting. So identify those for the record.

MR. KEACH: Thank you, Your Honor.

THE COURT: Just by number.

MR. KEACH: Exhibit --

THE COURT: And do you plan to admit all, you know, 10 through 17 of binder one?

MR. KEACH: Well, 10 through 17, yes,

Q. Okay. And what is the nature of that information? Is it correspondence, is it emails, is it a memorandum, are there written statements? What's the nature of the information?

A. It would be a correspondence to client.

Q. Okay. So there's correspondence in your file related to, to your client. Client being whom?

A. Being Centennial Hills.

Q. Centennial Hills. Referencing an attorney's meeting with one or more of Sumera, Murray and Wolfe, correct?

A. Correct.

THE COURT: And state the point in time we're talking about. I want to be precise if you can.

BY MR. KEACH:

Q. And that was in summer of 2008, correct?

A. That is correct.

Q. Okay. Do you know the exact date of that letter?

A. No.

Q. Other than summer of 2008, is that a fair characterization of it?

A. Summer or fall of 2008 would be a fair characterization.

Wolfe's statement, did you?

A. Must not have.

Q. Okay. Now, in your October 14th, 2014 opposition to plaintiff's motion for summary judgment re: liability, in that opposition you stated, In the instant situation, there were absolutely no known prior acts by Mr. Farmer that could potentially put Centennial on notice that Mr. Farmer would assault a patient.

That's what you said, isn't it?

A. I believe that's in the brief, yes.

Q. Okay. You said there were absolutely, that's the word you used, absolutely, no known prior acts by Mr. Farmer that could potentially put Centennial on notice.

Absolutely means positively, unconditionally, unquestionably, categorically undeniable, unequivocally, without question.

In other words absolutely, right?

A. Those were the words I used, yes.

Q. Okay. And you said that could potentially put the hospital on notice.

That's just not true, is it? That's not true, is it?

A. I don't think that that is an accurate

portrayal of what you're saying, no. The -- I believe it can be as an advocate for my client. I can state that there isn't anything that potentially puts him on notice.

I think just as, just as you are an advocate for your client, you can say that there's absolutely a reason to put us on notice.

Q. You said potentially put you on notice, okay. You didn't say put you on notice. You said potentially put you on notice, right? Absolutely nothing could potentially put you on notice, correct? That's what you said.

A. That is what was said.

Q. It wasn't true, was it?

A. I disagree with that characterization.

Q. Murray said a patient was yelling for Farmer to get out of the room, I don't want you by me.

And you said that absolutely couldn't put you on notice, right?

A. Yes.

Q. And Wolfe described how Farmer will go into a female's patient room and close the door and when he had no reason to go in there. And it happened multiple times. And she described how

34.

MR. PRANGLE: (Positive nod of the head.)

THE COURT: All right. Any objection to those?

MR. PRANGLE: No, sir.

THE COURT: All right. They're admitted. Thank you. Give those to the clerk and the court will read them.

Anything else, Mr. Keach?

MR. KEACH: No, Your Honor. We rest.

THE COURT: All right. Would the defense like to present any witnesses?

MR. PRANGLE: Your Honor, we've decided not to call any live witnesses. I will -- we will stand on our briefs in the openings and closings.

The one thing that I would like to do is number one, apologize to the court. Number one, I'm happy to answer any questions you may have of me, but I want to apologize to the court. And I take full responsibility for this in terms of when we received nurse Wolfe's statement. I made an assumption that it was part of the May 6th, 2013 disclosure. I'm embarrassed that I can't even tell you that I was wrong.

What I will tell you is that I did

But in Mr. Keach's closing, you know, he focuses so much on the hospital. And I believe the egregious conduct done by the hospital that he wants to put the focus on would be Amy Bochenek or Blasing, and Donna -- or nurse Butler, the CNO. Ms. Bochenek was the director of emergency services in 2008, and nurse Butler was the CNO in 2008.

When this lawsuit was filed in 2009, both of them were no longer employees of Centennial Hills. So anything in connection with this case that would be from their conduct I believe would be, would be unfair to hold Centennial Hills responsible for the conduct of former employees.

But what did they say? I mean, it is true, and a lot of people, this happens in every case that I have, witnesses don't recall things. And nurse Bochenek and nurse Butler testified they don't recall exactly the details of what they did. But what they both said, and I encourage Your Honor to read their depositions, is that we didn't have the sense that Mr. Farmer had done something improper before and this is something we missed.

I don't recall if it was nurse Butler or nurse Blasing who talked about she -- I

because we couldn't produce that until the stay was lifted in 2014.

And so should we whenever it was that we got Wolfe statement disclosed the name? Yes.

For purposes of what I'm here to argue with you today, I'm prepared to accept that that was May of 2013, even though I really don't believe that was the day. I believe it was later.

So that then gets to the question of prejudice. I mean, I think we all agree that based on Commissioner Bulla's protective order we could not have provided the statement to plaintiff.

So certainly Mr. Murdock or Mr. Keach could have taken nurse Wolfe's deposition then. Nurse Wolfe still had I think a decent memory of what she said at that time.

It was really nurse Sumera who had the memory problems when he was deposed in 2015. So he was deposed earlier this year. So would nurse Sumera's testimony -- memory have been better if he was deposed sometime in 2013? I don't know. I agree with Mr. Keach, it's speculation for me to say.

But what I would say is that Mr.

Sumera -- or nurse Sumera did have a memory of what he believed of Mr. Farmer. And I know he didn't recall the, the -- telling nurse Wolfe the things that nurse Wolfe attributed to him.

THE COURT: Uh-huh.

MR. PRANGLE: But what he did remember was that I didn't believe that Mr. Farmer favored female patients, and I didn't have the impression that Mr. Farmer volunteered to place leads on female patients. So he still had a memory of that. So that was still there.

As to nurse Murray, let's not forget that the sitter incident that nurse Murray talks about, she came to the conclusion that Mr. Farmer didn't do anything wrong.

So to me it's just wild speculation to say that even if we had known about it that day that others would have a memory that Farmer did something wrong.

Nurse Murray came to the conclusion, and she's the only one that has spoken to this issue, is that Mr. Farmer didn't do anything wrong. And I see no reason why we should second guess that because she's the one.

But the reality is is that the way

the charting is done, it's just essentially impossible unfortunately to identify whether and where Mr. Farmer may have been a sitter. And I'll be -- you know, we have the records. Even if -- even if we had done this search in 2008 or 9 or 10, we still have the problem that the records don't give us that information. So that's not a memory lapse issue, that's just the way the record keeping is done.

But the main point with Murray is that she came to the conclusion that Mr. Farmer didn't do anything wrong. And in the deposition that she gave in the RC case, she says I never had a problem with Mr. Farmer. And that was the state of her knowledge at the time.

So I guess just to sum up, I really acknowledge that we should have supplemented our ECC earlier than we did. And I believe though with the statements, whenever we got them, we did produce them at the earlier allowable opportunity based on the protective order. And that was at the end of 2014.

And I know now that the Wolfe statement wasn't even in that. And I don't know where we got it, but certainly from 2013 to the end

of 2014, it still would have been subject to the protective order. So we couldn't have produced it earlier, even if we had it.

So where's the prejudice? I think as Your Honor has pointed out, really the smoking gun nature of this is the potentially damaging testimony about the foreseeability of nurse Wolfe.

Beyond this point of misleading the court in terms of the statements of ours that continue to this day, that there's no evidence that Mr. Farmer had prior bad acts.

You know, it has been, it currently is and it will be in the future, our position that nobody witnessed Mr. Farmer do anything inappropriate.

Even accepting nurse Wolfe's testimony as, you know, in its worst light, in the light most favorable to plaintiff, she acknowledges point blank I had nothing concrete. She never saw him do anything.

Nurse Murray says she never saw him do anything. And if we consider her testimony in the RC case, she had no problem with him at all.

As to Sumera and, you know, so really the damaging part of nurse Wolfe's statement

is what she said or what she says Sumera told her.

So what did Sumera tell her? You need to watch that guy because he favors female patients and he likes to place leads.

Well, I will acknowledge that's certainly kind of odd, but Sumera never saw him do anything inappropriate.

In all the testimony, in all the depositions that plaintiff has produced, there's not a single person who has said I saw him inappropriately touch someone. It's not there.

I, I acknowledge there's certainly circumstantial evidence now, but it's my position as an advocate for my client that there was nothing sufficient that would have put us on notice of this risk.

So did I inartfully or over state that position in the briefs with the court? Perhaps.

THE COURT: Well, you would acknowledge it's one thing to argue your interpretation of documents in exhibits that have -- in evidence that have been produced and say looking at this group of information, you know, nobody could possibly conclude that, that Mr. Farmer was a danger to the

patients, but, but -- but then -- but it's quite a different thing to say absolutely there's no possible -- there's -- there's -- I'm trying to remember the language here.

MR. PRANGLE: It's extreme.

THE COURT: Absolutely nobody could conclude from anything that's out there that -- that Mr. Farmer did anything wrong and base that on documents that haven't been produced. It's almost like you're representing to the court there's nothing out there to look at.

MR. PRANGLE: And at that point --

THE COURT: Which is different than saying to the court there's nothing out there to look at is a lot different than being an advocate and saying my view of these records is that my client should win.

MR. PRANGLE: Okay. And if I --

THE COURT: How would -- do you recognize the distinction?

MR. PRANGLE: No, I understand the distinction. And I guess what I would advise the court is I guess I always looked at it as we were saying here's what the evidence is gonna show.

If I overstated that, it certainly

was not with an intent to mislead Your Honor. And although statements that were made before Your Honor were with full knowledge of the Wolfe and Murray statements. So it wasn't as if I was trying to say those things didn't exist.

All I would say is my point with that, it wasn't like I was trying to say the Murray and Wolfe statement don't exist and there's nothing out there, ignore everything they're saying. That's not what I was trying to get across.

My point was --

THE COURT: Wasn't one of those statements made before the -- before the Murray Metro statement had been disclosed?

MR. PRANGLE: I believe the -- I don't think so. Well, actually, I don't know.

THE COURT: Well, let's double check that.

MR. PRANGLE: I'm not sure. I'm not sure.

THE COURT: Go ahead.

MR. PRANGLE: It has been, it is, and it will be our position as advocates for our clients there was nothing sufficiently out there with Mr. Farmer at Centennial Hills Hospital that would have

put us on notice that he was a potential risk for sexually assaulting a patient. And, you know, I'll soften the phraseology, but that is, that is my position.

And at the end of the day, I believe, Your Honor, to the extent that a sanction is warranted or Your Honor agrees with Commissioner Bulla, the sanction should be on me. This is -- this is my case. As I've said, Bohanek and Butler were gone by the time this case was even filed. This is on me. And if there's a sanction, it should be on me. It should not be on Centennial Hills Hospital. They're relying on me to advocate for them.

And this -- you know, when nurse -- or when Commissioner Bulla says we, Hall Prangle Schoonveld, knew as early as 2008 that these witnesses had this important information, that's why we're gonna do a thousand dollars a year per witness because of what I failed to do, this is on me.

And what I would say, and as Commissioner Bulla invited the court to do, if we can demonstrate that we didn't have this information in 2008, but it was at a point later, invite the court to reduce the sanctions. And that's exactly

what I'm asking you to do.

I believe the totality of the evidence today is that the first point that we had this information about the statements at the earliest was 2013. February 2013. And we didn't listen to the audio tape. But May of 2013 when we had the Murray statement and whenever we got the Wolfe statement, let's assume it was May of 2013, we couldn't disclose it until November of 2014.

I don't believe that if you use 2013 as the benchmark for memories fading that we can conclude that that five-year period of time that justifiably we hadn't disclosed this, that we would think anybody would have a better memory than they had in 2015.

So I'm asking Your Honor to reconsider the monetary sanction of Commissioner Bulla. I'm asking Your Honor to reconsider her sanction of the admissibility of the statements without foundation as to -- and basically overruling preemptively a hearsay objection and reducing the sanction or eliminating the sanction because there's no prejudice after 2013.

As to the case terminating sanction, I don't believe anything comes close to that,

certainly as to Centennial Hills because the two people that would serve as the basis for that were not even employees when this lawsuit was filed. So I don't know how you can hold Centennial Hills responsible for the conduct of Bochenek and Butler when they were no longer there and supposedly duty bound to do something. They were no longer duty bound to do anything. They didn't work for us.

And again, as I've said, I don't believe they had the statements. So I don't believe case terminating sanctions are appropriate as well.

Nor do I believe that a sanction of finding foreseeability, again, because I don't believe plaintiff has demonstrated sufficient prejudice given that the points when the disclosures should have been made is 2013, not 2008.

So for all those reasons, I would ask Your Honor to reconsider or eliminate the sanction imposed by Commissioner Bulla and not entertain any additional sanctions as requested by plaintiff's.

THE COURT: All right. Thank you, Mr. Prangle. I appreciate that. Mr. Keach, you get the last word.

MR. KEACH: I'll try not to be too

EXHIBIT "2"

EXHIBIT "2"

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DISTRICT COURT

CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING	CASE NO. A-09-595780-C DEPT. NO. II **DEFENDANTS VALLEY HEALTH SYSTEM LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC.'S MOTION FOR RECONSIDERATION OF THIS COURT'S NOVEMBER 4, 2015 ORDER** Date of Hearing: Time of Hearing:

Based on the lack of willfulness by Centennial and its counsel, this Court's staggering sanction is not commensurate with the non-compliance with N.R.C.P. 16.1, which was the result of a negligent failure to thoroughly investigate this matter. Further, any prejudice suffered by Plaintiff, whose counsel were themselves less than diligent given the information at their disposal, can be remedied by the admission of the police statements given by nurse Christine Murray ("Murray") and nurse Margaret Wolfe ("Wolfe"), which sufficiently memorialized the testimony that this Court (and Plaintiff's counsel) believes has now been lost. Although this Court cannot be sure that additional relevant facts would not have come to light if Murray, Wolfe, and nurse Renato Sumera ("Sumera") were deposed in 2010, the bottom line is that this Court cannot issue this severe sanction (*i.e.*, striking Centennial's Answer as to liability) without a finding of willfulness—particularly after having already found the existence of genuine issues of material fact concerning reasonable foreseeability.

For these reasons, as set forth below, this Court should reconsider its Order and adopt the sanctions initially entered by the Discovery Commissioner.

II. RELEVANT FACTS

The facts that give rise to Plaintiff's Complaint are well known to this Court and will not be repeated here. This Motion focuses on the facts relevant to reconsideration of the sanction imposed by this Court's Order.

A. Centennial Employees' Knowledge of the Allegedly Concealed Information.

After patient Roxanne Cagnina ("Cagnina") reported that she had been sexually assaulted by Defendant Steven Farmer ("Farmer") in May 2008, the Las Vegas Metropolitan Police Department ("Metro") interviewed and transcribed statements from Wolfe and Murray. Centennial conducted an internal investigation regarding the Cagnina incident. During the investigation, Centennial's Counsel met with Wolfe, Sumera, and Murray because each was directly involved in the treatment of Cagnina. At that time, Centennial and its counsel were unaware of the incident regarding Plaintiff.[2]

[2] Tr. of Evid. Hearing, at 47:23 – 49:3, Aug. 28, 2015, attached hereto as Exhibit 1.

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According to Carol Butler ("Butler"), Centennial's Chief Nursing Officer, no one from the nursing staff had raised any concerns to either her or Amy Bochenek ("Bochenek"),[3] Centennial's Director of Emergency Services, about Farmer prior to the Cagnina incident.[4] Wolfe conveyed her concerns regarding Farmer to Bochenek only after the internal investigation began.[5]

Although Bochenek and Butler were aware that Murray and Wolfe had given statements to Metro regarding Cagnina, both testified that they did not have access to those Metro statements at the time of the Centennial investigation.[6] In fact, Butler and Bochenek testified that they never saw the Murray and Wolfe Metro statements until their 2015 depositions.[7] During the post-incident investigation, Centennial's Counsel repeatedly attempted to obtain those Metro statements from Metro and the Clark County Public Defender, but, due to the pending criminal proceeding against Farmer, both of them refused to turn the statements over until after a Court Order was entered.[8]

According to Michael Saunders, a Metro detective who was assigned to the Farmer investigation,[9] the general policy of Metro is to not provide transcripts of witness statements to witnesses in an open criminal case without a court order directing it to do so.[10] Further, the Metro file related to the Farmer investigation contains no evidence that Murray, Wolfe, Bochenek, or Butler were ever provided copies of the Murray or Wolfe Metro statements.[11] Detective Saunders also has no recollection of ever providing transcripts of the Murray or Wolfe Metro statements to Murray, Wolfe, or Centennial,[12] and can think of no other way any of them would have obtained transcripts of the Murray or Wolfe Metro statements.[13] In fact, it would be "highly unusual" for

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[3] Ms. Bochenek's last name is now Blasing. (Dep. of Amy Blasing, at 4:7 – 11, attached hereto as Exhibit 2.)

[4] Dep. of Carol Butler, at 112:24 – 113:8; 119:15 – 120:16, attached hereto as Exhibit 3.

[5] *Id.*

[6] Ex. 2, at 38:2 – 24; Ex. 3, at 96:7 – 20; 114:2 – 115:14.

[7] Ex. 2, at 38:2 – 5; Ex. 3, at 92:12 – 94:15.

[8] Ex. 1, at 45:2 – 13; 222:6 – 13.

[9] Declaration of Detective Michael Saunders, ¶¶ 1, 4, attached hereto as Exhibit 4.

[10] *Id.*, ¶ 5.

[11] *Id.*, ¶¶ 6 – 7.

[12] *Id.*, ¶ 8.

[13] *Id.*, ¶ 9.

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Metro to have provided the Murray or Wolfe Metro statements to anyone other than the Clark County District Attorney without a court order directing Metro to do so.[14]

Murray believes that she discussed her Metro statement with Butler in 2008, and claims that Butler had a copy of her Metro statement.[15] As stated above, Butler disagreed (as does Metro), stating she had no recollection of ever seeing the statement.[16] Murray further testified that she did not discuss with Butler the elderly patient who yelled at Farmer to leave her room (despite the fact that it is referenced in her Metro statement),[17] and had not discussed that particular incident with anyone at Centennial (including supervisory personnel) apart from her statement to Metro.[18]

Wolfe recalled speaking with Sumera regarding her suspicions of Farmer.[19] However, Wolfe did not speak with Centennial's Risk Management department or its counsel and, apart from her conversation with Bochenek; Wolfe did not speak to any member of Centennial's administration regarding Farmer.[20] Wolfe never saw a transcript of her police statement until she testified at Farmer's criminal trial.[21]

Wolfe's employment at Centennial ended May 7, 2009.[22] Murray left Centennial March 11, 2009.[23] Butler left Centennial on January 3, 2010.[24] Bochenek left Centennial on September 26, 2010.[25]

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[14] *Id.*, ¶ 10.

[15] Dep. of Christine Murray, at 60:19 – 61:25, attached hereto as Exhibit 5.

[16] Ex. 3, at 92:12 – 94:15.

[17] Ex. 5, at 61:12 – 25.

[18] *Id.*, at 60:9 – 13.

[19] Dep. of Margaret Wolfe, at 16:8 – 18:18, attached hereto as Exhibit 6.

[20] *Id.*, at 40:1 – 41:20.

[21] *Id.*, at 44:16 – 45:12.

[22] Declaration of Amanda Bell, ¶ 5, attached hereto as Exhibit 7.

[23] *Id.*, ¶ 7.

[24] *Id.*, ¶ 8.

[25] *Id.*, ¶ 6.

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B. **The Cagnina Lawsuit.**

In September of 2008, Cagnina filed a civil Complaint related to Farmer's assault (the "Cagnina Matter").[26] Because they were involved with Cagnina's treatment, Centennial's Counsel listed Wolfe, Sumera, and Murray in the initial disclosures in the Cagnina Matter on November 13, 2008.[27]

C. **The Jane Doe Complaint.**

The Complaint in this matter was filed on July 23, 2009,[28] and the Amended Complaint was filed on August 21, 2009.[29] The Early Case Conference was held on November 9, 2009.[30] On March 17, 2010, Plaintiff produced her Fifth Supplemental Disclosures, which contained the witness lists from the Farmer criminal proceeding.[31] Wolfe and Murray were on that list.[32] On May 13, 2010, Plaintiff produced her Sixth Supplemental Disclosures, which included the deposition transcripts of Murray and Bochenek from the Cagnina Matter.[33] In the Cagnina Matter, Murray was asked specifically whether she had any issues with Farmer, and responded that she had not.[34] At the request of Plaintiff, this matter was stayed from January 21, 2011 through July 18, 2012.[35]

Although Centennial's Counsel had interviewed Wolfe, Sumera, and Murray after the Cagnina incident, those lawyers did not conduct another interview of these same nurses after the

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[26] Complaint, *Cagnina v. Centennial Hills Hospital Medical Center, et al.*, Case No. A570756, Sep. 2, 2008.

[27] Def. Centennial Hills Hospital's Initial Early Case Conference List of Witnesses & Documents, at 2:24; 3:8, attached hereto as Exhibit 8.

[28] Compl., July 23, 2009.

[29] Amen. Compl., Aug. 23, 2009.

[30] Joint Case Conference Report, at 2:16, Dec. 9, 2009, attached hereto as Exhibit 9.

[31] Pl.'s Fifth Supp. to Case Conference Disclosures Pursuant to NRCP 16.1, at 2:5 – 13, attached hereto as Exhibit 10; Ex. 1, at 50:11 – 16.

[32] *See id.*

[33] Pl.'s Sixth Supp. to Case Conference Disclosures Pursuant to NRCP 16.1, at 1:2 – 3, 14 – 15, attached hereto as Exhibit 11.

[34] Deposition of Christine Murray, at 56:3 – 57:2, taken in *Cagnina v. Centennial Hills Hospital Medical Center, et al.*, Case No. A570756, Jan 27, 2010, attached hereto as Exhibit 12.

[35] Pl.'s Reply to Def. Steven Farmer's Opp'n to Pl.'s Mot. for Protective Order, at 3:25 – 4:3, Dec. 9, 2010 ("[T]his Court should stop the deposition of Plaintiff and, frankly, simply place a litigation hold on this case until such time as this Court is going to mandate that Defendant appear for his deposition and Defendant provide documents, and allow for subpoenas duces tecum to be served on Metro and the DA's office."); Discovery Commissioner's Report & Recommendations, at 2:20 – 24, Jan. 21, 2011.

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filing of Plaintiff's Complaint in this matter, because the information they had previously gathered did not indicate that any of these nurses had information relevant to this matter.[36] Unlike the Cagnina Matter, Wolfe, Sumera, and Murray were not involved in Plaintiff's treatment. Of the fourteen witnesses Centennial listed in its initial disclosures in this matter, Plaintiff only deposed one of them (which deposition occurred in 2015).[37]

D. Centennial's Counsel Obtains the Metro File on the Farmer Investigation in the Cagnina Matter and Produces it in this Matter after the Cagnina Protective Order Is Lifted.

In February of 2013, Centennial's Counsel received materials from the Public Defender's Office, which included an audio recording of Murray's 2008 Metro statement.[38] In May of 2013, after the Discovery Commissioner deemed it "Confidential," Centennial's Counsel received the Metro file regarding the Farmer investigation.[39] This confidentiality designation limited disclosure of such materials in accordance with a September 2009 Protective Order entered in the Cagnina Matter.[40] According to the Protective Order, the contents of any materials designated as "Confidential" could not be disclosed to anyone outside the Cagnina Matter.[41] Due to this Protective Order, neither Centennial's Counsel nor Farmer's counsel supplemented their disclosures in this matter with the contents of the Metro file.[42]

Centennial's Counsel ultimately produced the Metro file in October of 2014, pursuant to an Order from the Discovery Commissioner.[43] Centennial's Counsel produced that file before the Report and Recommendations were completed in order to comply with the Commissioner's ruling as soon as possible.[44] The Metro file contained 190 pages,[45] and included an affidavit of the custodian

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[36] Ex. 1, at 49:4 – 14.

[37] *Id.*, at 52:16 – 21.

[38] *Id.*, at 93:17 – 94:1.

[39] *Id.*, at 76:6 – 13; 84:24 – 85:10; *see also* Ex. 12 to Aug. 28, 2015 Evidentiary Hearing.

[40] Protective Order, Cagnina Matter, attached hereto as Exhibit 13.

[41] *Id.*, at 2:14 – 3:3; 4:17 – 21.

[42] Ex. 1, at 84:5 – 17.

[43] *Id.*, at 114:4 – 115:14.

[44] *Id.*

[45] Exhibit 29 to August 28, 2015 Evidentiary Hearing; Defendants' Exhibit A to same.

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of records stating the file was comprised of a total of 188 pages.[46] Each page was Bates-labeled with an "LVMPD" Bates number.[47] Although the statement from Murray is included, the statement that Wolfe provided to Metro in 2008 was not included in the file received in May 2013.[48] Wolfe's statement to Metro was first disclosed in this matter by Plaintiff in March 2015.[49]

E. The Motion for Sanctions.

On April 29, 2015, Plaintiff filed a Motion for Rule 37 Sanctions, seeking an order establishing that Farmer's misconduct was reasonably foreseeable to Centennial (and to its parent company, Universal Health Services, Inc.) as a matter of law. After briefing and oral argument before the Discovery Commissioner (the Honorable Bonnie A. Bulla), Commissioner Bulla ruled as follows:

- That the statements given to Metro by Murray and Wolfe be admitted at trial without the necessity of establishing foundation, and without any hearsay objections;
- That UHS pay $18,000 in monetary sanctions; and
- That the District Court conduct an evidentiary hearing to address (1) if case-terminating sanctions are appropriate; (2) whether there was intentional conduct meant to thwart discovery in this case; and (3) whether Centennial misled the Court.[50]

The Commissioner also stated that these sanctions could be reduced if Centennial were able to prove "with a degree of probability" that Centennial had "no knowledge of Sumera or Wolfe until recently."[51] The Commissioner's Report and Recommendations (which was drafted by Plaintiff's counsel) did not include any accusations or insinuations that Centennial's Counsel had violated the Nevada Rules of Professional Conduct.

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[46] (*Id.*, at LVMPD0004.) The discrepancy in page count versus the actual numbers of pages is due to the two, single-page custodian of records affidavits. The actual number of pages that constitute the file (without these affidavits) is 188.

[47] *See id.*

[48] *See id.*; Ex. 1, at 120:12 – 123:6.

[49] Pl.'s 25th Supp. Case Conference Disclosures Pursuant to NRCP 16.1, at 7:18 – 19, PDDISC0162 – 0175, attached hereto as Exhibit 14.

[50] Disc. Comm. Report and Recommendations, at 3:24 – 4:15.

[51] *Id.*, at 5:1 – 3.

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F. **The Evidentiary Hearing.**

On August 28, 2015, the Court held an evidentiary hearing regarding the potential imposition of additional sanctions against Centennial. During that hearing, Centennial's Counsel mistakenly argued and testified that the Metro file that they had received in May of 2013 contained Wolfe's Metro statement from 2008.[52] But, after Plaintiff's counsel pointed out that Centennial's October 2014 disclosure of the Metro file did not include the Wolfe Metro statement, Centennial's Counsel reviewed the original file received from Metro, and clarified that Wolfe's Metro statement was not received in May of 2013.[53] The copy of the Metro file that Cagnina received and produced in the Cagnina Matter likewise did not contain Wolfe's Metro statement.[54] Apart from the mistaken testimony—which was later corrected—there was no competent evidence produced during the evidentiary hearing that anyone from Centennial (counsel or otherwise) had Wolfe's Metro statement in 2013.[55]

The evidentiary hearing also included the following salient points:

- Plaintiff's counsel asserted that foreseeability is the most important issue in Plaintiff's case[56];
- Plaintiff's counsel asserted that "the single most important document in this case relative to foreseeability is Margaret Wolfe's statement"[57];
- Plaintiff's counsel asserted that "[t]he hospital was fully aware of" both Murray and Wolfe's statements to Metro in 2008, but argued it was "irrelevant" whether the hospital actually had a copy of either statement[58];
- The Court questioned "whether the hospital itself can be held responsible for its failure to disclose a statement to counsel, so they can produce it as part of a 16.1"[59];

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[52] Ex. 1, at 111:22 – 112:10.

[53] *Id.*, at 132:25 – 138:25.

[54] *Id.*, at 140:3 – 142:22.

[55] *See id.*

[56] *Id.*, at 217:25 – 218:1 ("But the reality is in this case foreseeability's really the issue.")

[57] *Id.*, at 118:17 – 19.

[58] *Id.*, at 192:7 – 17.

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- Plaintiff's counsel admitted (and the Court agreed) that all parties had a "pretty good idea . . . that [the Wolfe statement] wasn't part of the [May 2013] police production"[60];
- The Court noted that mere speculation regarding when Centennial's Counsel actually received the Wolfe Metro statement is insufficient to find fault with counsel, and that the issue was what knowledge Centennial had regarding the Wolfe Metro statement[61];
- Plaintiff's counsel admitted that it is impossible to know what testimony he would have been able to procure in 2009 that would have been impossible to procure in 2013, and that it was possible that a witness could forget facts after as little as a year[62]; and
- The Court acknowledged that one of the issues it was considering was whether an employee's knowledge could be imputed to Centennial for the purposes of heightened sanctions.[63]

Following the evidentiary hearing, the Court issued its Order striking Centennial's Answer for the purposes of liability as a sanction for willful discovery violations.[64] The overarching basis for the Order was the Court's finding that Centennial (and its counsel) had willfully and intentionally concealed evidence regarding the statements given by Murray and Wolfe to Metro.[65]

III. ARGUMENT

A. Legal Standard

Pursuant to EDCR 2.24(a), a motion that has already been heard may be reheard upon leave of the Court. "A court may, for sufficient cause shown, amend, correct, resettle, modify, or vacate, as the case may be, an order previously made and entered on motion in the progress of the cause or proceeding." *Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027 (1975) (citations omitted).

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[59] *Id.*, at 193:11 – 13.

[60] *Id.*, at 204:13 – 205:10.

[61] *Id.*, at 208:10 – 23.

[62] *Id.*, at 211:13 – 212:11.

[63] *Id.*, at 247:24 – 25.

[64] Order Striking Answer of Defendant Valley Health System LLC as Sanction for Discovery Misconduct, Nov. 4, 2015.

[65] *E.g., id.*, at ¶¶ 79 – 82, 85.

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Plaintiff. As explained above, this constitutes a manifest error of law, because (as determined by Judge Hicks) the Nevada Supreme Court would likely follow the law in other jurisdictions—that the collective knowledge doctrine cannot be used to impute willfulness or intentional misconduct to a corporation unless one or more of its employees possesses the requisite culpable state of mind. The Order, while comprehensive, is devoid of any finding that any single Centennial employee ***willfully and intentionally concealed*** relevant evidence.

This Court's attempt to impute knowledge ***and willful intent*** to Centennial based on the aggregate knowledge of Butler, Bochenek, Murray, and Wolfe is even more precarious in light of the fact that all of these employees left the employ of Centennial before (or soon after) this lawsuit was filed. Because they were not Centennial employees during all or most of the relevant discovery period, they would lack motivation to protect Centennial, and Centennial's ability to re-interview them and determine whether they had information relevant to foreseeability was constrained.[70] Although Centennial questioned Murray, Wolfe, and Sumera following the Cagnina incident, it is not surprising that Centennial's other employees and counsel would not recall the specific details of those interviews when the Jane Doe lawsuit was filed approximately one year later.

To be clear, Centennial acknowledges that it should have disclosed Wolfe, Murray, and Sumera as witnesses pursuant to N.R.C.P. 16.1. That is not the issue. The manifest error of law is this Court's finding that Centennial ***willfully and intentionally concealed*** the existence of these witnesses from Plaintiff. Nondisclosure of these witnesses, and the corresponding Metro statements, was the result of a failure to thoroughly investigate the facts and circumstances underlying this matter (*i.e.*, negligence)—not willful misconduct.

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[70] Further, discovery was stayed in this matter from January 21, 2011, until July 18, 2012, at the request of Plaintiff, and from February 29, 2014, through July 4, 2014, which would have further constrained Centennial's ability to disclose relevant information. (Order, 4:26-27.)

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in the Report and Recommendations (the "notice" for due process purposes). Centennial's Counsel was prepared to defend the actions of their clients; they were not told to prepare to show cause why they did not violate Nevada Rule of Professional Conduct 3.3(a)(1).

In its Order, this Court found that Centennial engaged in wrongdoing,[72] but this Court also found that Centennial's Counsel engaged in wrongdoing; to wit, they allegedly violated the Rules of Professional Conduct in representing Centennial.[73] Respectfully, this Court should not have done so because it gave no prior, particularized notice to Centennial's Counsel that it would consider whether their actions met the applicable standard of care found in the Nevada Rules of Professional Conduct. In accord with the basic elements of due process, this Court had to first notify Centennial's Counsel that it would determine whether they violated their duty of candor, so as to give Centennial's Counsel an adequate and sufficient opportunity to defend themselves. ***Without prior notice of alleged rule violations, Centennial's Counsel was denied due process.*** *See Adams v. Ford Motor Co.*, 653 F.3d 299, 308-09 (3d Cir. 2011) (finding that the district court deprived an attorney of his due process rights by finding that he violated ABA Model Rule of Professional Conduct 3.5 without giving sufficient notice and an opportunity to address that specific charge); *see also In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 278 F.3d 175, 191 (3d Cir. 2002) (stating that particularized notice of alleged attorney misconduct is vital for due process purposes because an adverse finding may act "as a symbolic statement about the quality and integrity of the attorney's work—a statement which may have a tangible effect upon the attorney's career") (quotations and citation omitted). Accordingly, the rule violations entered against Centennial's Counsel cannot stand and must be vacated.

Centennial was also denied due process as a result of the deficient notice to its counsel. Because this Court was separately considering the acts of Centennial and its counsel, it created a potential conflict of interest between Centennial and its counsel. *See* Nevada RPC 1.7(a)(2). Had it known this, Centennial would have retained separate counsel for the evidentiary hearing. Because Centennial was not properly notified that sanctions could be entered against it for violations of the

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[72] *E.g.*, Order, 23:8-13.

[73] *Id.*, 25:24 – 26:10.

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the attorney is unaware." *Waters v. Dist. Ct.*, 935 P.2d 981, 988 (Colo. 1991); *see also* MODEL RULES PROF'L CONDUCT R. 3.3 cmt. [8] (explaining that a violation of Rule 3.3(a)(3) can only be established where is it shown that the lawyer "knows that the evidence is false," and having only a reasonable belief that the evidence is false will not preclude the lawyer from presenting it to the trier of fact unless its falsity is obvious).

In analyzing a lawyer's conduct, a court may only consider what the lawyer knew at the time of the conduct. Nevada RPC 1.0A(c) (noting that the Nevada Rules of Professional Conduct presuppose that a lawyer's conduct will be analyzed "on the basis of the facts and circumstances as they existed at the time of the conduct in question"); *see also Mainor v. Nault*, 120 Nev. 770, 775, 101 P.3d 308, 325 (2004) (precluding courts from using the benefit of 20/20 hindsight to judge a lawyer's conduct). In addition, a court "should start with the presumption that, unless proven otherwise, lawyers . . . behave in an ethical manner." *Frazier v. Sup. Ct.*, 118 Cal. Rptr. 2d 129, 139 (Cal Ct. App. 2002) (quotation marks and citation omitted); *see also Assocs. Fin. Svcs. Co. of Hawai'i v. Mijo*, 950 P.2d 1219, 1231 (Haw. 1998) ("Courts presume that attorneys abide by their professional responsibilities[.]"); *accord Salaiscooper v. Eighth Jud. Dist. Ct.*, 117 Nev. 892, 903, 34 P.3d 509, 516 (2001) (indicating that a prosecutor "is clothed with the presumption that he acted in good faith and properly discharged his duty to enforce the laws").

b. *Centennial's Counsel Did Not Violate their Duty of Candor.*

This Court took issue with the following statement made by Centennial's Counsel: "There were absolutely no known prior acts by Farmer that could potentially put Centennial Hills on notice that Farmer would assault a patient."[75] In analyzing that particular statement to determine whether a Rule 3.3 violation occurred, the focus was on what Centennial knew (or could be found to have known) as of May 14, 2008 (the date of the Jane Doe incident).

Plaintiff did not present any evidence at the evidentiary hearing indicating that Farmer assaulted a female patient at Centennial prior to May 14, 2008.[76] The only evidence presented

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[75] (*See, e.g.*, Order, 25:24 – 26:10 (quoting from Centennial's opposition to a motion for summary judgment).) This Court also took issue with a substantially similar statement appearing in a brief filed by Centennial's Counsel with the Nevada Supreme Court. (*See id.*, 26:6-10.)

[76] In denying summary judgment with regard to reasonable foreseeability, this Court made the following findings:

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indicated that certain nurses at Centennial were suspicious of Farmer prior to May 14, 2008 because he seemed to be overly attentive to female patients (and one nurse had allegedly overheard a female patient yelling at Farmer). But whether it was reasonably foreseeable to Centennial that Farmer would assault Plaintiff solely because of suspicions—a classic jury issue—is separate from whether Centennial had any knowledge as to whether Farmer had actually assaulted a female patient. Only the latter mattered in terms of analyzing the veracity of the above statement by Centennial's Counsel.

Plaintiff also presented evidence indicating that Farmer had assaulted other female patients, including Cagnina, after assaulting Plaintiff. However, an act that occurred after the incident is not—by definition—a "prior act." And again, the statement by Centennial's Counsel focused on what Centennial knew *prior to* May 14, 2008, not what happened later.

Respectfully, this Court misinterpreted the statement made by Centennial's Counsel. Centennial's Counsel did not suggest that Centennial had no reason to question Farmer's behavior prior to May 14, 2008. Rather, they argued that Centennial had no prior knowledge that Farmer had ever assaulted a patient prior to assaulting Plaintiff.[77]

This Court also found wrongdoing by Centennial's Counsel by reason of their non-disclosure of the Metro statements.[78] This Court did so by imputing knowledge of the Metro statements from Centennial (the principal) to its counsel (the agent).[79] However, knowledge held by a principal may not be downwardly imputed to an agent.[80] RESTATEMENT (THIRD) AGENCY § 5.03 cmt. g; *see also*

(i) "[t]here is no evidence in the record . . . that any Centennial Hills' employee had ever observed Farmer commit any criminal act before the incident [underlying this case]"; (ii) "[t]here is no evidence that any Centennial Hills' employee had ever observed Farmer improperly touch a female patient before the incident"; and (iii) "[t]here is no evidence in the record . . . that any female patient had ever complained of any improper sexual conduct or assault by Farmer before the incident." (*See* Order Denying Pl.'s Mot. for Summ. J., 6:26 - 7:6.)

[77] Centennial's Counsel were permitted to take a narrow view of what facts and circumstances would be sufficient to make it reasonably foreseeable to Centennial that a contract nurse would assault a patient (a criminal act) in the course and scope of his employment. It requires a leap of faith to conclude that a male nurse's eagerness to assist female patients means that he is reasonably likely to sexually assault female patients if presented with the opportunity to do so, which is potentially why this Court declined to grant summary judgment in favor of Plaintiff against Centennial on the issue of reasonable foreseeability.

[78] *See* Order, 25:18-19, 26:11-12.

[79] *Id.*, 17:11 ("Centennial's knowledge [of the Police Statements] is imputed to its attorneys.").

[80] In fact, the attorney-client relationship does not require clients to disclose any information to their lawyers. *See* RESTATEMENT (THIRD) LAW GOVERNING LAWYERS § 20 cmt. b ("Clients do not have a legally enforceable duty to

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attorney"). Accordingly, this Court's sanction penalizes Centennial for its counsel's non-compliance with N.R.C.P. 16.1.[86]

Finally, this Court's sanction is not necessary to deter Centennial and its counsel from future misconduct. No evidence was submitted that Centennial or its counsel are recalcitrant or discovery abuse recidivists. In fact, Centennial's Counsel was extremely forthcoming and contrite during the evidentiary hearing. A lesser sanction will sufficiently ensure that Centennial and its counsel thoroughly investigate all relevant witnesses and facts underlying a matter going forward to ensure compliance with N.R.C.P. 16.1.

The remaining *Young* factors relating to prejudice to Plaintiff and the availability of less severe sanctions are addressed in the following section.

E. Plaintiff Was Not Prejudiced by Non-Disclosure of the Nurses and the Metro Statements, and Commissioner Bulla's Sanction is Commensurate with the N.R.C.P. 16.1 Violation.

While this Court assigned substantial blame to Centennial (and to its counsel), it did not consider the actions of Plaintiff (and her counsel). Most importantly, this Court did not consider whether Plaintiff could have learned of the contents of the Metro statements prior to February 2015. Plaintiff easily could have, and that fact weighs against the severe sanction imposed by this Court.

In March of 2010, Plaintiff disclosed witness lists from the criminal case that identified Murray and Wolfe. Yet, Plaintiff did not depose either of them. Knowing that Farmer had been charged with sexually assaulting multiple female patients while working at Centennial, Plaintiff had reason to depose each nurse who was likely to testify in the criminal case to see if he or she had information relevant to this case (and more specifically, information about acts committed by Farmer prior to May 14, 2008). To the extent that Plaintiff did not want to incur the time and expense of deposing them, Plaintiff's counsel was free to interview them since they were no longer employed

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[86] Centennial's violation of N.R.C.P. 16.1 is governed by N.R.C.P. 37(c) as opposed to N.R.C.P. 37(b). N.R.C.P. 37(b) applies to the failure to comply with a court order, while N.R.C.P. 37(c) applies to a failure to disclose under N.R.C.P. 16.1. Although a party and its counsel must comply with all court orders and disclosure obligations under N.R.C.P. 16.1, a difference in culpability should exist between a failure to comply with a court order and a failure to comply with a disclosure obligation when dealing with relevant evidence—otherwise, the tools of discovery would be unnecessary because a party could always argue that information it believes is relevant should have been disclosed pursuant to N.R.C.P. 16.1, such that the failure to do so is sanctionable.

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by Centennial. *See, e.g.*, *Wright v. Group Health Hospital*, 691 P.2d 564, 569 (Wash. 1984) (noting that a lawyer may ethically interview former employees of a represented party because those employees no longer can speak for or bind the corporation); *see also Rebel Commc'ns, LLC v. Virgin Valley Water Dist.*, No. 2:10-CV-00513-LRH-GW, 2011 WL 677308, *8 (D. Nev. Feb. 15, 2011) (finding that it is likely that the Nevada Supreme Court would "hold that Rule [of Professional Conduct] 4.2 does not apply to former employees").

Notwithstanding Plaintiff's ability to depose the nurses before their memories faded, this Court faulted Centennial for not identifying exactly what each of those nurses would have said in discovery in an N.R.C.P. 16.1 disclosure.[87] However, as recognized by the Nevada Supreme Court, counsel is not obligated "to proffer evidence that helps [his] opponent." *Sierra Glass & Mirror*, 107 Nev. at 126, 808 P.2d at 516; *see also* RESTATEMENT (THIRD) LAW GOVERNING LAWYERS § 120 cmt. (b) (explaining that even if a lawyer "might know of testimony or other evidence vital to the other party, but unknown to that party or their advocate," the lawyer "has no legal obligation to reveal the evidence, even though the proceeding thereby may fail to ascertain the facts as the lawyer knows them," so long as the lawyer complies with "applicable rules concerning pretrial discovery and other applicable disclosure requirements"). In other words, even assuming that Centennial could be charged with knowing generally what the testimony of each nurse might be, Centennial was not required to give a detailed description of each nurse's anticipated testimony.[88]

The purpose of discovery is to gather evidence to support claims and defenses. Nothing barred Plaintiff from deposing the nurses promptly after learning that they had been named as witnesses in the criminal case. Had this happened, it is reasonable to conclude that Plaintiff's counsel would have learned of the information contained in the Metro statements. That is because their counsel would have focused on what each nurse knew about Farmer and whether each nurse had witnessed Farmer act improperly while working at Centennial. *See Bronston v. U.S.*, 409 U.S. 352, 360, 362 (1973) (explaining how the questioner must be precise and probe the witness, saying

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[87] Order, 34:21 – 35:2.

[88] In fact, doing so may have resulted in a violation of the September 2009 Protective Order entered in the Cagnina Matter.

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"[i]f a witness evades, it is the lawyer's responsibility to recognize the evasion and to bring the witness back to the mark, to flush out the whole truth with the tools of adversary examination").

In addition, Plaintiff could have timely taken the N.R.C.P. 30(b)(6) deposition of Centennial concerning, *inter alia*, whether Centennial had prior notice of wrongdoing or suspicious behavior by Farmer. *See U.S. v. Taylor*, 166 F.R.D. 356, 361 (M.D.N.C. 1996) ("The Rule 30(b)(6) designee . . . presents the corporation's 'position' on the topic."). Doing so would have forced Centennial to diligently prepare one or more witnesses to testify about pre-May 14, 2008 concerns (if any) with Farmer. Plaintiff did not seek to take a Rule 30(b)(6) deposition of Centennial until recently, thereby allowing witness memories to naturally fade over time.

These facts demonstrate that Plaintiff could have done more to discover the contents of the Metro statements. That does not negate the obligation that existed under N.R.C.P. 16.1 for Centennial to disclose Murray, Wolfe, and Sumera as witnesses, but, it does factor into whether Plaintiff could have mitigated the resulting prejudice that she claimed to have suffered by reason of such non-disclosure.

The Discovery Commissioner entered an appropriate sanction based on the N.R.C.P. 16.1 violation; specifically, admission of the Metro statements into evidence free and clear of any hearsay objections (along with a five-figure monetary sanction). Those statements sufficiently capture any lost testimony. But for the admission of those statements into evidence, Plaintiff would likely have been unable to use them at trial (other than to refresh Murray and Wolfe's recollections) because they are largely inadmissible hearsay. Thus, the fact that Plaintiff will be able to use them at trial provides her with a distinct advantage over Centennial.[89]

Taken together, the facts and circumstances compel a less severe sanction than what was imposed against Centennial for inadvertent non-disclosure of the nurses and the Metro statements. If

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[89] As noted above, Plaintiff acknowledged at the evidentiary hearing that a witness' memory could fade within one year. Assuming that Centennial had disclosed Murray, Wolfe, and Sumera as witnesses in November 2009—over eighteen months after the incident underlying this matter—and further assuming that Plaintiff promptly took their depositions prior to engaging in any preliminary written discovery, it is likely that Murray, Wolfe, and Sumera would still have had problems accurately recalling their suspicions of Farmer pre-dating May 14, 2008. Plaintiff would have then been limited at trial in her use of the Metro statements, even though Plaintiff believes that Wolfe's Metro statement is the lynchpin of her case. Now, Plaintiff gets to use those out-of-court statements for any purpose.

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this Court were to affirm the striking of the Answer to the Complaint as to liability, it would be implicitly approving inactivity by Plaintiff while directly punishing comparable inactivity by Centennial—a grossly unfair result. *Nev. Power Co. v. Fluor Ill.*, 108 Nev. 638, 645, 837 P.2d 1354, 1359 (1992) (stating that dismissal "should only be used in extreme situations," and that "if less drastic sanctions are available, they should be utilized").

IV. CONCLUSION

Respectfully, this Court went too far in finding that Centennial and its counsel willfully and intentionally sought to conceal relevant evidence with the intent to harm Plaintiff. The disclosures should have been made; however, the non-disclosure was negligent, not willful or intentional. Similarly, Centennial and its counsel have not misled this Court; they simply disagree with any assertion that knowledge of suspicious behavior is enough to make it reasonably foreseeable that a contract nurse with a clean background check would sexually assault multiple female patients. This Court should let the jury decide, and, in making that determination, the jury can consider the statements given by Murray and Wolfe to Metro.

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DECLARATION OF AMANDA BELL

STATE OF NEVADA)
) ss.:
COUNTY OF CLARK)

AMANDA BELL, being first duly sworn deposes and says that:

1. I, Amanda Bell, am the Director of Risk Manager for Centennial Hills Hospital.

2. I have been asked to provide the last date of employment for Margaret Wolfe, Amy Blasing (formerly Amy Bochenek), Carol Butler and Christine Murray.

3. I have spoken with the Human Resources department for Centennial Hills Hospital to find the employment information for Ms. Wolfe, Ms. Blasing and Ms. Murray.

4. I have spoken with the Human Resources department for UHS to determine the employment information for Ms. Butler.

5. The last date of employment of Ms. Wolfe at Centennial Hills Hospital was May 7, 2009.

6. The last date of employment of Ms. Blasing at Centennial Hills Hospital was September 26, 2010.

7. The last date of employment of Ms. Murray at Centennial Hills Hospital was March 11, 2009.

8. The last date of employment of Ms. Butler at Centennial Hills Hospital was January 3, 2010.

9. This declaration is made under the penalties of perjury in the State of Nevada.

FURTHER YOUR DECLARANT SAYETH NAUGHT.

Amanda Bell
AMANDA BELL

DECLARATION FOR MICHAEL SAUNDERS, REGARDING TRANSCRIPTS OF WITNESS STATEMENTS REGARDING THE INVESTIGATION OF STEVEN FARMER, EVENT NUMBER 080530-2056

MICHAEL SAUNDERS, declares as follows:

1. I am employed by the Las Vegas Metropolitan Police Department ("LVMPD"), and make this Declaration of facts from reviewing the file for Event Number 080530-2056, and related events, which I investigated, my personal knowledge of the same, except for those matters stated upon information and beliefs, and as to those matters, I believe the same to be true.

2. I was asked by counsel for Centennial Hills Hospital to comment upon the question of whether the transcription of a witness statement would ever be voluntarily provided by LVMPD to the witness or to their employer, in general.

3. I was also asked by counsel for Centennial Hills Hospital to comment upon the question about whether the LVMPD records in Event Number 080530-2056, indicate that the transcribed witness statements of Margaret Wolfe or Christine Murray, regarding issues related to the investigation of Steven Farmer, were ever given to the named witnesses, or to Carol Butler or Amy Blasing (a.k.a. Amy Bochek).

4. I was the Detective assigned to event number 080530-2056, and four related events. I have reviewed my complete file related to these events.

5. As a general matter, I can state that it is the policy of the LVMPD that transcripts of witness statements are never given to the witnesses themselves in an open criminal case, absent a court order compelling LVMPD to do so. Moreover, the transcripts of witness statements would not be provided to the employer of the witness in an open criminal case, absent a court order compelling LVMPD to do so.

6. Based upon my review of the file related to this investigation, I find no evidence that Margaret Wolfe or Christine Murray, at any time, were given copies of the transcripts of their witness statements.

7. Based upon my review of file related to this investigation, I find no evidence that Carol Butler or Amy Blasing (a.k.a. Amy Bochenek), at any time, were given copies of the transcripts of the witness statements of Margaret Wolfe or Christine Murray.

8. I can think of no other means by which Margaret Wolfe, Christine Murray, Carol Bulter or Amy Blasing (a.k.a. Amy Bochenek), could have obtained these transcripts from LVMPD.

9. I have no recollection of providing any transcribed statements or audio recordings thereof to the witnesses named above or their employers.

10. It would be highly unusual for a witness statement to be released from an open criminal case to anyone other than the District Attorney, absent a Court Order directing the LVMPD to do so.

11. Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 17th day of November, 2015.

Michael Saunders

4814-3919-9787, v. 1

EXHIBIT "3"

EXHIBIT "3"

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CLERK OF THE COURT

ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM, LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CETER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICE, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: 09-A-595780-C
Dept. No.: II

Date: August 28, 2015
Time: 9:00 a.m.

ORDER STRIKING ANSWER OF DEFENDANT VALLEY HEALTH SYSTEM LLC AS SANCTION FOR DISCOVERY MISCONDUCT

I. SUMMARY OF ORDER

This action involves Plaintiff Jane Doe's claims that she was sexually assaulted by Nurse Farmer at Centennial Hills Hospital Medical Center on May 14, 2008. Plaintiff Jane Doe asserted the following two substantive claims against defendant Valley Health System, LLC d/b/a/ Centennial Hills Hospital Medical Center, and Universal Health Services, Inc., (collectively "Centennial" herein): negligent failure to maintain the premises in a safe manner; and *respondeat superior* liability for the sexual assault by Nurse Farmer. *See* Amended Complaint, ¶¶s 11-17 (filed August 21, 2009).

The Amended Complaint established the relevance and materiality of the following questions of fact: (a) as to the negligence claim: whether it was reasonably foreseeable to Centennial, considering the totality of circumstances, that the premises were unsafe (*See* CD Audio Recording of the Evidentiary Hearing at 10:27:06) (hereinafter "E.H. at

Richard F. Scotti
District Judge

Department Two
Las Vegas, NV 89155

Calendar Call is set for December 16, 2015.

C. DISCOVERY HEARING REGARDING SANCTIONS

Plaintiff Jane Doe filed her Motion for NRCP 37 Sanctions against Centennial on April 29, 2015.

This matter came before Discovery Commissioner Bonnie Bulla on June 3, 2015. Plaintiff Jane Doe asked the Discovery Commissioner to strike Centennial's Answer as a sanction for its discovery violations. Tr. of Proc. at p. 16, line 20 (June 3, 2015).

The Discovery Commissioner executed her Findings of Fact, Conclusions of Law and Recommendations on July 14, 2014, explaining as follows:

> The basis of the Motion involves three nurses, Christine Murray, Margaret Wolfe, and Renato Sumera. Ms. Murray and Ms. Wolfe each gave statements to the LVMPD around the time of the sexual assault that resulted in the arrest of Mr. Farmer. Mr. Sumera met with Risk Management afterwards. Mr. Bemis confirmed that a Quality Assurance meeting was held shortly after the incident but did not know at the Hearing whether or not any of the individuals appeared.
>
> None of the nurses were identified at the initial 16.1 The nurses should have been identified as they were clearly known to Defendants. The nurses should have been identified per NRCP 16.1 as the nurses were certainly likely to have information discoverable under Rule 26(b). The Court queried Mr. Bemis as to why the nurses were not identified but Mr. Bemis could not answer the question.
>
> The witnesses were certainly important to the matter because they provide evidence of "notice" regarding Mr. Farmer and his proclivities.
>
> While there is no doubt but that Plaintiff was prejudiced by the delay in terms of filing motions, the Court is more concerned with the issues of memories that fade. The delay in this matter was not for a short period – this was for 6 or more years. Mr. Murdock stated that nurse Sumera had a substantial memory lapse and Mr. Bemis did not dispute this. Accordingly, the Court finds that the failure to identify these three nurses has resulted in substantial prejudice sufficient to warrant NRCP 37 sanctions.

The Discovery Commissioner recommended sanctions and a further evidentiary hearing as follows:

> The UHS Defendants are sanctioned in the amount of One Thousand Dollars and No/100 ($1000.00) per unidentified nurse (3) for each year not identified (6) for a total of Eighteen Thousand

Richard F. Scotti
District Judge

Department Two
Las Vegas, NV 89155

Dollars and No/100 ($18,000.00). Half of that amount, or Nine Thousand Dollars and No/100 ($9,000.00), shall be paid to Barbara Buckley's Legal Aid Center of Southern Nevada, and the other half shall be paid to Plaintiff in attorney's fees and costs to offset additional work done to figure out witnesses to proceed forward.

IT IS FURTHER RECOMMENDED THAT because of the time length involved in UHS' failure to identify the nurses, and the memory issues that arise as a result, additional sanctions are warranted. However, the District Court should determine those via an evidentiary hearing and this Court defers the evidentiary hearing to the District Court. As such, an evidentiary hearing before the District Court should be conducted to determine (1) if case terminating sanctions are appropriate based on the conduct of failing to disclose witnesses, (2) whether or not that was intention to thwart the discovery process in this case, and hinder Plaintiff to discovery the relevant facts, and (3) a failure to let the Court know what was going on in the case and whether the USH Defendants misled the Court.

The Discovery Commissioner was deeply concerned by the prejudice inflicted upon Plaintiff by Defendants' failure to disclose the nurses and their Metro Statements, commenting:

> That's the prejudice . . . It's the fact that memories fade, and now we have a situation where we can't go back in time . . . and find out exactly what they knew, the details of their observations, which we don't have and, of course, details help you with credibility, to know what happened. So that's the prejudice, and it's significant."

Tr. of Proc., p. 9 (June 3, 2015).

The District Court approved and signed the DCRR on August 15, 2015, and filed the DCRR on August 17, 2015, setting the Evidentiary Hearing for August 28, 2015.

D. THE EVIDENTIARY HEARING

The Evidentiary Hearing was conducted on August 28, 2015. Each side presented opening statements. Plaintiff Jane Doe presented the following witnesses, who were subjected to examination by both sides: John Bemis and Ken Webster (attorneys with Hall, Prangle, Schooveld, LLC, counsel for Centennial). The following exhibits were admitted into evidence: Plaintiff's exhibits 1, 1a-1n, 3-8, 10, 10a, and 11-19, 21-29, 30 (excerpt of deposition of Carol Butler on June 19, 2015), 31 (excerpt of deposition of nurse Sumera on May 15, 2015), 32 (excerpt of deposition of nurse Wolfe on May 5, 2015), 33 (excerpt of deposition of Amy Blasing on July 28, 2015), and 34 (excerpt of deposition of Janet Callahan

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on August 8, 2015; and Defendant Centennial's Exhs. A (Las Vegas Metropolitan Police Department file supposedly received by Centennial's counsel on or about May 6, 2013); and B (plaintiff's 15th Supplemental NRCP 16.1 Disclosure in the "RC" case). E.H. at 10:17-25. Each side presented closing arguments. The entire Evidentiary Hearing took more than half a day.

III. UNDISPUTED FACTS

THE HIRING AND EMPLOYMENT OF MR. FARMER

1. In May of 2008, Jane Doe was a patient at Centennial. For the purposes of the undisputed facts that follow, the term "Centennial" shall refer to the hospital facility, as well as the Defendant, as applicable.

2. In May of 2008, Centennial had a contractual agreement whereby American Nursing Services ("ANS") would provide certain hospital staff, which included CNAs.

3. In May of 2008, Mr. Farmer was an agency CNA working at Centennial through its agreement with ANS.

FARMER'S ASSAULT AGAINST JANE DOE ON MAY 14, 2008

4. On May 14, 2008, ANS sent Mr. Farmer to work at Centennial as a CNA.

5. On May 14, 2008, Centennial originally told Mr. Farmer to work in the Emergency Room.

6. In May of 2008, Mr. Farmer wore an employee badge that had his name, ANS, Centennial, and contract staff written on it.

7. At around 21:30 hours on May 14, 2008, while Farmer was working at Centennial, Centennial staff re-directed Mr. Farmer from the Emergency Room to the sixth floor to work.

8. On May 14, 2008, Jane Doe was on the sixth floor in Room 614 at Centennial.

9. On May 14, 2008, in the course and scope of his employment with ANS as a CNA, and in the course and scope of working at Centennial, it was expected that Farmer would enter patients' rooms on the sixth floor of Centennial as part of his tasks.

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10. In addition, Mr. Farmer was expected to give bed baths, clean up stool, clean up urine, and check monitor leads when requested to do so by a nurse or doctor.

11. On May 14, 2008, Mr. Farmer entered Jane Doe's room, Room 614 at Centennial.

12. On May 14, 2008, having contact with a patient in the patient's room on the sixth floor of Centennial was in the course and scope of Farmer's employment with ANS and Centennial as a CNA.

13. Mr. Farmer had contact with Jane Doe in her room on the sixth floor of Centennial.

14. On May 14, 2008, Jane Doe awoke to find Mr. Farmer pinching and rubbing her nipples telling her that he was fixing her EKG monitor leads.

15. Mr. Farmer lifted up Jane Doe's hospital gown.

16. Mr. Farmer sexually assaulted Jane Doe by digitally penetrating her anus and vagina against her will.

17. Mr. Farmer sexually assaulted Jane Doe by pinching and rubbing her nipples against her will.

FARMER'S ASSAULT OF MS. CAGNINA ON MAY 15 & 16, 2008

18. The first criminal investigation of Mr. Farmer began from an incident involving the patient Roxanne Cagnina at Centennial. The matter involving Mr. Farmer's sexual assault against Ms. Cagnina, including the Centennial investigation, and the Cagnina lawsuit, is referenced herein as the "Cagnina Case."

19. Ms. Cagnina accused Mr. Farmer of sexually assaulting her while she was a patient at Centennial on May 15 and 16, 2008 – beginning the day after Mr. Farmer assaulted Jane Doe.

20. Centennial hired the firm Hall, Prangle, Schooveld, LLC (hereinafter "HPS") to represent Centennial in the Cagnina Case on or about May 22, 2008. E.H. 9:57:15.

21. The HPS attorneys conducted an investigation of Mr. Farmer's conduct with respect to Ms. Cagnina, including an interview of nurse Wolfe (around mid-June 2008), nurse Murray (around mid-July 2008), and nurse Sumera (around mid-August). E.H. at 9:57. The

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HPS attorneys contended at the Evidentiary Hearing that they had no knowledge at the times of these interviews that Mr. Farmer had assaulted Jane Doe.

22. The HPS attorneys had interviewed nurse Murray because she was the nurse assigned to attend to Ms. Cagnina at the time of the assault by Mr. Farmer. She had relevant and material information about the facts and circumstances surrounding Mr. Farmer's contact with Ms. Cagnina at the time of this assault.

23. Ms. Cagnina filed a Complaint in Case No. A570756 against Centennial and Mr. Farmer on September 2, 2008, alleging claims of sexual assault, negligence, intentional infliction of emotional distress, negligent misrepresentation, and false imprisonment.

THE NURSE STATEMENTS TO THE POLICE

24. Nurse Margaret Wolfe gave a statement to the LVMPD on May 30, 2008. Plaintiff's Exh. 14 to Evidentiary Hearing. Ms. Wolfe told LVMPD about a conversation she had with nurse Ray Sumera who, before the assault on Jane Doe, expressed concern that Farmer was overly attentive to female patients and anxious to connect them to heart monitor leads, and that Mr. Sumera had asked Wolfe to keep an eye on Farmer. Wolfe Police Statement at 8. E.H. at 10:36-37.

25. Nurse Christine Murray, a Registered nurse at Centennial, gave a recorded statement to LVMPD on June 13, 2008 regarding Mr. Farmer. Plaintiff's Exh. 13 to Evidentiary Hearing. Ms. Murray told LVMPD that (a) Mr. Farmer would always ask if he could help with heart leads (where female breasts would be exposed and possibly touched) (b) Mr. Farmer was very attentive to and more helpful to female patients over male patients, and that (c) an incident occurred where Mr. Farmer was working as a "sitter" for an elderly woman, and the elderly woman was heard yelling: "Get outta here! I don't want you by me!" Murray Police Statement LVMPD00180-181. Murray Depo. at p. 60. E.H. at 10:35-37.

CENTENNIAL'S INVESTIGATION OF MR. FARMER

26. Upon learning of the Cagnina allegations, Centennial began an "internal investigation" handled by the "risk and quality management" department. Butler Depo. at p. 120, lines 20-12.

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27. Ms. Cagnina had been a patient at Centennial who alleged that Mr. Farmer sexually assaulted her on May 16, 2008. Exh. 4. Centennial Incident Report dated May 16, 2008.

28. On the very day of Mr. Farmer's assault of Ms. Cagnina, the management and staff of Centennial held a meeting to discuss the allegations; the following persons from Centennial attended this meeting: the Centennial CEO, the CFO, the COO, the Risk Manager, and possibly others. Depo. of Pullarkat at pp. 35-36 (8/7/15) (Exh. 23). Depo. of Callihan at pp. 15-20) (8/18/15) (Exh. 25).

29. After the Cagnina incident became public, Plaintiff Jane Doe reported Mr. Farmer's sexual assault against her.

30. Nurse Margaret Wolfe gave a statement to Metro about Mr. Farmer on May 30, 2008. *See* Wolf Statement to Metro. In the Statement, nurse Wolfe disclosed that Mr. Farmer was overly attentive to female patients. *Id.*

31. The Chief of Nursing, Carol Butler, learned about nurse Murray's Statement to LVMPD, received a copy of the Statement, and discussed it with nurse Murray and others shortly after the Farmer incidents. Murray Depo. at pp. 60-61.

32. Nurse Sumera met with Centennial staff and a Centennial lawyer about Mr. Farmer sometime shortly after the sexual misconduct of Mr. Farmer was exposed. Sumera Depo. at pp. 31-37.

33. The Centennial Head of the Emergency Room, Amy Blasing (a.k.a. Amy Bochek) knew, before August 1, 2008, that nurse Wolfe had reported that nurse Sumera had expressed concerns that Mr. Farmer was being "overly attentive" to female patients. Wolfe Depo. at pp. 41-42; Butler Depo. at p. 114; Blasing Depo. at pp. 28-35, 40, 99-103. Ms. Blasing testified that "We were made aware that Margaret [Wolfe] had expressed concerns." Blasing Depo. at p. 33. Ms. Blasing also knew that nurse Wolfe has spoken with the police: "Q. In fact, my understanding is that you became aware that a - - that Margaret had spoken with the police about the situation. Is that right? A. That sounds familiar." Blasing Depo. at pp. 33-34. Ms. Blasing further admitted: "[S]omehow it got back to us that Margaret [Wolfe]

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had shared concerns with law enforcement ["between May and August"]." Blasing Depo. at p. 38.

34. Ms. Blasing admitted in her deposition that she knew about Ms. Wolfe's concerns from the Centennial internal investigation: "Margaret said that she expressed concerns that Steven Farmer seemed to seek out duties with females and was overeager and that she felt uncomfortable." Blasing Depo. at pp. 36-37.

35. Ms. Butler met with nurse Sumera and Amy Blasing shortly after the incident and before August 2008 to discuss Mr. Farmer. Blasing Depo. at pp. 28-33.

36. Ms. Butler became aware of the Wolfe Statement sometime before August 1, 2008. Butler Depo. at pp. 113-115, 119 ("Q. By August 1 of 2008, you knew she had made a statement? A. Sure."); Blasing Depo. at pp. 28-33.

37. It is undisputed that the Chief of Nursing of Centennial, Carol Butler, had read the Murray Police Statement shortly after nurse Murray had given the Police Statement, and she discussed the substance of the Police Statement with nurse Murray and others. Murray Depo. at p. 61.

38. Centennial's counsel has admitted that he was "aware that some statements were given by [your] nursing staff" "prior to 2009." Tr. of Proc., p. 11, lines 12-17 (June 3, 2015).

39. Centennial's counsel further confirmed at the Evidentiary Hearing that Centennial became aware that nurses Murray and Wolfe had gone to the police and gave statements. E.H. at 9:53.

THE JANE DOE LAWSUIT, AND DISCOVERY THEREIN

40. Plaintiff filed her lawsuit in this action on July 23, 2009. The matter involving Mr. Farmer's sexual assault of Jane Doe, and the civil lawsuit resulting therefrom, are referenced herein as the "Jane Doe Case."

41. Centennial hired the HPS firm to represent Centennial in the Jane Doe Case on or about August 3, 2009. E.H. at 9:58:40. The HPS attorneys contended at the Evidentiary Hearing that they did not re-interview nurses Murray, Wolfe, or Sumera about the Jane Doe Case.

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42. Plaintiff filed its Notice of Early Case Conference ("ECC") on October 5, 2009, setting the time for the ECC on November 6, 2009. Counsel for the parties hereto, Plaintiff Jane Doe and defendants Centennial, ANS, and Mr. Farmer, attended the ECC on November 6, 2009.

43. Defendant Centennial filed its Initial list of Witnesses and Documents on November 24, 2009. Centennial's initial NRCP 16.1 disclosure failed to identify nurse Wolfe, nurse Murray, or nurse Sumera as persons with knowledge of relevant facts. Furthermore, Centennial's initial NRCP 16.1 disclosure failed to disclose the existence of the Murray Police Statement, or the Wolfe Police Statement.

44. The parties filed a Joint Case Conference Report ("JCCR") on December 9, 2009. As evident by this JCCR, Centennial failed to produce or identify Police Statements of nurse Murray or nurse Wolfe. Centennial also failed to identify nurses Murray, Wolfe, or Sumera as persons with knowledge.

45. Defendant Farmer filed a Motion for Protective Order on March 3, 2010, which the Discovery Commissioner granted on April 16, 2010. This Protective Order prohibited disclosure of documents protected by the Protective Order issued in the Cagnina Case. *See* Minutes 4-16-10; DCRR 9-15-9 (Cagnina Case).

46. This Protective Order in the Cagnina Case did not prohibit Centennial from producing the Police Statements to Jane Doe; did not prohibit Centennial from disclosing the existence of the Police Statements; and did not prohibit Centennial from identifying the nurses who gave the statements. *See* DCRR in Case No. A570756 (9-15-09).

47. For more than five and one-half (5 1/2) years, from November 24, 2009, through and including the date of the Evidentiary Hearing (August 28, 2015), Centennial never disclosed in any NRCP 16.1 disclosure that nurses Murray or Wolfe had given Police Statements regarding Mr. Farmer's conduct. For more than five and one-half (5 1/2) years, through and including the date of the Evidentiary Hearing, Centennial never disclosed in any NRCP 16.1 disclosure that nurses Wolfe or Sumera had knowledge of relevant facts in this action. *See* Plaintiff's Exhs. 1, and 1a-1j to Evidentiary Hearing. As for nurse Murray,

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Defendant Centennial made no mention of her in any NRCP 16.1 disclosure in 2009, 2010, 2011, 2012, 2013, or 2014. In a NRCP 16.1 disclosure on April 22, 2015, Centennial merely noted that nurse Murray had mentioned "the alleged incident with the elderly patient to which nurse Murray referred in her deposition testimony." But Centennial still failed to designate nurse Murray as a person with knowledge, and failed to give notice that nurse Murray had expressed concern about Mr. Farmer being more willing to help female patients, and failed to mention that nurse Murray had given a police Statement about Mr. Farmer.

48. Plaintiff Jane Doe had listed nurse Murray as a witness in January 2014; however, Plaintiff had no way of knowing at that time the expected testimony of nurse Murray, or her connection with the allegations against Mr. Farmer. (*See* State's Eighth Supp. Wit. List; Plaintiff's NRCP 16.1 Witness List of January 29, 2014; Affidavit of Murdock submitted with Plaintiff's Evidentiary Hearing brief). Plaintiff had merely designated nurse Murray as a witness because she had been designated as a witness Mr. Farmer's criminal case.

CENTENNIAL'S ATTORNEYS' RECEIPT OF THE POLICE STATEMENTS

49. Prior to the Evidentiary Hearing, Defendant Centennial's attorneys admitted that they received nurse Wolfe's and nurse Murray's Metro Statements on May 6, 2013. *See* Centennial's Objection to the DCRR at p. 5-7 (7/30/15). The paragraphs below summarize Centennials' various and changing positions on when it received the Statements.

CENTENNIAL'S RECEIPT OF MURRAY POLICE STATEMENT

50. At the Evidentiary Hearing, both sides presented evidence that proved that Centennial's counsel, Mr. Bemis, had asked the Deputy Public Defender ("DPD") representing Mr. Farmer in the criminal action, Amy Feliciano, to provide him with all of the files pertaining to Mr. Farmer, including the Police Statements. Exh 10, 10a. at PD00055-58; 75-81. Ms. Feliciano specifically agreed to provide Mr. Bemis with the "voluntary statements to the police." Exh 10 at PD00079 (Ms. Feliciano's emails dated January 22, 2013). The correspondence between the DPD and Centennial's counsel suggests that the DPD anticipated providing the Police Statements to Centennial's counsel the end of January 2013. Exhs. 10, 10a. Ms. Feliciano sent a letter to Mr. Bemis dated January 31, 2013, confirming that she

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provided the "documents necessary for your review to assist with your consultation with us on this case." Exh. 11 at PDD15C0073.

Plaintiff Jane Doe submitted a FOIA request to the PD demanding a copy of all records that she had given to Centennial's counsel. In response thereto, Plaintiff received an Affidavit from DPD Feliciano stating she was providing copies of all of the records that she believed she had provided to Centennial's counsel around January 30, 2013. This Affidavit from Ms. Feliciano was accompanied by the Murray Police Statement. These facts all tend to prove that Centennial's attorney received the Murray Police Statement on or about January 30, 2013.

52. At the Evidentiary Hearing, Centennial's counsel denied that it received the Murray Police Statement by January 30, 2013.

53. Instead, Centennial's counsel, in its Opening Statement, admitted that he received the Murray Police Statement, and knew the "contents" of the Murray Police Statement, in "May 2013." (E.H. at 9:49-50). Centennial's counsel also argued that it received the Murray Police Statements in "May 2013" pursuant to a motion to compel in the "RC" case. E.H. at 9:56:01. Attorney Bemis testified that he knew there was a Murray Police Statement before May 2013. E.H. at 11:02:10.

54. Attorney Bemis also testified that he had in his possession a CD audio recording of the Murray Police Statement in February 2013 – although he says he never listened to it. E.H. at 11:03-04. Attorney Bemis testified that his partner, Attorney Prangle, knew that Mr. Bemis had received the Murray Statement in February 2013. *Id.*

55. Attorney Bemis re-confirmed that he had the audio file of the Murray Police Statement in February 2013. E.H. at 11:11:40 and 11:13:45.

56. Based on the compelling evidence submitted at the Evidentiary Hearing, as well as the pre-hearing admission of Centennial's counsel, the Court concludes that Centennial's counsel **received the Murray Police Statement on or before May 6, 2013.**

CENTENNIAL'S RECEIPT OF WOLFE POLICE STATEMENT

57. At the sanction hearing before the Discovery Commissioner, the Discovery Commissioner told Centennial's counsel, John Bemis, that there was a "significant" non-

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disclosure problem unless he could provide "some information" that he did not know about the Wolfe Police Statement at the time of Centennial's initial NRCP 16.1 disclosures. Tr. of Proc. at p. 13 (June 3, 2015). Mr. Bemis told the Discovery Commissioner that there was a "possibility" that he had the Wolfe Police Statement "at the time" – meaning prior to the initial NRCP 16.1 disclosure (11/24/09). *Id.* at p. 18.

58. In its Opening Statement, Centennial's counsel admitted that he received the Wolfe Police Statement, and knew its "contents" in "May 2013." E.H. at 9:49-50)

59. Attorney Bemis testified under oath that he received the Wolfe Police Statement in May 2013. E.H. at 10:33-34. Mr. Bemis testified: "Q. Okay. Now, the information you got from those police files that alerted you to the relevance of Murray, Wolff[e] and Samera, were the police – were the actual statements of Margaret Wolff[e] and Kristine Murray, which you had seen for the first time when you got the police file in May 2013, right? A. Correct." E.H. at 10:35

60. Mr. Bemis confirmed that he reviewed the Wolfe Police Statement promptly after receiving it in May 2013. E.H. at 10:35. ("Q. So it wasn't long… and would be fair to say, It wasn't long after receiving the police file that you reviewed it and actually saw the statements of Wolf and Murray. Would that be a fair statement? A. That would be a fair statement."). E.H. at 10:35.

61. Attorney Bemis further confirmed under oath that he first became aware of the Wolfe Police Statement in May 2013 when he received files from the Las Vegas Metropolitan Police Department. E.H. at 11:24:10.

62. Centennial's counsel admitted that the Discovery Commissioner ordered Centennial to produce the entire Farmer criminal file, including both the Murray and Wolfe Police Statements on or about October 27, 2014. E.H. at 11:27. Centennial's counsel acknowledged that it made a production of the Farmer criminal file (that it had received from Metro) on October 27, 2014. E.H. at 11:27; Exh 16. While examining attorney Bemis, Jane Doe's counsel represented that the October 27, 2014 production DID NOT include the Wolfe Police Statement. When asked "why not," Mr. Bemis suggested, and seemed to speculate, that

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Centennial did not have it. E.H. at 11:39. His story at this point changed. Earlier in his testimony Mr. Bemis had admitted that he had actually reviewed the Wolfe "in relatively short order" after receiving it in May 2013 from Metro. But later, when confronted with Jane Doe's evidence that Centennial failed to produce the Wolfe Police Statement to Jane Doe on October 2014, Mr. Bemis contradicted himself and testified under oath that he never really saw the Wolfe Police Statement before October 2014.

63. On cross-examination, Attorney Bemis explained why his testimony changed. He said that during a break in the Evidentiary Hearing, he examined the files that he received from the Las Vegas Metropolitan Police Department (Exhibit "A"), and the Wolfe Police Statement was not there. Attorney Bemis further explained that Jane Doe's Exhibit 29 (Centennial's 7th Supplemental NRCP 16.1 Disclosure to Jane Doe on October 27, 2014) is supposed to be the exact same thing as Exhibit "A", and the Wolfe Statement is not there either. According to Mr. Bemis, this all confirms that his earlier testimony that he received the Wolfe Police statement from Metro in May 2013 was wrong. But none of this explains why Mr. Bemis testified under oath that he had reviewed the Wolfe Police Statement in "relatively short order" after getting in in May 2013, and then testifying under oath that he never saw the Wolfe Police Statement before October 2014.

64. Finally, attorney Bemis testified that he received the Wolfe Police Statement sometime before the deposition of Nurse Wolfe on May 5, 2015, but he did not know when he had received it.

65. Here is a summary of the various positions of Centennial's counsel on when it received the Wolfe Police Statement:

- "Possibly" before November 24, 2009.
- On May 6, 2013.
- Sometime in May, 2013.
- Maybe sometime after October 2014; or
- Sometime prior to May 5, 2015.

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66. Having considered and weighed the evidence, **the Court is persuaded that Centennial's counsel received the Wolfe Police Statement in or before May, 2013** – Attorney Bemis may have been confused on HOW he received the Wolfe Police Statement, but he was clear in his early testimony on WHEN he received it – on or before May 6, 2013. E.H. at 10:33-34; 11:24:10. Mr. Bemis contradicted himself on WHETHER he REVIEWED the Wolfe Police Statement prior to October 2014 – but whether he reviewed it or not, that does not change his testimony that he had the Wolfe Police Statement in his POSSESSION on or before May 6, 2013.

67. It bears repeating here that it is undisputed that Centennial's management knew about the existence of the Wolfe Police Statement and Murray Police Statement by August 2008. Centennial's knowledge is imputed to its attorneys. Thus the HPS attorneys had constructive knowledge as early as August 2009 (before Centennial's initial NRCP 16.1 disclosure in the Jane Doe Case) about the Murray and Wolfe Police Statements.

PLAINTIFF'S RECEIPT OF THE POLICE STATEMENTS, AND SUBSEQUENT DEPOSITIONS

68. Plaintiff received the Murray Police Statement for the first time in October 2014. E.H. at 9:27:50; 11:34:15; 11:38:05; Exh. 29.

69. Plaintiff received the Wolfe Police Statement for the first time in January 2015. E.H. at 9:27:58.

70. Plaintiff took the deposition of Christine Murray in this action on January 8, 2015.

71. Plaintiff took the deposition of Renato Sumera in this action on May 1, 2015.

72. Plaintiff took the deposition of Margaret Wolfe in this action on May 5, 2015.

73. Plaintiff took the deposition of Amy Blasing in this action on July 28, 2015.

74. Plaintiff took the deposition of Janet Callahan in this action on August 8, 2015.

THE PROTECTIVE ORDER IN THE CAGNINA CASE

75. On April 3, 2013 the Discovery Commissioner issued an oral Protective Order in the Cagnina Case providing that "All discovery concerning the Criminal Action is subject to the Protective Order previously entered on September 17, 2009, which remains in full force

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and effect; all Las Vegas Metropolitan Police Department depositions and transcripts; and Mr. Farmer's deposition and transcript must be kept under seal; and all documents relating to the Criminal Action must be kept as confidential. The Discovery Commissioner's Report and Recommendation relating thereto was entered as an Order of the Court on May 3, 2013. (*See* Notice of Entry of Order) (Case No. A570756, May 6, 2013).

76. The Discovery Commissioner issued an oral recommendation lifting the Protective Order on October 27, 2014. The written Discovery Commissioner recommendation was issued on November 6, 2014, and the Order of the Court was entered and served on November 14, 2014.

CENTENNIALS'S REPEATED IMPROPER DENIALS OF EXISTENCE OF ANY POTENTIAL EVIDENCE REGARDING FARMER

77. On October 14, 2014, Centennial filed and served an opposition to Plaintiff's Motion for Summary Judgment making the following statement: "[T]here were **absolutely no known prior acts** by Mr. Farmer that could **potentially put Centennial on notice** that Mr. Farmer would assault a patient." (Centennial Opposition to Motion For Summary Judgment at p. 9) (emphasis added).

78. In a brief filed with the Nevada Supreme Court on April 29, 2015, Centennial incorrectly represented that it had not withheld any relevant evidence. Petitioners Valley Health System, LLC [ ] Petition for Writ of Mandamus and/or Writ of Prohibition, pp. 14-15 (April 29, 2015) (No. 67886). Centennial stated: "[T]here were no known prior acts or any other circumstances that could have put Centennial on notice that Farmer would sexually assault Ms. Doe." *Id.*

79. In its Objection to Discovery Commissioner's Report and Recommendation, filed July 30, 2015, Centennial argued that "Defendants did not have knowledge that these persons [nurses Wolfe, Sumera, and Murray] had information relevant to this Plaintiff's claims (or knowledge of the substance of either nurse Wolfe's or nurse Murray's 2008 statements to the LVMPD) until after they received a copy of Farmer's police file in May 2013). *See* Centennial's Objection at pp 3-4 (filed July 30, 2015). This statement is false.

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80. The undisputed facts, as summarized above, are that Centennial had knowledge, before August 2008, that nurses Murray, Wolfe and Sumera had all expressed concerns or had discussions regarding Mr. Farmer being overly attentive to female patients, that nurse Murray had recounted the incident about the elderly lady who yelled at Mr. Farmer to "get out," and that nurse Murray and nurse Wolfe had given Police Statements about Mr. Farmer. Any reasonable person could reach the conclusion that this information is certainly relevant to the issue of whether Centennial had notice of Mr. Farmer's dangerous propensities. Centennial's statement that there were "absolutely no known prior acts" of Mr. Farmer to possibly put them on notice is a statement that goes far beyond the bounds of zealous advocacy, and demonstrates an intent to conceal relevant evidence.

FALSE DISCOVERY RESPONSES BY CENTENNIAL

81. In Centennial's Objection to the DCRR, at pp 6-7, Centennial's attorneys wrote: "Prior to obtaining the police file, the Hospital Defendants were aware that several nurses had spoken with the police but they neither attended nor were privy to the substance of those interviews/statements." This is false. As stated in the above statements of undisputed fact, before August 2008, Centennial management had discussed the Police Statement given by nurses Murray and Wolfe.

82. In Centennial's Objection to the DCCR, at p. 7, Centennial states: "Upon obtaining a copy of Mr. Farmer's file, the Hospital Defendants learned for the first time that nurses Murray, Wolfe, and Sumera had information that could be relevant to Plaintiff's claims. . . . The Hospital Defendants did not willfully withhold any information, much less know that these witnesses had information relevant to the instant Plaintiff's claims until May 2013 at the earliest." These statements are false. As stated in the above statements of undisputed facts, Centennial had conducted an internal investigation and absolutely learned that nurses Wolfe, Murray, and Sumera ALL had information relevant to the issue of Centennial's knowledge of Mr. Farmer's possibly dangerous proclivities. Perhaps the attorneys for the Defendants did not know about the nurses, but their client definitely knew. . . .

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83. Plaintiff asked Defendant Centennial by Interrogatory no. 18 to disclose "when you received LVMPD Statement of Margaret Wolfe." On June 12, 2015, Defendant Centennial objected and further stated: "Without waiving said Objection, this Answering Defendant has only learned of the LVMPD Statement of Margaret Wolfe through counsel." Centennial's Risk Analyst, Amanda Bell, signed a Verification swearing upon oath to the accuracy of this response. However, Ms. Bell verified a false statement. As indicated above, Centennial knew "of" the Wolfe Police Statement by August, 2009.

84. Plaintiff then asked Defendant Centennial by Interrogatory no. 19 to disclose "when you first became aware that Margaret Wolfe had spoken with LVMPD regarding Steven Farmer." Ms. Bell repeated the same response under oath. Again, Ms. Bell verified a false statement.

85. Plaintiff also asked, by Interrogatory no. 17, for Defendant Centennial to disclose all "persons present at the meeting between Renato Sumera and Centennial Hills Hospital after Farmer was arrested." Defendant Centennial, through the sworn response of Ms. Bell, responded: "Object. This Interrogatory is irrelevant. Counsel of record met with Mr. Sumera following Mr. Farmer's arrest. Former Centennial Hills Hospital Risk Manager, Janet Callihan, and her staff provided introduction and left the meeting prior to any substantive discussion." Plaintiff was entitled to the requested information because the memories of Sumera and the others had faded regarding persons involved in the internal investigation. Centennial had an opportunity to help alleviate some of the prejudice they had inflicted upon Plaintiff, but choose not to do so.

FARMER'S CRIMINAL CONVICTION

86. On May 30, 2014, Farmer was convicted in the Eighth Judicial District Court, Clark County, Nevada, in Case Number 08C245739, as follows: Count 10 of **Sexual Assault** (Felony – Category A) in violation of NRS 200.364 & 200.366 for the digital penetration, by inserting his finger(s) into the anal opening of Jane Doe, against her will or under conditions in which Farmer knew, or should have known, that Jane Doe was mentally or physically incapable of resisting or understanding the nature of Farmer's conduct; Count 11 of **Open or**

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Gross Lewdness (Gross Misdemeanor) in violation of NRS 201.210 for touching and/or rubbing the genital opening of Jane Doe with his hand(s) and/or finger(s); Count 12 of **Sexual Assault** (Felony – Category A) in violation of NRS 200.364 & 200.366 for the digital penetration, by inserting his finger(s) into the genital opening of Jane Doe, against her will or under conditions in which Farmer knew, or should have known, that Jane Doe was mentally or physically incapable of resisting or understanding the nature of Farmer's conduct; Count 13 of **Open or Gross Lewdness** (Gross Misdemeanor) in violation of NRS 201.210 for touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of Jane Doe with his hand(s) and/or finger(s). Count 14 of **Open or Gross Lewdness** (Gross Misdemeanor) in violation of NRS 201.210 for touching and/or rubbing and/or pinching the breast(s) and/or nipple(s) of Jane Doe with his hand(s) and/or finger(s); and Count 15 of **Indecent Exposure** (Gross Misdemeanor) in violation of NRS 201.220 for deliberately lifting the hospital gown of Jane Doe to look at her genital opening and/or anal opening and/or breast(s).

IV. STANDARD FOR AWARD OF SANCTIONS

Centennial had a duty under NRCP 16.1 to timely disclose a list of all persons known to have relevant knowledge relating to the claims and defenses alleged in this action. The initial NRCP 16.1 disclosure was due in November 2009. Centennial filed its initial disclosure on November 24, 2009. By this deficient disclosure, Centennial failed to comply with its NRCP 16.1 obligations.

Nevada law provides that the remedy for a party's disclosure obligations under NRCP 16.1 include the sanctions listed in NRCP 37. Pursuant to NRCP 37, the Court has the discretion to impose any of the following sanctions that may be warranted in appropriate circumstances:

> **(2) Sanctions—Party.** If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this rule or Rule 35, or if a party fails to obey an order entered under Rules 16, 16.1, and 16.2, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

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that Centennial discovered the information by August 1, 2008 – long before Jane Doe filed her lawsuit. Therefore, Centennial had a duty to disclose the nurses and the existence of their police statements in the very first NRCP 16.1 production in 2008. This Court finds that there is no valid excuse for Centennial's failure to timely disclose the nurses and existence of the Police Statements.

B. THE SANCTION FACTORS

1. Degree of Willfulness

This Court finds that there is clear and convincing evidence that Centennial willfully and intentionally concealed the relevance of nurses Murray, Wolfe, and Sumera, and the existence of the Police Statements with an intent to harm and unfairly prejudice Plaintiff. This inescapable conclusion is derived from the following evidence:

- Centennial had knowledge prior to August 2009 of the very relevant information possessed by nurses Murray, Wolfe, and Sumera.
- Centennial's counsel in the Cagnina Case is the same counsel that began representing Centennial in the Jane Doe Case by August 2009.
- Centennial failed to timely disclose nurses Murray, Wolfe, and Sumera in its initial and supplemental NRCP 16.1 disclosures.
- Centennial failed to disclose the mere existence of the Police Statements in its initial and supplemental NRCP 16.1 disclosures.
- Centennial changed its story several times about when it discovered the significance of the information known by nurses Murray, Wolfe, and Sumera.
- Centennial changed its position several times about when it received the Wolfe Police statement.
- Centennial provided false discovery responses to Jane Doe, and incorrectly represented to this Court that it had not withheld any relevant evidence. Centennial and its counsel told this Court in October of 2014, a minimum of eighteen (18) months after admitting they had the criminal file with the names and statements, that "In the instant situation, there were absolutely no known prior acts by Mr.

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Farmer that could potentially put Centennial on notice that Mr. Farmer would assault a patient." CH. Opp. to MSJ at 9. Rule 3.3 of the Nevada Rules of Professional Conduct states "(a) A lawyer shall not knowingly: (1) Make a false statement of fact or law to a tribunal by the lawyer." Centennial's lawyers violated this Rule.

- Centennial incorrectly represented to the Nevada Supreme Court that it had not withheld any relevant evidence. Centennial stated: "there were no known prior acts or any other circumstances that could have put Centennial on notice that Farmer would sexually assault Ms. Doe." Writ at 14-15. Again, Centennial's lawyers violated Rule 3.3.
- Centennial's argument that it withheld the Police Statements due to the September 17, 2009 Protective Order was a false, pre-textual excuse.
- Centennial unreasonably delayed in seeking to lift the Protective Order.
- Centennial unreasonably failed to identify the Police Statements in a Privilege log.
- Centennial understood that, through the passage of time, the memories of key witnesses would fade.
- With the passage of time, the memories of key witnesses did, in fact, fade.
- Centennial's argument - that if failed to appreciate the importance of the information known by the nurses because the HPS firm interviewed the nurses before it started working on the Jane Doe Case – is frivolous.
- Centennial provided false discovery responses under oath, designed to mislead this Court.
- Centennial's counsel admitted that it had a duty under NRCP 16.1 to review the recorded statement of Murray as soon as it received it to ascertain whether the Statement contained information relevant to the Jane Doe case. E.H. 11:15:35.
- Centennial admitted that it violated NRCP 16 in failing to timely disclose the names of nurses Murray, Wolfe, and Sumera, and to disclose their general knowledge. E.H. 10:38, and 10:42:20

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This Court has already imposed a monetary sanction against Centennial. A stronger monetary sanction would not redress the prejudice to Plaintiff.

Finally, disqualifying Centennial's counsel would not eliminate the prejudice to Plaintiff.

3. The Severity Of The Sanction Of Dismissal Relative To The Severity Of The Discovery Abuse

The discovery abuse was indeed extreme, and warrants a very severe sanction against Defendant Centennial. Centennial utterly failed to honor its duty to disclose witnesses that it knew were critical witnesses as early as august 2008 – before this lawsuit was even filed. Centennial also intentionally concealed the similarly critical police statements of nurses Murray and Wolfe. Again, Centennial didn't miss its disclosure deadline by a mere few days or even a few months; Centennial missed its deadline by more than five (5) years.

The sanction must be sufficiently severe. But the Court seeks not to impose a sanction for the primary sake of punishment of Centennial. Rather the Court is primarily motivated to impose a sanction that is no greater than necessary to undo the prejudice that Defendant Centennial inflicted upon Jane Doe. Striking Centennial's Answer is appropriately severe in light of Centennial's discovery abuses.

4. Whether Evidence Has Been Irretrievably Lost

Centennial's concealment of evidence has irreparably prejudiced Plaintiff Jane Doe, because the evidence has been irretrievably lost. Centennial's delay in disclosing the nurses' Police Statements has caused incurable and substantial prejudice to Plaintiff. The significant passage of time has resulted in extensive fading of witness memories and loss of evidence of the facts and circumstances discussed within the nurses' Police Statements, as follows:[2]

NURSE MURRAY

Nurse Murray suffered significant memory loss of relevant facts:

P.35-36 Nurse Murray recalled the incident where the lady yelled at Mr. Farmer (who had been acting as sitter for her) to leave her alone, but she could not recall the room

[2] The page numbers refer to the pages of each witness deposition transcript.

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number, and she could not recall the attending nurse for that patient. If Plaintiff had been able to obtain the room number, they could have tracked down this patient who had complained about Mr. Farmer. Then Plaintiff could have learned the nature of the patient's undisputed complaint against Mr. Farmer. Plaintiff could have discovered whether Mr. Farmer had engaged in some sexual assault, and whether any other nurses attending to this lady had been alerted to Mr. Farmer's improper conduct. All of this discovery was prevented because Centennial concealed the existence of nurse Murray and the substance of her relevant testimony.

P.43 Nurse Murray could not recall the specifics of what she told the police in her statement without seeing the statement.

P.57 Nurse Murray could not recall the substance of her discussions with Centennial staff about the complaint from the lady about Mr. Farmer.

P.58 Nurse Murray could not recall if she had a conversation with the nurse about the "sitter" incident.

P.68 Nurse Murray recalled an incident when Mr. Farmer offered to place the telemetry leads on a female patient, but she could not recall any specifics.

P.68 Nurse Murray could not recall if, during the time that she worked at Centennial, CNAs were not allowed to apply telemetry leads without first being instructed to do so by a nurse.

RAY SUMERA

Ray Sumera was a nurse working at Centennial on May 15, 2008, and is the person whom nurse Wolfe reportedly heard say he was concerned about Mr. Farmer because he was overly attentive to female patients. In his deposition, he indicated that his memory of this conversation with nurse Wolfe had greatly faded:

P.75 Q: "Do you recall telling Ms. Wolfe that you were concerned about Mr. Farmer because he was very anxious to connect and disconnect them from heart monitors, which would require him to reach into their clothing?" A: "I don't remember any

. . .

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conversation." Q: "Okay. You're not saying it didn't happen, you're saying you just don't remember, right?" A: "I don't remember."

P.78 Q: "Do you recall Ms. Wolfe telling you about an incident where Mr. Farmer had exposed a female patient's breasts where he was allegedly checking monitor placements?" A: "I don't remember."

P.77 Q. "And you told Margaret that you had talked to him [Mr. Farmer], right?" A: "For a follow-up, I probably did tell Margaret that I talked to him." Q: "You just don't have any memory of it?" A: "I don't have any memory." Q: "But you have no reason to disagree with what she says here [in the police report], is that correct?" A: "Correct."

P.127 Q: "Were you the charge nurse on May 15th? A: "I don't know whether I was in charge or not - - on what specific day."

P.138 A: "It's possible it [the conversation with nurse Wolfe about Mr. Farmer being "overly attentive to female patients"] did occur, but I don't remember the exact conversation."

AMY BLASING

The Centennial Head of the Emergency Room, Amy Blasing, was extensively involved in investigating the allegations of nurse Sumera, Wolfe, and Murray, and their communications with each other. She expressed a great loss of memory when confronted with relevant and material questions at her deposition on July 28, 2015:

P. 29:13-20 She could not remember who she included in her internal discussions about Mr. Farmer other than Ray Sumera, Margaret Wolfe, Karen Goodhart, and Darby Curless.

P.30:19-24 She could not remember if she took any notes of her internal meeting regarding Mr. Farmer because "It was several years ago."

P.32-33 She recalled having discussions with Carol Butler about her meeting with Margaret Wolfe, but could not recall specifics.

P.33-34 She could not recall the specifics of what nurse Wolf said she had told the police.

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P.35 She recalls that she spoke with nurse Wolfe and nurse Sumera about their different recollections about their concerns with Mr. Farmer, but she could not recall the specifics.

P.40:18-22 She could not recall the first time that she spoke with counsel for Centennial about Mr. Farmer's sexual assault against Ms. Cagnina.

P.90:12-18 She could not recall whether she had any other discussions about Mr. Farmer besides the very limited information given regarding staff discussions, because: "It just was a long time ago."

CAROL BUTLER

The Centennial Director of Nursing, Carol Butler, also had a significant memory loss by the time of her deposition, on June 19, 2015:

P.75 She could not recall whether she had spoken with Ray Sumera.

P. 75-76 She believes she spoke with nurse Wolfe, but she was not certain, and she also could not recall whether she took notes of her meeting with nurse Wolfe.

P.76 She admitted that if she had been asked questions about the Farmer investigation five (5) years ago, events "certainly would have been fresher in her mind:

"Q. . . . If I asked you five years ago, you might have a better answer; right? Your memory? A. Certainly."

P.87:2-13 She recalls the Centennial investigation concerned allegations that Mr. Farmer had an "inappropriate contact in the E.D. and then again on the sixth floor," but she could not recall "what" inappropriate contact was discussed.

P.87:17-22 She could not recall if her meetings regarding the Farmer investigation included separate meeting with Centennial staff, or with all staff all together.

P.114:4-7 She could not recall if she ever talked to nurse Wolfe about her Metro Statement.

P.121:10-16She could not recall whether she notified the Centennial Risk Manager that Amy Blasing brought to her attention that a nurse had expressed concerns about Mr. Farmer.

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P.130 She could not recall any of the conversations that she had with nurse Wolfe about the Farmer investigation.

P.130 She could not recall any of the conversations that she had with nurse Sumera about the Farmer investigation.

P.130:21-23 She admitted that her memory about conversation with nurses Wolfe and Sumera would have been better five years earlier.

JANET CALLIHAN

Janet Callihan was the Administrative Director for Quality Outcomes for Centennial beginning the summer of 2007 through the time of the Farmer incident. Her memory had faded as to significant events:

P.22-37 She could not recall if she had ever met with Christine Murray, even thought, as she acknowledged, nurse Murray would have prepared an incident report, and it was Ms. Callihan's duty to review such reports. Also she did not recognize the names of Ray Sumera or Margaret Wolfe.

MARGARET WOLFE

Nurse Margaret Wolfe also had significant memory loss due to the passage of time:

P.15 She could not recall whether she spoke to anybody at Centennial about her statement to the police.

P.20&51 She could not recall any specifics of her discussion with Ray Sumera about Mr. Farmer

P.27-28 She recalls that "all the nurses" were talking about concerns they had with Mr. Farmer; but she could not remember who because "it was so long ago."

P.40 She could not recall whether she had any conversation with anybody at Centennial about Mr. Farmer after she was terminated as a nurse from Centennial.

SUMMARY

The passage of time has clearly undermined, frustrated, and eliminated Plaintiff Jane Doe's opportunity to gather relevant information in this litigation, as follows:

. . .

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EXHIBIT 4

DECLARATION FOR MICHAEL SAUNDERS, REGARDING TRANSCRIPTS OF WITNESS STATEMENTS REGARDING THE INVESTIGATION OF STEVEN FARMER, EVENT NUMBER 080530-2056

MICHAEL SAUNDERS, declares as follows:

1. I am employed by the Las Vegas Metropolitan Police Department ("LVMPD"), and make this Declaration of facts from reviewing the file for Event Number 080530-2056, and related events, which I investigated, my personal knowledge of the same, except for those matters stated upon information and beliefs, and as to those matters, I believe the same to be true.

2. I was asked by counsel for Centennial Hills Hospital to comment upon the question of whether the transcription of a witness statement would ever be voluntarily provided by LVMPD to the witness or to their employer, in general.

3. I was also asked by counsel for Centennial Hills Hospital to comment upon the question about whether the LVMPD records in Event Number 080530-2056, indicate that the transcribed witness statements of Margaret Wolfe or Christine Murray, regarding issues related to the investigation of Steven Farmer, were ever given to the named witnesses, or to Carol Butler or Amy Blasing (a.k.a. Amy Bochek).

4. I was the Detective assigned to event number 080530-2056, and four related events. I have reviewed my complete file related to these events.

5. As a general matter, I can state that it is the policy of the LVMPD that transcripts of witness statements are never given to the witnesses themselves in an open criminal case, absent a court order compelling LVMPD to do so. Moreover, the transcripts of witness statements would not be provided to the employer of the witness in an open criminal case, absent a court order compelling LVMPD to do so.

6. Based upon my review of the file related to this investigation, I find no evidence that Margaret Wolfe or Christine Murray, at any time, were given copies of the transcripts of their witness statements.

7. Based upon my review of file related to this investigation, I find no evidence that Carol Butler or Amy Blasing (a.k.a. Amy Bochenek), at any time, were given copies of the transcripts of the witness statements of Margaret Wolfe or Christine Murray.

8. I can think of no other means by which Margaret Wolfe, Christine Murray, Carol Bulter or Amy Blasing (a.k.a. Amy Bochenek), could have obtained these transcripts from LVMPD.

9. I have no recollection of providing any transcribed statements or audio recordings thereof to the witnesses named above or their employers.

10. It would be highly unusual for a witness statement to be released from an open criminal case to anyone other than the District Attorney, absent a Court Order directing the LVMPD to do so.

11. Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 17th day of November, 2015.

Michael Saunders

4814-3919-9787, v. 1

EXHIBIT 5

DISTRICT COURT
CLARK COUNTY, NEVADA

JANE DOE,
Plaintiff,
vs.
CASE NO. 09-A-595780

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,
Defendants.
~~~~~~~~~~~~~~~~~~~~~~~~

DEPOSITION OF
CHRISTINE MURRAY, RN

Thursday, January 8, 2015
1:30 p.m.

521 S. Third Street
Las Vegas, Nevada

Carol O'Malley, CCR 178, RMR

APPEARANCES OF COUNSEL

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January 8, 2015

(Prior to the commencement of the deposition, all of the parties present agreed to waive statements by the court reporter, pursuant to Rule 30(b)(4) of NRCP.)

CHRISTINE MURRAY, RN,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. MURDOCK:

Q. Would you please state your name for the record?

A. Christine Murray.

Q. Ms. Murray, have you ever had your deposition taken before?

A. Yes.

Q. On how many occasions?

A. Once.

Q. My understanding is that was in the Cagnina matter?

A. Yes.

Q. I'm sure you were told in that deposition about the rules, but let me just go through them very briefly.

You understand that the law of perjury applies here as it does in a court of law?

A. Yes.

Q. You understand that even though this is a very relaxed proceeding, you still have a duty to tell the truth?

A. Yes.

Q. You understand that I'm here to ask you questions; you're here to answer them. Do you understand that?

A. Absolutely.

Q. If you don't understand a question of mine today, please let me know. If you go ahead and answer the question, I'm going to assume that you understood it. Is that fair?

A. Absolutely.

Q. Is there any reason this deposition can't go forward today?

A. Not to my knowledge.

Q. In other words, have you taken any medication that may affect your memory or anything like that?

A. No.

Q. Ms. Murray, my understanding is that you are a nurse, is that correct?

A. Yes.

Q. Are you licensed in the State of Nevada?

A. Yes, I am.

Q. Are you employed?

A. Yes.

Q. Where are you employed?

A. Harmon Hospital.

Q. Is that a rehab center?

A. It has just converted to a hospital.

Q. Okay. How long have you worked there?

A. Two years.

Q. And what do you do there?

A. I'm a staff nurse.

Q. Do you have any particular specialization at Harmon?

A. No.

Q. In other words, are you an orthopedic nurse --

A. No.

Q. -- or anything like that?

A. No.

Q. And you said you've been working there about two years?

A. Uh-huh.

Q. Where did you work before then?

A. I worked at Montevista.

Q. And that's a psychiatric hospital?

A. Yes.

Q. And what did you do there?

A. I was a charge nurse.

Q. Do you have any background in nursing, outside of working for Montevista?

A. Un-uhn.

Q. Is that a no?

A. No.

Q. You have to answer verbally to my questions. You can't say "uh-huh" or "un-uhn" or shake your head, because the court reporter can't take that down. So at some point in the deposition myself or counsel may say to you, "Is that a yes," or, "Is that a no?" We're not trying to yell at you. We're just trying to make sure the record is clear. Okay?

A. Okay.

Q. So you were a charge nurse at Montevista. For how long?

A. A year and a half.

Q. And why did you leave Montevista?

A. I didn't care for it anymore.

Q. Did you leave on your own?

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or not she actually was being assaulted?
A. I didn't have to. Her nurse went in there to see what was going on.
Q. And you never asked the nurse what happened, right?
A. That's not my business.
Q. Okay. Now, did the nurse go into the room?
A. Yes, she did.
Q. If you can, could you describe the nurse for us?
A. No. I don't remember who the nurse was.
Q. So you can't tell me what she looked like, or he looked like in any way?
A. No.
Q. Was it a "he" or a "she?"
A. I believe it was a woman, but I'm not positive.
Q. And when you got together, as you said before, all the nurses, when this all came up, when the criminal case came up and you had this discussion -- you said you talked about this issue with the sitter. Do you remember that?
A. No.
Q. Well, you said before, when we talked about the sentence here where it says, "The only thing I

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can think of, like I said, is the older lady that he did the one-to-one sittings with" --
A. Oh, okay.
Q. You said there was a conversation between you and the rest of the nurses about this incident.
A. That would have been as we were standing at the nurses' desk when the yelling was going on, after the nurse walked into the room.
Q. Do you recall how many nurses --
A. Well, there wouldn't have been more than three, because there was never more than four of us. And if she went in the room, that left three.
Q. And did any of you have a conversation with that nurse after the fact?
MR. BEMIS: Calls for speculation.
BY MR. MURDOCK:
Q. As far as you know?
A. I have no idea.
Q. You certainly didn't, is that right?
A. I did not, no.
Q. Okay. Outside of hearing the patient yell, "I don't want you by me, get out of here," did you hear her yell anything else?
A. No, I did not.
Q. Do you recall her yelling anything else?

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A. No.
Q. So just so I'm clear, when you stated, "So we didn't put any credence into what she was saying," you were talking about when she was yelling, "I don't want you by me, get out of here." Is that right?
A. Yes.
Q. Okay. Now, this occurred on the 6th floor, didn't it?
A. On the 6th floor?
Q. Yeah.
A. I thought it was on the 7th floor.
Q. Well, why don't you keep reading down on 181. Maybe that will refresh your recollection.
A. Okay. Then yes, it was. We got pulled back and forth, so it's easy to not remember exactly what floor you were on every night.
Q. Now, would the drawing that you made as Plaintiff's Exhibit 1 -- would that be different because it was on the 6th floor, as opposed to the 7th?
A. No. They're all exactly the same.
Q. Okay. Now, then the policeman says to you, "Okay. Do you remember what she was in for? What that victim?" Then you state, "I don't know."
A. Right.

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Q. You're talking about the --
A. Patient.
Q. -- what you termed the little crazy old lady patient, is that correct?
A. The patient, yes.
Q. But that's the patient we're talking about here, right?
A. Yes.
Q. Now, outside of telling the police about this -- what you termed "the little crazy old lady," and the incident with Mr. Farmer -- did you ever tell anybody else about that?
A. No.
Q. After the incident took place, after the arrest, and Ms. Cagnina, things like that, did you ever tell anybody at the hospital about this incident?
A. No.
Q. So the first and only time you ever discussed this patient, the little crazy old lady patient with anyone, would have been with this detective. Is that correct?
A. No. Wait a minute. The director of nursing called me down and we talked about this, too, after I talked to the police. When she got a copy of

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this, I talked to her. And that was it.
Q. Who was the director of nursing at the time?
A. I really don't know.
Q. But the director of nursing called you down after she read the statement, is that correct?
A. Yes. She talked to all of us.
Q. What do you mean, she talked to all of you?
A. She talked to all the nurses that were involved in this.
Q. Did you go through the statement with her?
A. She asked me what happened. I told her what I knew. We didn't pick this up and go through it line by line like we are now, but she knew what was -- I mean she had read it.
Q. Did she ask you about the little crazy old lady patient? Was that something you discussed?
A. You know, I'm not sure. She just asked about what I knew. No, I don't believe we did go through that. We went through the other part, because that was what was coming up.
Q. And outside of me asking you about this little crazy old lady patient, and the detective, has anybody else ever asked you about it?
A. No.

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MR. MURDOCK: I don't think I have any further questions at this time.

EXAMINATION

BY MR. SILVESTRI:
Q. Ms. Murray, name is Jim Silvestri. I represent American Nursing Services. I have just a couple of follow-up questions for you, if you don't mind.
A. Sure.
Q. When you worked at Centennial Hills Hospital, did CNAs, certified nursing assistants -- did they operate independently of the registered nurses?
A. You mean have their own duties that they did?
Q. Without being told.
A. Yes.
Q. What kind of duties did they have that they would not need instruction from an RN on, or a doctor on, to perform?
A. Answering lights, walking patients to the bathroom, helping patients clean up if they had become nauseous or if they had an accident. Helping them change their clothes, bringing them stuff they

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needed.
Q. So if they went into a room to help somebody clean up who had thrown up, or maybe went to the bathroom, typically the light would come on and a CNA would know to go in there?
MR. MURDOCK: Objection. Speculation. Go ahead.
THE WITNESS: Yes.
BY MR. SILVESTRI:
Q. Did the CNAs typically just go on random checks and see that people had thrown up or soiled themselves?
A. Not really. Usually you're so busy with the lights you don't have a chance to.
Q. Let me ask you, when you were asked about a sitter, you used the term -- and I don't know if it was a term of art -- altered mental state or mental status.
A. Yes.
Q. Can you just tell me generally what you mean by "altered mental status?"
A. That means a patient who is not thinking clearly enough, to where they can harm themselves, pull tubes out, pull IVs out, pull blood out, whatever. And they can only have a one-on-one with a

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doctor's order saying they are not thinking clearly enough, so that they need to have somebody sitting there with them.
Q. Did you work with Steven Farmer personally?
A. No.
Q. You were asked about application of telemetry leads.
A. Yes.
Q. And correct me if I'm wrong -- and I don't mean to be insensitive about this, or overly invasive -- but a woman that is more endowed is more likely to have her breast arranged such that the telemetry lead can be placed under near the ribcage?
A. Yes.
Q. Do you place telemetry leads on the nipple of the breast?
A. No.
Q. Have you ever done that?
A. No.
Q. Is there any reason to do that, that you're aware of?
A. No.
Q. Are you aware of any nurses at Centennial Hills Hospital ever being instructed to digitally penetrate a female patient?

review this deposition. You can make any changes to your answers that you so desire.

I caution you that I or any other counsel in this matter can comment on the fact that you made changes, and that may affect your credibility. Knowing that, you still have a right to review the deposition and make any changes.

If you want to do so, you need to let the court reporter know and she can make arrangements for you to review the deposition and sign. Otherwise you can waive it. It's up to you -- and your counsel, I guess.

THE WITNESS: I'll waive it.

(The deposition concluded at 3:05 p.m.)

REPORTER'S CERTIFICATE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, Carol O'Malley, Nevada Certified Court Reporter 178, do hereby certify:

That I reported the taking of the deposition of CHRISTINE MURRAY, RN on January 8, 2015 commencing at the hour of 1:30 p.m.;

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcription of said deposition is a complete, true, and accurate transcription of my said shorthand notes taken down at said time. Review of the transcript was not requested.

I further certify that I am not a relative or employee of an attorney or counsel involved in said action, nor financially interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 15th day of January, 2015.

Carol O'Malley

Carol O'Malley, CCR No. 178

EXHIBIT 6

DISTRICT COURT
CLARK COUNTY, NEVADA

JANE DOE,
Plaintiff,
vs.
CASE NO. 09-A-595780
VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,
Defendants.
~~~~~~~~~~~~~~~~~~~~~~~~~

DEPOSITION OF
MARGARET WOLFE, RN

Wednesday, May 5, 2015
9:30 a.m.

521 S. Third Street
Las Vegas, Nevada

Carol O'Malley, CCR 178, RMR3

APPEARANCES OF COUNSEL

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Deposition of Margaret Wolfe, RN
May 6, 2015
(Prior to the commencement of the deposition, all of the parties present agreed to waive statements by the court reporter, pursuant to Rule 30(b)(4) of NRCP.)

MARGARET WOLFE, RN,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. MURDOCK:

Q. Would you please state your name for the record?

A. Margaret Wolfe.

Q. Ms. Wolfe, have you ever had your deposition taken before?

A. No.

Q. Are you represented by counsel here?

A. Yes.

Q. Who is that?

A. John Bemis.

Q. How did you come to be represented by Mr. Bemis?

A. I believe I was contacted by their office.

Q. So he told you that you were going to be represented by him?

A. They did.

Q. They did?

MR. BEMIS: I object to form.

From the aspect of her acceptance of the representation, she can talk. But after that I'm going to instruct her not to answer about anything we talked about.

BY MR. MURDOCK:

Q. Go ahead.

A. I was offered their representation, and I accepted it.

Q. Okay. Good. How much are you paying?

A. I'm not paying anything.

Q. When you were offered their representation, did they tell you that they also allegedly represent a whole bunch of other people?

MR. BEMIS: I object to form and instruct her not to answer anything we discussed.

BY MR. MURDOCK:

Q. Go ahead. You can answer the question, if you want.

A. I'm going to take the advice of my attorney.

Q. Okay. Did they also tell you -- or did Mr. Bemis tell you that he helped Mr. Farmer out during the criminal trial?

MR. BEMIS: I'm going to instruct her not to --

BY MR. MURDOCK:

Q. Did he tell you that he provided documents to Mr. Farmer, so he could help out his criminal case?

MR. BEMIS: I'm going to instruct her not to answer anything that her and I discussed.

BY MR. MURDOCK:

Q. Did he tell you that he actually represents the hospital, and not you, even here today?

MR. BEMIS: You can answer, but you're not to answer anything you and I discussed.

BY MR. MURDOCK:

Q. Are you going to take your counsel's word for it?

A. Yes, I am.

Q. Okay. When did you get that phone call where they offered to represent you?

A. Approximately a month ago. I don't remember exactly.

Q. And who called you specifically? Do you

remember?

A. It was a female. I don't remember her name.

Q. Was she a lawyer?

A. I don't know.

Q. And in that phone call was she the one who said, "We would like to represent you," or something like that, or offered to represent you?

A. I believe so.

Q. Did she tell you about any potential conflicts of interest between yourself and the hospital?

MR. BEMIS: I'm going to instruct her not to answer anything that's been discussed with myself or my firm.

BY MR. MURDOCK:

Q. Do you know if she was actually even from their firm, whoever this person was?

A. I'm assuming that she is. I don't know for a fact.

Q. Okay. Do you remember her name?

A. No.

Q. Did she tell you she was from their firm?

A. She told me she was from a firm. I don't remember the name of that firm.

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MR. BEMIS: I'm going to instruct her not to answer anything her and I discussed.
BY MR. MURDOCK:
Q. Did he tell you that he fell below the standard of care already in representing you? Did he tell you that?
MR. BEMIS: I'm going to instruct her not to answer anything that her and I discussed.
BY MR. MURDOCK:
Q. You're currently a nurse, correct?
A. Yes.
Q. And where are you a nurse at?
A. UMC pediatric ER.
Q. Now, Ms. Wolfe, you have no legal training, do you?
A. No.
Q. You're not a lawyer?
A. No.
Q. You're not a paralegal?
A. No.
Q. You haven't gone to school for any legal things?
A. Nothing.
Q. Do you know what perjury is?
A. Yes, I do.

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Q. What is perjury?
A. Lying under oath.
Q. Do you know that it is a crime to lie to the police?
A. Yes, I do.
Q. Do you know that it is a crime to obstruct justice?
A. Yes.
Q. Do you know that it is a crime to obstruct justice by lying to the police?
A. Yes.
Q. Prior to this deposition you were sitting in my lobby, correct?
A. Yes.
Q. And I came to speak with you, correct?
A. Yes.
Q. And at that time I did not have an actual conversation with you, did I?
A. No.
Q. On the other hand, I spoke, correct?
A. Correct.
Q. I didn't ask you one question, correct?
A. Right.
Q. Do you know Steven Farmer?
A. Yes.

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Q. Who is he?
A. He was a CNA that worked at Centennial Hospital at the same time I was there.
Q. What did he look like?
A. Poppa Smurf. Sorry. He had a white beard, white hair, medium stature.
Q. Did you give a statement to the police a couple days -- well, actually it would have been maybe a couple weeks after he was arrested, in 2008?
A. Yes.
Q. Did you lie to the police?
A. No.
Q. Did you make up any stories to tell the police?
A. No.
Q. After you spoke with the police, did you speak with anybody at Centennial Hills Hospital about what you told the police?
A. I don't recall.
Q. Who was your director of nursing at the time? Do you remember?
A. Amy Bochenek.
Q. That's how you pronounce it?
A. (Witness nods.)
Q. Is that a yes?

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A. Yes.
Q. Now, do you recall speaking with Amy --
A. Yes.
Q. I'm sorry, let me finish my question.
A. Okay.
Q. The only reason is, she's going to get mad at me.
Do you recall speaking with Amy about Mr. Farmer?
A. Yes.
Q. Was that before or after he was arrested?
A. It was after, because the situation happened on the same day.
Q. Right. Okay. And you went to Amy to discuss the situation with Ms. Hanna, is that correct?
A. I didn't go directly to Amy, no.
Q. Who did you go to?
A. I went to my charge nurse that was on that shift.
Q. Who was that, by the way?
A. Ray Sumera.
Q. Now, Ray testified the other day that he was a relief charge nurse.
A. Uh-huh.

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Q. Is that a yes?
A. Yes.
Q. What is a relief charge nurse?
MR. BEMIS: I object to form. Go ahead and answer.
THE WITNESS: A relief charge nurse fills in when the permanent charge nurse is not available.
BY MR. MURDOCK:
Q. Okay. Why did you go to Ray to talk about that incident?
A. Because that's my chain of command that I would follow.
Q. Have you seen the transcript of the conversation you had with Detective Saunders?
A. Yes.
Q. Do you recall any mistakes in that transcript?
A. No.
Q. So you went to Ray because of the chain of command. After you went to Ray, did you go to somebody else?
A. Yes.
Q. Is that when you went to Amy?
A. No.

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Q. Who did you go to?
A. I spoke with the nurse that I was giving report to at shift change.
Q. Who was that? Do you remember?
A. Her name is Julie. I don't remember her last name.
Q. And when did you wind up speaking with Amy?
A. Later that day she called me.
Q. So somehow it got back up to her?
A. Yes.
Q. Were you at home at the time?
A. Yes.
Q. And my guess is that you repeated everything you told Ray, correct?
A. Yes.
Q. And also everything you told Julie, correct?
A. Correct.
Q. Did you lie to them?
A. No.
Q. Prior to the day you spoke with Amy and the day you spoke with Julie, and the day you spoke with Ray when the incident with Ms. Hanna occurred, had you ever spoken to anybody before about Mr. Farmer?
A. Yes.

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Q. Who did you speak to?
A. Ray Sumera, and probably a couple other ER nurses, but I don't recall exactly who.
Q. And when would that have been? Do you recall?
A. Just throughout the course of his employment in the ER.
Q. And do you recall what you discussed?
A. I told them that he made me very uncomfortable, especially around female patients, and I did not want him in my female patients' rooms.
Q. What made you uncomfortable?
A. He was overly helpful with female patients, and it was just a feeling I had that made me uncomfortable and uneasy around him.
He would go into females rooms when there was no need for him to be in there, sometimes with the door or the curtain shut, and I felt that was inappropriate.
Q. And you had voiced this to Ray prior to the incident with Ms. Hanna?
A. Yes.
Q. And would it have been weeks and/or a month prior?
A. Weeks.

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MR. SILVESTRI: I'm sorry, what was it?
THE WITNESS: Weeks.
MR. SILVESTRI: Thank you.
BY MR. MURDOCK:
Q. And when you had this discussion with Ray, what did he say -- the discussion weeks before?
A. I don't recall.
Q. Did he say he would take care of it?
A. He did say he would talk to him.
Q. When you had this conversation with Ray several weeks before, why did you have the conversation with Ray?
A. Because I felt it better for a male to be talking to a male about it, than me to be approaching Mr. Farmer.
Q. Was it also because Ray was a relief charge nurse?
A. No.
Q. But nevertheless, Ray was a relief charge nurse?
A. Correct.
Q. Now, a relief charge nurse is not always the charge nurse?
A. Correct.
Q. It's just when the charge nurse is not

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least several weeks before, that's when the suspicions started -- where he would be in rooms alone with patients, where he was gone for extended periods of time when he was transporting patients, and where he would always offer to help female patients, as opposed to male patients, correct?
A. Correct.
MR. BEMIS: I object to form.
BY MR. MURDOCK:
Q. And in terms of the gone extended periods of time with transporting patients, that would have been with females patients, correct?
MR. BEMIS: I object to form. Calls for speculation.
THE WITNESS: Correct.
BY MR. MURDOCK:
Q. And the being in rooms alone -- again, that would be with female patients, as opposed to male patients, correct?
MR. BEMIS: Same objection. Go ahead and answer.
THE WITNESS: I can't say that it wasn't ever with a male patient, but we noticed it more with female patients.

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BY MR. MURDOCK:
Q. Okay. And when you say "we," who is "we?"
A. The nursing staff.
Q. Now, who was your charge nurse on the nightshift? Did you have one?
A. We had a couple of them.
Q. Who were they?
A. One of them was Amy.
Q. Amy who?
A. I don't remember her last name.
Q. Okay.
A. And the other one was Danielle, and I don't remember her last name.
Q. Okay. And then the relief would have been Ray?
A. Yes.
Q. Were Amy and Danielle made aware of these suspicions that were had by the nursing staff about Steven?
MR. BEMIS: I object to form. Calls for speculation. Answer, if you know.
THE WITNESS: I don't know.
BY MR. MURDOCK:
Q. In other words, did they know?
A. I don't know.

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Q. I mean if everybody was talking about it, would you assume they knew?
MR. BEMIS: Calls for speculation.
THE WITNESS: I don't know what they knew.
BY MR. MURDOCK:
Q. Okay. In other words, I'd have to ask them, right?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. Okay. You didn't have any specific conversations with Amy or Danielle that you recall, correct?
A. Correct.
Q. You did have specific conversations with Ray though, correct?
A. Yes.
Q. And that would have been before the incident with Denise Hanna, correct?
A. Yes.
Q. Now, after the incident with Denise Hanna, you worked at Centennial for about another year or so. Would that be right?
A. Sounds about right.

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Q. And my understanding is that at some point, I want to say -- I could be wrong, but in the summer of 2009, you were terminated by Centennial, is that correct?
A. Yes.
Q. In between the time you were terminated and the Denise Hanna incident, do you recall having any conversations with anybody at Centennial Hills Hospital regarding Steven Farmer?
MR. BEMIS: Besides what she already testified to?
MR. MURDOCK: Yeah.
THE WITNESS: Again, all the nursing staff was talking about it, following the case. So I may have. I don't remember any specific conversations with people, but it's possible.
BY MR. MURDOCK:
Q. Were you ever called in, for instance by risk management, to discuss what you had witnessed with Mr. Farmer?
A. No.
Q. Did any lawyers ever speak with you regarding Mr. Farmer?
A. No.
Q. When was the first time a lawyer ever spoke

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with you regarding Mr. Farmer?
A. When I was subpoenaed for his criminal trial.
Q. And before then no lawyers, like for instance Mr. Bemis -- he never called you?
A. No.
Q. And nobody from risk management had called you?
A. No.
Q. Now, your discussion with Amy Bochenek -- that was after the Denise Hanna incident, correct?
A. Yes.
Q. And you said that occurred that day of the Denise Hanna incident, correct?
A. Correct.
Q. After that day, speaking with Amy Bochenek, did you speak with anybody else regarding Mr. Farmer, in terms of administrators or administration at Centennial Hills Hospital?
A. Not that I can recall.
Q. Okay. When you spoke with Amy Bochenek, did you tell her that the nursing staff had all been talking about Steven Farmer?
A. I don't recall.
Q. Is that something that you believe that

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it's more likely than not that you did?
A. I can't recall. I can't answer that.
Q. When Mr. Farmer was arrested, that didn't come as a complete shock or surprise to you, did it?
A. No.
MS. HALL: Objection. Lack of foundation.
BY MR. MURDOCK:
Q. And it didn't come as a complete shock or surprise because you already basically had these suspicions, correct?
MR. BEMIS: I object to form.
BY MR. MURDOCK:
Q. You can go ahead.
A. Correct.
Q. And these are the suspicions that you had voiced to Ray and others, correct?
MR. BEMIS: Same objection.
THE WITNESS: Correct.
BY MR. MURDOCK:
Q. Now, do you remember Kim's last name?
MR. SILVESTRI: Who?
MS. HALL: Kim.
THE WITNESS: No, I don't. I'm sorry.

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BY MR. MURDOCK:
Q. Do you remember, was she an ER nurse?
A. Yes.
Q. When you said the nursing staff all knew, was that the nursing staff down at the ER?
A. Yes.
Q. Because that's basically who you had contact with, correct?
A. Correct.
Q. And that was the nursing staff on your shift?
A. Correct.
Q. So in other words, it wouldn't be up in the med-surg units, right?
A. No.
Q. That would just be down in the ER?
A. Correct.
Q. Had you ever heard about an incident whereby Mr. Farmer was thrown out of a room of a female patient in the med-surg unit, when he was acting as a sitter for an elderly woman?
A. No.
Q. Had you ever heard that there were screams coming from the room, and the nursing staff there didn't lend any credence to what she was alleging?

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MR. BEMIS: I object to form.
MS. HALL: Lacks foundation.
THE WITNESS: No.
BY MR. MURDOCK:
Q. Do you know a Nurse Murray -- Christine Murray? Does that name sound familiar at all?
A. No.
MR. MURDOCK: Let's mark this.
(Plaintiff's Exhibit 1 marked.)
BY MR. MURDOCK:
Q. Showing you what's been marked as Plaintiff's Exhibit 1 --
MR. MURDOCK: It's the statement of Margaret Wolfe. I figured you should have it.
BY MR. MURDOCK:
Q. Ms. Wolfe, I'm showing you what's been marked as Plaintiff's Exhibit 1.
This is the transcript of your statement, is that correct?
A. Yes.
Q. And you said you had seen this before, correct?
A. Yes.
Q. When was the last time you saw this?
A. Yesterday.

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Q. Prior to yesterday -- and by the way, that was in your meeting with Mr. Bemis?
A. Yes.
Q. Prior to yesterday, when was the last time you had seen it?
A. Probably when I testified at the criminal trial.
Q. And prior to then, do you recall seeing it?
A. No, I do not.
Q. Have you ever listened to the transcript itself?
A. No.
Q. Was it recorded?
A. Yes.
Q. In fact that's what the transcript comes from, right?
A. Yes.
Q. Where did this interview take place?
A. At an Einstein bagel shop right near the Centennial Hospital.
Q. Do you know how Detective Saunders got your name?
A. Yes. I contacted him.
Q. And why did you contact him?
A. Because I was disturbed over the incident

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that I saw with Ms. Hanna and wanted it to be brought to his attention.
Q. Because they had put out like a community-wide thing about the assault, is that correct? Were you aware of that?
A. Yes.
Q. And had you seen that?
A. No.
Q. But you knew Farmer was arrested?
A. Yes.
Q. And you wanted to let them know that there were other issues potentially, correct?
A. Yes.
Q. Do you recall what time approximately the Denise Hanna incident was?
A. It was in the early morning hours.
Q. Okay.
A. Possibly around 3:00 a.m. I'm not saying that to be exact, but early morning hours.
Q. Was Marcia Petersen your nurse? Do you remember Marcia Petersen?
A. I don't know that name.
Q. Okay. Was Ms. Cagnina your nurse?
A. My nurse?
Q. I'm sorry. Did I say that the last time,

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too?
A. Yes.
Q. Let me start over.
Were you Marcia Petersen's nurse?
A. No.
Q. You don't even know that name, do you?
A. No.
Q. Were you Ms. Cagnina's nurse?
A. No.
Q. Do you know who Ms. Cagnina is?
A. No.
Q. You were Denise Hanna's nurse?
A. Yes.
Q. When this incident occurred with Ms. Hanna, how come you didn't go speak with Ms. Hanna?
A. I didn't want to alert her to something that she may have perceived differently.
I did go into the room, and there was what I perceived as eye contact between her and I, knowing that something had just happened that shouldn't have. But she did not say anything to me about it, and I didn't want to raise concerns to her if it was not an issue to her.
Q. But you did go speak to Ray about it?
A. Yes.

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Q. Okay. Take a look at Plaintiff's Exhibit 1. The time you gave the statement was about 7:58 in the morning on May 30th, correct?
A. Correct.
Q. Do you know why it was done so early?
A. It was after I got off my shift.
Q. Okay. I need to ask you a personal question.
A. Yes.
Q. And I promise you, this will probably be the only personal question I will ever ask you.
Have you ever been sexually assaulted?
A. Yes.
Q. Was it before this incident?
A. Many years.
Q. Okay. If you turn to page 2, the detective asked you, "What do you do for Centennial Hills Hospital?" And your answer was, "I'm an ER nurse." Do you see that?
A. Yes.
Q. Was that the truth?
A. Yes.
Q. You didn't lie to the cops when you told them that, right?

REPORTER'S CERTIFICATE

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, Carol O'Malley, Nevada Certified Court Reporter 178, do hereby certify:

That I reported the taking of the deposition of MARGARET WOLFE, RN on May 6, 2015 commencing at the hour of 9:30 a.m.;

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcription of said deposition is a complete, true, and accurate transcription of my said shorthand notes taken down at said time. Review of the transcript was requested.

I further certify that I am not a relative or employee of an attorney or counsel involved in said action, nor financially interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 7th day of May, 2015.

Carol O'Malley

Carol O'Malley, CCR No. 178

DEPOSITION ERRATA SHEET

File No. 330885
Case Caption: Doe vs. Valley Health Systems

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed this day of ,20 .

MARGARET WOLFE, RN

DEPOSITION ERRATA SHEET

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SIGNATURE: DATE:
MARGARET WOLFE, RN

DEPOSITION ERRATA SHEET

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SIGNATURE: DATE:
MARGARET WOLFE, RN

EXHIBIT 7

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

DECLARATION OF AMANDA BELL

STATE OF NEVADA)
) ss.:
COUNTY OF CLARK)

AMANDA BELL, being first duly sworn deposes and says that:

1. I, Amanda Bell, am the Director of Risk Manager for Centennial Hills Hospital.

2. I have been asked to provide the last date of employment for Margaret Wolfe, Amy Blasing (formerly Amy Bochenek), Carol Butler and Christine Murray.

3. I have spoken with the Human Resources department for Centennial Hills Hospital to find the employment information for Ms. Wolfe, Ms. Blasing and Ms. Murray.

4. I have spoken with the Human Resources department for UHS to determine the employment information for Ms. Butler.

5. The last date of employment of Ms. Wolfe at Centennial Hills Hospital was May 7, 2009.

6. The last date of employment of Ms. Blasing at Centennial Hills Hospital was September 26, 2010.

7. The last date of employment of Ms. Murray at Centennial Hills Hospital was March 11, 2009.

8. The last date of employment of Ms. Butler at Centennial Hills Hospital was January 3, 2010.

9. This declaration is made under the penalties of perjury in the State of Nevada.

FURTHER YOUR DECLARANT SAYETH NAUGHT.

Amanda Bell
AMANDA BELL

4837-2594-6923, v. 1

EXHIBIT 8

ECC
MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
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Attorneys for Defendant
Valley Health System, L.L.C., d/b/a Centennial Hills Hospital

DISTRICT COURT
CLARK COUNTY, NEVADA

ROXANNE CAGNINA, an individual,

Plaintiff,

vs.

CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AUXILIARY, a Nevada Corporation; VALLEY HEALTH SYSTEM, LLC; a Nevada Limited Liability Company, VALLEY HOSPITAL MEDICAL CENTER, INC. L, a Nevada Corporation; UNIVERSAL HEALTH SERVICES FOUNDATION, a Pennsylvania Corporation; AMERICAN NURSING SERVICES, INC., a Louisiana Corporation; STEVEN DALE FARMER, an individual; DOE INDIVIDUALS 1 through 10 and ROE BUSINESS OR GOVERNMENTAL ENTITIES 1 through 10, inclusive,

Defendants.

CASE NO. A570756
DEPT NO. X

DEFENDANT CENTENNIAL HILLS HOSPITAL'S INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES AND DOCUMENTS

DEFENDANTVALLEY HEALTH SYSTEM, LLC, D/B/A CENTENNIAL HILLS HOSPITAL (hereafter Centennial Hills Hospital), by and through its attorneys of record, the law office of HALL PRANGLE & SCHOONVELD, LLC, hereby submits its NRCP 16.1 List of Witnesses and Documents as follows:

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
LAS VEGAS, NEVADA 89107
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

witness list updated

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
LAS VEGAS, NEVADA 89107
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

I.
WITNESSES

1. Roxanne Cagnina
c/o Neal K. Hyman, Esq.
THE LAW OFFICES OF NEAL HYMAN
2441 W. Horizon Ridge Parkway, Ste. 120
Henderson, Nevada 89052

Plaintiff Roxanne Cagnina is expected to testify as to the facts and circumstances surrounding this matter.

2. Mr. Cagnina

Mr. Cagnina is expected to testify as to the facts and circumstances surrounding this matter.

3. Steven Dale Farmer

Mr. Farmer is expected to testify as to the facts and circumstances surrounding this matter and the allegations made against him.

4. Emergency Room Nurses:
McCarthy, J.
Framil, B.
Arvelo, S.
Zeitoun, K.
Monterio, J.
Teeples, B.
Tanedo, E.
Evenson, K.
Briones, J.
Brandenberg
Morgenstern
Tangonan, A.
Anderson, T.
Cox, J.
Curlee, D.
Sumera, R.
Wolfe, M.
Davis, K.
Fernandez, R.
Pagan, S.
Philbin, K.
Degre, A.
Goodhart, K.

HALL PRANGLE & SCHOONVELD, LLC
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7th Floor Nurses:
Freital, M.
Cronister, R.
Schuele, A.
Stringer, V.
Andaya, Y.
Curtis, G.
Spahr, G.
Mc Neal, T.
Martinelli, R.
Tagligatos, S.
Abdul, L.
Angeles, R.
Murray, C.
Cortez, E.
Simmons, D.
Diggs, M.
Brown, C.
Madrial, B.
Scisney, R.

c/o David P. Ferrainolo, Esq.
HALL PRANGLE & SCHOONVELD, LLC
777 North Rainbow Blvd., Ste. 225
Las Vegas, NV 89107

The above identified nurses are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

5. Tracy Farmer
145 ½ Aeva Caliente
Sonoma, California 95476

Tracy Farmer is expected to testify as to the facts and circumstances surrounding this matter and the allegations made against his brother.

6. Sandra Farmer

Sandra Farmer is expected to testify as to the facts and circumstances surrounding this matter and the allegations made against her brother.

7. Person Most Knowledgeable
Nevada State Board of Nursing
2500 W. Sahara Ave., Suite 207
Las Vegas, Nevada 89102

The Person Most Knowledgeable from the Nevada State Board of Nursing is expected to testify regarding Steven D. Farmer and all background checks and information maintained by the Nevada State Board of Nursing.

8. D. Nichols
c/o David P. Ferrainolo, Esq.
HALL PRANGLE & SCHOONVELD, LLC
777 North Rainbow Blvd., Ste. 225
Las Vegas, NV 89107

Centennial Hills Security Guard D. Nichols is expected to testify regarding the report he took from Ms. Cagnina and the facts and circumstances surrounding the alleged incident.

9. Defendant reserves the right to supplement its list of witnesses.

10. Defendant reserves the right to call any witnesses identified by any other parties in this litigation.

II.
DOCUMENTS

1. Las Vegas Metropolitan Police Report Incident Report
Bates Numbered LVMPD Report 00001 (Attached as Exhibit A)

2. Clark County Detention Center In-Custody Stats May 20, 2008
Bates Numbered CCDC In Custody Status 00001 – 00002
(Attached as Exhibit B)

3. Floor Plan Level One
Bates Numbered CHH LVL 1 00001 (Attached as Exhibit C)

4. Floor Plan 7th Floor
Bates Numbered CHH 7th Floor 00001 (Attached as Exhibit D)

5. Centennial Hills Employment File for Steven D. Farmer
Bates Numbered Farmer Employee File 00001 – 00040
(Attached as Exhibit E)

6. Emergency Department Transport Log
Bates Numbered ED Trnsprt Log 00001 (Attached as Exhibit F)

7. Centennial Hills Security Department Incident Report
Bates Numbered CHH Incident Report 00001 - 00002 (Attached as Exhibit G)

8. Emergency Department Schedule for May 15, 2008
Bates Numbered ED 5-15-08 Schedule 00001 (Attached as Exhibit H)

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
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TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

9. 7th Floor Schedule for May 15, 2008
Bates Numbered 7th Floor 5-15-08 Schedule 00001
(Attached as Exhibit I)

10. Centennial Hills Hospital Job Description for RN I
Bates Numbered RN I Med/Surg 1 – 7 (Attached as Exhibit J)

11. Centennial Hills Hospital Job Description for CNA
Bates Numbered Unit Coord/C N A – 1 -8 (Attached as Exhibit K)

12. Centennial Hills Hospital Job Description for RN III
Bates Numbered RN II ER-1 – 7 (Attached as Exhibit L)

13. Centennial Hills Hospital Job Description for RN III Emergency Department
Bates Numbered RN II ER-1 – 7 (Attached as Exhibit M)

14. Centennial Hills Hospital Job Description for Unit Coordinator/ED Tech
Bates Numbered Unit Coord/ED Tech-1 – 8 (Attached as Exhibit N)

15. Centennial Hills Medical Records for Plaintiff
Bates Numbered CHH00001 – 00073 (Attached as Exhibit O)

16. Defendant reserves the right to supplement this list of documents.

17. Defendant reserves the right to utilize any document utilized or identified by any other party to this litigation.

DATED this 13th day of November, 2008.

HALL PRANGLE & SCHOONVELD, LLC

MICHAEL E. PRANGLE, ESQ.
Nevada Bar No.: 8619
DAVID P. FERRAINOLO, ESQ.
Nevada Bar No.: 8452
777 North Rainbow Blvd., Ste. 225
Las Vegas, NV 89107
Attorneys for Defendant
Valley Health System, L.L.C.,
d/b/a Centennial Hills Hospital

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...

...

RECEIPT OF COPY

RECEIPT OF A COPY of the foregoing **DEFENDANT CENTENNIAL HILLS HOSPITAL'S INITIAL EARLY CASE CONFERENCE LIST OF WITNESSES AND DOCUMENTS** is hereby acknowledged this 13 day of November, 2008.

THE LAW OFFICES OF NEAL HYMAN

Neal Hyman/TMP

Neal K. Hyman, Esq.
Nevada Bar No. 5998
2441 W. Horizon Ridge Parkway, Ste. 120
Henderson, Nevada 89052
Attorneys for Plaintiffs

LEWIS BRISBOIS BISGAARD & SMITH, LLP

V. Andrew Cass/TMP

V. Andrew Cass, Esq.
Nevada Bar No. 5246
Keith A. Weaver, Esq.
Nevada Bar No. 10271
400 South Fourth Street, Ste. 500
Las Vegas, Nevada 89101
Attorneys for American Nursing Services, Inc.

HALL PRANGLE & SCHOONVELD, LLC
RAINBOW CORPORATE CENTER
777 NORTH RAINBOW BLVD., STE. 225
LAS VEGAS, NEVADA 89107
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

EXHIBIT 9

ORIGINAL

RPT
Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563
Attorneys for Plaintiff

FILED
DEC 09 2009
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780 DEPT. NO. II **JOINT CASE CONFERENCE REPORT**

A – 09 – 595780 – C
571542

DISCOVERY PLANNING/DISPUTE

CONFERENCE REQUIRED:

YES _____ NO _X_

I.

CLERK OF THE COURT
DEC 08 2009
RECEIVED

PROCEEDINGS PRIOR TO CASE CONFERENCE REPORT

A. DATE OF FILING OF COMPLAINT: July 23, 2009

DATE OF FILING OF AMENDED COMPLAINT: August 21, 2009

B. DATE OF SERVICE OF AMENDED COMPLAINT ON DEFENDANTS:

Defendant Valley Health System LLC d/b/a/ Centennial Hills Hospital Medical Center was served on August 21, 2009

Defendant American Nursing Services, Inc. was served on August 21, 2009

Defendant Steven Dale Farmer was served on September 8, 2009

C. DATE OF FILING OF ANSWER BY DEFENDANTS:

Defendant Centennial Hills Hospital answered on September 10, 2009

Defendant American Nursing Services, Inc. answered on or about September 22, 2009

Defendant Steven Dale Farmer answered on September 21, 2009

Defendant Universal Health Services, Inc. filed a Motion to Dismiss for Lack of Personal Jurisdiction on September 10, 2009

D. DATE THAT EARLY CASE CONFERENCE WAS HELD: November 9, 2009

E: PERSONS PRESENT AT CASE CONFERENCE:

Robert E. Murdock, Esq. for Plaintiff

David P. Ferrainolo, Esq. attended for Defendants Centennial Hills Hospital and UHS, Inc.

S. Brent Vogel, Esq. attended for Defendant American Nursing Services, Inc.

Robert C. McBride, Esq. attended for Defendant Steven Dale Farmer

II.

A BRIEF DESCRIPTION OF THE NATURE OF THE ACTION AND EACH CLAIM FOR RELIEF OR DEFENSE

A. **Description of the Action**: Plaintiff alleges that in or around May 2008, when Jane Doe was a patient at Centennial Hills Medical Center, Plaintiff was sexually assaulted, and otherwise injured and terrorized by Defendant Steven Dale Farmer. Steven Dale

Farmer was an employee of Defendant American Nursing Services which placed medical staff at Centennial Hills Medical Center. Centennial Hills Medical Center is owned and operated by Defendants Valley Health System LLC and Universal Health Services. Defendants deny each of these allegations.

B. Claims for Relief: Negligence, general damages, punitive and special damages.

C. Defenses:

By Defendant Centennial Hills Hospital:

1. Failure to state a claim;

2. Plaintiff's injuries, if any, were proximately caused by the acts or omissions of unknown third parties over whom Defendant exercised no control, and over whom Defendant has no right or duty to control, nor ever has had a right or duty to control;

3. Failure to exercise ordinary care, caution or prudence;

4. Assumption of the risks attendant to the recommendations and treatment proposed by Defendant;

5. Assumption of the risks inherent in the nature of the care rendered;

6. Reservation of right to assert additional affirmative defenses;

7. Defendant exercised the degree of skill possessed and exercised by members of its profession and Defendant used reasonable care and diligence in the exercise of its skills and application of its learning;

8. Plaintiff's injuries, if any, were not the result of willful, malicious or deliberate conduct on the part of Defendant;

9. It has been necessary for Defendant to employ the services of an attorney;

10. Incorporation of affirmative defenses enumerated in NRCP 8;

11. Defendant is liable for only that portion of Plaintiff's claims that represent the percentage of negligence, if any, attributed to it;

12. Failure to pleading any acts or omissions sufficient to constitute gross negligence or punitive damages;

//

13. Defendant cannot be held liable for the intentional torts or any employees or agents pursuant to NRS 41.745;

14. Any actions by any employees or agents were independent ventures;

15. Any actions by any employees or agents were not committed in the course of the very task assigned to the employee;

16. Any actions by any employees or agents were not reasonably foreseeable;

17. Plaintiff's alleged facts do not state a cause of action for punitive damages; such damages are limited or prohibited by NRS and the U.S. Constitution;

18. Incorporation by reference of those affirmative defenses enumerated in NRCP 8 and reservation of right to assert additional affirmative defenses as discovery progresses;

19. Defendant is entitled to a limited on damages pursuant to NRS 41A.035.

By Defendant American Nursing Services, Inc.

1. Failure to state a claim;

2. Statute of limitations;

3. Comparative fault;

4. Plaintiff's injuries, if any, were caused in whole or in part by a third party, over whom Defendant had no control;

5. Known risk consented to by Plaintiff;

6. Defendant is entitled to a conclusive presumption of informed consent pursuant to NRS 41A.110;

7. Plaintiff's damages, if any, were not attributable to any act, conduct or omission on the part of Defendant;

8. Failure to exercise ordinary care;

9. Failure to mitigate damages;

10. Defendant cannot be held liable for intentional acts of its employees pursuant to NTS 41.745;

//

11. Any actions undertaken by Defendant's employee were independent ventures;

12. Any actions undertaken by Defendant's employee were not committed in the course of the very task assigned to the employee;

13. Any actions undertaken by Defendant's employee were reasonably foreseeable;

14. The facts alleged do not state a claim for punitive damages;

15. Defendant is not guilty of fraud, oppression or malice, express or implied, in connection with the care rendered to Plaintiff;

16. It has been necessary for Defendant to retain an attorney;

17. Plaintiff's non-economic damages may not exceed $350,000.00;

18. Defendant is not jointly liable with any other entities named herein and will only be severally liable for that portion of Plaintiff's claim that represents the percentage of negligence attributable to Defendant, if any;

19. Incorporation of affirmative defenses enumerated in NCRP 8;

20. Reservation of right to assert additional affirmative defenses pursuant to NRCP 11.

By Defendant Steven Dale Farmer:

1. Failure to state a claim;

2. Defendant possessed and exercised that degree of skill and learning ordinarily possessed and exercised by members of the medical profession and used reasonable care and diligence in all medical attention and care rendered to Plaintiff;

3. Contributory negligence;

4. Defendant, consistent with good medical practice, a full and complete disclosure was made to Plaintiff of all material facts known or reasonably believed to be true concerning Plaintiff's physical condition and appropriate alternative procedures available for treatment of such condition. Further, Plaintiff expressly or impliedly consented to each and every service;

5. Defendant is entitled to a conclusive presumption of informed consent pursuant to NRS 41A.110;

6. Plaintiff's injuries and damages, if any, were caused by forces of nature over which Defendant had no control;

7. Failure to mitigate damages;

8. Plaintiff's injuries and damages, if any, were caused by third parties over whom Defendant had no control;

9. Plaintiff's injuries and damages, if any, were unforeseeable;

10. Plaintiff's injuries and damages, if any, were not proximately caused by acts or omissions on the part of Defendant;

11. Defendant would not be jointly liable and, if imposed, liability would be several for that portion of Plaintiff's damages;

12. Plaintiff's injuries and damages, if any, were caused by new, independent, intervening and superseding causes and not by Defendant's alleged negligence or other actionable conduct;

13. Defendant is not guilty of fraud, oppression or malice, express or implied;

14. Defendant is entitled to a limitation on damages pursuant to Nevada law;

15. Plaintiff's alleged facts do not state a claim for punitive damages; such damages are limited or prohibited by Nevada statutes and the United States Constitution;

16. Plaintiff consented to Defendant's conduct with the actual or apparent willingness for the conduct to occur;

17. Reservation of right to assert additional affirmative defenses.

III.

DOCUMENTS PROVIDED AT CASE CONFERENCE AND OBJECTION, IF ANY

A. Documents provided by Plaintiff:

1. Plaintiff's medical and billing records from Centennial Hills Hospital Medical Center.

2. Plaintiff reserve the right to supplement this List of Documents as discovery continues.

B. Documents Provided by Defendants Centennial Hills Hospital and Universal Health Services, Inc.:

1. Jane Doe's medical records Bates Stamped CH00001 through CH00317.

2. Centennial Hills Hospital Daily Security Logs Bates Stamped SDAL000001 through SDAL012421.

3. Records produced by the Nevada State Board of Nursing.

4. Centennial Hills Hospital Job Description for CNA Bates Numbered Unit Coord/C N A – 1-8.

5. Defendants reserve the right to supplement their list of documents.

6. Defendants reserve the right to utilize any document utilized or identified by any other party to this litigation.

C. Documents Provided by Defendant American Nursing Services, Inc.:

1. Defendant American Nursing Services, Inc.'s Suggestion of Bankruptcy.

D. Documents Provided by Defendant Steven Dale Farmer:

1. October 13, 2009 correspondence to Steven D. Farmer from Fireman's Fund Insurance Company.

2. Applicable insurance policy as produced by American Nursing Services in Case A570756. E. Documents to be provided by Defendants as a result of Case Conference, and when they will be provided: Not applicable.

IV.

LIST ALL DOCUMENTS REQUESTED BUT NOT PROVIDED, AND WHY SAID DOCUMENTS WERE NOT PROVIDED

None.

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V.

PLAINTIFF'S WITNESSES

1. Jane Doe, c/o Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., 520 South Fourth Street, Las Vegas, Nevada 89101, will testify regarding the facts and circumstances of the subject incident.

2. Person(s) Most Knowledgeable of Centennial Hills Hospital Medical Center, c/o Hall Prangle & Schoonveld, LLC, 777 North Rainbow Boulevard, Suite 225, Las Vegas, Nevada 89107, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

3. Person(s) Most Knowledgeable of Universal Health Services, c/o Hall Prangle & Schoonveld, LLC, 777 North Rainbow Boulevard, Suite 225, Las Vegas, Nevada 89107, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

4. Person(s) Most Knowledgeable of Valley Health System, LLC, c/o Hall Prangle & Schoonveld, LLC, 777 North Rainbow Boulevard, Suite 225, Las Vegas, Nevada 89107, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

5. Person(s) Most Knowledgeable of American Nursing Services, c/o Lewis Brisbois Bisgaard & Smith, LLP, 400 South Fourth Street, Suite 500, Las Vegas, Nevada 89101, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

6. Steven Dale Farmer, c/o Mandelbaum, Schwarz, Ellerton & McBride, 2012 Hamilton Lane, Las Vegas, Nevada 89106, is expected to testify regarding his knowledge of the facts and circumstances of the subject incident.

7. Investigating Personnel, Las Vegas Metropolitan Police Department, 400 Stewart Avenue, Las Vegas, Nevada 89101, are expected to testify regarding the investigated conducted of the subject incident.

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8. Plaintiff's treating medical personnel are expected to testify regarding the treatment provided to Plaintiff following the subject incident.

9. Plaintiff reserves the right to supplement this list of documents as discovery continues.

10. Plaintiff further reserves the right to identify any and all documents identified by any of the Defendants.

VI.

DEFENDANTS' WITNESSES

A. Defendants Centennial Hills Hospital and Universal Health Services, Inc.:

1. Jane Doe, c/o Murdock & Associates, Chtd. and Eckley M. Keach, Chtd. 520 South Fourth Street, Las Vegas, Nevada 89101, is expected to testify as to the facts and circumstances surrounding this matter and her alleged damages.

2. Jane Doe's two sons are expected to testify as to the facts and circumstances surrounding this matter, their mother's alleged damages and conversations they had with their mother about the incident.

3. Steven Dale Farmer, c/o Mandelbaum, Schwarz, Ellerton & McBride, 2012 Hamilton Lane, Las Vegas, Nevada 89106, is expected to testify regarding as to the facts and circumstances surrounding this matter and the allegations made against him.

4. Debra Scott, NSN, RN, FRE, Executive Director, Nevada State Board of Nursing, 5011 Meadowwood Mall Way, Suite 300, Reno, Nevada 89502-6567, is expected to testify regarding the certification process, background check and investigation performed by the Nevada Board of Nursing prior to certification. The Certification Process for a Certified Nurses Assistant. Revocation of Steven Dale Farmer's CNA Certificate (CNA021509). Investigation of Steven Dale Farmer by the Nevada Board of Nursing prior to revocation of Steven Dale Farmer's CNA certificate (CNA021509).

5. Michael Egstad, Manager I, Licensing and Certification Program, California Department of Public Health (CDPH), ATCS – MS 3301, P.O. Box 997416, 1615 Capitol Avenue, Sacramento, California 95899-7416, is expected to testify regarding the

certification process, background check and investigation performed by the California Board of Nursing prior to CNA certification. The Certification Process for a Certified Nurses Assistant. The Certification Process for Steven D. Farmer (Home Health Certificate Number 00199703, Nurse Assistant Certificate (00659300). Revocation of Steven Dale Farmer's CNA certificate (Home Health Certificate Number 00199703, Nurse Assistant Certificate 00659300).

6. Collado Jeunnesse, RN
Kim Moon, RN
Abraham Deppa, CNA
Nikki Carter, CNA
Marina McDowell, CNA
Alana Schons, CNA
Nelina Arante, RN
Ronald Lodevico
Venise Abelard, CNA
Paula Mosley, RN
Pamela Flagg, CNA
Amber Vergara
Loretta Korinis
Michelle Lucas

The above identified nurses and certified Nurses' Assistants are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

7. Curtis E. Basemore, M.D.
Cobinder S. Chopra, M.D.
James E. Mock, M.D.

The above identified physicians are expected to testify as to the care and treatment rendered as well as the facts and circumstances surrounding this matter.

8. Employees, former employees, representatives of and former representatives of American Nursing Services, Inc.
c/o Lewis Brisbois Bisgaard & Smith
400 South Fourth Street, Suite 500
Las Vegas, Nevada 89101

The above described witnesses are expected to be identified during discovery and to testify in regards to all facts and circumstances surrounding Steven Farmer and the

incident in question including but not limited to investigations performed, background checks performed regarding Steven Farmer and the assignment of Steven Farmer to Centennial Hills Hospital.

9. Defendant reserves the right to supplement its list of witnesses.

10. Defendant reserves the right to call any witnesses identified by any other parties in this litigation.

VII.

DISCOVERY PLAN [16.1(b)(2) and 16.1(c)(2)]

A. What changes, if any should be made in the timing, form or requirements for disclosures under 16.1(a):

1. Plaintiff's view: None
2. Defendants' view: None

When disclosures under 16.1(a)(1) were made or will be made:

1. Plaintiff's disclosures: 11/9/09
2. Defendants' disclosures: 11/9/09

B. Subjects on which discovery may be needed:

1. Plaintiff's view: Liability and damages
2. Defendants' view: Liability, causation and damages

C. Should discovery be conducted in phases or limited to or focused upon particular issues?

1. Plaintiff's view: No
2. Defendants' view: No

D. What changes, if any, should be made in limitations on discovery imposed under these rules and what, if any, other limitations should be imposed?

1. Plaintiff's view: None
2. Defendants' view: None

E. What, if any, other orders should be entered by court under Rule 26(c) or Rule 16(b) and (c):

1. Plaintiff's view: None
2. Defendants' view: None

F. Estimated time for trial:

1. Plaintiff's view: 7-10 days
2. Defendants' view: 7-10 days

VIII.

DISCOVERY AND MOTION DATES

1. The parties plan to conduct any and all discovery pursuant to the relevant Rules of Civil Procedure and Statutes.

2. Discovery close date: - 11/30/10

3. Last date to file Motion to Amend pleadings and/or add parties: 8/31/10

4. Last date to make expert disclosures pursuant to NRCP 16.1(a)(2): 8/31/10

a. Last date for rebuttal disclosure: 9/30/10

5. Last date to file dispositive motions: 12/30/10

6. Estimated time required for trial: 7-10 days

7. Is jury requested? Yes

8. Stipulations regarding limitations or conditions on additional discovery: None

9. Stipulations or material facts agreed to between the parties: None at this time

IX.

JURY DEMAND

A jury demand has been filed: Yes

X.

POTENTIAL FOR SETTLEMENT

Undetermined at this time.

This report is signed in accordance with Rule 26(g)(1) of the Nevada Rules of Civil Procedure. Each signature constitutes a certification that to the best of the signer's knowledge, information and belief, formed after a reasonable inquiry, the disclosures made by the signer are complete and correct at this time.

DATED this 8 day of December, 2009.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
520 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

HALL PRANGLE & SCHOONVELD, LLC

David P. Ferrajnolo Bar No. 8452
777 North Rainbow Blvd., Suite 225
Las Vegas, NV 89107
Attorneys for Defendant Universal Health Services, Inc.

MANDELBAUM, SCHWARZ, ELLERTON & McBRIDE

Robert C. McBride Bar No. 7082
2012 Hamilton Lane
Las Vegas, NV 89106
Attorneys for Defendant Steven Dale Farmer

LEWIS BRISBOIS BISGAARD & SMITH LLP

IN BANKRUPTCY

S. Brent Vogel Bar No. 6858
400 South Fourth Street, Suite 500
Las Vegas, NV 89101
Attorneys for Defendant American Nursing Services, Inc.

EXHIBIT 10

Electronically Filed
03/17/2010 09:00:29 AM

CLERK OF THE COURT

SECCL
Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780 DEPT. NO. II **PLAINTIFF'S FIFTH SUPPLEMENT TO CASE CONFERENCE DISCLOSURES PURSUANT TO NRCP 16.1**

COMES NOW Plaintiff Jane Doe, by and through her attorneys of record, Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., and hereby supplements her early case conference disclosures pursuant to NRCP 16.1 as follows:

DOCUMENTS

1. Recorder's Transcript Re: Calendar Call, Defendant's Motion for Discovery and Defendant's Motion to Continue Trial filed on June 9, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

2. Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on September 28, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

3. Second Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on September 28, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

4. Third Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on October 16, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

5. Ex Parte Order for Transport filed on October 23, 2009 with Receipt of Copy signed by Clark County Detention Center in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

6. Ex Parte Order for Transport filed on November 3, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

7. Ex Parte Order for Transport filed on November 3, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

8. Ex Parte Order for Transport filed on November 5, 2009 in the case of *The State of Nevada v. Steven Dale Farmer*, Case No. C245739.

The above documents will be produced upon request and at the requesting party's expense.

WITNESSES

Custodian of Records of the Eighth Judicial District Court, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the search for and authenticity of the records produced.

DATED this 17th day of March, 2010.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
520 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

CERTIFICATE OF MAILING

The undersigned hereby declares she is an employee of Murdock & Associates, Chtd. and that on March 17, 2010 she deposited a true copy of the foregoing PLAINTIFF'S FIFTH SUPPLEMENT TO EARLY CASE CONFERENCE DISCLOSURES in the United States mail, postage fully prepaid, addressed as follows:

David P. Ferrainolo, Esq.
Hall Prangle & Schoonveld, LLC
777 North Rainbow Blvd., Suite 225
Las Vegas, NV 89107

Robert C. McBride, Esq.
Mandelbaum, Schwarz, Ellerton & McBride
2012 Hamilton Lane
Las Vegas, NV 89106

S. Brent Vogel, Esq.
Lewis Brisbois Bisgaard & Smith
6385 South Rainbow Blvd., Suite 600
Las Vegas, NV 89118

/s/ Karen A. Kilmartin
An employee of Murdock & Associates, Chtd.

EXHIBIT 11

Electronically Filed
05/13/2010 02:57:16 PM

CLERK OF THE COURT

Robert E. Murdock, Esq.
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520 South Fourth Street
Las Vegas, NV 89101
702-384-5563

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ECKLEY M. KEACH, CHTD.
520 South Fourth Street
Las Vegas, NV 89101
702-384-5563
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780 DEPT. NO. II **PLAINTIFF'S SIXTH SUPPLEMENT TO CASE CONFERENCE DISCLOSURES PURSUANT TO NRCP 16.1**

COMES NOW Plaintiff Jane Doe, by and through her attorneys of record, Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., and hereby supplements her early case conference disclosures pursuant to NRCP 16.1 as follows:

DOCUMENTS

1. Deposition transcript of Christine Murray taken on January 27, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

2. Deposition transcript of Karen Sue Goodhart taken on January 27, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

3. Deposition transcript of Lisa Doty taken on February 2, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

4. Deposition transcript of Harold Collins Suto taken on February 3, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

5. Deposition transcript of Lorraine Wescott taken on February 4, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

6. Deposition transcript of Carine Antoinette Brown taken on February 8, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

7. Deposition transcript of Amy Bochenek taken on March 10, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

8. Deposition transcript of Douglas Nichols taken on March 24, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

9. Deposition transcript of Evette Wilson taken on April 7, 2010 in the case of *Cagnina v. Centennial Hills Hospital Medical Center, et al.*

Copies of the above deposition transcripts will made available upon request and at the requesting party's expense.

WITNESSES

Custodian of Records of Litigation Services, 1640 Alta Drive, Suite 4, Las Vegas, Nevada 89106, is expected to testify regarding the search for and authenticity of the transcripts produced.

//

//

//

DATED this 13th day of May, 2010.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
520 South Fourth Street
Las Vegas, NV 89101
Attorneys for Plaintiff

CERTIFICATE OF MAILING

The undersigned hereby declares she is an employee of Murdock & Associates, Chtd. and that on May 13, 2010 she deposited a true copy of the foregoing PLAINTIFF'S SIXTH SUPPLEMENT TO EARLY CASE CONFERENCE DISCLOSURES in the United States mail, postage fully prepaid, addressed as follows:

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Las Vegas, NV 89118

/s/ Karen A. Kilmartin
An employee of Murdock & Associates, Chtd.

EXHIBIT 12

DISTRICT COURT

CLARK COUNTY, NEVADA

ROXANNE CAGNINA, an individual,

Plaintiff,

vs.

Case No. A570756

CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AUXILIARY, a Nevada corporation; VALLEY HEALTH SYSTEM LLC, Limited Liability Company; VALLEY HOSPITAL MEDICAL CENTER, INC., a Nevada corporation; UNIVERSAL HEALTH SERVICES FOUNDATION, a Pennsylvania corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES INDIVIDUALS 1 through 10 and ROE BUSINESS OR GOVERNMENTAL ENTITIES 1 through 10, inclusive,

Defendants.

DEPOSITION OF CHRISTINE MURRAY

Taken on January 27, 2010

At 12:59 P.M.

1640 West Alta Drive, Suite 4

Las Vegas, Nevada

LST 117315B

Reported by: Jennifer A. Caton, RDR, CRR, CCR #422

APPEARANCES:
For the Plaintiff:

NEAL K. HYMAN, ESQ.
The Law Offices of Neal Hyman
2441 West Horizon Ridge Parkway
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Henderson, Nevada 89052
702.939.5234
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For Defendant Centennial Hills Hospital Medical Center:

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702.889.6400
702.384.6025 Fax
dferrainolo@hpslaw.com

I N D E X

Witness | Page
CHRISTINE MURRAY
Examination by Mr. Hyman | 3

E X H I B I T S

Number | Page | Description
(None)

LAS VEGAS, NEVADA; JANUARY 27, 2010
12:59 P.M.
-o0o-

CHRISTINE MURRAY,
having been called as a witness and having been first duly sworn, was examined and testified as follows:

(Prior to the commencement of the deposition, all counsel present agreed to waive statements by the court reporter pursuant to Rule 30(b)(4) of the NRCP.)

EXAMINATION

BY MR. HYMAN:

Q. Good afternoon. My name is Neal Hyman. I'm here on behalf of the plaintiff in this case called Cagnina versus Valley Health System, LLC, I think.

A. **Okay.**

Q. Would you please state your name and spell your last name for the record.

A. **Christine Murray, M-U-R-R-A-Y.**

Q. And what is your current employment?

A. **I'm a registered nurse.**

Q. Is that with Centennial Hills Hospital?

A. **No.**

Q. Is there a certain place that you're primarily working at?

A. **Yes. North Vista Hospital.**

Q. You don't happen to know the address, do you?

A. **No. It is on Lake Mead. I know that. It's in North Las Vegas.**

Q. Have you had your deposition taken before?

A. **No, I haven't.**

Q. Okay. So what I'll do is I'm going to go over a series of ground rules, admonitions that kind of explain the deposition process.

The first is there's a court reporter you can see to your right taking down everything I say and everything you say.

A. **Uh-huh.**

Q. This will basically be question and answer, and the important thing is not to talk over each other. So please let me finish what I'm saying, pause a second or two, that will give your

attorney a chance to object if he wants to, and then answer, and this will avoid us talking over each other. Okay?

A. **Okay.**

Q. And there is a tendency sometimes where the witness will anticipate the answer to my question before I'm done and they start to automatically answer, so just try not to do that. Okay?

A. **Okay.**

Q. You understand that you've been placed under oath. This would be just like testifying in a court of law.

A. **Yes, I do.**

Q. And obviously for not telling the truth, there will be a perjury penalty.

Do you understand that?

A. **Absolutely.**

Q. Can you think of any reason why you wouldn't be able to offer your best testimony here today?

A. **No, I do not.**

Q. You're not under the influence of anything? You got enough rest and all that?

A. **Absolutely.**

little earlier, because I had to check the orders and everything. I really -- that could have been just an estimate.

When you see somebody come up and you're walking them back to the thing and you -- you know, your times get a little -- you're not on the dot. The only thing I would say is on the dot would be here, because this is done by computer. This is probably my generalized time.

BY MR. HYMAN:

Q. I mean, can you give me an estimate of how long it would take you, once you make initial contact with the patient, to do everything you just stated, do the -- you know, the vitals and all that?

A. The vitals -- okay. The CNA does the vitals. When we came in, we walked her from the bathroom, 'cause Mr. Farmer had her in there. And he left 'cause he had to get back down to the ER. We walked her back. We got her settled.

They had the -- she already had the machine in there, so she took the vitals. I talked to her for a few minutes. She was complaining of a headache. I went back to check her orders, see if she could have anything, and probably maybe 20 minutes tops.

Q. Do you recall Mr. Farmer saying anything significant to you?

A. When we saw him in the bathroom with her?

Q. Really at any point. I mean, do you see him numerous times during this?

A. I saw him twice.

Q. So I mean, did he say anything to you about his transporting of her, her condition or anything?

A. He came over -- I was in another patient's room. He stopped at the door and said I brought your patient up. She's in 25.

I said, okay. Then I went to get something for this patient.

Then I went back around this way, and I saw the gurney was still there, which I was kind of surprised, about because our transporters usually -- you know, they know that they need to get back down as fast as possible. So I stepped inside with the CNA, and we saw him helping her in the bathroom. He said she had to go really bad. I helped her go -- helped her take her to the bathroom.

We said, okay. Well, you can go ahead and go.

He said great, took his thing and went. That was it.

Q. And have you, prior to this incident -- or this time with Roxanne Cagnina, ever seen Mr. Farmer before?

A. Yes.

Q. How many times?

A. I don't know. He worked several times. He worked quite a bit there.

Q. Like, tell me about the times you saw him. I mean, what was the circumstance? What was he doing?

A. Just bringing people up to the floors, dropping them off. He was a sitter one time for about a half hour, which meant -- or one on one, they call it, where you sat in there while the patient was in bed because the patient had problems. I saw him off and on. I certainly didn't count how many times.

Q. And you can't think of anything that he might have said that you thought was strange for some reason?

A. No. I thought it was very nice that he came around and told me that he dropped her off, because a lot of the transporters just put the

patient in there, drop off the paperwork, and they're gone.

Q. At this point when you were dealing with Mr. Farmer, did you know anything about his background or where he came from?

A. No.

Q. Did you know if he was an actual employee of the hospital or an outsourced employee?

A. I didn't know.

Q. Is it safe to say that when people are working at Centennial Hills Hospital, I mean, just by looking at them, you can't tell if they're an actual hospital employee or an outsourced employee?

MR. FERRAINOLO: Object to form.

THE WITNESS: No. I don't -- it depends. Some of them have badges. Everybody has a badge. So if it's a hospital badge, then they work for the hospital. And if it's an agency badge, then they work for an agency but --

BY MR. HYMAN:

Q. So they actually wear an agency badge?

A. Uh-huh.

Q. So say if there was an outsourced agency American Nursing Services, they would wear that badge?

CERTIFICATE OF DEPONENT

PAGE	LINE	CHANGE	REASON

* * * * *

I, Christine Murray, deponent herein, do hereby certify and declare under the penalty of perjury that the within and foregoing transcription, including my corrections reflected above, is a true and correct transcription of my testimony contained therein; that I have read, corrected, and hereby affix my signature to said deposition.

Executed this _____ day of _____, 2010, at _____.

(City/State)

_____

Christine Murray, Deponent

CERTIFICATE OF REPORTER

STATE OF NEVADA)
SS:
COUNTY OF CLARK)

I, Jennifer A. Caton, a Certified Court Reporter licensed by the State of Nevada, do hereby certify: That I reported the deposition of Christine Murray, commencing on January 27, 2010.

That prior to being deposed, the witness was duly sworn by me to testify to the truth. That I thereafter transcribed my said stenographic notes into written form, and that the typewritten transcript is a complete, true, and accurate transcription of my said stenographic notes. That review of the transcript was requested.

I further certify that I am not a relative, employee, or independent contractor of counsel or of any of the parties involved in the proceeding, nor a person financially interested in the proceeding, nor do I have any other relationship that may reasonably cause my impartiality to be questioned.

IN WITNESS WHEREOF, I have set my hand in my office in the County of Clark, State of Nevada, this _____ day of _____, 2010.

_____

Jennifer A. Caton, RDR, CRR, CCR 422

EXHIBIT 13

42

ORIGINAL

2009 SEP 17 P 4:03

CLERK OF THE COURT

ORDR
S. BRENT VOGEL
Nevada Bar No. 006858
V. ANDREW CASS
Nevada Bar No. 005246

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E-mail address: cass@lbbslaw.com

Attorneys for Defendant American Nursing Services, Inc.

DISTRICT COURT

CLARK COUNTY, NEVADA

ROXANNE CAGNINA, an Individual,

Plaintiff,

v.

CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AUXILIARY, a Nevada Corporation; VALLEY HEALTH SYSTEMS, LLC; a Nevada Limited Liability Company, VALLEY HOSPITAL MEDICAL CENTER, INC., a Nevada Corporation; UNIVERSAL HEALTH SERVICES FOUNDATION, a Pennsylvania Corporation; AMERICAN NURSING SERVICES, INC., a Louisiana Corporation; STEVEN DALE FARMER, an individual; DOE INDIVIDUALS 1 through 10 and ROE BUSINESS OR GOVERNMENTAL ENTITIES 1 through 10, inclusive,

Defendant.

CASE NO. A570756
DEPT NO.: X

PROTECTIVE ORDER

08A570756
402368

RECEIVED
SEP 17 2009
CLERK OF THE COURT

Pursuant to the Discovery Commissioner's Report and Recommendations approved by the Court and counsel, and attached hereto as Exhibit B, the parties to the above-captioned litigation shall

conduct discovery under the following terms:

1. As set out in, and limited by, the attached Discovery Commissioner's Report and Recommendations approved by the Court, documents or things or information produced or otherwise furnished by any of the parties in informal or other discovery that contain confidential, trade secret or other proprietary information may be designated "CONFIDENTIAL" by the producing party or a party who is the original source of the document or information. The producing party must effectuate the designation of "CONFIDENTIAL" documents or information by stamping or marking on the documents or other material the term "CONFIDENTIAL." Those documents or other matters must be maintained by the other parties to this action and their counsel in confidence and used only for the purposes of this litigation. To the extent that any such items are filed with the Clerk of Court or with the Court, they must be placed in an envelope marked "CONFIDENTIAL MATERIALS SUBJECT TO PROTECTIVE ORDER" and sealed. Such sealed envelopes must be opened only by the Clerk of Court or by the Court, or their agents.

2. Documents or other materials designated as "CONFIDENTIAL" must be restricted to the following persons:

a. counsel who have appeared of record for any party in this case and have signed this Protective Order, and partners, shareholders, associates, paralegal assistants, clerical staff, and secretaries who are regularly employed by such counsel, and are actively engaged in assisting such counsel with respect to this litigation;

b. each party to this litigation, a designated member of each party's general counsel's office, and legal administrative staff to the designated member of the general counsel's office;

c. any certified shorthand or court reporters retained to report a deponent's testimony taken in this litigation;

d. experts or any person retained or used by counsel for any party to assist counsel with respect to this litigation;

e. persons shown on the face of the document to have authored or received it;

f. any person whom the parties agree, in advance and in writing, may receive such protected information; and

g. employees, former employees (but only to the extent necessary to prepare for deposition or assist in preparation of discovery responses by their former employer) or other agents of the producing party.

3. A party may also designate as "CONFIDENTIAL—ATTORNEYS' EYES ONLY" in whole or in part, materials which contain the social security number of Steven Farmer. Such designation must be made by marking the documents or material (or part(s) thereof) in a conspicuous manner. The marking must state "CONFIDENTIAL-ATTORNEYS' EYES ONLY" or some similar marking. Access to materials designated "CONFIDENTIAL—ATTORNEYS' EYES ONLY" and to any portion of any transcript, brief, affidavit, memorandum or other paper that contains, reveals or refers to materials so designated is limited to those persons set forth in paragraphs 2(a), 2(c), 2(d), 2(e), and 2(f) above; a designated member of each party's general counsel's office; and legal administrative staff to the designated member of the general counsel's office. To the extent that any such items are filed with the Clerk of Court or with the Court, they must be placed in an envelope marked "CONFIDENTIAL—ATTORNEYS' EYES ONLY" and sealed. Such sealed envelopes must be opened only by the Clerk of Court or by the Court, or their agents.

4. Any copies, photographs, depictions, excerpts, notes concerning, or other information generated from an inspection of the matters designated "CONFIDENTIAL," or "CONFIDENTIAL—ATTORNEYS' EYES ONLY" must be treated in the same manner.

5. In the case of a deposition:

a. Deposition testimony must be deemed temporarily designated as "CONFIDENTIAL," provided that within forty-five (45) days after receipt of the transcript, counsel must review the transcript and designate only those pages of the transcript which the designating party believes constitute, reflect or disclose confidential information. If no specific designation is made, the entire transcript will be deemed **not** confidential.

b. Counsel for any party or the witness may designate that information disclosed during a deposition is to be treated as "CONFIDENTIAL - ATTORNEYS' EYES ONLY" by indicating on the record of the deposition and requesting the preparation of a separate transcript of such material.

c. When information or documents designated "CONFIDENTIAL - ATTORNEYS'

EYES ONLY" are disclosed or discussed during a deposition, counsel for the witness or any party who may be affected by disclosure has the right to exclude from attendance during that portion of the deposition any person who is not entitled to receive such "CONFIDENTIAL - ATTORNEYS' EYES ONLY information or documents pursuant to this Protective Order.

6. Documents or other information designated as "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY," may be used in connection with hearings before the Court. Transcripts or portions thereof which record hearing testimony concerning confidential documents or information may be marked as "CONFIDENTIAL" or "CONFIDENTIAL - ATTORNEYS' EYES ONLY" by any party within forty-five (45) days after receiving the hearing transcript. The party wishing to make such designation must advise all other parties, and the designated portion(s) of the hearing transcript must thereafter be treated as subject to the terms of this Protective Order.

7. Subject to the terms of this Protective Order and applicable rules of evidence, documents or other materials designated as "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS' EYES ONLY" may be offered at the trial of this matter for consideration by the trier of fact.

8. Neither the parties nor their counsel must disclose or permit the disclosure of the documents or other information designated as "CONFIDENTIAL" to anyone other than partners, associates, legal assistants or employees of counsel to this action; the parties themselves; any expert(s) or consultant(s) retained in connection with the preparation for and hearing of this proceeding and any other person agreed upon in writing by the parties or authorized by orders of the Court.

9. Except for the parties themselves and their counsel (including partners, associates, legal assistants or employees of their law firm), all persons to whom any information subject to this Protective Order is disclosed must, prior to any disclosure to them, be provided a copy of this Protective Order and must then execute a protective agreement in the form attached as Exhibit A to this Protective Order. The signed protective agreement need not be provided to opposing counsel, except as ordered by the court.

10. Nothing contained in this Protective Order shall restrict or prevent any party to this

action from disclosing or otherwise using any matter not subject to this Protective Order and not designated as "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY."

11. If any party wishes to have any information, document or testimony marked "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY" by another party reclassified, the parties will confer and try to reach agreement. If the parties cannot reach agreement, the party seeking to reclassify may seek appropriate relief from the Court, with the party seeking to maintain the "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY" designation bearing the burden to establish its claim of confidentiality.

12. If a party inadvertently produces information subject to any privilege, the recipient, upon notice from the producing party of the production and privilege, shall promptly return or destroy all such information, including all copies thereof and all materials and documents incorporating or referring to such documents.

13. Upon the final conclusion of this proceeding, including any appeal, or upon the settlement and/or dismissal of the proceeding, all documents and things or information subject to this Protective Order shall be returned to the party which produced them, or shall be destroyed. Counsel for the parties may preserve work product and privileged documents in their permanent files even though such documents may reflect or contain confidential documents or information. The conclusion of this proceeding shall not relieve any person or party from any of the requirements imposed by this Protective Order.

14. Any non-party subpoenaed or requested to produce documents and things or information, or to give deposition testimony, shall have the full benefits and protections of this Protective Order, and may designate documents or deposition testimony as "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY" in the manner, and subject to the same protections, set forth above.

15. Nothing contained in this Protective Order, nor any action taken in compliance with it, shall operate as an admission by any party or third party that any particular information is or is not "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY" matter within the contemplation of the law or prejudice in any way the right of any party or third-party to seek a Court

determination of whether or not any particular materials should be disclosed or if disclosed whether or not it should be subject to the terms of this Protective Order.

16. The relevance or admissibility of this Protective Order for any purpose in this proceeding is reserved for the future decision of the Court.

17. The provisions of this Protective Order shall not preclude any party from seeking from the Court, for good cause shown, additional protections or limitations on the use of certain documents or information as permitted by NRCP 26(c).

THE LAW OFFICES OF NEAL HYMAN

By _____
NEAL K. HYMAN, ESQ. (005998)
2441 W. Horizon Ridge Parkway, Suite 120
Henderson, Nevada 89052

Attorney for Plaintiff

HALL PRANGLE & SCHOONVELD, LLC

By _____
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DAVID P. FERRAINOLO, ESQ. (008452)
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Las Vegas, Nevada 89107

Attorneys for Defendant Valley Health system, LLC dba Centennial Hills Hospital Medical Center

LEWIS BRISBOIS BISGAARD & SMITH, LLP

By _____
V. ANDREW CASS, ESQ. (005246)
S. BRENT VOGEL, ESQ. (006858)
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Attorneys for Defendant. American Nursing Services, Inc.

MANDELBAUM SCHWARZ ELLERTON & MCBRIDE

By _____
ROBERT C. MCBRIDE, ESQ. (007082)
2012 Hamilton Lane
Las Vegas, Nevada 89106

Attorneys for Defendant Steven Farmer

IT IS SO ORDERED.

_____
DISTRICT COURT JUDGE

Dated: 9/17/09

Submitted by:

LEWIS BRISBOIS BISGAARD & SMITH, LLP

By _____
V. ANDREW CASS, ESQ. (005246)
S. BRENT VOGEL, ESQ. (006858)
400 S. 4th Street, Suite 500
Las Vegas, Nevada 89101

Attorneys for Defendant. American Nursing Services, Inc.

EXHIBIT A

EXHIBIT A

EXHIBIT A

Declaration Regarding Compliance With Protective Order

I, _____, have read the attached Protective Order ("Order"), understands its contents, and hereby undertake to be bound by it.

1. I agree to use the Confidential Information provided to me for the purposes of litigation only.

2. I understand and agree that in the event I intentionally violate this Order, the designating party shall be entitled to petition the Court to impose a monetary sanction, in its discretion, for the violation hereof.

3. I submit to the jurisdiction of the Eighth Judicial District Court of Nevada for the purpose of enforcing the terms of this Order and freely and knowingly waive any right I may otherwise have to object to the jurisdiction of said Court.

4. I understand and agree that in the event I intentionally violate this Order, the designating party shall be entitled to its attorney's fees and costs incurred to enforce this Order, in addition to the monetary sanction which may be imposed under Paragraph 2 above.

DATED: _____

_____
Signature

_____
Print or Type Name

4843-1338-7011.1

EXHIBIT B

EXHIBIT B

4830-8412-6209.1

DCRR
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Nevada Bar No. 006858
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Las Vegas, Nevada 89101
702.893.3383 - Main
702.893.3789 - Facsimile
bvogel@lbbslaw.com
Attorneys for American Nursing Services, Inc.

FILED
SEP 15 11 03 AM '09
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

ROXANNE CAGNINA, an individual,

Plaintiff,

v.

CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AUXILIARY, a Nevada Corporation; VALLEY HEALTH SYSTEM LLC, a Limited Liability Company, VALLEY HOSPITAL MEDICAL CENTER, INC., a Nevada Corporation; UNIVERSAL HEALTH SERVICES FOUNDATION, a Pennsylvania Corporation; AMERICAN NURSING SERVICES, INC., a Lousiana Corporation; STEVEN DALE FARMER, an individual; DOE INDIVIDUALS 1 through 10 and ROE BUSINESS OR GOVERNMENTAL ENTITIES 1 through 10, inclusive,

Defendants.

CASE NO. A570756
DEPT NO.: X

DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS

DATE OF HEARING: July 29, 2009
TIME OF HEARING: 9:30 a.m.

APPEARANCES:

Plaintiff: Rhonda R. Long, Esq., of Law Office of Neal Hyman.

Defendants:

American Nursing Services, Inc. - S. Brent Vogel, Esq., of Lewis Brisbois Bisgaard &

Smith, LLP;

Steven D. Farmer – Robert C. McBride, Esq., of Mandelbaum Schwarz Ellerton & McBride;

Centennial Hills Hospital – David Ferrainolo, Esq., of Hall Prangle & Schoonveld.

FINDINGS

1. Defendant American Nursing Services, Inc., ("ANS") filed a Motion for Protective Order seeking to protect certain information from discovery. ANS served a privilege Redaction Log covering information that is insurance premium information, personal information (e.g., social security numbers, employee I.D. numbers, salary information, private contact information); and proprietary information, or protected health information. ANS produced numerous non-privileged documents and redacted a small amount of information considered to be privileged or confidential.

2. ANS also sought a protective order regarding its contract with Broadlane, Inc., which was inadvertently produced in this litigation by Centennial Hills Hospital as well as other information that is proprietary to ANS and considered confidential as a trade secret.

3. ANS also requested a Protective Order regarding its Clinical Policy and Procedure Manual, orientation information, training information and related confidential information that is proprietary to ANS and a trade secret. ANS's requested a Protective Order would allow the parties to mark documents as "CONFIDENTIAL", or "CONFIDENTIAL – ATTORNEY'S EYES ONLY," among other common designations designed to protect confidential information from broad public dissemination.

RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that ANS's Motion and Joinder for Protective Order are GRANTED IN PART AND DENIED IN PART as follows:

1. The following information must be produced:

A) the last four (4) digits of Mr. Farmer's Social Security number;

B) Mr. Farmer's medical information and test results that support or deny any finding of a communicable disease;

C) health information that calls into question Mr. Farmer's ability to act in a

professional capacity;

D) past employment references;

E) employment applications;

F) a redacted W-2 showing who paid Mr. Farmer's wages (personal identifying information redacted);

G) any time cards for work schedules for the day in question (for Mr. Farmer's employment at that facility for no more than six months;

2. PROTECTION IS GRANTED as follows:

A) other medical health information pertaining to Mr. Farmer other then what was allowed in 1(B) and (C) above;

B) Mr. Farmer's complete Social Security number is protected;

C) Mr. Farmer's wage information except as Ordered section 1(F) above;

D) ANS's and Mr. Farmer's insurance premium information.

3. IT IS FURTHER RECOMMENDED that certain materials will be turned over but protected under N.R.C.P. 26(c); meaning the information may be shared with attorneys, experts, or individuals working on the case only and the documents may not be filed with the Court unless they are attached under seal. This information may be marked "CONFIDENTIAL" and a "CONFIDENTIAL – ATTORNEY'S EYES ONLY" designation is not necessary, except as set out in section 7 below. Furthermore, protected documents or topics discussed at depositions must be protected under seal with the Court Reporter. Protection remains in effect until a Decision is made by the Court.

IT IS FURTHER RECOMMENDED that the following information will be produced with protection:

A) the Broadlane, Inc., contract inadvertently disclosed is under a protective order;

B) ANS's employee orientation materials;

C) ANS's Policies and Procedures that are relevant;

D) CNA testing for Mr. Farmer.

4. IT IS FURTHER RECOMMENDED, no attorneys' fees or costs be awarded.

5. IT IS FURTHER RECOMMENDED, the signature page related to the Protective Order will be kept by counsel, but need not be turned over to other counsel.

6. IT IS FURTHER RECOMMENDED that information may be shared with Mr. Farmer's criminal Attorney to the extent that some information will assist his Attorney in the criminal action.

7. IT IS FURTHER RECOMMENDED that Plaintiff's counsel must make a good faith effort to conduct a background investigation using the last four digits of Mr. Farmer's Social Security Number and other personal identifying information. If Plaintiff's counsel is able to make a good faith showing that reasonably indicates Mr. Farmer's full Social Security number is needed to conduct the background investigation, it will considered "CONFIDENTIAL - ATTORNEYS' EYES ONLY" and counsel may contact the Hon. Discovery Commissioner by conference call, if necessary, to address this issue.

8. IT IS FURTHER RECOMMENDED that Mr. Farmer's Criminal Attorney(s) may attend the Depositions in this case; however, he or she cannot make any objections since Mr. Farmer's civil lawyer will be representing him for this deposition. MS

DATED this 24 day of August, 2009.

DISCOVERY COMMISSIONER

Respectfully Submitted by:

S. Brent Vogel, Esq.
Nevada State Bar No. 6858
LEWIS BRISBOIS BISGAARD & SMITH, LLP
400 S. Fourth Street, Fifth Floor
Las Vegas, NV 89101
Attorneys for American Nursing Services, Inc.

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 objection must be filed and served no more than five (5) 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 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 a folder of a party's lawyer in the Clerk's office.]

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

_____ Mailed to Plaintiff/Defendant at the following address on the ____ day of _____, 2009.

X Placed in the folder of Plaintiff's/Defendant's counsel in the Clerk's office on the 27 day of Aug., 2009.

By: _____
Deputy Clerk

Case Name: Cagnina v. Centennial Hills Hospital Medical Center Auxiliary, et al.
Case No. A570756

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,

mm
__X__ No timely objection having been received in the office of the Discovery Commissioner pursuant to EDCR 2.34(f),

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

* * *

AND

__X__ IT IS HEREBY ORDERED the Discovery Commissioner's Report and 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 is set for the _____ day of _____, 2009 at _____a.m.

DATED this 10 day of Sept, 2009.

DISTRICT COURT JUDGE

EXHIBIT 14

ELECTRONICALLY SERVED
03/19/2015 04:19:39 PM

Robert E. Murdock, Esq.
Nevada Bar No. 4013
MURDOCK & ASSOCIATES, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111

Eckley M. Keach, Esq.
Nevada Bar No. 1154
ECKLEY M. KEACH, CHTD.
521 South Third Street
Las Vegas, NV 89101
702-685-6111
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	CASE NO. 09-A-595780-C DEPT. NO. II **PLAINTIFF'S 25th SUPPLEMENT TO CASE CONFERENCE DISCLOSURES PURSUANT TO NRCP 16.1**

COMES NOW Plaintiff Estate of Jane Doe, by and through its Special Administrator, Misty Petersen, by and through its attorneys of record, Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., and hereby supplements her early case conference disclosures pursuant to NRCP 16.1 as follows. **New information appears in bold.**

DOCUMENTS

1. Plaintiff's medical and billing records from Centennial Hills Hospital Medical Center. Said records will be provided upon receipt of same.

2. Medical records from Centennial Hospital Medical Center for date of admission of May 14, 2008.

3. Indictment filed on November 19, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C249693.

4. Indictment Warrant filed on November 19, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C249693.

5. Indictment Warrant Return filed on November 20, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C249693.

6. Notice dated November 26, 2008.

7. Reporter's Transcript of Proceedings of November 18, 2008 Before the Grand Jury Impaneled by the Aforesaid District Court in the case of The State of Nevada v. Steven Dale Farmer, Case No. 08AGJ078X.

8. Information filed July 2, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

9. Reporter's Transcript of Preliminary Hearing on July 1, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. 08F10344X.

10. Certificate filed on July 31, 2008, Commitment and Order to Appear, Register of Appearances – Hearing, Amended Criminal Complaint, Criminal Complaint, Las Vegas Metropolitan Police Department Temporary Custody Record, Declaration of Arrest for Event No. 080516-1021, Arrest Report of Steven Dale Farmer, Charge/Bail Review Request, Justice Court, Las Vegas Township, four Pretrial Services Information Sheets, two Media Request & Order in Las Vegas Justice Court Case No. 08F10344X, Facsimile Transmission cover sheet dated 6/18/08 to JCT 8 from Summer Clarke with Amended Criminal Complaint.

11. "Received of Justice Court the Following Items: Justice Court Proceedings and Documents" dated July 3, 2008.

12. Media Request and Order for Camera Access to Court Proceedings filed July 24, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

13. Notification of Media Request filed July 24, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

14. Motion for Discovery filed December 30, 2008 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

15. State's Opposition to Defendant's Motion for Discovery filed January 16, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

16. Motion to Continue Trial Date filed January 20, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

17. Defendant's Reply to State's Opposition to Motion for Discovery filed January 21, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

18. Ex Parte Motion for Release of Medical Records relating to Denise Hanna filed January 22, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

19. Ex Parte Motion for Release of Medical Records relating to Frances Rose filed January 22, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

20. Ex Parte Motion for Release of Medical Records filed January 22, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

21. Ex Parte Motion for Release of Medical Records relating to Roxanne Cagnina filed January 22, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

22. Ex Parte Motion for Release of Medical Records relating to Heather Shank filed January 22, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

23. Ex Parte Motion for Release of Medical Records relating to Ledahlia Spurlock filed January 22, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

24. Order Releasing Medical Records of Ledahlia Spurlock filed February 4, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

25. Order Releasing Medical Records of Denise Hanna filed February 4, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

26. Order Releasing Medical Records filed February 4, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

27. Order Releasing Medical Records of Frances Rose filed February 4, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

28. Order Releasing Medical Records of Heather Shank filed February 4, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

29. Notification of Media Request filed February 9, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

30. Media Request and Order for Camera Access to Court Proceedings filed February 9, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

31. Order Releasing Medical Records of Roxanne Cagnina filed February 12, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

32. Expedited Ex Parte Order for Transcript filed May 15, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

33. Motion to Continue Trial Date filed June 5, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

34. Amended Notice of Witnesses and/or Expert Witnesses filed June 5, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

35. Notice of Witnesses and/or Expert Witnesses filed June 4, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

36. Documents received from Rawson-Neal Psychiatric Hospital pursuant to a subpoena duces tecum.

37. Recorder's Transcript Re: Calendar Call, Defendant's Motion for Discovery and Defendant's Motion to Continue Trial filed on June 9, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

38. Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on September 28, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

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39. Second Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on September 28, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

40. Third Supplemental Notice of Witnesses and/or Expert Witnesses [NRS 174.234] filed on October 16, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

41. Ex Parte Order for Transport filed on October 23, 2009 with Receipt of Copy signed by Clark County Detention Center in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

42. Ex Parte Order for Transport filed on November 3, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

43. Ex Parte Order for Transport filed on November 3, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

44. Ex Parte Order for Transport filed on November 5, 2009 in the case of The State of Nevada v. Steven Dale Farmer, Case No. C245739.

45. Deposition transcript of Christine Murray taken on January 27, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

46. Deposition transcript of Karen Sue Goodhart taken on January 27, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

47. Deposition transcript of Lisa Doty taken on February 2, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

48. Deposition transcript of Harold Collins Suto taken on February 3, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

49. Deposition transcript of Lorraine Wescott taken on February 4, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

50. Deposition transcript of Carine Antoinette Brown taken on February 8, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

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51. Deposition transcript of Amy Bochenek taken on March 10, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

52. Deposition transcript of Douglas Nichols taken on March 24, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

53. Deposition transcript of Evette Wilson taken on April 7, 2010 in the case of Cagnina v. Centennial Hills Hospital Medical Center, et al.

54. Documents received from the Henderson Police Department pursuant to a subpoena duces tecum to the Henderson Detention Center.

55. CD of photos and audio recording from the Henderson Detention Center relating to Defendant Steven Dale Farmer.

56. Declaration and documents produced by Michelle Simmons pursuant to a subpoena duces tecum.

57. Correspondence dated February 14, 2013 and documents produced by Nevada State Board of Nursing pursuant to a subpoena duces tecum.

58. Motion to Continue Trial Date filed on February 14, 2013 in the case of State v. Farmer, Case No. C245739.

59. Exemplar of Centennial Hills Hospital Medical Center staff badge.

60. Order Denying Motion for Modification of an Order Lifting Stay by American Nursing Services, Inc. filed on June 24, 2013 in the case of In Re: American Nursing Services, Inc., et al., Case No. 09-13411 (PJW), United States Bankruptcy Court for the District of Delaware.

61. Six (6) pages of notes from Jane Doe (Bates JD0001-JD0006) (redaction on JD0005 – see Privilege Log).

62. Transcript of Jane Doe's testimony on January 20, 2012 in the case of State of Nevada v. Steven Dale Farmer, Case No. C245739 in the District Court, State of Nevada.

63. CD containing Jane Doe's diary (Bates JDD00001-JDD00025) (redaction on JDD00015 and JDD00021 - see Plaintiff's Second Privilege Log).

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64. Criminal discovery provided to Steven Farmer. (This is protected but will be released after the criminal trial of Mr. Farmer and as soon as Plaintiff receives same pursuant to earlier subpoenas.)

65. All documents from the Las Vegas Metropolitan Police Department investigation of Steven Farmer. (This is protected but will be released after the criminal trial of Mr. Farmer and as soon as Plaintiff receives same pursuant to earlier subpoenas.)

66. Correspondence dated April 29, 2014 from Ryan J. Bashor, Deputy Public Defender, to Robert E. Murdock, Esq. with invoice relating to Sandra Higelin in the case of State of Nevada v. Steven Dale Farmer, Case No. C245739.

67. Second Amended Information filed on February 24, 2014 in State v. Farmer, Case No. 10C245739.

68. Court Minutes of May 28, 2014 in State v. Farmer, Case No. 08C249693.

69. Judgment of Conviction filed on June 2, 2014 in State v. Farmer, Case No. C245739 / C249693.

70. CD containing emails concerning Steven Farmer between the Clark County Public Defender's Office and Defense Counsel dated April 9, 2009 through January 21, 2014 (Bates PD00001-PD00135) received via FOIA Request.

71. Documents received from Public Defender's Office Bates Stamped PDDISC0001-477.

72. Plaintiff reserves the right to supplement this list of documents as further information becomes available.

73. Plaintiff further reserves the right to identify any and all documents identified by any of the Defendants.

WITNESSES

1. Jane Doe, c/o Murdock & Associates, Chtd. and Eckley M. Keach, Chtd., 520 South Fourth Street, Las Vegas, Nevada 89101, will testify regarding the facts and circumstances of the subject incident.

2. Person(s) Most Knowledgeable of Centennial Hills Hospital Medical Center, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada

89144, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

3. Person(s) Most Knowledgeable of Universal Health Services, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

4. Person(s) Most Knowledgeable of Valley Health System, LLC, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

5. Person(s) Most Knowledgeable of American Nursing Services, c/o Lewis Brisbois Bisgaard & Smith, LLP, 400 South Fourth Street, Suite 500, Las Vegas, Nevada 89101, is/are expected to testify regarding his/her knowledge of the facts and circumstances of the subject incident.

6. Steven Dale Farmer, c/o Mandelbaum, Schwarz, Ellerton & McBride, 2012 Hamilton Lane, Las Vegas, Nevada 89106, is expected to testify regarding his knowledge of the facts and circumstances of the subject incident.

7. Investigating Personnel, Las Vegas Metropolitan Police Department, 400 Stewart Avenue, Las Vegas, Nevada 89101, are expected to testify regarding the investigated conducted of the subject incident.

8. Plaintiff's treating medical personnel are expected to testify regarding the treatment provided to Plaintiff following the subject incident.

9. Custodian of Records of Centennial Hills Hospital Medical Center, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify regarding the search for and authenticity of the records produced.

10. Custodian of Records of the Eighth Judicial District Court, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the search for and authenticity of the records produced.

11. Frances V. Rose, 2104 Club Pacific Way, No. 19-102, Las Vegas, Nevada 89128, is expected to testify regarding her sexual assault by Steven Dale Farmer while she was a patient at Rawson-Neal Psychiatric Hospital.

12. Ledahlia Spurlock, 4408 San Gabriel Hill Avenue, Las Vegas, Nevada 89115, is expected to testify regarding her sexual assault by Steven Dale Farmer while she was a patient at Centennial Hills Hospital Medical Center.

13. Heather Shank, 5209 Fireside Ranch Avenue, Las Vegas, Nevada 89131, is expected to testify regarding her sexual assault by Steven Dale Farmer while she was a patient at Centennial Hills Hospital Medical Center.

14. Denise Hanna, 7932 Olympus Avenue, Las Vegas, Nevada 89131, is expected to testify regarding the sexual assault by Steven Dale Farmer while she was a patient at Centennial Hills Hospital Medical Center.

15. Person Most Knowledgeable of Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected is testify regarding various allegations concerning Steven Dale Farmer and Rawson-Neal advising American Nursing Services, Inc. about said allegations.

16. Custodian of Records of Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected is testify regarding the search for and authenticity of the records produced.

17. Custodian of Records of the Eighth Judicial District Court, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the search for and authenticity of the records produced.

18. Custodian of Records of Litigation Services, 1640 Alta Drive, Suite 4, Las Vegas, Nevada 89106, is expected to testify regarding the search for and authenticity of the transcripts produced.

19. Kristen Grega, Custodian of Records of Henderson Police Department, 223 Lead Street, Henderson, Nevada 89015, is expected to testify regarding the search for and authenticity of the records produced.

20. Michelle Simmons, c/o Lewis Brisbois Bisgaard & Smith LLP, 6385 South Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118, is expected to testify regarding the search for and authenticity of the records produced, as well as her knowledge of American

Nursing Services, Inc.

21. Frederick R. Olmstead, General Counsel, Nevada State Board of Nursing, 5011 Meadowood Mall Way, Suite 300, Reno, Nevada 89502, is expected to testify regarding the search for and authenticity of the records produced.

22. Jeff Maningo, Esq., Deputy Public Defender, 309 South Third Street, Suite 226, Las Vegas, Nevada 89155, is expected to testify regarding Defendant Steven Farmer's criminal matter and the Motion to Continue Trial Date filed on February 14, 2013.

23. Philip J. Kohn, Esq., Public Defender, 309 South Third Street, Suite 226, Las Vegas, Nevada 89155, is expected to testify regarding Defendant Steven Farmer's criminal matter.

24. Amy Feliciano, Deputy Public Defender, 309 South Third Street, Suite 226, Las Vegas, Nevada 89155, is expected to testify regarding Defendant Steven Farmer's criminal matter.

25. Person Most Knowledgeable of Valley Health System LLC, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Dr., Suite 200, Las Vegas, Nevada 89144, is expected to testify regarding the authenticity of the exemplar of Centennial Hills Hospital Medical Center staff badge produced at the deposition of Person(s) Most Knowledgeable of Valley Health System LLC on March 12, 2013.

26. John F. Bemis, Esq., Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify regarding his meeting with the Public Defender for Steven Dale Farmer and documents being provided to the Public Defender's Office for Steven Dale Farmer. Further, he is expected to testify regarding the sharing of information between Criminal Defense Counsel and American Nursing Services, Inc., and Centennial Hills Hospital and the receipt of the criminal discovery in 2013.

27. S. Brent Vogel, Esq., Lewis Brisbois Bisgaard & Smith LLP, 6385 South Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118, is expected to testify regarding his meeting with the Public Defender for Steven Dale Farmer and documents being provided to the Public Defender's Office for Steven Dale Farmer. Further, he is expected to testify regarding the sharing of information between Criminal Defense Counsel and American Nursing Services, Inc., and Centennial Hills Hospital and the receipt of the criminal discovery in 2013.

28. Amanda J. Brookhyser, Esq., Lewis Brisbois Bisgaard & Smith LLP, 6385 South Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118, is expected to testify regarding her meeting with the Public Defender for Steven Dale Farmer and documents being provided to the Public Defender's Office for Steven Dale Farmer. Further, she is expected to testify regarding the sharing of information between Criminal Defense Counsel and American Nursing Services, Inc., and Centennial Hills Hospital and the receipt of the criminal discovery in 2013.

29. Person(s) Most Knowledgeable, Chubb Commercial Insurance, 15 Mountain View Road, Warren, New Jersey 07059, is expected to testify regarding the payments made for attorney's fees for Steven Dale Farmer.

30. Person(s) Most Knowledgeable, Interstate Fire and Casualty Company, 33 West Monroe Street, Suite 1400, Chicago, Illinois 60603, is expected to testify regarding the payments made for attorney's fees for Steven Dale Farmer.

31. Johnette Spellman, c/o Ochsner Health System, Human Resources Department, 1601 Jefferson Highway, New Orleans, Louisiana 70121, is expected to testify regarding her knowledge of American Nursing Services, Inc.

32. Timothy J. Fagan, c/o Jay C. Ong, Esq., Munsch Hardt Kopf & Harr, 401 Congress Avenue, Suite 3050, Austin, Texas 78701, is expected to testify regarding his knowledge of American Nursing Services, Inc.

33. Deann Anderson, c/o Rawson Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

34. Dr. Frederick M. Brown, c/o Rawson Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas, Nevada 89146, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

35. Carol Butler, Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

36. Roxanne Cagnina, 3717 Lower Saxon Avenue, North Las Vegas, Nevada 89085, is expected to testify regarding her knowledge of the subject incident.

37. Michelle Casper, LVMPD #06549, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

38. Lora Cody, LVMPD #07294, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

39. John Coldsmith, Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

40. Kimberly Davis, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the proper protocols and procedures when treating patients in a nursing capacity.

41. Luke Doty, LVMPD #09368, Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

42. Christen Edwards, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

43. Craig Fabert, CCDA, SVU Investigations, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the investigation of the subject incident.

44. Karen Goodhart, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

45. Thomas Hanna, 7932 Olympus Avenue, Las Vegas, Nevada, is expected to testify regarding his knowledge of the subject incident.

46. Jeanine James, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

47. Craig Jex, LVMPD #05597, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

48. Elaine Knepp, CCDA, SVU Investigations, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the investigation of the subject incident.

49. Timothy Lehan, 5209 Fireside Ranch Avenue, Las Vegas, Nevada 891131, is expected to testify regarding his knowledge of the subject incident.

50. Ruth Leon, CCDA, SVU Investigations, 200 Lewis Avenue, Las Vegas, Nevada 89155, is expected to testify regarding the investigation of the subject incident.

51. Raymond McCormick, 1841 Leonard, Las Vegas, Nevada, is expected to testify regarding his knowledge of the subject incident.

52. Ronald Miller, LVMPD #03233, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

53. Julie Montero, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

54. Christine Murray, R.N., 9051 Echelon Point Drive, Building 1, Unit #1006, Las Vegas, NV 89149, (702)743-7043, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

55. Sandra Pagain, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

56. Misty Pence, LVMPD #04950, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

57. Julie Rackley, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

58. Pam Robertson, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

59. Michael Saunders, LVMPD #06076, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

60. Jackie Schumacher, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

61. Jeffery Smith, LVMPD #08177, 400 South Martin Luther King Boulevard, Las Vegas, Nevada 89106, is expected to testify regarding the investigation into the subject incident.

62. Margaret Wolfe, R.N., Centennial Hills Hospital, c/o Hall Prangle & Schoonveld, LLC, 1160 North Town Center Drive, Suite 200, Las Vegas, Nevada 89144, is expected to testify as to the rules, regulations, procedures, and events occurring with Steven Farmer.

63. Kristina Holloway, Chief Human Resources, Healdsburg District Hospital, 1375 University Avenue, Healdsburg, California 95448, is expected to testify about Steven Farmer, his employment, and his departure.

64. Ryan J. Bashor, Deputy Public Defender, Office of the Public Defender, 309 South Third Street, Second Floor, Las Vegas, Nevada 89154, is expected to testify regarding the Public Defender's billing regarding Sandra Higelin.

65. Heather S. Hall, Esq., Carroll, Kelly, Trotter, Franzen, McKenna & Peabody, 701 North Green Valley Parkway, Suite 200, Henderson, NV 89074, is expected to testify regarding the sharing of information between Criminal Defense Counsel and American Nursing Services, Inc., and Centennial Hills Hospital.

66. Mary Lee Kammer, Former President/CEO of American Nursing Services, Inc., c/o Baker Donelson Bearman Caldwell & Berkowitz, PC, 201 St. Charles Avenue, Suite 3600, New Orleans, Louisiana 70170, is expected to testify regarding conversations she had with Johnette Spellman, Michelle Simmons and others regarding Steven Farmer and the Las Vegas office.

67. Lisa Lamber, c/o All's Well Healthcare Services, 6655 W. Sahara Ave., #A-200, Las Vegas, NV 89146, is expected to testify regarding Steven Farmer and Michelle Simmons.

/ / /

68. Bonnie Pyle, 7711 Little Valley Ave., Las Vegas, NV 89147-8509, is expected to testify regarding conversations had between her and Michelle Simmons regarding Steven Farmer.

69. Plaintiff reserves the right to supplement this list of documents as discovery continues.

70. Plaintiff further reserves the right to identify any and all documents identified by any of the Defendants.

DATED this 19th day of March, 2015.

MURDOCK & ASSOCIATES, CHTD.
ECKLEY M. KEACH, CHTD.

/s/ Robert E. Murdock
Robert E. Murdock Bar No. 4013
Eckley M. Keach Bar No. 1154
521 South Third Street
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on 3/19/15, I served a copy of the foregoing PLAINTIFF'S 25th SUPPLEMENT TO EARLY CASE CONFERENCE DISCLOSURES upon the parties to this action via the court's Wiznet mandatory electronic service, addressed as follows:

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/s/ Robert E. Murdock
An employee of Murdock & Associates, Chtd.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

EVENT #: **080530-2056 (Reference 080516-1021)**

SPECIFIC CRIME: OPEN & GROSS LEWDNESS

DATE OCCURRED: **TIME OCCURRED:**

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS **CLARK COUNTY**

NAME OF PERSON GIVING STATEMENT: MARGARET WOLFE

DOB: 06/11/70 **SOCIAL SECURITY #:**

RACE: **SEX:** F

HEIGHT: **WEIGHT:**

HAIR: **EYES:**

WORK SCHEDULE: **DAYS OFF:**

HOME ADDRESS: **HOME PHONE:**

WORK ADDRESS: CENTENNIAL HILLS HOSPITAL **WORK PHONE:** 629-1211

BEST PLACE TO CONTACT:

BEST TIME TO CONTACT:

The following is the transcription of a tape-recorded interview conducted by DETECTIVE M. SAUNDERS, P# 6076, LVMPD SEXUAL ASSAULT Detail, on MAY 30, 2008 at 0758 hours.

Q. Hello operator. This is Detective M. Saunders, P# 6076,dictating–or not dictating. I'm sorry. Uh, having one taped interview reference event number 080516-1021. This interview is taking place at 8775 West Deer Springs Road, Las Vegas, Nevada 89149. The time is approximately 0758 hours on the 30th of May, 2008. Present for this interview, last name of Wolfe, W-O-L-F-E, first name of Margaret, M-A-R-G-

A-R-E-T. Her date of birth is 06/11 of 1970. She has a work phone number of 629-1211. Is that information true and correct?

A. Yes.

Q. Okay. Is it all right if I call you Margaret?

A. Yes.

Q. Okay. Margaret, um, I was talking to you a little while ago about an incident that you're aware of that occurred at your hospital, uh, and you work at Centennial Hills Hospital. Correct?

A. That's correct.

Q. And where do, where, what do you do for uh, uh, Centennial Hills Hospital?

A. I'm an E.R. nurse.

Q. _____ And were you working on the day of uh, or the, the evening shift or graveyard shift of...uh...May 15th to May 16th?

A. Yes, I was.

Q. Okay. And was there somebody that worked with you or was assisting, I should say, in the E.R., by the name of Steven Farmer?

A. Yes.

Q. Okay. And what was Steven Farmer's job?

A. He was a CNA. Contracted out through an agency.

Q. _____ And what would you say his job duties were?

A. Um, he was to assist the nurses with um, patient care, taking them to the bathroom, uh, possibly changing their clothing, cleaning any uh, messes that patient, you know, may have. Uh, just, just general assistance in patient care. Transporting patients to and from different units.

Q. Okay. Um...and did you know Mr. Farmer?

A. Just through work.

Q. Just through work. Okay. Um...I want to direct you back to–on that specific in–uh, specific night there was a young lady that was brought into the E.R. that I believe, um, um, Nurse Goodheart, uh, Karen Goodheart worked on, and uh–or was assigned to and her name was um...Roxanne Ca–uh, Cagnina. Was that–does that name sound familiar?

A. No.

Q. Okay. Um, are you familiar with the circumstances with Mr. Farmer and his arrest?

A. Yes.

Q. Um, that night–uh, let me back up. There was–while I was talking to you um, you relayed some information to me that you saw something one night–on that same night. It was the 15th, that you felt was inappropriate and, and suspicious and can you tell me about what that situation was again.

A. Yes. I had a patient that was um...brought in...by ambulance and uh, she was laying on the gurney, uh, in a gown that opened from the front. She was brought

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PA1578

from a Quick Care. Our gowns open in the back, but um, this gown happened to open in the front and...

Q. Okay.

A. ____ um, he went into her room for uh, no apparent reason. The call light was not on. The alarms on the monitor were not going off and I was standing right outside the patient's room. So he had no reason to have gone in there.

Q. And she was your patient?

A. Yes, she was.

Q. Okay. And he was not assigned to her?

A. No, he was not.

Q. Okay.

A. He's just assigned to the general E.R.

Q. Okay.

A. Not to specific patients.

Q. Okay.

A. Um, so he went into the room, opened her gown, fully, underneath the sheets. Uh, he put his hands inside of her gown. I didn't see what he was touching but to me it looked like he pretended like he was uh, checking the monitor wires that were on her to see if there were placed correctly which again, he would have absolutely no

reason to do that and in fact it's out of his scope of practice to be checking monitor placements. Um–

Q. What was the...what was this um, this patient, um, what was her mental status? Was she awake, asleep, was she–

A. She was awake and alert.

Q. _____ Um, was she on any medications?

A. I don't recall if I gave her any morphine or not.

Q. Okay.

A. Um, if she had any medication it would have been morphine.

Q. Okay. And what would–uh, I don't know if you can tell me or not, do you remember what she was brought in for?

A. I do.

Q. Okay. I don't know–what, you know, never mind. We won't–I don't need to know that. Do you remember what the patient's name was?

A. It was Denise Hanna.

Q. Denise Hanna. Do you remember how that's spelled?

A. The last name is H-A-N-N-A. The first name is D-E-N-I-S-E.

Q. Okay. And how old was she?

A. Uh, approximately thirties or forties.

Q. Thirties to forties? Okay. And white female, black female, Hispanic?

A. White female.

Q. White female. Okay. Okay. And so...did Ms. Hanna say anything to you or...

A. I was out, outside of the room, but within view, um, at the time. She didn't say anything but she quickly closed her gown and appeared very uncomfortable about what had just happened. Um, when I had gone back into the room, she didn't say anything about the situation but uh, continued to just act in a way that she was uh, very self conscious about uh, being covered up.

Q. Okay. Now you say that he put his hands, ___ he opened up the front of her gown but he put his hands under the sheets. Were there sheets still laying over the top of her?

A. He lifted the sheet up and opened her gown, so the sheet wasn't touching her but it was lifted up over the top of her body.

Q. Okay. So were her breasts completely exposed?

A. Yes.

Q. Okay. And could you see her breasts–

A. ___

Q. –from where you were at?

A. Not from where I was at but the view he was standing at, she would have been completely exposed.

Q. She was completely exposed to him?

A. Yes.

Q. Okay. And he did this...um...under the pretense that, that you could assu–that you assumed by what you could see what he was doing, like wanting to check wires?

A. Right. The heart monitor.

Q. The heart monitor. Okay. And where would the probes, so to speak, be placed on a, on a female patient, um, that had this type of monitor hooked up to them?

A. There's five leads. Two of them go underneath the clavicle, midline underneath the clavicle. One of them goes, um, approximately between the breasts and then there's two that would be on the ribs, kind of on the sides, that would be on a woman, usually fall underneath her breasts.

Q. Okay. So it'd be just, just under the–to, ___ to the right and the left of the breasts?

A. Yes.

Q. Okay. Um...did he say anything to you, did he say anything to you when uh, when he came out of the room?

A. No, he did not. He walked away.

Q. Did he immediately go to another room or what did he–did you see where he went to or what he did?

A. I didn't see where he went after that.

Q. Okay. Um, and, and Ms. Hanna never said anything to you?

A. No.

Q. Okay. Did anybody, um...did you talk to anybody about this?

A. I did. I told another male nurse. His name is Ray Sumera.

Q. Okay.

A. And I asked him if he would talk to him about it, which he told me he did.

Q. Okay. Did Ray say, did Mr. Sumera say anything about what uh, Mr. Farmer's response was to him?

A. No, he did not.

Q. Did uh...excuse me. Um...has uh, anybody else in the E.R. room, that you've worked with, uh, ev–ever come to you or have you ever talked to anybody that shared similar concerns that you do about Mr. Farmer?

A. Um, the same nurse, Ray Sumera, had told me um, another time that he–to watch him around my female patients. That he was concerned because he was very, overly attentive with female patients and very anxious to um to connect them to the monitors and disconnect them from the monitors, which would, um, require him to reach into their clothing.

Q. Okay. Had, had anybody else ____–had you talked to anybody else about Mr. Uh, Mr. Farmer?

A. I told Julie, who is the nurse I gave report to that morning, about the situation that happened with Ms. Hanna.

Q. Okay. And again, all this occurred on the uh, morning of the 16th?

A. Correct.

Q. Okay. Um...was uh, Ms. Hanna, um, released from E.R.–did she go home or was she admitted to the hospital?

A. She was admitted to the hospital but she was released um, later that day.

Q. Later that day. Okay. Um...can you think of anything that uh, might be beneficial that I might have forgot to ask to something that you feel is important that I need to know?

A. He was just very suspicious in his activities. Um, such as going into rooms with doors closed with female patients when he was not asked to.

Q. Is that against protocol?

A. It's not against protocol. It's just unusual–

Q. It's just unusual.

A. –for a CNA to do something like this.

Q. Okay.

A. Typically, if they enter a room, it's because a call light is on or um, a nurse has asked them to go in there. Especially when a door is closed, it's um, very atypical for somebody, even another nurse, just to walk into that room when there's no need for it.

Q. Okay. Wh–are the door normally closed? What would be a reason that they would close doors?

A. If there was um, some sort of exam going on.

Q. Okay.

A. Um...if there was a procedure going on that was exposing the patient or a patient would be uncomfortable about. Uh, if a patient was sleeping.

Q. Okay.

A. Typically the doors stay open and um, curtains, often times, are closed, but doors typically stay open.

Q. How...if you had to give me an estimate, how many times would you say that you...you've seen him walk into rooms, for female patients, where the doors are closed but there's no, no need for him to be in that room?

A. Multiple times. I couldn't put a number on it.

Q. Okay. Um...have you ever had any conversations or talked to Mr. Farmer, before?

A. Um, just in general–

Q. Just ____

A. –course of work.

Q. Okay. Um...and you said that he just–these, these actions that he was doing is what made uh...it, it was of a concern and made you suspicious?

A. Yes.

Q. Had there been anything else or had any other patients ever come forward to you on anything else, um, anything that Mr. Farmer had ever done that seemed inappropriate?

A. Not any other patients. No.

Q. _____ patients? But, but uh, some–Ms. Hanna's the only, only one that, that _____ to mind with you, where you actually observed him do something that, as you put it, was beyond his scope?

A. Yes.

Q. Okay. Um...okay. And then you understand that Mr. Farmer is the subject of an investigation right now, into a, a sexual assault?

A. Yes, I do.

Q. Okay. Okay. Do you harbor any...do you have any personal gain by coming forward to uh, with–to me with this information?

A. No, I don't. In fact um, I ____ fear that I could possibly get uh, in trouble with my job if I were to give out information uh, you know, regarding–against _____ with my patients.

Q. Okay. Um, anything else you can think of that might be of uh, useful information to me to assist me in my investigation?

A. Um, nothing that comes to mind other than, like I said, there were other people that had um, told me that they had the same–

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Q. Ex–expressed concerns?

A. Yeah. Concerns about him.

Q. Okay. And that would be Ray S–Sumera. Did Julie say she had any concerns?

A. Julie hasn't worked with him because she works on the day shift.

Q. Okay.

A. So um, she wouldn't normally be able to observe–

Q. Okay.

A. –any actions of his.

Q. Okay. And was he primarily just E.R. help? Did he ever go to any other areas of the hospital and assist there instead?

A. He worked on multiple floors.

Q. He worked multiple floors?

A. He was not specifically assigned to the E.R. every night.

Q. Okay. All right.

A. Sometimes he was um, assigned to be what's called a sitter, with um, psychiatric patients that are not medically cleared, if they are transferred up to the medical floor and are a flight risk or need to be observed um, for suicide precautions, things like that. Then they're um...they're put on a one on one sitter situation where he would be alone, watching that patient.

Q. Gotcha. Okay. All right. Well, um, anything else?

A. There's one other nurse that had come to me that I'm, I'm trying to remember her name, that had told me some of the same things. Um...if you could turn it off one second and give me a second to think _____

Q. That, that's all right. What we'll do, we'll uh, what we'll do is, we'll go ahead and terminate this interview. Uh–

A. Kim. That's her name. Kim.

Q. Kim?

A. Yeah.

Q. Okay. And where, where does Kim work?

A. She works in the E.R. as well.

Q. She works in the E.R. as well?

A. Yes.

Q. Okay. And she, she um, relayed some concern to you also?

A. The same concerns that Ray had said about uh, his actions were suspicious, especially with a female patient.

Q. Was–and, and is Ray a nurse also or is he a–

A. Yes.

Q. Okay.

A. He's a nurse and occasionally works as a charge nurse.

Q. Okay. Okay. Um...okay. Anything else?

A. (No audible response.)

Q. That you can think of? If I needed to speak with you about anything further, would that, would that still be possible?

A. Yes.

Q. Okay. Operator, this will end the interview. The time is uh...0811 hours on the 30th of May, 2008. Same people present. Same location. Thank you.

THIS VOLUNTARY STATEMENT WAS COMPLETED AT 8775 WEST DEER SPRINGS ROAD, LAS VEGAS, NEVADA 89149, ON THE 30TH DAY OF MAY, 2008 AT 0811 HOURS.

MS:gm

PDDISC0175
PA1589

CASE NO.

IN THE

SUPREME COURT OF NEVADA

Electronically Filed
Aug 17 2016 08:55 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

HALL PRANGLE & SCHOONVELD, LLC, MICHAEL PRANGLE, ESQ., KENNETH M. WEBSTER, ESQ. AND JOHN F. BEMIS, ESQ.

Petitioners,

vs.

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

Respondent,

-and-

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE,

Real Party in Interest

District Court Case No.: A-09-595780-C

PETITIONERS' APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF VOLUME VIII of XVII

Docket 71045 Document 2016-25544

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APPENDIX TO PETITION FOR EXTRAORDINARY WRIT RELIEF

VOLUME VIII of XVII

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Plaintiff's Exhibit 24 – Deposition Transcript of PMK of Centennial Hills Hospital (Sajit Pullarkat) dated August 7, 2015	XV	72	PA2897-PA2908
Plaintiff's Exhibit 25 – Deposition Transcript of Janet Calliham dated August 18, 2015	XV	73	PA2909-PA2964
Plaintiff's Exhibit 26 – Deposition Transcript of Margaret Wolfe, RN dated May 5, 2015	XV	74	PA2965-PA2984
Plaintiff's Exhibit 27 – Defendant Valley Health System, LLC's Responses to Plaintiff's Eleventh Set of Interrogatories dated June 12, 2015	XV	75	PA2985-PA2989
Plaintiff's Exhibit 28 – Defendant Valley Health System, LLC's Responses to Plaintiff's Tenth Set of Interrogatories dated June 10, 2015	XV	76	PA2990-PA2993

Document Title:	**Volume No.:**	**Tab No.:**	**Page Nos.:**
Plaintiff's Exhibit 29 – Las Vegas Metropolitan Police Department's Criminal file of Steven Dale Farmer bates labeled LVMPD00001-LVMPD00190 with Privilege Log (Exhibit W to Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center's Seventh Supplement to Its Initial Early Case Conference List of Witnesses and Documents dated October 27, 2014)	XVI	77	PA2994-PA3185
Plaintiff's Exhibit 30 – Excerpts of Deposition of Carol Butler dated June 9, 2015	XVII	78	PA3186-PA3201
Plaintiff's Exhibit 31 – Excerpts of Deposition of Renato Sumera, RN dated May 1, 2015	XVII	79	PA3202-PA3213
Plaintiff's Exhibit 32 – Excerpts of Deposition of Margaret Wolfe, RN dated May 5, 2015	XVII	80	PA3214-PA3221
Plaintiff's Exhibit 33 – Excerpts of Deposition of Amy Blasing, MSN, RN dated July 28, 2015	XVII	81	PA3222-PA3246
Plaintiff's Exhibit 34 – Excerpts of Deposition of Christine Murray, RN dated January 8, 2015	XVII	82	PA3247-PA3251
Plaintiff's Exhibit List from Vault	X	34	PA1864-PA1866
Plaintiff's Motion for NRCP 37 Sanctions Against Valley Health System LLC, d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, LLC filed April 29, 2015	III	12	PA0407-PA0468
Plaintiff's Motion for Summary Judgment Re: Liability filed September 29, 2014	I	4	PA0022-PA0093

Document Title:	**Volume No.:**	**Tab No.:**	**Page Nos.:**
Plaintiff's Opposition to Defendant's Valley Health System LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.'s Motion for Reconsideration of this Court's November 4, 2015 Order filed December 2, 2015	IX	26	PA1590-PA1821
Reply in Support of Motion for Reconsideration filed December 4, 2015	X	28	PA1825-PA1838
Reply to Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.'s Opposition to Plaintiff's Motion for NRCP 37 Sanctions filed May 21, 2015	III	15	PA0490-PA0565
Reply to Defendants' Oppositions to Plaintiff's Motion for Summary Judgment Re: Liability filed November 21, 2014	II	8	PA0117-PA0343
Reporter's Transcript of Evidentiary Hearing and Motions held on August 28, 2015	VI & VII	22	PA0949-PA1175
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Transcript of Proceedings – Defendant Valley Health System LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc.'s Motion for Reconsideration of this Court's November 4, 2015 Order	XVII	83	PA3252-PA3305

TAB 25

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DISTRICT COURT

CLARK COUNTY, NEVADA

MISTY PETERSON, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF JANE DOE, Plaintiff, vs. VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING	CASE NO. A-09-595780-C DEPT. NO. II **DEFENDANTS VALLEY HEALTH SYSTEM LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC.'S MOTION FOR RECONSIDERATION OF THIS COURT'S NOVEMBER 4, 2015 ORDER** Date of Hearing: Time of Hearing:

SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

DEFENDANTS VALLEY HEALTH SYSTEM LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC.'S MOTION FOR RECONSIDERATION OF THIS COURT'S NOVEMBER 4, 2015 ORDER

Defendants Valley Health System LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Services, Inc. (jointly, "Centennial"), by and through their counsel of record, Bailey❖Kennedy and Hall Prangle & Schoonveld, LLC, respectfully move the Court to reconsider its November 4, 2015 Order Striking Answer of Defendant Valley Health System LLC as Sanction for Discovery Misconduct (the "Order"). This Motion is made and based on the papers and pleadings on file herein, the following Memorandum of Points and Authorities and exhibits attached thereto, and any oral argument as may be heard by the Court in this matter.

DATED this 19th day of November, 2015.

BAILEY❖KENNEDY

By: _____
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
JOSHUA P. GILMORE
MARK HESIAK

AND

MICHAEL E. PRANGLE
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NOTICE OF MOTION

PLEASE TAKE NOTICE that the foregoing Motion will come on for hearing before the Court on the 21 day of DECEMBER, 2015, at the hour of CHAMBERS:00 A.M., or as soon thereafter as counsel can be heard in Department II, Courtroom 11D.

DATED this 19th day of November, 2015.

BAILEY❖KENNEDY

By: _____
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On November 4, 2015, this Court entered an Order striking Centennial's Answer with respect to liability, thereby leaving Centennial without any reasonable ability to defend itself at trial. The bedrock for this extreme sanction was a finding that Centennial (and its counsel) willfully and intentionally concealed relevant evidence with the intent to harm Plaintiff Jane Doe ("Plaintiff"). This finding was the result of a misapplication of various legal principles.

First, this Court aggregated the knowledge of several Centennial employees in order to impute willful intent to Centennial. However, in order to find that a company acted willfully, rather than negligently, one or more employees within that company must actually possess the requisite culpable state of mind. This Court did not make any such findings in its Order, instead concluding that Centennial willfully and intentionally concealed evidence purely because various employees (most of them former employees for all or a majority of this lawsuit) had some relevant information that was ultimately not timely disclosed under N.R.C.P. 16.1. It was manifest error of law for this Court to do so.

Second, this Court determined that Hall Prangle & Schoonveld ("Centennial's Counsel") engaged in willful misconduct based on their failure to disclose relevant witnesses and police statements and violated their duty of candor to the Court. However, Plaintiff did not present any evidence indicating that Centennial's Counsel *knowingly* made false statements of fact[1] or *willfully* concealed information—absolute predicates under the Rules of Professional Conduct in order to find that an attorney engaged in such wrongdoing. More importantly, this Court found that Centennial's Counsel violated the Rules of Professional Conduct without giving prior, particularized notice to them (or to Centennial) that this Court would be assessing whether Centennial's Counsel complied with their ethical duties in discovery. The lack of such prior notice was a deprivation of due process, which requires this Court to vacate its Order sanctioning Centennial.

[1] By law, this Court could not impute knowledge held by Centennial to its counsel. The law only recognizes upward (counsel to client) imputation—not downward (client to counsel) imputation.

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Based on the lack of willfulness by Centennial and its counsel, this Court's staggering sanction is not commensurate with the non-compliance with N.R.C.P. 16.1, which was the result of a negligent failure to thoroughly investigate this matter. Further, any prejudice suffered by Plaintiff, whose counsel were themselves less than diligent given the information at their disposal, can be remedied by the admission of the police statements given by nurse Christine Murray ("Murray") and nurse Margaret Wolfe ("Wolfe"), which sufficiently memorialized the testimony that this Court (and Plaintiff's counsel) believes has now been lost. Although this Court cannot be sure that additional relevant facts would not have come to light if Murray, Wolfe, and nurse Renato Sumera ("Sumera") were deposed in 2010, the bottom line is that this Court cannot issue this severe sanction (*i.e.*, striking Centennial's Answer as to liability) without a finding of willfulness—particularly after having already found the existence of genuine issues of material fact concerning reasonable foreseeability.

For these reasons, as set forth below, this Court should reconsider its Order and adopt the sanctions initially entered by the Discovery Commissioner.

II. RELEVANT FACTS

The facts that give rise to Plaintiff's Complaint are well known to this Court and will not be repeated here. This Motion focuses on the facts relevant to reconsideration of the sanction imposed by this Court's Order.

A. Centennial Employees' Knowledge of the Allegedly Concealed Information.

After patient Roxanne Cagnina ("Cagnina") reported that she had been sexually assaulted by Defendant Steven Farmer ("Farmer") in May 2008, the Las Vegas Metropolitan Police Department ("Metro") interviewed and transcribed statements from Wolfe and Murray. Centennial conducted an internal investigation regarding the Cagnina incident. During the investigation, Centennial's Counsel met with Wolfe, Sumera, and Murray because each was directly involved in the treatment of Cagnina. At that time, Centennial and its counsel were unaware of the incident regarding Plaintiff.[2]

[2] Tr. of Evid. Hearing, at 47:23 – 49:3, Aug. 28, 2015, attached hereto as Exhibit 1.

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According to Carol Butler ("Butler"), Centennial's Chief Nursing Officer, no one from the nursing staff had raised any concerns to either her or Amy Bochenek ("Bochenek"),[3] Centennial's Director of Emergency Services, about Farmer prior to the Cagnina incident.[4] Wolfe conveyed her concerns regarding Farmer to Bochenek only after the internal investigation began.[5]

Although Bochenek and Butler were aware that Murray and Wolfe had given statements to Metro regarding Cagnina, both testified that they did **not** have access to those Metro statements at the time of the Centennial investigation.[6] In fact, Butler and Bochenek testified that they never saw the Murray and Wolfe Metro statements until their 2015 depositions.[7] During the post-incident investigation, Centennial's Counsel repeatedly attempted to obtain those Metro statements from Metro and the Clark County Public Defender, but, due to the pending criminal proceeding against Farmer, both of them refused to turn the statements over until after a Court Order was entered.[8]

According to Michael Saunders, a Metro detective who was assigned to the Farmer investigation,[9] the general policy of Metro is to not provide transcripts of witness statements to witnesses in an open criminal case without a court order directing it to do so.[10] Further, the Metro file related to the Farmer investigation contains no evidence that Murray, Wolfe, Bochenek, or Butler were ever provided copies of the Murray or Wolfe Metro statements.[11] Detective Saunders also has no recollection of ever providing transcripts of the Murray or Wolfe Metro statements to Murray, Wolfe, or Centennial,[12] and can think of no other way any of them would have obtained transcripts of the Murray or Wolfe Metro statements.[13] In fact, it would be "highly unusual" for

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[3] Ms. Bochenek's last name is now Blasing. (Dep. of Amy Blasing, at 4:7 – 11, attached hereto as Exhibit 2.)

[4] Dep. of Carol Butler, at 112:24 – 113:8; 119:15 – 120:16, attached hereto as Exhibit 3.

[5] *Id.*

[6] Ex. 2, at 38:2 – 24; Ex. 3, at 96:7 – 20; 114:2 – 115:14.

[7] Ex. 2, at 38:2 – 5; Ex. 3, at 92:12 – 94:15.

[8] Ex. 1, at 45:2 – 13; 222:6 – 13.

[9] Declaration of Detective Michael Saunders, ¶¶ 1, 4, attached hereto as Exhibit 4.

[10] *Id.*, ¶ 5.

[11] *Id.*, ¶¶ 6 – 7.

[12] *Id.*, ¶ 8.

[13] *Id.*, ¶ 9.

Metro to have provided the Murray or Wolfe Metro statements to anyone other than the Clark County District Attorney without a court order directing Metro to do so.[14]

Murray believes that she discussed her Metro statement with Butler in 2008, and claims that Butler had a copy of her Metro statement.[15] As stated above, Butler disagreed (as does Metro), stating she had no recollection of ever seeing the statement.[16] Murray further testified that she did not discuss with Butler the elderly patient who yelled at Farmer to leave her room (despite the fact that it is referenced in her Metro statement),[17] and had not discussed that particular incident with anyone at Centennial (including supervisory personnel) apart from her statement to Metro.[18]

Wolfe recalled speaking with Sumera regarding her suspicions of Farmer.[19] However, Wolfe did not speak with Centennial's Risk Management department or its counsel and, apart from her conversation with Bochenek; Wolfe did not speak to any member of Centennial's administration regarding Farmer.[20] Wolfe never saw a transcript of her police statement until she testified at Farmer's criminal trial.[21]

Wolfe's employment at Centennial ended May 7, 2009.[22] Murray left Centennial March 11, 2009.[23] Butler left Centennial on January 3, 2010.[24] Bochenek left Centennial on September 26, 2010.[25]

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[14] *Id.*, ¶ 10.

[15] Dep. of Christine Murray, at 60:19 – 61:25, attached hereto as Exhibit 5.

[16] Ex. 3, at 92:12 – 94:15.

[17] Ex. 5, at 61:12 – 25.

[18] *Id.*, at 60:9 – 13.

[19] Dep. of Margaret Wolfe, at 16:8 – 18:18, attached hereto as Exhibit 6.

[20] *Id.*, at 40:1 – 41:20.

[21] *Id.*, at 44:16 – 45:12.

[22] Declaration of Amanda Bell, ¶ 5, attached hereto as Exhibit 7.

[23] *Id.*, ¶ 7.

[24] *Id.*, ¶ 8.

[25] *Id.*, ¶ 6.

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B. The Cagnina Lawsuit.

In September of 2008, Cagnina filed a civil Complaint related to Farmer's assault (the "Cagnina Matter").[26] Because they were involved with Cagnina's treatment, Centennial's Counsel listed Wolfe, Sumera, and Murray in the initial disclosures in the Cagnina Matter on November 13, 2008.[27]

C. The Jane Doe Complaint.

The Complaint in this matter was filed on July 23, 2009,[28] and the Amended Complaint was filed on August 21, 2009.[29] The Early Case Conference was held on November 9, 2009.[30] On March 17, 2010, Plaintiff produced her Fifth Supplemental Disclosures, which contained the witness lists from the Farmer criminal proceeding.[31] Wolfe and Murray were on that list.[32] On May 13, 2010, Plaintiff produced her Sixth Supplemental Disclosures, which included the deposition transcripts of Murray and Bochenek from the Cagnina Matter.[33] In the Cagnina Matter, Murray was asked specifically whether she had any issues with Farmer, and responded that she had not.[34] At the request of Plaintiff, this matter was stayed from January 21, 2011 through July 18, 2012.[35]

Although Centennial's Counsel had interviewed Wolfe, Sumera, and Murray after the Cagnina incident, those lawyers did not conduct another interview of these same nurses after the

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[26] Complaint, *Cagnina v. Centennial Hills Hospital Medical Center, et al.*, Case No. A570756, Sep. 2, 2008.

[27] Def. Centennial Hills Hospital's Initial Early Case Conference List of Witnesses & Documents, at 2:24; 3:8, attached hereto as Exhibit 8.

[28] Compl., July 23, 2009.

[29] Amen. Compl., Aug. 23, 2009.

[30] Joint Case Conference Report, at 2:16, Dec. 9, 2009, attached hereto as Exhibit 9.

[31] Pl.'s Fifth Supp. to Case Conference Disclosures Pursuant to NRCP 16.1, at 2:5 – 13, attached hereto as Exhibit 10; Ex. 1, at 50:11 – 16.

[32] *See id.*

[33] Pl.'s Sixth Supp. to Case Conference Disclosures Pursuant to NRCP 16.1, at 1:2 – 3, 14 – 15, attached hereto as Exhibit 11.

[34] Deposition of Christine Murray, at 56:3 – 57:2, taken in *Cagnina v. Centennial Hills Hospital Medical Center, et al.*, Case No. A570756, Jan 27, 2010, attached hereto as Exhibit 12.

[35] Pl.'s Reply to Def. Steven Farmer's Opp'n to Pl.'s Mot. for Protective Order, at 3:25 – 4:3, Dec. 9, 2010 ("[T]his Court should stop the deposition of Plaintiff and, frankly, simply place a litigation hold on this case until such time as this Court is going to mandate that Defendant appear for his deposition and Defendant provide documents, and allow for subpoenas duces tecum to be served on Metro and the DA's office."); Discovery Commissioner's Report & Recommendations, at 2:20 – 24, Jan. 21, 2011.

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filing of Plaintiff's Complaint in this matter, because the information they had previously gathered did not indicate that any of these nurses had information relevant to this matter.[36] Unlike the Cagnina Matter, Wolfe, Sumera, and Murray were not involved in Plaintiff's treatment. Of the fourteen witnesses Centennial listed in its initial disclosures in this matter, Plaintiff only deposed one of them (which deposition occurred in 2015).[37]

D. Centennial's Counsel Obtains the Metro File on the Farmer Investigation in the Cagnina Matter and Produces it in this Matter after the Cagnina Protective Order Is Lifted.

In February of 2013, Centennial's Counsel received materials from the Public Defender's Office, which included an audio recording of Murray's 2008 Metro statement.[38] In May of 2013, after the Discovery Commissioner deemed it "Confidential," Centennial's Counsel received the Metro file regarding the Farmer investigation.[39] This confidentiality designation limited disclosure of such materials in accordance with a September 2009 Protective Order entered in the Cagnina Matter.[40] According to the Protective Order, the contents of any materials designated as "Confidential" could not be disclosed to anyone outside the Cagnina Matter.[41] Due to this Protective Order, neither Centennial's Counsel nor Farmer's counsel supplemented their disclosures in this matter with the contents of the Metro file.[42]

Centennial's Counsel ultimately produced the Metro file in October of 2014, pursuant to an Order from the Discovery Commissioner.[43] Centennial's Counsel produced that file before the Report and Recommendations were completed in order to comply with the Commissioner's ruling as soon as possible.[44] The Metro file contained 190 pages,[45] and included an affidavit of the custodian

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[36] Ex. 1, at 49:4 – 14.

[37] *Id.*, at 52:16 – 21.

[38] *Id.*, at 93:17 – 94:1.

[39] *Id.*, at 76:6 – 13; 84:24 – 85:10; *see also* Ex. 12 to Aug. 28, 2015 Evidentiary Hearing.

[40] Protective Order, Cagnina Matter, attached hereto as Exhibit 13.

[41] *Id.*, at 2:14 – 3:3; 4:17 – 21.

[42] Ex. 1, at 84:5 – 17.

[43] *Id.*, at 114:4 – 115:14.

[44] *Id.*

[45] Exhibit 29 to August 28, 2015 Evidentiary Hearing; Defendants' Exhibit A to same.

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of records stating the file was comprised of a total of 188 pages.[46] Each page was Bates-labeled with an "LVMPD" Bates number.[47] Although the statement from Murray is included, the statement that Wolfe provided to Metro in 2008 was not included in the file received in May 2013.[48] Wolfe's statement to Metro was first disclosed in this matter by Plaintiff in March 2015.[49]

E. The Motion for Sanctions.

On April 29, 2015, Plaintiff filed a Motion for Rule 37 Sanctions, seeking an order establishing that Farmer's misconduct was reasonably foreseeable to Centennial (and to its parent company, Universal Health Services, Inc.) as a matter of law. After briefing and oral argument before the Discovery Commissioner (the Honorable Bonnie A. Bulla), Commissioner Bulla ruled as follows:

- That the statements given to Metro by Murray and Wolfe be admitted at trial without the necessity of establishing foundation, and without any hearsay objections;
- That UHS pay $18,000 in monetary sanctions; and
- That the District Court conduct an evidentiary hearing to address (1) if case-terminating sanctions are appropriate; (2) whether there was intentional conduct meant to thwart discovery in this case; and (3) whether Centennial misled the Court.[50]

The Commissioner also stated that these sanctions could be reduced if Centennial were able to prove "with a degree of probability" that Centennial had "no knowledge of Sumera or Wolfe until recently."[51] The Commissioner's Report and Recommendations (which was drafted by Plaintiff's counsel) did not include any accusations or insinuations that Centennial's Counsel had violated the Nevada Rules of Professional Conduct.

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[46] (*Id.*, at LVMPD0004.) The discrepancy in page count versus the actual numbers of pages is due to the two, single-page custodian of records affidavits. The actual number of pages that constitute the file (without these affidavits) is 188.

[47] *See id.*

[48] *See id.*; Ex. 1, at 120:12 – 123:6.

[49] Pl.'s 25th Supp. Case Conference Disclosures Pursuant to NRCP 16.1, at 7:18 – 19, PDDISC0162 – 0175, attached hereto as Exhibit 14.

[50] Disc. Comm. Report and Recommendations, at 3:24 – 4:15.

[51] *Id.*, at 5:1 – 3.

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F. The Evidentiary Hearing.

On August 28, 2015, the Court held an evidentiary hearing regarding the potential imposition of additional sanctions against Centennial. During that hearing, Centennial's Counsel mistakenly argued and testified that the Metro file that they had received in May of 2013 contained Wolfe's Metro statement from 2008.[52] But, after Plaintiff's counsel pointed out that Centennial's October 2014 disclosure of the Metro file did not include the Wolfe Metro statement, Centennial's Counsel reviewed the original file received from Metro, and clarified that Wolfe's Metro statement was not received in May of 2013.[53] The copy of the Metro file that Cagnina received and produced in the Cagnina Matter likewise did not contain Wolfe's Metro statement.[54] Apart from the mistaken testimony—which was later corrected—there was no competent evidence produced during the evidentiary hearing that anyone from Centennial (counsel or otherwise) had Wolfe's Metro statement in 2013.[55]

The evidentiary hearing also included the following salient points:

- Plaintiff's counsel asserted that foreseeability is the most important issue in Plaintiff's case[56];
- Plaintiff's counsel asserted that "the single most important document in this case relative to foreseeability is Margaret Wolfe's statement"[57];
- Plaintiff's counsel asserted that "[t]he hospital was fully aware of" both Murray and Wolfe's statements to Metro in 2008, but argued it was "irrelevant" whether the hospital actually had a copy of either statement[58];
- The Court questioned "whether the hospital itself can be held responsible for its failure to disclose a statement to counsel, so they can produce it as part of a 16.1"[59];

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52 Ex. 1, at 111:22 – 112:10.

53 *Id.*, at 132:25 – 138:25.

54 *Id.*, at 140:3 – 142:22.

55 *See id.*

56 *Id.*, at 217:25 – 218:1 ("But the reality is in this case foreseeability's really the issue.")

57 *Id.*, at 118:17 – 19.

58 *Id.*, at 192:7 – 17.

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- Plaintiff's counsel admitted (and the Court agreed) that all parties had a "pretty good idea . . . that [the Wolfe statement] wasn't part of the [May 2013] police production"[60];
- The Court noted that mere speculation regarding when Centennial's Counsel actually received the Wolfe Metro statement is insufficient to find fault with counsel, and that the issue was what knowledge Centennial had regarding the Wolfe Metro statement[61];
- Plaintiff's counsel admitted that it is impossible to know what testimony he would have been able to procure in 2009 that would have been impossible to procure in 2013, and that it was possible that a witness could forget facts after as little as a year[62]; and
- The Court acknowledged that one of the issues it was considering was whether an employee's knowledge could be imputed to Centennial for the purposes of heightened sanctions.[63]

Following the evidentiary hearing, the Court issued its Order striking Centennial's Answer for the purposes of liability as a sanction for willful discovery violations.[64] The overarching basis for the Order was the Court's finding that Centennial (and its counsel) had willfully and intentionally concealed evidence regarding the statements given by Murray and Wolfe to Metro.[65]

III. ARGUMENT

A. Legal Standard

Pursuant to EDCR 2.24(a), a motion that has already been heard may be reheard upon leave of the Court. "A court may, for sufficient cause shown, amend, correct, resettle, modify, or vacate, as the case may be, an order previously made and entered on motion in the progress of the cause or proceeding." *Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027 (1975) (citations omitted).

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[59] *Id.*, at 193:11 – 13.

[60] *Id.*, at 204:13 – 205:10.

[61] *Id.*, at 208:10 – 23.

[62] *Id.*, at 211:13 – 212:11.

[63] *Id.*, at 247:24 – 25.

[64] Order Striking Answer of Defendant Valley Health System LLC as Sanction for Discovery Misconduct, Nov. 4, 2015.

[65] *E.g., id.*, at ¶¶ 79 – 82, 85.

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The "basic grounds" for reconsideration include "'correcting manifest errors of law or fact,' 'newly discovered or previously unavailable evidence,' the need 'to prevent manifest injustice,' or a 'change in controlling law.'" *AA Primo Builders, LLC v. Washington*, 126 Nev. ___, 245 P.3d 1190, 1193 (2010) (citation omitted) (analyzing reconsideration under N.R.C.P. 59(e)).

B. <u>This Court's Finding of Willful Misconduct by Centennial is Based on a Manifest Error of Law.</u>

1. <u>The Collective Knowledge Doctrine Cannot Be Utilized to Find Willful Misconduct.</u>

Although the knowledge of a corporation's various employees may be aggregated and imputed to the corporation, that same legal principle may not be used to prove willful intent. Rather, in order to prove that a corporation acted willfully or intentionally, the culpable state of mind must be possessed by at least one single employee of the corporation. *See, e.g., Kern Oil and Refining Co. v. Tenneco Oil Co.*, 792 F.2d 1380, 1386 (9th Cir. 1986); *Ginena v. Alaska Airlines, Inc.*, No. 2:04-CV-01304-MMD-CWH, 2013 WL 3155306, *7 (D. Nev. June 19, 2013).

In *Ginena*, the United States District Court for the District of Nevada entertained a motion for a new trial following a defense verdict on a defamation claim. *Id.*, 2013 WL 3155306, at *1. The district court had previously determined that the plaintiff was required to prove malice in order to recover for defamation, and gave a jury instruction stating that the plaintiff must prove that one specific Alaska Airlines employee had the requisite state of mind. *Id.* at *6-7. In its motion for a new trial, the plaintiff argued that the jury instruction was incorrect because it "prevented the jury from considering Alaska's 'state of mind' as a corporation." *Id.* at *7. Plaintiff argued that under the collective knowledge doctrine, it could aggregate the knowledge of various Alaska Airlines employees and use their combined knowledge to prove that the company acted with malice. *Id.*

The district court (the Honorable Larry R. Hicks) disagreed with the plaintiff. Judge Hicks analyzed the relevant authority relating to the collective knowledge doctrine, and determined that although it may be used to make a negligence finding, it has no application to culpable states of mind. *Id.* at *7-8. Specifically, Judge Hicks found as follows:

> [T]he collective knowledge doctrine favors liability where various corporate agents have different pieces of information, but the corporation was negligent in compiling these pieces of information. But then liability is premised on negligence, not on the

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> "intentional" conduct that is at the heart of the higher levels of mens rea, knowing and willful conduct.

Id. at *8 (internal citations omitted). Judge Hicks determined that the Nevada Supreme Court would not apply the collective knowledge doctrine to aggregate the knowledge of multiple employees of a corporation for purposes of finding corporate malice. *Id.* Instead, Judge Hicks held that in order for a plaintiff to show that a corporation acted willfully, "the plaintiff would simply need to show that someone in the corporation had the required culpability." *Id.*

Other legal authority is in accord:

- *Lind v. Jones, Lang LaSalle Americas, Inc.*, 135 F.Supp.2d 616, 622 n.6 (E.D. Pa. 2001) ("Although knowledge possessed by employees is aggregated so that a corporate defendant is considered to have acquired the collective knowledge of its employees, specific intent cannot be aggregated similarly.") (internal citations omitted);

- *First Equity Corp. of Fla. v. Standard & Poor's Corp.*, 690 F. Supp. 256, 260 (S.D.N.Y. 1988) ("While it is not disputed that a corporation may be charged with the collective knowledge of its employees, it does not follow that the corporation may be deemed to have a culpable state of mind when that state of mind is possessed by no single employee. A corporation can be held to have a particular state of mind only when that state of mind is possessed by a single individual."); and

- *Reed v. Northwestern Publishing Co.*, 530 N.E.2d 474, 484 (Ill. 1988) ("We cannot, however, circumvent the actual-malice requirement in this case by pooling all of the information arguably within the knowledge of various employees and imputing all of that knowledge to the corporate defendant to establish that the corporate defendant acted with actual malice.").

Based on this authority, in order to determine that Centennial ***willfully and intentionally concealed*** discoverable information regarding Murray, Wolfe, and Sumera, this Court had to find that at least one employee at Centennial ***willfully and intentionally concealed*** that information from Plaintiff. This Court did not make any such finding, and no such finding would have been supported by the record.

2. <u>There is No Evidence in the Record Supporting the Imputation of Willful Misconduct to Centennial Because this Court Did Not Find That Any Specific Centennial Employee Had the Requisite Culpable State of Mind.</u>

No less than five times in its Order, this Court stated that Centennial ***intentionally and willfully concealed*** relevant and material evidence, and also determined that Centennial ***intended to harm*** Plaintiff.[66] This Court made a specific finding that Centennial's misconduct is "to an equal or

[66] Order, 3:21-23 ("Centennial intentionally and willfully (a) violated its discovery obligations under NRCP 16.1

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greater extent than its lawyers."[67] This Court then endeavored to provide factual support for this "clear and convincing" finding of Centennial's state of mind.[68] However, this Court did not identify any single Centennial employee who possessed the culpable state of mind which the law requires.

This Court identified two Centennial employees (aside from the specific nurses at issue) who had some knowledge regarding Murray, Wolfe, and Sumera's suspicions of Farmer—Butler and Bochenek. Butler (Centennial's Chief Nursing Officer) only learned of these suspicions following discovery of the Cagnina incident (and before discovery of the Jane Doe incident), and further testified that while she was aware that Murray and Wolfe provided statements to Metro, ***she did not have possession of these statements***.[69] Bochenek (Centennial's Director of Emergency Services) testified similarly. Without knowledge of the specific contents of the Metro statements given by Murray and Wolfe, Butler and Bochenek—two laypersons—cannot be faulted for failing to realize that Murray, Wolfe, and Sumera had information that was potentially relevant to foreseeability and for not relaying that information to Centennial's Counsel. Even assuming that they had knowledge regarding Murray, Wolfe, and Sumera's suspicions of Farmer, there was no evidence presented at the evidentiary hearing indicating that Butler and Bochenek were in a position to relay that information to Centennial's Counsel during the pendency of Plaintiff's case, or that they willfully withheld that information from Centennial's Counsel with the specific intent to harm Plaintiff.

This Court utilized the collective knowledge doctrine to aggregate the knowledge of Butler and Bochenek, along with that of various lower level employees (*i.e.*, Murray, Wolfe, and Sumera), in order to conclude that Centennial ***willfully and intentionally concealed*** relevant information from

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in failing to timely disclose that nurses Murray, Wolfe, and Sumera possessed relevant and material evidence relating to the central issue in this case...."); 23:7 ("Centennial concealed evidence about the nurses."); 25:8-10 ("This Court finds that there is clear and convincing evidence that Centennial willfully and intentionally concealed the relevance of nurses Murray, Wolfe, and Sumera, and the existence of the Police Statements with an intent to harm and unfairly prejudice Plaintiff."); 28:10-11 ("Centennial also intentionally concealed the similarly critical police statements of nurses Murray and Wolfe."); 37:13-16 ("The Court finds that Defendant Centennial intentionally, and willfully, and with the intent to unfairly prejudice and harm Plaintiff Jane Doe, concealed evidence regarding nurses Wolfe, Murray, and Sumera, and those acts of concealment unfairly, significantly, and irreparably prejudiced Plaintiff.").

[67] *Id.*, 36:21-22.

[68] *Id.*, 25:12-26:28.

[69] Although Murray testified that Butler had a copy of her Metro statement, her testimony is belied by the standard policies and procedures of Metro, which does not release witness statements during a pending criminal investigation or criminal proceeding absent a court order. *See* Ex. 4.

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Plaintiff. As explained above, this constitutes a manifest error of law, because (as determined by Judge Hicks) the Nevada Supreme Court would likely follow the law in other jurisdictions—that the collective knowledge doctrine cannot be used to impute willfulness or intentional misconduct to a corporation unless one or more of its employees possesses the requisite culpable state of mind. The Order, while comprehensive, is devoid of any finding that any single Centennial employee ***willfully and intentionally concealed*** relevant evidence.

This Court's attempt to impute knowledge ***and willful intent*** to Centennial based on the aggregate knowledge of Butler, Bochenek, Murray, and Wolfe is even more precarious in light of the fact that all of these employees left the employ of Centennial before (or soon after) this lawsuit was filed. Because they were not Centennial employees during all or most of the relevant discovery period, they would lack motivation to protect Centennial, and Centennial's ability to re-interview them and determine whether they had information relevant to foreseeability was constrained.[70] Although Centennial questioned Murray, Wolfe, and Sumera following the Cagnina incident, it is not surprising that Centennial's other employees and counsel would not recall the specific details of those interviews when the Jane Doe lawsuit was filed approximately one year later.

To be clear, Centennial acknowledges that it should have disclosed Wolfe, Murray, and Sumera as witnesses pursuant to N.R.C.P. 16.1. That is not the issue. The manifest error of law is this Court's finding that Centennial ***willfully and intentionally concealed*** the existence of these witnesses from Plaintiff. Nondisclosure of these witnesses, and the corresponding Metro statements, was the result of a failure to thoroughly investigate the facts and circumstances underlying this matter (*i.e.*, negligence)—not willful misconduct.

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[70] Further, discovery was stayed in this matter from January 21, 2011, until July 18, 2012, at the request of Plaintiff, and from February 29, 2014, through July 4, 2014, which would have further constrained Centennial's ability to disclose relevant information. (Order, 4:26-27.)

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C. <u>This Court's Findings of Intentional Attorney Misconduct are Legally and Factually Flawed.</u>

1. <u>Centennial and its Counsel were Denied Due Process.</u>

As a preliminary matter, this Court must consider whether Centennial and its counsel (the law firm of Hall Prangle & Schoonveld, LLC) were denied due process. A party must receive due process when faced with the risk of heightened sanctions. *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. __, __, 245 P.3d 1182, 1184 (2000); *see also Havas v. Bank of Nev.*, 96 Nev. 567, 570, 613 P.2d 706, 707-08 (1980) (noting that a district court must be mindful "of the underlying rights of a party to due process" when at risk of sanctions for discovery violations). The same is true with regard to attorneys accused of violating the Rules of Professional Conduct. *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001); *see also In re Disciplinary Proceeding Against Sanai*, 225 P.3d 203, 206-07 (Wash. 2009) (explaining that notice and an opportunity to be heard must be given to an attorney charged with wrongdoing).

As stated above, on July 14, 2015, Commissioner Bulla entered her Report and Recommendations. Along with an award of monetary sanctions in favor of Plaintiff and finding that the Metro statements shall be admitted into evidence at trial, Commissioner Bulla recommended that the District Court conduct an evidentiary hearing to address the following issues:

(1) "[I]f case terminating sanctions are appropriate based on the conduct of failing to disclose witnesses";

(2) Whether the failure to disclose witnesses "was intention [sic] to thwart the discovery process in this case, and hinder Plaintiff to discover the relevant facts"; and

(3) "[A] failure to let the Court know what was going on in the case and whether the [Centennial] Defendants misled the Court."[71]

Notably absent from the Report and Recommendations is any notice that the District Court will also consider whether Centennial's Counsel violated any of the Rules of Professional Conduct.

Centennial and its counsel prepared for the evidentiary hearing based on the issues set forth

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[71] *See* Report & Recomm., 3:21 – 5:3.

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in the Report and Recommendations (the "notice" for due process purposes). Centennial's Counsel was prepared to defend the actions of their clients; they were not told to prepare to show cause why they did not violate Nevada Rule of Professional Conduct 3.3(a)(1).

In its Order, this Court found that Centennial engaged in wrongdoing,[72] but this Court also found that Centennial's Counsel engaged in wrongdoing; to wit, they allegedly violated the Rules of Professional Conduct in representing Centennial.[73] Respectfully, this Court should not have done so because it gave no prior, particularized notice to Centennial's Counsel that it would consider whether their actions met the applicable standard of care found in the Nevada Rules of Professional Conduct. In accord with the basic elements of due process, this Court had to first notify Centennial's Counsel that it would determine whether they violated their duty of candor, so as to give Centennial's Counsel an adequate and sufficient opportunity to defend themselves. ***Without prior notice of alleged rule violations, Centennial's Counsel was denied due process.*** *See Adams v. Ford Motor Co.*, 653 F.3d 299, 308-09 (3d Cir. 2011) (finding that the district court deprived an attorney of his due process rights by finding that he violated ABA Model Rule of Professional Conduct 3.5 without giving sufficient notice and an opportunity to address that specific charge); *see also In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 278 F.3d 175, 191 (3d Cir. 2002) (stating that particularized notice of alleged attorney misconduct is vital for due process purposes because an adverse finding may act "as a symbolic statement about the quality and integrity of the attorney's work—a statement which may have a tangible effect upon the attorney's career") (quotations and citation omitted). Accordingly, the rule violations entered against Centennial's Counsel cannot stand and must be vacated.

Centennial was also denied due process as a result of the deficient notice to its counsel. Because this Court was separately considering the acts of Centennial and its counsel, it created a potential conflict of interest between Centennial and its counsel. *See* Nevada RPC 1.7(a)(2). Had it known this, Centennial would have retained separate counsel for the evidentiary hearing. Because Centennial was not properly notified that sanctions could be entered against it for violations of the

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[72] *E.g.*, Order, 23:8-13.

[73] *Id.*, 25:24 – 26:10.

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Rules of Professional Conduct that were allegedly committed by its counsel, Centennial was also denied due process.

For these reasons, this Court must vacate its Order.

2. Centennial's Counsel Did Not Engage in Intentional Misconduct.

This Court determined that Centennial's Counsel engaged in misconduct; specifically, the Court found that Centennial's Counsel violated Nevada Rule of Professional Conduct 3.3.[74] Those findings were unsupported in law and fact and must be vacated.

a. *A Lawyer's Duty of Candor.*

A lawyer must refrain from "knowingly" making a false statement of fact to a tribunal. Nevada RPC 3.3(a). A lawyer must also refrain from "[u]nlawfully obstruct[ing] another party's access to evidence or unlawfully alter[ing], destroy[ing] or conceal[ing] a document or other material having potential evidentiary value." Nevada RPC 3.4(a). Both of these rules presuppose a willful or intentional (rather than negligent) act by the lawyer. *See* Nevada RPC 1.0(f) (defining "knowingly" as having "actual knowledge of the fact in question"); *In re Fine*, 116 Nev. 1001, 1021, 13 P.3d 400, 414 (2000) (finding that "willful misconduct occurs when the actor knows he or she is violating a . . . rule of professional conduct and acts contrary to that . . . rule in spite of such knowledge"); *see also* ABA CENTER FOR PROFESSIONAL RESPONSIBILITY, ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT, at 373 (8th ed. 2015) (stating that Rule 3.4 "does not impose a duty to volunteer all relevant information that a lawyer has, but prohibits concealing potential evidence a lawyer has a legal duty to disclose").

Knowledge of wrongdoing is material to the above analysis. *See, e.g.*, *Schlafer v. State*, 115 Nev. 167, 174 n.3, 979 P.2d 712, 717 n.3 (1999) (noting that "the willful failure to comply with discovery obligations and district court orders pertaining thereto may constitute professional misconduct"); *Sierra Glass & Mirror v. Viking Indus., Inc.*, 107 Nev. 119, 126-27, 808 P.2d 512, 516-17 (1991) (sanctioning a lawyer for intentionally concealing evidence). Conversely, "an attorney will not be held responsible for failing to inform the court of material information of which

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[74] (*Id.*, 19:7-10, 26:1-10.) This Court further implied that Centennial's Counsel violated Nevada Rule of Professional Conduct 3.4 based on their untimely disclosure of the Metro statements.

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the attorney is unaware." *Waters v. Dist. Ct.*, 935 P.2d 981, 988 (Colo. 1991); *see also* MODEL RULES PROF'L CONDUCT R. 3.3 cmt. [8] (explaining that a violation of Rule 3.3(a)(3) can only be established where is it shown that the lawyer "knows that the evidence is false," and having only a reasonable belief that the evidence is false will not preclude the lawyer from presenting it to the trier of fact unless its falsity is obvious).

In analyzing a lawyer's conduct, a court may only consider what the lawyer knew at the time of the conduct. Nevada RPC 1.0A(c) (noting that the Nevada Rules of Professional Conduct presuppose that a lawyer's conduct will be analyzed "on the basis of the facts and circumstances as they existed at the time of the conduct in question"); *see also Mainor v. Nault*, 120 Nev. 770, 775, 101 P.3d 308, 325 (2004) (precluding courts from using the benefit of 20/20 hindsight to judge a lawyer's conduct). In addition, a court "should start with the presumption that, unless proven otherwise, lawyers . . . behave in an ethical manner." *Frazier v. Sup. Ct.*, 118 Cal. Rptr. 2d 129, 139 (Cal Ct. App. 2002) (quotation marks and citation omitted); *see also Assocs. Fin. Svcs. Co. of Hawai'i v. Mijo*, 950 P.2d 1219, 1231 (Haw. 1998) ("Courts presume that attorneys abide by their professional responsibilities[.]"); *accord Salaiscooper v. Eighth Jud. Dist. Ct.*, 117 Nev. 892, 903, 34 P.3d 509, 516 (2001) (indicating that a prosecutor "is clothed with the presumption that he acted in good faith and properly discharged his duty to enforce the laws").

b. *Centennial's Counsel Did Not Violate their Duty of Candor.*

This Court took issue with the following statement made by Centennial's Counsel: "There were absolutely no known prior acts by Farmer that could potentially put Centennial Hills on notice that Farmer would assault a patient."[75] In analyzing that particular statement to determine whether a Rule 3.3 violation occurred, the focus was on what Centennial knew (or could be found to have known) as of May 14, 2008 (the date of the Jane Doe incident).

Plaintiff did not present any evidence at the evidentiary hearing indicating that Farmer assaulted a female patient at Centennial prior to May 14, 2008.[76] The only evidence presented

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[75] (*See, e.g.*, Order, 25:24 – 26:10 (quoting from Centennial's opposition to a motion for summary judgment).) This Court also took issue with a substantially similar statement appearing in a brief filed by Centennial's Counsel with the Nevada Supreme Court. (*See id.*, 26:6-10.)

[76] In denying summary judgment with regard to reasonable foreseeability, this Court made the following findings:

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indicated that certain nurses at Centennial were suspicious of Farmer prior to May 14, 2008 because he seemed to be overly attentive to female patients (and one nurse had allegedly overheard a female patient yelling at Farmer). But whether it was reasonably foreseeable to Centennial that Farmer would assault Plaintiff solely because of suspicions—a classic jury issue—is separate from whether Centennial had any knowledge as to whether Farmer had actually assaulted a female patient. Only the latter mattered in terms of analyzing the veracity of the above statement by Centennial's Counsel.

Plaintiff also presented evidence indicating that Farmer had assaulted other female patients, including Cagnina, after assaulting Plaintiff. However, an act that occurred after the incident is not—by definition—a "prior act." And again, the statement by Centennial's Counsel focused on what Centennial knew *prior to* May 14, 2008, not what happened later.

Respectfully, this Court misinterpreted the statement made by Centennial's Counsel. Centennial's Counsel did not suggest that Centennial had no reason to question Farmer's behavior prior to May 14, 2008. Rather, they argued that Centennial had no prior knowledge that Farmer had ever assaulted a patient prior to assaulting Plaintiff.[77]

This Court also found wrongdoing by Centennial's Counsel by reason of their non-disclosure of the Metro statements.[78] This Court did so by imputing knowledge of the Metro statements from Centennial (the principal) to its counsel (the agent).[79] However, knowledge held by a principal may not be downwardly imputed to an agent.[80] RESTATEMENT (THIRD) AGENCY § 5.03 cmt. g; *see also*

(i) "[t]here is no evidence in the record . . . that any Centennial Hills' employee had ever observed Farmer commit any criminal act before the incident [underlying this case]"; (ii) "[t]here is no evidence that any Centennial Hills' employee had ever observed Farmer improperly touch a female patient before the incident"; and (iii) "[t]here is no evidence in the record . . . that any female patient had ever complained of any improper sexual conduct or assault by Farmer before the incident." (*See* Order Denying Pl.'s Mot. for Summ. J., 6:26 - 7:6.)

[77] Centennial's Counsel were permitted to take a narrow view of what facts and circumstances would be sufficient to make it reasonably foreseeable to Centennial that a contract nurse would assault a patient (a criminal act) in the course and scope of his employment. It requires a leap of faith to conclude that a male nurse's eagerness to assist female patients means that he is reasonably likely to sexually assault female patients if presented with the opportunity to do so, which is potentially why this Court declined to grant summary judgment in favor of Plaintiff against Centennial on the issue of reasonable foreseeability.

[78] *See* Order, 25:18-19, 26:11-12.

[79] *Id.*, 17:11 ("Centennial's knowledge [of the Police Statements] is imputed to its attorneys.").

[80] In fact, the attorney-client relationship does not require clients to disclose any information to their lawyers. *See* RESTATEMENT (THIRD) LAW GOVERNING LAWYERS § 20 cmt. b ("Clients do not have a legally enforceable duty to

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In re Waswick, 212 B.R. 350, 353 (Bankr. N.D. 1997) ("The implied knowledge rule of agency does not operate in the converse."). Similarly, knowledge of one agent (*e.g.*, a charge nurse) may not be imputed upward to the principal (*i.e.*, the hospital) and then downward to a different agent (*e.g.*, a lawyer) of the same principal. *See Warren v. Com.*, 247 S.E.2d 692, 695 (Va. 1978) (refusing to find that the knowledge of one agent could be imputed to the agent's principal and then imputed to a different agent of the same principal). Therefore, as a matter of law, this Court had no basis upon which to impute knowledge related to the Metro statements from various nurses to Centennial and then from Centennial to its counsel.

Finally, this Court faulted Centennial's Counsel for failing to disclose the nurses as witnesses pursuant to N.R.C.P. 16.1.[81] Centennial's Counsel acknowledged prior to and during the evidentiary hearing that they were negligent in failing to disclose the nurses as witnesses in this matter. However, their inadvertent failure to do so was neither intentional nor designed to harm Plaintiff.[82] If it was (it was not), they would not have disclosed these same nurses as witnesses in the Cagnina Matter knowing that Plaintiff's counsel was monitoring the discovery that was occurring in that case. For that matter, Centennial's Counsel could not have concealed the identities of two of the nurses because they had been disclosed as witnesses in the criminal case (a fact known to Plaintiff).[83]

For these reasons, this Court lacked substantial evidence to support its findings that Centennial's Counsel committed willful misconduct and violated the Rules of Professional Conduct. As a result, this Court should not have sanctioned Centennial for alleged misconduct committed by its counsel.

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communicate to the lawyer, except as provided under the law of misrepresentation.").

[81] *E.g.*, Order, 25:14-17.

[82] *Contra id.*, 19:7-10 (suggesting that Centennial's Counsel intended to conceal relevant evidence).

[83] Plaintiff highlighted the fact that two of the nurses were disclosed as witnesses in the criminal case in moving for sanctions. (*See* Mot. for Rule 37 Sanctions, 8:13-15 (noting that their names were listed in a "public document available on Wiznet").) As stated by Centennial in its Objection to the Report & Recommendations issued by Commissioner Bulla, Plaintiff promptly supplemented her N.R.C.P. 16.1 disclosures in this case with witness lists from the criminal case. (*See* Obj. to Discovery Comm'r R&R, 4:3-18.)

D. Without a Finding of Willful Misconduct, this Court Cannot Issue the Sanction It Did.

Nevada courts are generally precluded from issuing sanctions under N.R.C.P. 37 without a finding of willfulness. *See, e.g., Clark Cty. School Dist. v. Richardson Constr., Inc.*, 123 Nev. 382, 391, 168 P.3d 87, 93 (2007) ("In general, a district court may impose sanctions only when there has been willful noncompliance with the discovery order or willful failure to produce documents under NRCP 16.1."); *GNLV Corp. v. Service Control Corp.*, 111 Nev. 866, 871, 900 P.2d 323, 326 (1995) (reversing, in part, the district court's sanction because there was "no evidence that the Golden Nugget intentionally or willfully destroyed" evidence).

For the reasons set forth above, this Court could not make—on the evidence—a determination that either Centennial or its counsel acted ***willfully and intentionally*** to conceal relevant evidence ***with the intent to harm*** Plaintiff; any such findings in its Order were based on manifest errors of law (*e.g.*, application of the collective knowledge doctrine and findings of ethics rules violations without the requisite knowledge or willful intent to violate those rules). Accordingly, this Court's sanction (*i.e.*, a finding that Centennial is liable), which is premised on multiple findings of willfulness and intentional concealment, is improper as a matter of law. Likewise, the severity of the sanction is not commensurate with the severity of Centennial's non-compliance with N.R.C.P. 16.1. *See GNLV Corp.*, 111 Nev. at 870, 900 P.2d at 325 ("Fundamental notions of fairness and due process require that discovery sanctions be just. . . .").

The other factors that this Court had to consider in determining an appropriate discovery sanction weighed against the striking of the Answer for the purposes of liability.[84] Nevada has a strong policy in favor of deciding cases on their merits whenever possible. *See, e.g., Schulman v. Bongberg-Whitney Elec., Inc.*, 98 Nev. 226, 227, 645 P.2d 434, 435 (1982). Although the sanction

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[84] As set forth in the Order, "[t]he factors a court may properly consider include, but are not limited to, the degree of willfulness of the offending party, the extent to which the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction of dismissal relative to the severity of the discovery abuse, whether any evidence has been irreparably lost, the feasibility and fairness of alternative, less severe sanctions, such as an order deeming facts relating to improperly withheld or destroyed evidence to be admitted by the offending party, the policy favoring adjudication on the merits, whether sanctions unfairly operate to penalize a party for the misconduct of his or her attorney, and the need to deter both the parties and future litigants from similar abuses." *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780 (1990). Incidentally, the sanction in *Young* was based on willfully fabricated evidence, an act much more egregious than the non-disclosure of relevant witnesses. *See id.* at 95, 787 P.2d at 781 ("Substantial evidence supports the district court's conclusion that Young willfully fabricated evidence.").

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entered by this Court is not necessarily case-concluding, *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev, ___, 235 P.3d 592, 596 (2010), for all intents and purposes, it precludes Centennial from defending itself at trial because the only issue left for the jury to decide is the amount that Centennial will be forced to pay. Considering the nature of the case (*i.e.*, sexual assault), the Order will likely result in Centennial being lumped together with Farmer for the purposes of awarding damages to Plaintiff. And, as recognized by this Court's prior summary judgment Order, even with the admissibility of the Murray and Wolfe Metro statements, issues of material fact remain for the jury in deciding Centennial's liability. This Court's sanction takes that important function away from the jury, thereby undermining this state's policy of deciding cases on their merits.

Although this Court made a finding that "that Centennial's misconduct is "to an equal or greater extent than its lawyers,"[85] it is primarily an attorney's responsibility to ensure compliance with N.R.C.P. 16.1. The attorney—as opposed to the client—is intimately familiar with the disclosure obligations under N.R.C.P. 16.1 and is responsible for conferring with his or her client to ensure that all relevant witnesses and documents are timely disclosed. A client would be hard-pressed to disclose relevant witnesses and documents without the direction of counsel. *See, e.g.*, MODEL RULES OF PROF'L CONDUCT, R. 1.2 cmt. [2] (stating that clients "normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal and tactical matters"); RESTATEMENT (THIRD) LAW GOVERNING LAWYERS § 16 cmt. b (noting that a lawyer is frequently called upon to work on complex and technical matters in the absence of his client, and is thus "entrusted" to act on his client's behalf "in circumstances that often make it difficult or undesirable for [the client] to supervise closely the performance of the [lawyer]"). Therefore, to the extent that anyone is to blame, it is Centennial's Counsel, not Centennial. Yet, this Court's sanction is primarily directed toward Centennial as opposed to Centennial's Counsel, because Centennial is the party that may ultimately be responsible for Plaintiff's damages. *Young*, 106 Nev. at 93, 787 P.2d at 780 (analyzing whether the sanction "unfairly operate[s] to penalize a party for the misconduct of his or her

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[85] Order, 36:21-22.

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attorney"). Accordingly, this Court's sanction penalizes Centennial for its counsel's non-compliance with N.R.C.P. 16.1.[86]

Finally, this Court's sanction is not necessary to deter Centennial and its counsel from future misconduct. No evidence was submitted that Centennial or its counsel are recalcitrant or discovery abuse recidivists. In fact, Centennial's Counsel was extremely forthcoming and contrite during the evidentiary hearing. A lesser sanction will sufficiently ensure that Centennial and its counsel thoroughly investigate all relevant witnesses and facts underlying a matter going forward to ensure compliance with N.R.C.P. 16.1.

The remaining *Young* factors relating to prejudice to Plaintiff and the availability of less severe sanctions are addressed in the following section.

E. Plaintiff Was Not Prejudiced by Non-Disclosure of the Nurses and the Metro Statements, and Commissioner Bulla's Sanction is Commensurate with the N.R.C.P. 16.1 Violation.

While this Court assigned substantial blame to Centennial (and to its counsel), it did not consider the actions of Plaintiff (and her counsel). Most importantly, this Court did not consider whether Plaintiff could have learned of the contents of the Metro statements prior to February 2015. Plaintiff easily could have, and that fact weighs against the severe sanction imposed by this Court.

In March of 2010, Plaintiff disclosed witness lists from the criminal case that identified Murray and Wolfe. Yet, Plaintiff did not depose either of them. Knowing that Farmer had been charged with sexually assaulting multiple female patients while working at Centennial, Plaintiff had reason to depose each nurse who was likely to testify in the criminal case to see if he or she had information relevant to this case (and more specifically, information about acts committed by Farmer prior to May 14, 2008). To the extent that Plaintiff did not want to incur the time and expense of deposing them, Plaintiff's counsel was free to interview them since they were no longer employed

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[86] Centennial's violation of N.R.C.P. 16.1 is governed by N.R.C.P. 37(c) as opposed to N.R.C.P. 37(b). N.R.C.P. 37(b) applies to the failure to comply with a court order, while N.R.C.P. 37(c) applies to a failure to disclose under N.R.C.P. 16.1. Although a party and its counsel must comply with all court orders and disclosure obligations under N.R.C.P. 16.1, a difference in culpability should exist between a failure to comply with a court order and a failure to comply with a disclosure obligation when dealing with relevant evidence—otherwise, the tools of discovery would be unnecessary because a party could always argue that information it believes is relevant should have been disclosed pursuant to N.R.C.P. 16.1, such that the failure to do so is sanctionable.

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by Centennial. *See, e.g.*, *Wright v. Group Health Hospital*, 691 P.2d 564, 569 (Wash. 1984) (noting that a lawyer may ethically interview former employees of a represented party because those employees no longer can speak for or bind the corporation); *see also Rebel Commc'ns, LLC v. Virgin Valley Water Dist.*, No. 2:10-CV-00513-LRH-GW, 2011 WL 677308, *8 (D. Nev. Feb. 15, 2011) (finding that it is likely that the Nevada Supreme Court would "hold that Rule [of Professional Conduct] 4.2 does not apply to former employees").

Notwithstanding Plaintiff's ability to depose the nurses before their memories faded, this Court faulted Centennial for not identifying exactly what each of those nurses would have said in discovery in an N.R.C.P. 16.1 disclosure.[87] However, as recognized by the Nevada Supreme Court, counsel is not obligated "to proffer evidence that helps [his] opponent." *Sierra Glass & Mirror*, 107 Nev. at 126, 808 P.2d at 516; *see also* RESTATEMENT (THIRD) LAW GOVERNING LAWYERS § 120 cmt. (b) (explaining that even if a lawyer "might know of testimony or other evidence vital to the other party, but unknown to that party or their advocate," the lawyer "has no legal obligation to reveal the evidence, even though the proceeding thereby may fail to ascertain the facts as the lawyer knows them," so long as the lawyer complies with "applicable rules concerning pretrial discovery and other applicable disclosure requirements"). In other words, even assuming that Centennial could be charged with knowing generally what the testimony of each nurse might be, Centennial was not required to give a detailed description of each nurse's anticipated testimony.[88]

The purpose of discovery is to gather evidence to support claims and defenses. Nothing barred Plaintiff from deposing the nurses promptly after learning that they had been named as witnesses in the criminal case. Had this happened, it is reasonable to conclude that Plaintiff's counsel would have learned of the information contained in the Metro statements. That is because their counsel would have focused on what each nurse knew about Farmer and whether each nurse had witnessed Farmer act improperly while working at Centennial. *See Bronston v. U.S.*, 409 U.S. 352, 360, 362 (1973) (explaining how the questioner must be precise and probe the witness, saying

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[87] Order, 34:21 – 35:2.

[88] In fact, doing so may have resulted in a violation of the September 2009 Protective Order entered in the Cagnina Matter.

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"[i]f a witness evades, it is the lawyer's responsibility to recognize the evasion and to bring the witness back to the mark, to flush out the whole truth with the tools of adversary examination").

In addition, Plaintiff could have timely taken the N.R.C.P. 30(b)(6) deposition of Centennial concerning, *inter alia*, whether Centennial had prior notice of wrongdoing or suspicious behavior by Farmer. *See U.S. v. Taylor*, 166 F.R.D. 356, 361 (M.D.N.C. 1996) ("The Rule 30(b)(6) designee . . . presents the corporation's 'position' on the topic."). Doing so would have forced Centennial to diligently prepare one or more witnesses to testify about pre-May 14, 2008 concerns (if any) with Farmer. Plaintiff did not seek to take a Rule 30(b)(6) deposition of Centennial until recently, thereby allowing witness memories to naturally fade over time.

These facts demonstrate that Plaintiff could have done more to discover the contents of the Metro statements. That does not negate the obligation that existed under N.R.C.P. 16.1 for Centennial to disclose Murray, Wolfe, and Sumera as witnesses, but, it does factor into whether Plaintiff could have mitigated the resulting prejudice that she claimed to have suffered by reason of such non-disclosure.

The Discovery Commissioner entered an appropriate sanction based on the N.R.C.P. 16.1 violation; specifically, admission of the Metro statements into evidence free and clear of any hearsay objections (along with a five-figure monetary sanction). Those statements sufficiently capture any lost testimony. But for the admission of those statements into evidence, Plaintiff would likely have been unable to use them at trial (other than to refresh Murray and Wolfe's recollections) because they are largely inadmissible hearsay. Thus, the fact that Plaintiff will be able to use them at trial provides her with a distinct advantage over Centennial.[89]

Taken together, the facts and circumstances compel a less severe sanction than what was imposed against Centennial for inadvertent non-disclosure of the nurses and the Metro statements. If

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[89] As noted above, Plaintiff acknowledged at the evidentiary hearing that a witness' memory could fade within one year. Assuming that Centennial had disclosed Murray, Wolfe, and Sumera as witnesses in November 2009—over eighteen months after the incident underlying this matter—and further assuming that Plaintiff promptly took their depositions prior to engaging in any preliminary written discovery, it is likely that Murray, Wolfe, and Sumera would still have had problems accurately recalling their suspicions of Farmer pre-dating May 14, 2008. Plaintiff would have then been limited at trial in her use of the Metro statements, even though Plaintiff believes that Wolfe's Metro statement is the lynchpin of her case. Now, Plaintiff gets to use those out-of-court statements for any purpose.

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this Court were to affirm the striking of the Answer to the Complaint as to liability, it would be implicitly approving inactivity by Plaintiff while directly punishing comparable inactivity by Centennial—a grossly unfair result. *Nev. Power Co. v. Fluor Ill.*, 108 Nev. 638, 645, 837 P.2d 1354, 1359 (1992) (stating that dismissal "should only be used in extreme situations," and that "if less drastic sanctions are available, they should be utilized").

IV. CONCLUSION

Respectfully, this Court went too far in finding that Centennial and its counsel willfully and intentionally sought to conceal relevant evidence with the intent to harm Plaintiff. The disclosures should have been made; however, the non-disclosure was negligent, not willful or intentional. Similarly, Centennial and its counsel have not misled this Court; they simply disagree with any assertion that knowledge of suspicious behavior is enough to make it reasonably foreseeable that a contract nurse with a clean background check would sexually assault multiple female patients. This Court should let the jury decide, and, in making that determination, the jury can consider the statements given by Murray and Wolfe to Metro.

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For these reasons, Centennial respectfully requests that this Court reconsider its November 4, 2015 Order, vacate the severe sanction entered against Centennial, and instead adopt the sanctions initially entered by the Discovery Commissioner.

DATED this 19th day of November, 2015.

BAILEY❖KENNEDY

By: _____
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
JOSHUA P. GILMORE
MARK HESIAK

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY❖KENNEDY and that on the 19th day of November, 2015, service of the foregoing **DEFENDANTS VALLEY HEALTH SYSTEM LLC d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER AND UNIVERSAL HEALTH SERVICES, INC.'S MOTION FOR RECONSIDERATION OF THIS COURT'S NOVEMBER 4, 2015 ORDER** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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EXHIBIT 1

CASE NO. A-09-595780-C

DEPT. NO. II

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, Plaintiff, vs. STEVEN DALE FARMER; AMERICAN NURSING SERVICES, INC.; UNIVERSAL HEALTH SERVICES, INC.; VALLEY HEALTH SYSTEM, LLC, Defendant.	Reporter's Transcript of Evidentiary Hearing and Motions

BEFORE THE HONORABLE RICHARD F. SCOTTI,

DISTRICT COURT JUDGE

FRIDAY, AUGUST 28, 2015

9:00 A.M.

Reported by: JoAnn Melendez, CCR No. 370

APPEARANCES:

For the Plaintiff:	Robert Murdock, Esq. Eckley M. Keach, Esq.
For Universal Health Services, Inc., Valley Health System, LLC.:	Michael E. Prangle, Esq. Kenneth M. Webster, Esq. John F. Bemis, Esq.
For American Nursing Services:	Amanda J. Brookhyser, Esq. James Silvestri, Esq.
For Steven Dale Farmer:	Heather S. Hall, Esq.

statements?

MR. PRANGLE: Of course. But, judge, here's the point. I --

THE COURT: Okay.

MR. PRANGLE: -- I don't believe that can be possibly true because the public defender or the prosecutor were not giving us anything. We asked for their file. They wouldn't give it to us. It wasn't until we were able to do a motion to compel that they would give us anything.

Once we got the file, there's no indication in the file that these statements have already been produced to somebody at the hospital.

So I respect -- I believe nurse Wolfe is wrong. What nurse Bochenek said, and what nurse Butler said, yes, we met with nurse Wolfe and the others. And I'll talk about the context of that in a second. They were aware of this issue.

And you may recall there's a patient by the name of Hannah that was after the Doe plaintiff. It was after the Doe plaintiff. And we were aware of that, but that was the first thing that we were aware of.

So I don't believe that Bochenek and Butler had the actual statements because they were

statements were ever provided to the hospital or any hospital official prior to -- prior to the criminal files being released pursuant to an official request for production?

MR. PRANGLE: Motion to compel.

THE COURT: Or motion to compel, yeah.

MR. PRANGLE: In the RC case.

THE COURT: Okay. And that was, that was --

MR. PRANGLE: May --

THE COURT: May of 2013.

MR. PRANGLE: Correct.

THE COURT: I understand your position.

MR. PRANGLE: Okay.

THE COURT: Thank you. Keep going.

MR. PRANGLE: And also on that point while I'm on it, this lawsuit was filed I believe of August of 2009. It was summer of 2009.

THE COURT: Right.

MR. PRANGLE: Both Bochenek and Butler were gone from Centennial Hills when this lawsuit was filed. They are no longer employees.

But taking a step back, this chronology, we know now, given that Mr. Farmer was convicted, that the assault on Ms. Doe occurred on

May 14th, 2008. There was no report made to Centennial Hills by Ms. Doe that the assault occurred. We had no knowledge of it whatsoever.

Two days later, Mr. Farmer also assaulted a patient by the name of RC. RC is the person who advised the hospital this guy inappropriately touched me. The hospital immediately placed Mr. Farmer on a do-not-return list, called the police. Mr. Farmer was arrested that afternoon.

My firm was retained six days later on May 22nd, 2008 specifically to investigate the RC case. As of that time, we were unaware that Ms. Doe was going to be making an allegation. Our focus was solely on RC.

We then undertook to do an investigation of the RC case. We met with, among others, nurse Murray, nurse Wolfe and nurse Sumera because they were involved with the RC case. That's why we met with them.

At the time -- and we met with nurse Wolfe I believe it was mid-June of 2008. We met with nurse Murray in mid-July in of 2008, and we met with nurse Sumera in mid-August 2008.

At the time that these meetings

occurred, we still had no knowledge of the claim by Doe. And again, our investigation was solely focused on RC.

We were not retained regarding the Doe case until August 3rd of 2009 which I think was about a week or so after the complaint had been filed.

After being retained in the Doe case, we again did an investigation. We attempted to identify those people who might have relevant information. We did not meet with nurse Murray, nurse Wolfe or nurse Sumera because we had no reason to believe that they had anything to do with Doe. So we didn't meet with them again.

Now, as part of the criminal case, Your Honor may recall that the criminal cases were consolidated. And I believe there were a total of five victims that were all consolidated together that included RC and Doe.

So when the State's attorney is producing their witness lists, they -- he doesn't say, and this is for the Doe case, this is for the RC case. He just says here are the people we intend to call.

And I believe it was in either the

fall or winter of 2009, getting into 2010, that the State's attorney disclosed the list of witnesses that included nurse Wolfe and nurse Murray.

I confess I don't have the specific memory of what my reaction to that was, but my understanding at that time was that this was only related to the RC case, not the Doe case. So I placed no significance to that on them. I knew they were part of that case. We had disclosed them in our ECCs. We weren't trying to hide them.

And as a result of that, and Mr. Keach touched on this, on March 27th of 2010, plaintiff filed their fifth supplement to their ECC in which they identify as people they believe have relevant information for the Doe case as being nurses Wolfe and nurses Murray.

Two months later on May 13th of 2010, plaintiff filed their sixth supplement to the ECC where they disclosed a number of depositions that had been taken in the RC case.

I have no idea what degree plaintiff's counsel were in contact with the plaintiff's counsel in the RC case, but it was clear that they were obtaining materials from the RC case.

And in May of 2010, plaintiff

something in this guy's background that we missed. So they interviewed many of the staff. And even though they didn't remember the dates they met with people, who specifically they met with, they were clear about one point is that there was nothing about Farmer's background that anybody told them consistent with what we see in Wolfe's statement and even Murray's statement.

So Mr. Keach is right that they say I don't remember a lot, but they were clear on that point.

In our initial supplement to the ECC, and I don't have the date that we filed, we disclosed 14 individuals who we believed had relevant information in the case.

To today, plaintiff's counsel -- and this goes to the prejudice issue a little bit, judge, is that to today, plaintiff's counsels deposed only one of those 14 people. And that was nurse Janesse (phonetic) who was deposed earlier this year.

So I guess the point being is that here we gave plaintiff 14 names of people who might have relevant information. And for, you know, their own reasons, they chose not to depose any of them.

evidence, yes.

Q. And that would include any information of instances of inappropriate conduct with female patients by Farmer, correct?

A. Could, yes.

Q. Okay. And according to your brief and according to Mr. Prangle's argument this morning, after the protective order was issued on May 6th, 2013, you received the police file and the hospital learned for the first time that nurses Murray, Wolfe and Sumera had information that could be relevant to Jane Doe's claims in this case, correct?

A. That's my understanding, yes.

Q. Okay. Now, at least -- well, let's talk about what you know, okay.

At any point before May 2013, May 6th, 2013 when a protective order was issued, were you aware that nurses Murray, Wolfe or Sumera had information related that -- that could be relevant to Jane Doe's claims?

MR. PRANGLE: Your Honor, I would just object to the extent that may cause for the divulgence of privileged information.

THE COURT: Your Honor, I'm not asking him to tell me what anyone told him. I asked him if

Q. And she described another nurse named Kim told her that she witnessed Farmer's suspicious behavior also, right?

A. I believe she stated that as well.

Q. Okay. Now, you knew, once you read this, that you had an obligation pursuant to 16.1 to disclose this information from Wolfe and Murray, right?

A. From? Can you repeat that again?

Q. Once you got those statements, you knew that was relevant, you knew 16.1 required a disclosure?

A. 16 -- in retrospect, yes. 16.1 does require.

Q. Okay. But you didn't disclose it because there was a protective order, right?

A. That is correct.

Q. All right. Now, I've got before you the exhibits that have been admitted. If you could start and try to get back to --

A. Which binder?

Q. Binder one, Exhibit 12.

A. Okay.

Q. This is the Notice of Entry of Order re: Discovery Commissioner's Report and Recommendations.

Do you recall this document?

A. Generally, yes.

Q. Okay. I mean, it shows you were on the service list?

A. Correct.

Q. And, in fact, what the order is is it includes the protective order, correct?

A. I believe so, yes.

Q. It's Exhibit 1 to the notice of entry. Do you see that?

A. Yes.

Q. Okay. And if you turn to page two of the of the protective order, paragraph under the recommendations, paragraph one talks about that the motion's basically granted and he's got to produce, right?

A. That is correct.

Q. And paragraph two is the protective order, correct?

A. Correct.

Q. And other than what's in paragraph two when you refer to the protective order prohibited your disclosure of -- of Murray and Wolfe's statement, is there any other protective order you're talking about or is that it?

A. 2013.
Q. -- 2013. Three months before any protective order prohibiting that disclosure.
You had that, didn't you?
A. Correct.
Q. Okay. You didn't disclose it, did you?
A. I did not disclose it.
Q. That's 16.1 violation, isn't it?
A. Well, with respect to that, I did not know the contents of it.
Q. You got an audio tape but you didn't listen to it, is that what you're telling me?
A. I didn't get an audio tape.
Q. What'd you get?
A. I got a CD that had an audio file on it, but I did not listen to it.
Q. Oh, you got -- you received the, the audio portion of Christine Murray's recorded statement from the public defender's office in February 2013, right?
A. That is correct.
Q. And you never listened to it?
A. No.
Q. Did anyone in your office ever listen to it that you're aware of?

A. Not that I'm aware of.
Q. Did anyone other than you know that you -- in your office know you had it?
A. Had the disc from the public defenders?
Q. Yeah.
A. I believe so, yes.
Q. Who?
A. Obviously my secretary had it.
Q. Yeah. Who else?
A. And I believe some of the other attorneys knew that we had it on the disc.
Q. Who?
A. Who knew?
Q. Yeah.
A. I believe that Mr. Prangle knew and Mr. -- I don't believe Mr. Webster knew.
Q. Okay. And this is information you had shared with Mr. Prangle, you had the audio tape?
A. I didn't say that we had an audio tape. I said that the public defender gave us documentation.
Q. The public defender gave you the CD of Christine Murray's recorded statement, that's what you advised Mr. Prangle, right?
A. No. Because it had some statements from

A. Or that I can recall at this time.

Q. Okay. When did anyone from your office first become aware that Murray had made a statement to Metro?

A. I don't know. I don't know. I don't believe that anybody -- I don't know if I can go into what we were told or anything of that. So I'm not gonna --

Q. No, but --

THE COURT: Well, he's just asking when you -- when you first knew. He's not asking for, at least at this point in time, who said what. But just --

MR. KEACH: Just the date.

THE COURT: Just when you actually discovered the information existed.

MR. KEACH: Correct, Your Honor.

THE WITNESS: I believe it would be the -- when I received the CD from the public defenders.

BY MR. KEACH:

Q. Okay. So prior to February 2013, it's your testimony that you are unaware of anyone at your office being aware that Murray had made a statement to the police office -- to the police

department, correct?

A. To the best of my recollection, yes.

Q. Okay. Same question with regard to Margaret Wolfe. When did someone from your office first become aware of Margaret Wolfe's statement to the police office?

A. To the best of my recollection, it was when we received the police file.

Q. In May 2013?

A. I believe so, yes.

Q. Okay. Now, did anyone at your office meet with Carol Butler or Amy Bochenek Blasing in summer 2008?

A. I believe so. I'm not sure on that.

Q. Okay. Are there any references in your file to any meetings with Carol Butler or Amy Blasing in 2000 -- in summer or fall of 2008 by someone in your office?

A. I don't know.

Q. Okay. Now, you can see that at least as of May 2013 you knew there were allegations of inappropriate conduct with female patients by Farmer from Murray, Wolfe and Sumera, but because of the protective order, you couldn't produce the statements of Wolfe or Murray, right?

Q. Okay. And the protective order was the reason you couldn't produce the statements, correct?
A. Correct.
Q. Now, on October 27th in your seventh -- I believe it was seventh, Exhibit 1G.
A. Did you say G?
Q. G as in girl. You produced the criminal file, the police file that you had received in May 2013, correct?
A. I believe so, yes. That's what it says.
Q. I'm sorry?
A. That's what this says, yes.
Q. Okay. And what I was certain your intent with this, with this document at least produced the entire police file that you received, right?
A. Correct.
Q. Now, the protective order was still in place on October 27th, right?
A. I believe that was the day or two after the hearing in front of the discovery commissioner.
Q. Okay. Now, I heard Mr. Prangle's explanation, but I want to hear it from you. And that is that although the protective order was technically still in effect until November 14th, after the discovery commissioner ordered the

production of the police file that you had received in May 2013, you didn't feel it was required for you to wait until the release of the protective order, you felt the oral order was sufficient to allow you to produce this, this supplement, correct?

A. And I believe that she ordered to produce it as quickly as possible.

Q. Okay. And so you felt like you were complying with the court's order, correct?

A. That is correct.

Q. And the court's order was that you produce the entire police file that you had received in May 2013, right?

A. Produce everything you have, yes.

Q. Okay. And that includes Murray's statement?

A. Yes.

Q. And that includes Wolfe's statement?

A. I believe so, yes.

Q. Okay. Because we've been arguing about for several, several months now, those are the -- that goes to the heart, at least in our opinion, of foreseeability.

And we've made that point very clear, right?

Q. So Mr. Prangle advised the court today that we had misspoke when we said we didn't receive the Wolfe statement until January 15th because in truth and fact we had received it in October 2014 when you produced the seventh supplement.

Do you recall that testimony?

A. I don't believe that --

Q. Or do you recall that, do you recall that argument?

A. I recall that, yes.

Q. That's not true, is it?

A. Pardon?

Q. That's not true, is it?

A. I'm not a hundred percent sure.

Q. Okay. I'm a hundred percent sure.

A. Okay.

Q. The single most important document in this case relative to foreseeability is Margaret Wolfe's statement.

Guess what? Guess what? The only document was not produced in October 2014. Do you want to take a guess?

A. I'll let you tell me.

Q. Margaret Wolfe's statement. Why? Why was that removed from the police file? Who told you

MR. KEACH: Your Honor, I'd like the witness to take a look at this. Can you run through it, Rob, page by page? Start at the first page.

MR. MURDOCK: Yeah.

THE COURT: Tell us what he's looking at so --

MR. KEACH: This, this. (Indicating.) I'm sorry, Your Honor.

THE COURT: So defense counsel can make sure that he can follow along appropriately.

BY MR. KEACH:

Q. This is your supplement, seventh supplement of October 27th, 2014. Take a look at it. Let Rob scroll through it and just take a look at it and see if you recall that as being your seventh supplement. Just the actual production.

THE COURT: Can you show us the date and who signed it? Mr. Keach, you'll show us the date and who signed it?

MR. KEACH: I'm sorry, Your Honor?

THE COURT: Will you show us the date and who signed it?

MR. MURDOCK: Oh, yeah. Here it is.

MR. KEACH: It's up there now, Your Honor.

MR. MURDOCK: I'm sorry, Your Honor.

THE COURT: Okay, thank you.

BY MR. KEACH:

Q. That's what it is, is it not, Mr. Bemis?

A. That's what it looks like, yes.

Q. Do you have any questions that -- do you have any reason to question the authenticity of this exhibit?

A. I don't believe so.

Q. Keep going, Rob. He's gonna go through it page by page, the list of information you provided.

Tell him to stop when you get to Margaret Wolfe's statement.

THE COURT: Do you happen to have a hard copy he can look at because it's a little blurry on the screen?

MR. KEACH: We don't, Your Honor.

THE COURT: Maybe we can blow it up enough, so he can see it.

MR. KEACH: Your Honor --

THE COURT: Are you able to read it on there?

THE WITNESS: Kind of, yes.

THE COURT: Well, let us know if you have

trouble reading it so we could do something about it.

THE WITNESS: What did you ask me to look for?

BY MR. KEACH:

Q. I want you to tell me where on there is Margaret -- where is Margaret Wolfe's statement?

A. Okay.

Q. And you just tell Mr. Murdock when you're ready to go to the next page.

A. Obviously you can skip through the medical records here.

Q. Okay. Back it up, Rob.

MR. MURDOCK: Uh-huh.

BY MR. KEACH:

Q. Okay. Whose statement was that? That's Farmer's, right?

A. I believe so, yes.

Q. Okay. Is that Cagnina's statement?

A. That is correct.

Q. Is there a statement of Lorraine Wescott, right?

A. Yes.

Q. Statement of Karen Goodhart, right?

A. Correct.

Q. Statement of Christine Murray, right?
A. Correct.
MR. MURDOCK: That's it.
BY MR. KEACH:
Q. Where's Margaret Wolfe's statement?
A. It's not there.
Q. Now, we already had Christine Murray's statement before this disclosure, didn't we? Because we attached it to a reply.
Do you remember that?
A. I don't recall specifically, no.
Q. Okay. You didn't disclose Christine's -- Margaret Wolfe's statement to us in that production, did you?
A. It's not there.
Q. Okay. It's not there because you didn't disclose it, right?
A. It's not there, yeah, that is correct.
Q. You were ordered to produce the entire file, correct?
A. That is correct.
Q. You produced everything except one thing, Margaret Wolfe's statement, didn't you?
A. Produced everything we had, yes.
Q. Okay. That's coincidence?

pretty underhanded things, okay?

A. Okay.

Q. And I guess to put this into context, the exhibit that Mr. Keach played on the screen, but which we now have as Exhibit 29, includes or is our supplement to the ECC that we filed October 27, 2004.

Is that your understanding?

A. 2014.

Q. I'm sorry. 2014. And this is -- represents the file that we received on May 6th, 2013. True?

A. True.

Q. And would you agree with me, having followed through with Mr. Murdock or Keach or whoever was operating it, that contained within Exhibit 29 is not the statement of Margaret Wolfe?

A. That is correct.

Q. Okay. You heard me say this morning, and I believe it's replete in our briefs, that we said that we got Margaret Wolfe's statement on May 6th, 2013.

Am I right or am I wrong on that?

A. You're incorrect.

Q. Let's go through this. In light of Mr.

Keach's questioning, did you call your assistant to get the original of the materials that were delivered to us in the RC case on May 13 -- May 6th, 2013?

A. I did.

Q. And is that -- am I holding that?

A. Yes, you are.

MR. PRANGLE: Your Honor, I'm reluctant to have it marked because your clerk tells me that if she marks it she has to take it. And as an original, I would prefer not to lose control of it.

So I guess I'm looking for some guidance as to how you wish me to proceed. I can, I can offer to the court that I'll have a copy made of it and we can mark the copy, but this is the actual original.

THE COURT: Let me hear from the plaintiff.

MR. KEACH: If I can take a look at it, please. I want to return it to you the same way you gave it to me.

MR. PRANGLE: I appreciate it. Okay. And, Your Honor, if you want to see it.

THE COURT: I would.

MR. PRANGLE: Sure.

THE COURT: Let me see. Thank you. All right. I'd -- before I give my suggestion, let me hear from the plaintiff on what their proposal is on how we handle this.

MR. KEACH: Well, in terms of marking it, I have no objection to a copy being made. I assume Mr. Prangle would be prepared to represent on the record that what is contained in what he holds is the exact same thing that's contained in Exhibit 29. And so I would have no problem with that representation.

What I would have a problem with, however, Your Honor, is the admission of the exhibit for lack of authentication. Because when I look at it, it's not bate stamped and there's no way for us to tell whether anything was removed from that or not.

So without someone being here to testify that this is the complete record that was provided by Metro, I don't believe it's properly authenticated.

THE COURT: Well, we'll see if Mr. Bemis can lay foundation, all right. If he can lay foundation, then it would be admitted. We could admit it with proper foundation and identification

of what that exhibit is with the representation from counsel that it's the same thing as the documents in Exhibit 29, or at least identifying any differences, and then follow that up with actual production of a copy of it by letter to opposing counsel and a courtesy copy to the court identifying that what you provide to us tomorrow perhaps or Monday is identical to what you exhibited in court.

And that if you follow that procedure, the court would be satisfied. And then providing it to the court and having it marked as Exhibit 30 or --

MR. PRANGLE: Or A.

THE COURT: Or actually Defendant's Exhibit A.

MR. KEACH: Your Honor, just a suggestion.

THE COURT: Yup.

MR. KEACH: If counsel is prepared to represent it's identical to Exhibit 29, I don't see why we need to clutter the record with two copies of a hundred and 90 pages of the exact same thing.

Now, if it's not, it's a different story.

THE COURT: Where's 29?

THE WITNESS: On the podium.

MR. KEACH: He's got it right here.

THE COURT: Can I see 29? That was the one copy, right?

MR. PRANGLE: Correct. That's what was on the computer before he --

THE COURT: Well, it can't be -- it can't be identical because what he's handing us has a cover letter, first of all. And I don't know what it's -- I haven't compared it but.

MR. KEACH: No, ours has also got the privileged log, too, that's not in there.

THE COURT: It's not identical, I'd prefer that we separately mark it as defense A.

MR. KEACH: Thank you, Your Honor.

THE COURT: He makes an exact duplicate of what he's gonna use in court, provide that to us. Either way he's gonna do that. Whether I admit it as an exhibit, depends on whether it can be authenticated.

MR. KEACH: Thank you, Your Honor.

THE COURT: If he can't authenticate it, we're still introducing it for identification purposes. All right. Why don't you continue.

MR. PRANGLE: Thank you, judge. And in

fairness, there is one other difference between Exhibit 29 and this. On each of the pages, there is a stamp on the back that I don't believe was part of Exhibit 29. They're not two-sided copies.

THE COURT: I understand.

MR. KEACH: And Exhibit 29 also has your own bate stamp on it as well.

MR. PRANGLE: You're correct. You're correct.

THE COURT: All right. And then of course you have the envelope with the files on the CDs.

So why don't you go ahead and continue to have this witness, see if he can identify what it is you have and lay any appropriate foundation.

BY MR. PRANGLE:

Q. John, I'm gonna hand you what we're gonna mark as Defendant's Exhibit A, and I'll ask you what is that?

A. That is a Las Vegas Metropolitan Police Department file that we received on May the 8th.

Q. Of 2013?

A. Of 2013.

Q. And there was some discs on there. Do

you know what's on the discs?

A. Photographs and the 9-1-1 call.

Q. When you say 9-1-1 call, like a transcript of it or an audio or what? If you know.

A. It's the original audio of the 9-1-1.

Q. Okay.

A. And then the photographs of Mr. Farmer.

Q. Okay. In terms of Exhibit 29, which is what we produced to plaintiff in the Doe case on October 27th of 2014, how, if at all, is Exhibit A different from Exhibit 29?

A. This one does not contain our bate stamps on the back of the -- each sheet. There's a stamp. And on the first page it says it's from Metro that says it's a hundred and 88 pages.

Q. Okay. Contained within Exhibit A, is there a copy of nurse Wolfe's statement?

A. There is not.

Q. Okay. On the discs is there either an audio or a transcript of nurse Wolfe's statement?

A. No.

Q. So again, was I correct or incorrect in saying that we received nurse Wolfe's statement on May 6th, 2013?

A. Incorrect.

that in the RC case or the Doe case?

A. The RC case.

Q. Do you have an understanding as to who else was provided a copy of Exhibit A, if anyone?

A. I do.

Q. And who was that?

A. Plaintiff's counsel was simultaneously given a copy of this as well as us.

Q. To your understanding -- or did you give the copy of Exhibit A to plaintiff's counsel in the RC case?

A. No. He had a copy himself.

Q. So to your understanding, he received it separately from Las Vegas Metro?

A. He did.

Q. Okay. Over the lunch, did you have a chance to review plaintiff's ECC supplements in the RC case?

A. I did.

Q. And did you have an opportunity to review their 15th supplement to the ECC?

A. I did.

Q. And what's contained -- not necessarily all of it, but as relevant to this, what's contained therein?

A. The copy of --

MR. KEACH: Objection, Your Honor. Document we've never seen, A; best evidence rule, B.

THE COURT: You're talking about the plaintiff's 15th supplement, not --

MR. PRANGLE: In the RC case.

THE COURT: In the RC case. Who's the plaintiff in --

MR. PRANGLE: It's Will --

THE COURT REPORTER: I'm sorry.

MR. PRANGLE: Will Lemkul. I think it's L-e-m-k-u-l. Or, Your Honor, I understand that I'm talking about some things that are not currently before the court. I would suggest to you the reason is because of, you know, the surprise that we had at the end of this morning.

And I'm embarrassed that I've been mistaken throughout the day in terms of when we got nurse Wolfe's statement, but I think this is important because I think the suggestion has been out there that we got Wolfe's statement and destroyed it.

THE COURT: It's -- you know what, if you don't have the actual -- if you have the actual document, then perhaps the court can take judicial

notice of it. But absent the actual document, the witness can't testify on what's in a document that's not before the court. I believe that would be barred based on best evidence rule and, and hearsay.

MR. PRANGLE: All right.

THE COURT: Because you're offering this witness to testify what is in a document that's not before the court and nobody has an opportunity to test the accuracy of this witness's memory of what's in that document.

MR. PRANGLE: Fair enough. So I guess given that, what I would ask of the court given the seriousness of this charge --

THE COURT: Uh-huh.

MR. PRANGLE: -- is that I can provide to the court plaintiff's 15th supplement to the ECC from the RC case in which plaintiff's counsel in the RC case discloses Exhibit A with his bate stamped numbers on it.

And I will tell you as an officer of the court it does not contain nurse Wolfe's statement.

THE COURT: Well, I can, I can look at that if it's produced to me, but I think we need the actual document, right? And you don't need -- if

we filed our lawsuit, information is lost. And that's not -- that's not beyond the realm of common knowledge. We know that six and seven years later people don't remember things and documents get lost and information gets lost. And that's what happened here.

What also is not in dispute, and the court will see when reviewing the deposition transcripts, is the hospital was fully aware of Christine Murray's statement in 2000 -- summer of 2008.

The hospital was fully aware of, of Margaret Wolfe's allegations and complaint and statements regarding what Ray Sumera had told her.

Now, whether they actually had physically a copy of the statement or not to me doesn't -- is irrelevant. The point is they knew the identity of a witness who had relevant information. They failed to disclose it at any point at time. That's a fact. That's a fact. There's nothing they can say to get around that fact.

They can make excuses, but the fact is 16.1 is mandatory, Your Honor. It requires the production of witnesses and a summary of their

testimony, a brief description of their testimony of all witnesses they know. And they knew them. It's not all -- Your Honor, let's --

THE COURT: I understand 16.1. I think what's important for the court to hear now is why the severe sanction of, you know, case terminating sanction would be appropriate under the circumstances as opposed to a less severe sanction, and, and if any sanction is warranted, what degree of willfulness is needed by counsel and -- and whether -- whether the hospital itself can be held responsible for its failure to disclose a statement to counsel, so they can produce it as part of 16.1.

MR. KEACH: Your Honor --

THE COURT: Those are some of the issues. And I have my, you know, general concept and answers of each of those, but I want to hear from you on that.

MR. KEACH: Your Honor, 16.1 requires the party to disclose the information. Now, I don't know what Hall Prangle does with their clients. I know what their -- I know what 16.1 requires them to do. It requires them to tell me that -- tell me everything you possibly know about this case, even remote stuff. Here are the issues. Did anybody,

as it is here because it goes directly to the issue.

THE COURT: So how do you know it wasn't disclosed in the RC case?

MR. KEACH: It hadn't -- it wasn't. I think they conceded that. They conceded that.

THE COURT: All right. All right.

MR. KEACH: As to the lawyers, they give --

THE COURT: There was, there was some reference to -- I guess there was an issued raised of whether defendant's firm should be disqualified, right?

MR. KEACH: Your Honor, our issue with that primarily rested on our belief that they didn't disclose. I mean, they have been telling -- they have taken the position that they were aware of Margaret Wolfe's statement when they got the police file in, in -- I mean, in May of 2013. And then they disclosed it in October 2014, and they disclose Margaret Wolfe.

I mean, to me that tied up the entire, the entire issue of, of their intent because if in fact they had that Margaret Wolfe statement as part of the police production and they didn't -- and that was the only thing that didn't -- wasn't

produced, well, I still don't have a witness saying we intended to hide the ball from you. That's pretty good circumstantial evidence that they're trying to hide that Margaret Wolfe ball.

THE COURT: Well, now that we have a pretty good idea that it wasn't in there.

MR. KEACH: We do -- we do have a pretty good idea, Your Honor, I will concede, that it wasn't part of the police production, okay. I accept that.

And so that kind of takes away because, to me, let's just assume a scenario that we ended before the lunch with which was they produce the police file, the police file contained Margaret Wolfe, and the only thing not produced was Margaret Wolfe. That's a pretty good smoking gun circumstantially to show that there's an intent by the firm to conceal the ball.

THE COURT: Well, actually you were suggesting to the court, too, and yet you had that police file and you could have known before we started this morning that the Wolfe statement wasn't in there.

MR. KEACH: Yeah, we did know the Wolfe statement wasn't in there.

where they got Margaret Wolfe's statement from, they don't know when they first had it.

Now, they have some suggestions as to when they could have got it. They certainly want to argue that they got it sometime in 2015, but for sure, they didn't get it from, from Mr. McBride's firm in that disclosure because that offer of proof just didn't hold water. It wasn't true. That wasn't produced then.

So now we're back to -- now we're back to the same point we were before. They have the Wolfe file, they have the Wolfe statement. They didn't get it from McBride, they didn't get it from the police.

So where did they get and when did they get it?

THE COURT: Well, I don't know that speculation on when the firm got it is enough for me to find fault in the firm.

MR. KEACH: Okay. I'll accept that, Your Honor.

THE COURT: So we're back to whether there's fault by the client Centennial.

MR. KEACH: Okay. I accept that. Except there are, there are -- there are other factors

MR. KEACH: They do.

THE COURT: If you had received the Murray statement on or about February 2013, this is already --

MR. KEACH: Yes.

THE COURT: -- five years, almost five years after the fact.

MR. KEACH: It's five years after the --

THE COURT: Wouldn't Murray's memory already have faded? And what additional harm did you suffer by, you know, in not getting the statement until almost two years later?

MR. KEACH: Okay. As to, as to the failure to disclose in 2013, either in February or in May, because regardless of whether they had the Wolfe statement in May, they had Christine Murray's statement in May and they didn't disclose that. I don't know how much more she would have remembered two years ago, okay. It's impossible to know that.

What I do know is they had an absolute duty to produce it. What I do know is an additional two years has lapsed. And what I do know is memories fade every day. And the passage of time is the worst thing for a memory.

So am I suggesting that everything I

could have gotten in 2009 I would have gotten in 2013? No, I'm not. Because I'm -- because realistically memories do fade.

So I'm going to assume, I'm gonna assume as for my own personal experiences I remember more last year, less two years, less three years, less four years and as a gradual thing.

Maybe -- maybe Christine Murray is different. Maybe she forgot it all after one year and, and she -- there would be no difference in 2013, 2015. The point is we don't know.

The point is we don't know what information Mr. Webster could have provided to us about that incident in 2013 that he couldn't provide in 2013. I don't know what the record keeping situation is at the hospital, and so I don't know the answer to that.

THE COURT: Okay.

MR. KEACH: I don't know who's come and gone.

THE COURT: I had to ask because you're asking for a very serious remedy and I just want to make sure I've considered all aspects of this.

MR. KEACH: I appreciate that, Your Honor.

MR. KEACH: -- the harm that was caused. We want to be candid with the court because we want to earn our credibility. Okay. You earn trust every day, just like I tell my kids.

The truth is what they concealed goes directly to foreseeability. I don't see it as much as the very task assigned or, or, or course and scope, but -- because that's not what Christine Murray was talking about and that's not what -- that's not what Margaret Wolfe and Ray Sumera were talking about. What I see them talking about was foreseeability.

And while I believe, Your Honor, that the conduct by the hospital was so egregious that the Answer should be stricken.

If the court does not believe that at the outer limits, which is basically where you need to be to strike the answer in terms of their misconduct, then at the very least what should happen is what they prevented us from doing we should get. And that's foreseeability.

Now, I don't want that. I want the answer to be stricken because I think it's appropriate. But -- and their, and their -- the court can impose liability as well. But the reality

is in this case foreseeability's really the issue. That is the issue. And that's what they concealed. And that's what, that's what -- that's what angers us because they had the information from day one that goes right to the heart of the case.

And we've been litigating for six years nonstop because, because the record will show that. And at the 11th hour we find out, oh, here's the information you got, but too bad, everybody's gone. Well, that's what happened.

And a fine doesn't rectify that, Your Honor, and striking the answer does.

THE COURT: All right. Thank you for your arguments, Mr. Keach.

MR. KEACH: Thank you, Your Honor.

THE COURT: All right. Mr. Prangle, we'd love to hear from you, sir.

MR. PRANGLE: Thank you, Your Honor.

THE COURT: Thank you.

MR. PRANGLE: There's one part of Mr. Keach's closing statement that I agree with wholeheartedly is that we earn credibility every day.

And that's why I'm as mortified as I am for --

Keach even in his opening statement this morning agreed that the touch stone or the key moment when their participation became relevant was when we got the statements. And I believe that's still true. The police statements.

Early on in the RC case, efforts were made to get the police file that included the statements. We were rebuffed. We couldn't get them. And that's why I don't believe, even though I think it's nurse Wolfe said that, or nurse Murray that Ms. Butler or Ms. Bochenek had the statement. I don't know how that can be true. I just don't know how that can be true.

The reality of the situation is that we get Murray's statement in an audio file apparently in February of 2013. So that's the first point in time based on statements that I believe I could be held to have done something with it.

And as John I think told you, we were getting ready for the RC case at the time, he didn't listen to the file. I mean, he didn't have the speakers, but we didn't take efforts to open it. I'm sure we could have if we wanted to, but we didn't. I never listened to the tape.

But then three months later is when

Butler, called us down after she read her statement. Yes. She talked to all of them. What do you mean she talked to all of them? Well, she talked to all the nurses who were involved in this.

THE COURT: This is the -- which depo are you reading?

MR. KEACH: That's Christine Murray, Your Honor. The actual portion we're talking about, I'm reading from, we actually have --

THE COURT: What page is that on?

MR. KEACH: It's actually page five of our brief I'm reading from, Your Honor.

THE COURT: Okay.

MR. KEACH: But it's page 61 of her depo.

THE COURT: All right, thank you.

MR. KEACH: And did you go through the statement with her? She asked me what happened. I told her what I knew. We didn't pick this up and go through it line by line like we are now. What she knew was -- I mean, she had read it.

Okay. Now, they say well, where'd they get it from? I say I don't know. I don't have to know.

THE COURT: Is knowledge of the director of nursing imputed to the corporation?

your time today.

MS. BROOKHYSER: Thank you, Your Honor.

THE COURT: Thank you.

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF THE PROCEEDINGS.

/s/ JoAnn Melendez
JO ANN MELENDEZ
CCR NO. 370

EXHIBIT 2

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO. 09-A-595780-C
DEPT. NO. II

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

DEPOSITION OF AMY BLASING, MSN, RN

1:00 p.m.
July 28, 2015
Williams & Associates
1608 Fifth Street, NW
Albuquerque, New Mexico

PURSUANT TO THE RULES OF CIVIL PROCEDURE, this deposition was:

TAKEN BY: MR. ROBERT E. MURDOCK
Attorney for the Plaintiffs

REPORTED BY: Dawn Redwine, RPR, CRI, NM CCR #165
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* * * * *

AMY BLASING, MSN, RN,
(being duly sworn, testified as follows:)

EXAMINATION

BY MR. MURDOCK:

Q. Would you please state your name for the record.
A. Amy Suzanne Blasing.
Q. Ms. Blasing, have you ever been known by any other names?
A. Yes. Amy --
Q. What other names?
A. -- Suzanne Bochenek, B-o-c-h-e-n-e-k.
Q. Okay.
A. And Amy Suzanne Sano, S-a-n-o.
Q. Okay. And have you ever had your deposition taken before?
A. I have.
Q. On how many occasions?
A. I think this is my fourth.
Q. When was your immediate prior deposition?
A. It was a deposition for Centennial Hills Hospital related to the Cagnina case.
Q. Okay. What was the deposition prior to that?
A. I believe it was also Centennial Hills Hospital, an EEOC, employee case.
Q. Is that the one you were sued in?

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overeager and that she felt uncomfortable. I'm using my own words, but that's paraphrasing.
Q. No, I understand.
Margaret also told you that Ray Sumera had come to her with concerns?
A. I don't know if she told us that or that was the report, I can't remember which, but that was a difference in their stories, as well.
Q. Well, what do you mean, "that was the report"? What report?
A. I don't know if that was what she told law enforcement or if that was what she told Carol. We got the story kind of secondhand.
Q. Well, how do you know she told law enforcement if you never saw the report?
A. It got back to --
Q. How did it get --
A. -- us somehow and --
Q. -- back to you?
MR. PRANGLE: Hold on. Hold on.
A. I can't remember the specifics.
MR. PRANGLE: Hold on. Let her --
Q. How did you find out before the report?
MR. PRANGLE: -- finish the answer. When that's done --

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A. I don't remember.
Q. Okay. So, in other words, you testified earlier today you've never seen a report, but now you know about the report.
A. I still haven't seen it.
Q. So tell me when the first time you found out about the report.
A. I couldn't tell you the details. I don't know if Margaret came and told us or if someone else did, but somehow it got back to us that Margaret had shared concerns with law enforcement. I don't -- I don't know that details were shared initially. And then we started talking about it with the team.
Q. Was that before you met with her in between May and August?
A. We became aware of it and then met with her, yes.
Q. Okay. But you -- as you sit here today, you have no idea how you became aware of it?
A. I can't remember. I don't want to guess.
Q. I don't want you to guess. Okay. So you have no idea how you became aware of it, but you actually became aware of the contents of it, as well. Right?
A. I became aware that she shared information. Contents of the police report, those are two different things to me.
Q. Well, you were aware, as you just told me before,

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that Margaret was saying that Ray came to her.
A. When she told the story of how she expressed the concerns, yes.
Q. When did she tell you that?
A. When we met with her and talked to her.
Q. Okay. So let's put it this way. As of August of 2008, you, as the Department of Emergency -- as the head of Department of Emergency Services at Centennial Hills Hospital, you were aware that Margaret Wolfe was alleging that Ray Sumera had come to her and expressed concerns about Ray Sumera. Is that correct?
A. She didn't express concerns about Ray Sumera.
Q. I'm sorry. I'm sorry. Let me restate the question. That was my bad.
In between May and August 1 of 2008, you, as the department -- as the head of the Department of Emergency Services at Centennial Hills, became aware that -- through Margaret Wolfe that Ray Sumera had come to Margaret Wolfe with concerns about Steven Farmer. Is that correct?
A. I don't remember the details enough to say if I heard that directly from her or from someone else. What I remember is that Margaret had expressed concerns to Ray. Who initiated the conversation, I don't know what I was told initially.
Q. Well, you already -- you just testified somehow you

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were aware that Margaret stated that Ray told her about concerns. Right? About Farmer.
A. I remember there being several different versions of the story. One was that --
Q. Okay.
A. -- Ray went to Margaret and initiated a conversation. The other was that Margaret went to Ray and initiated the conversation.
Q. Let's just keep those two for right now. Whatever it is, okay, those two versions, at least.
A. Yes.
Q. You knew those two versions as of August 1, 2008. Would you agree with that?
A. At some point within a few --
Q. Is that fair?
A. -- months if we say August. I -- I can't validate the date, but that sounds fair, yes.
Q. Okay. When was the first time you spoke with counsel about this matter?
A. Cagnina case?
Q. Any. I don't care.
A. I don't -- I don't know that I could tell you.
Q. Okay. Did you ever investigate -- You said you had two different versions here. Did you have each of them, Mr. Sumera and Ms. Wolfe, write down their respective versions?

Estate of Jane Doe vs. Valley Health System, et al.
Case No. 09-A-595780-C, Dept. No. II

DEPONENT SIGNATURE AND CORRECTION PAGE

If there are any typographical errors to your deposition, indicate them below.

PAGE LINE CORRECTION

Any other changes to your deposition are to be listed below with a statement as to the reason for the change.

PAGE LINE CORRECTION REASON FOR CHANGE

I, AMY BLASING, MSN, RN, do hereby certify that I have read the foregoing pages of my testimony as transcribed and that the same is a true and correct transcript of the testimony given by me in this deposition, except for the changes made.

_____ _____

DATE SIGNED AMY BLASING, MSN, RN

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO. 09-A-595780-C
DEPT. NO. II

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive,

Defendants.

REPORTER'S CERTIFICATE

I, DAWN REDWINE, RPR, CRI, NM CCR #165, DO HEREBY CERTIFY that on July 28, 2015, the deposition of AMY BLASING, MSN, RN, was taken before me at the request of, and the sealed original thereof was retained by attorney for plaintiffs:

Mr. Robert E. Murdock
KEACH MURDOCK
521 South Third Street
Las Vegas, NV 89101

I FURTHER CERTIFY that copies of this Certificate have been mailed or delivered to all counsel, and parties to the proceedings not represented by counsel, appearing at the

taking of the deposition.

I FURTHER CERTIFY that examination of this transcript and signature of the witness was requested by the witness and/or all parties present. On _____, a letter was mailed or delivered to the witness or his/her attorney regarding obtaining signature of the witness; and corrections, if any, will be appended to the original transcript, and copies sent to place in each copy of the deposition.

I FURTHER CERTIFY that the recoverable cost of the original and one copy of the deposition, including exhibits, to MR. ROBERT E. MURDOCK is $.

I FURTHER CERTIFY that I did administer the oath to the witness herein prior to the taking of this deposition; that I did thereafter report in stenographic shorthand the questions and answers set forth herein, and the foregoing is a true and correct transcript of the proceeding had upon the taking of this deposition to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules) any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

_____

Dawn Redwine, RPR, CCR, CRI
NM Certified Court Reporter #165
License Expires: 12/31/15

EXHIBIT 3

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF JANE DOE, by and through its Special Administrator, Misty Petersen, Plaintiff, vs. VALLEY HEALTH SYSTEM, LLC, a Nevada limited liability company, d/b/a CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; UNIVERSAL HEALTH SERVICES, INC., a Delaware corporation; AMERICAN NURSING SERVICES, INC., a Louisiana corporation; STEVEN DALE FARMER, an individual; DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive, Defendants.	Case No. 09-A-0595780-C DEPT. No. II

DEPOSITION OF CAROL BUTLER
June 19, 2015

APPEARANCES:

FOR THE PLAINTIFF:	ROBERT E. MURDOCK, ESQ. Murdock & Associates, Chtd. 521 South Third Street Las Vegas, NV 89101 rem@keachmurdock.com
FOR THE DEFENDANT, CENTENNIAL HILLS HOSPITAL MEDICAL CENTER:	MICHAEL E. PRANGLE, ESQ. Hall Prangle and Schoonveld, LLC 200 South Wacker Drive Suite 3300 Chicago, IL 60606 mprangle@hpslaw.com
FOR THE DEFENDANT, STEVEN DALE FARMER: (via telephone)	ASHLEY BALDUCCI, ESQ. Carroll, Kelly, Trotter Franzen, McKenna & Peabody 8329 W. Sunset Road Suite 260 Las Vegas, NV 89113 abalducci@cktfmlaw.com
FOR THE DEFENDANT, AMERICAN NURSING SERVICES, INC.:	S. BRENT VOGEL, ESQ. Lewis Brisbois Bisgaard 6385 So. Rainbow Blvd. Suite 600 Las Vegas, NV 89118 brent.vogel@lewisbrisbois.com
FOR THE DEFENDANT, AMERICAN NURSING SERVICES, INC.:	JAMES P.C. SILVESTRI, ESQ. Pyatt Silvestri 701 Bridger Avenue Suite 600 Las Vegas, NV 89101 jsilvestri@pyattsilvestri.com

PURSUANT TO WRITTEN NOTICE, the deposition of CAROL BUTLER, called for examination by the Plaintiff, was taken in a conference room at Carpenter Reporting, Inc., 12510 E. Iliff Avenue, Suite 120, Aurora, Colorado, on the 19th day of June, 2015, at the hour of 11:27 a.m., before Bonnie Carpenter, a Notary Public and Certified Shorthand Reporter in and for the State of Colorado, a Registered Professional Reporter, and Certified Realtime Reporter.

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CAROL BUTLER,

called as a witness for examination under the Rules, having been first duly sworn according to law, was examined and testified on her oath as follows:

EXAMINATION

BY MR. MURDOCK:

Q Would you please state your name for the record.

A Carol Butler.

Q Ms. Butler, have you ever had your deposition taken before?

A No.

Q Never?

A No.

Q Okay. You live in Denver right now; is that correct?

A Evergreen, actually.

Q Evergreen. Okay. And you're moving? That's my understanding.

A No. I'm not moving.

Q You've taken a job --

A I'm working the summer in Alaska, so I'm back and forth.

Q Where in Alaska?

At some point, did you obtain witness statements that nurses or staff members, CNAs or whoever might have given to the police?

A No. Police. No.

Q Do you remember a nurse by the name of Christine Murray? Does that name sound familiar?

A I do remember.

Q Do you remember speaking with Christine Murray about this incident?

A I don't remember specifically speaking with Christine about this incident.

Q Okay. Do you remember attending a meeting where you spoke with not just Christine Murray, but all the staff in one setting about this incident?

A All the staff ... you mean all the staff that might have witnessed this incident?

Q Yeah. Yes.

A I -- I guess I would assume that those were the people that were present for the sentinel event meeting.

Q Okay. And the reason I'm asking you that is -- let's mark this.

(Exhibit 1 marked.)

MR. VOGEL: What are you looking at, Rob?

MR. PRANGLE: It's Christine Murray's.

Q (BY MR. MURDOCK) Showing you what's been marked as Plaintiff's Exhibit 1, have you ever seen that document before?

A I don't recall ever seeing this document before.

Q (BY MR. MURDOCK) Okay. Christine Murray testified under oath, quote, The director of nursing called me down and we talked about this, too, after I talked to the police. When she got a copy of this, I talked to her. And this -- she's talking about her report, by the way -- or this statement, Plaintiff's Exhibit 1.

A Okay.

Q So does that refresh your recollection a little bit?

A No.

Q Okay.

"Question: Who was the director of nursing at the time?"

She answered:

"I really don't know."

"Question: But the director of nursing called you down after she read the statement; is that correct?

"Answer: Yes. She talked to all of us.

"What do you mean, she talked to all of you?

"Answer: She talked to all of the nurses that were involved in this."

Does that refresh your recollection at all?

A If she means I talked to them all individually or in the meeting --

Q I can't help you there.

A Yeah.

Q I don't know. I'm just -- just take a look at the statement. You don't recall ever receiving -- seeing that?

A No.

Q I know I asked you this, but I can't remember. Short-term memory. Did I -- do you remember who Christine Murray was?

A I know she was a nurse in the facility.

Q Do you ever recall speaking with her about this incident at all with Ms. Cagnina?

A I don't recall.

Q I'm just trying to figure out why she would say she met with you and you just don't recall it. Can you -- can you give me any help on that?

a look and read through pages 14 through 16 of that statement. Maybe that will refresh your recollection a little bit.

A (Deponent reviewing exhibit.)

So I'm --

MR. PRANGLE: Wait for a question.

Q (BY MR. MURDOCK) Does that refresh your recollection --

A Refresh my recollection?

Q -- of speaking with Ms. Murray about this incident?

A No.

Q Does that refresh your recollection as to whether or not you reviewed that incident -- that transcribed witness statement before today?

A No.

Q So, just so I'm clear, today, June of 2015 is the first time you are ever seeing that witness statement; is that right?

A As far as I recall, yes.

Q Do you recall speaking with Ms. Murray at all?

A I do not recall speaking with Ms. Murray specifically, no.

Q Do you recall that she was part of the

A Not at the time that this was going on, no.

Q When did you hear about it?

A I -- I don't recall when I first heard about it.

Q Did you hear about when there was a preliminary hearing?

A I heard that there were additional people who had come forward and said that prior to Ms. Cagnina, they felt like there had been inappropriate actions on Mr. Farmer's part.

Q Okay.

A I didn't know any details of that.

Q Did you ever ask anybody about any details about that?

A No.

Q Did you ever try and find out who the nurses were involved in something like that?

A Again, that was up to quality and risk management to do that investigation.

Q I understand that, but these were your nurses. These were your staff. Wouldn't you want to know?

A If there were nurses who -- yes, to the degree that those were questions I asked Amy Bochenek

and the quality and risk manager at the time --

Q Okay.

A -- if there were people who had knowledge of these incidents or had witnessed anything that had not come forward to raise the red flag, and what I was told was that no, no one had witnessed anything and that no one had knowledge of inappropriate actions on his part.

Q Well, in May of 2008, Ms. Wolfe gave a statement to the Las Vegas Metropolitan Police Department. Are you aware of that?

A I think I became aware of it at some point. Someone informed me of that.

MR. SILVESTRI: Can you read back the question, please? I'm sorry.

(The referred-to question was read by the reporter.)

MR. SILVESTRI: And the answer?

(The referred-to answer was read by the reporter.)

Q (BY MR. MURDOCK) When was that?

MR. PRANGLE: Again, he doesn't want to know anything that I told you.

Q (BY MR. MURDOCK) Not in the past couple of weeks, but before the past couple weeks, were you

aware of that?

A I think someone told me after she gave a statement that a statement had been made.

Q Okay. Did you ever talk to her about the statement?

A I don't recall talking to her about the statement.

Q But you knew she had given a statement? It was pretty close to the time that she gave a statement; correct? I mean, she gave it to -- if she gave it on May 30, 2008, would you agree with me that you found out that she gave a statement about the incident, let's say, by August 1, 2008? Would that make sense?

A Probably.

Q Okay. That would make sense; right?

A Yes.

Q It's more likely than not; correct?

A Correct.

Q Okay. Ms. Wolfe stated in her statement Ray Sumera had told me to watch Steve Farmer around her female patients. Do you remember that?

A No. I do not.

Q She said that Ray Sumera was concerned because he was very overly attentive to female patients

and very anxious to connect them to the monitors and disconnect -- and disconnect them from the monitors, which would require him to reach into their clothing. Are you aware of that?

A No.

Q Okay. You never asked to see the statement; right?

A No, I did not.

Q But you knew she had made a statement; right?

A I knew she had made a statement.

Q By August 1 of 2008, you knew she had made a statement?

A Sure.

(There was a discussion off the record.)

Q (BY MR. MURDOCK) Do you know what a shift report is?

A Yes.

Q Were there notes taken at shift reports?

A Yes.

Q What happens to those notes? Are they thrown out?

A Usually, at the end of the shift.

Q They're thrown out?

A Because they are notes simply from one

pre-huddle?

A There was a handoff between the two charge nurses.

Q That's what it's called? The handoff?

A Uh-huh.

Q Okay. Try and let me finish my question. I know you're anticipating it, but our court reporter -- we're going to try and be kind to her without taking down two of us speaking at the same time.

The statement that -- that Ms. Wolfe gave that somebody told you about -- I mean, they told you she gave a statement to the police; right?

A Correct.

Q And it just -- you would ask -- wouldn't you ask your nurses, What did you talk to the police about?

A I asked Amy Bochenek and -- because my concern was, again, did someone know something prior to this. Her response to me was that Margaret had some vague concerns about him being overly attentive to women. And again, I said, Okay, who did she tell? And --

Q Did she tell you she told the police?

A I asked Amy, Did you ever hear about

this prior to this? And she said no.

Q She told you she told the police? Amy said that?

MR. PRANGLE: Amy said Amy told the police?

Q (BY MR. SILVESTRI) Did Amy tell you that Margaret told the police that?

A Amy told me that Margaret had made that statement to her.

Q Oh, to her. Okay. And did she tell you when she had made that statement to Amy?

A It was after Ms. Cagnina had complained and we had already started the police investigation. So -- and that was my question to Amy was had you ever heard about any of this prior to this? And she said no.

Q Was there some reason you didn't just call Ms. Wolfe in and ask her directly? You're the director of nursing.

A Again, the internal investigation was being handled by -- by risk and quality management.

Q But this was a different investigation, wasn't it? This was concerns that, now, you're hearing that one of your nurses have and you're the director of nursing. Would it not have been appropriate for you

C E R T I F I C A T E

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

I, Bonnie Carpenter, duly appointed to take the deposition of CAROL BUTLER, do hereby certify that previous to the commencement of the examination of the said above-named Deponent, she was first by me duly sworn to testify the truth, the whole truth and nothing but the truth touching and concerning the matters in controversy between the parties hereto, so far as she should be interrogated concerning the same;

That said deposition was stenographically reported by me at the time and place heretofore set forth, and was reduced to typewritten form under my supervision as per the foregoing;

That the foregoing is a true and correct transcript of my shorthand notes then and there taken;

That after the deposition was transcribed, the same was submitted by letter to the Deponent for reading and signing, a copy of which is hereto annexed;

That I am not kin or in anywise associated with any of the parties to said cause of action or their counsel and that I am not interested in the event thereof;

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2015.

_____
Bonnie Carpenter
12510 East Iliff
Suite 120
Aurora, CO 80014