

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 07, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
 vs.
 Jared Awerbach, Defendant(s)

May 07, 2014 10:30 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Rodriguez, Darren T.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Lily Compton, out of state counsel also present.

Court states that at the last ruling it did not intend a complete reopening of all of the discovery parties could do, it was sixty days to do a quick overlook so counsel could defend their clients and nothing more. Court further stated it was inclined to set trial today, motions in limine would be heard one week before trial, and deadlines would be two weeks prior to that; counsel can make the decision who their witnesses are, however, the Court is only allowing the late designations and they will still be subject to the motions in limines whether or not they will be allowed to testify. Colloquy regarding availability for trial and available dates, requested discovery, requested depositions, and limitation of the discovery. Matter trialed for counsel to obtain a firm trial date from Court's Judicial Executive Assistant.

MATTER RECALLED: COURT ORDERED, matter SET for firm trial date. Court stated it will enter a new scheduling order. Due to the amount of time until trial COURT FURTHER ORDERED, discovery WILL BE reopened completely on both sides, Court will issue an order that gives new

discovery deadlines, new expert designations, and new rebuttal designations deadlines. Mr. Smith stated his objection for the record. Court stated its previous ruling stands, Court will still control all the motions in limine, discovery issues will need to go to the discovery commissioner, and counsel on both sides should be prepared to handle discovery issues on shortened time. Court further stated she would notify the Discovery Commissioner. Upon inquiry by Mr. Mazzeo, Court stated the motion in limine could be set two to three weeks prior to trial and counsel can set that date with Court's Judicial Executive Assistant on a non-judicial date. Mr. Strassburg noted that Plaintiff's Motion to Strike Defendants' Untimely Expert Tami Rockhold and Request for Monetary Sanctions on OST is set on a future calendar for the Discovery Commissioner. Mr. Smith stated he will vacate that as it is moot now. Upon further request for clarification from counsel, Court stated Plaintiff will be able to depose Ms. Awerbach, discovery is reopened on both sides and the order can contain the appropriate language, Court will not limit the deposition of Ms. Awerbach due to the prejudice of Plaintiff having to wait till February for trial; the order that defense counsel is to carry the expense for additional discovery for the new witnesses will remain in effect with the amount to be allocated between counsel 50/50 which will be subject to reallocation after trial; and Court will handle dispositive issues and the exclusion of witnesses, however remaining discovery issues will remain with the discovery commissioner. Court further stated that today's ruling did affect Court's prior ruling and the order should so reflect that, if parties cannot agree on the form of an order they should provide completing orders and the Court will either sign one or set a telephonic to address the objections. Mr. Mazzeo to prepare the order and submit it to the other counsel for approval as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 17, 2014

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

June 17, 2014 1:00 PM Telephonic Conference

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Lily Compton, Esq., out of state counsel also present. All counsel present telephonically.

Arguments by Mr. Smith, Mr. Strassburg, and Mr. Mazzeo regarding dispute regarding competing orders for the hearing on objections to the Discovery Commissioner's report and recommendations and whether or not Defendants are to pay for travel costs of the Plaintiff s counsel. Court stated it is not reconsidering what was previously ordered and will be signing Plaintiff's order with one interlineation, Court did indicate reasonable discovery expenses would all be paid by Defendant, Plaintiff should not travel first class, Defendant will not dictate what flight the Plaintiff flies on, and Plaintiff will fly at their convenience. Order SIGNED AND FILED IN OPEN COURT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****June 20, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

June 20, 2014	9:30 AM	Motion for Protective Order	Pltf's Motion for Protective Order Quashing Jared Awebach's Subpoena on Pacific Hospital of Long Beach in Part
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Patti Slattery**REPORTER:****PARTIES**

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Commissioner does not accept courtesy copies by fax. Mr. Strassburg had trouble with e-filing; copy provided to Commissioner in Open Court. Colloquy re: status of Subpoena domesticated and served in California. Commissioner does not have jurisdiction, and Subpoena and Motion must be addressed in California. Colloquy re: the Fiesta Palms case (130 Nevada Advanced Opinion 46). Arguments by counsel.

Counsel can obtain public records, but Commissioner will NOT REQUIRE compliance by a health care provider to turn over billing records on every patient in the Hospital; 1) HIPAA issue and confidentiality on other patients; 2) Hospital is in California. However, Commissioner REQUIRES all medical documents and bills related to this case disclosed; further, disclose other documents re: hardware implanted in Pltf in this case.

Mr. Mazzeo requested a continuance until July 9, 2014. Commissioner advised counsel whoever served the Subpoena must contact the Hospital as there is an Objection to Subpoena, and the Hospital is not to provide documents until the Objection is heard.

COMMISSIONER RECOMMENDED, motion is CONTINUED; all Motions moved to July 16, 2014. If counsel receive documents from the Hospital, hold documents until the Court rules on the issue. Commissioner expects everyone honor their obligations under the rules of professional responsibility as indicated today. Commissioner suggested counsel follow up with the Hospital. Commissioner advised counsel have a serious discussion re: how to deal with damages at Trial, and the fraud argument at Trial (review the Tri Vista case).

7/16/14 10:00 a.m. Pltf's Motion for Protective Order

7/16/14 10:00 a.m. Deft Andrea Awerbach's Motion to Compel Independent Medical Examination on OST and Pltf's Motion for Protective Order (reset from 7-9-14)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 16, 2014

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

July 16, 2014 10:00 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Rodriguez, Darren T.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Plaintiff's Motion for Protective Order Quashing Jared Awerbach's Subpoena on Pacific Hospital of Long Beach in Part Deft Andrea Awerbach's Motion to Compel Independent Medical Examination on OST Pltf's Motion for Protective Order Pltf's Motion for Protective Order Quashing Jared Awerbach's Subpoenas on (1) Cigna; (2) National Intraoperative Monitoring; (3) Molina Healthcare; (4) College Health Enterprises; (5) Spinal Solutions, Inc.; (6) Aliante Hotel and Casino, In Part; (7) Crowder Manufacturing; (8) Division of Healthcare Financing and Policy; and (9) West Coast Surgery Center Mgmt., Inc. on OST Deft Andrea Awerbach's Motion for Protective Order on OST Pltf's Motion for Protective Order Quashing Deft Jared Awerbach's Deposition Subpoena Directed to Pltf's counsel on OST Deft Jared Awerbach's Motion to Compel Independent Medical Examination of Pltf

Mr. Strassburg provided two courtesy copies to Commissioner before court.

Since the last hearing, Mr. Smith stated counsel for Jared Awerbach had discussions with Pacific

Hospital's counsel, and they filed a Motion in California to Quash the entire Subpoena. Colloquy re: Rule 45. COMMISSIONER RECOMMENDED, the Subpoena to Pacific Hospital of Long Beach in Part is QUASHED; Plaintiff's Motion for Protective Order Quashing Jared Awebach's Subpoena on Pacific Hospital of Long Beach in Part is GRANTED IN PART; Defense is ENTITLED to Pltf's medical records and bills; the Court in California can have that information when trying to make a Decision. Arguments by counsel.

Colloquy re: the amount of bill reduced to a lien. Commissioner suggested putting the lien into evidence at Trial, and have the Doctors testify to reasonable and necessary charges. Colloquy re: Notice of Petition and Petition filed in Dept. 27 (nothing in Odyssey). Colloquy re: seven procedures were not performed on Pltf in this case; however, if this particular billing record involves this Pltf, counsel can have the information. Colloquy re: eight sections in Subpoena.

COMMISSIONER RECOMMENDED, A) is fine; C) is DENIED and QUASHED; I) is fine; J) can have all information for hardware used on this Patient and serial numbers associated with hardware (only related to actual hardware used in this case). Commissioner advised counsel the hardware in this Pltf has not failed. Argument by Mr. Strassburg. COMMISSIONER RECOMMENDED, K) is QUASHED as its not coming into evidence; M), N), O) are QUASHED. COMMISSIONER RECOMMENDED, Plaintiff's Motion for Protective Order Quashing Jared Awebach's Subpoena on Pacific Hospital of Long Beach in Part is GRANTED IN PART.

Counsel agreed to a Functional Capacity IME: discussion re: a second examination with Dr. Elkanich. Colloquy re: if Pltf's surgery was successful.

COMMISSIONER RECOMMENDED, Deft should have the opportunity for one more exam on Pltf's physical condition under the facts and circumstances (Dr. Elkanich or another Examiner -- no x-rays / get updated films). Mr. Smith objected to another Examiner. Colloquy re: cumulative evidence. COMMISSIONER RECOMMENDED, a second Rule 35 exam is GRANTED. Colloquy re: a Functional Evaluation Capacity IME, and the Supreme Court case from July 10, 2014 (Leavitt); Evaluation must be someone else not associated with Matt Smith. COMMISSIONER RECOMMENDED, Deft Andrea Awerbach's Motion to Compel Independent Medical Examination is GRANTED; Deft Jared Awerbach's Motion to Compel Independent Medical Examination of Pltf is GRANTED.

If something is unethical, Mr. Strassburg can contact the State Bar. Colloquy re: having a Stipulated fact that Pltf did not fail to return to work because of her physical condition. COMMISSIONER RECOMMENDED, Adam Smith will not be deposed, and privilege is PROTECTED. Arguments by counsel. Colloquy re: Pltf's employment status. COMMISSIONER RECOMMENDED, include additional provision re: why Pltf left her employment; there must be a finding that Pltf's separation was related to Pltf's second violation of the anti-harassment policy, and the basis was not her physical condition. Arguments by counsel.

Colloquy re: deposing Pltf on this issue. COMMISSIONER RECOMMENDED, let Pltf answer the

question whether her Attorney told her to fill it out; Motion for Fees and Costs for this Motion are DENIED; include language and finding re: Pltf's termination in Report and Recommendation; Pltf's Motion for Protective Order Quashing Deft Jared Awerbach's Deposition Subpoena Directed to Pltf's counsel is GRANTED, but alternative relief is provided; the Court will decide whether to put information into a Stipulation for the Jury.

COMMISSIONER RECOMMENDED, Pltf's Motion for Protective Order Quashing Jared Awerbach's Subpoenas is GRANTED IN PART; obtain medical records and bills, but Subpoena is QUASHED in all other respects; (1) Cigna Subpoena is QUASHED; (2) National Intraoperative Monitoring - Subpoena records, bills, and treatment, but Subpoena is QUASHED in all other areas; (3) Molina Healthcare is QUASHED; (4) College Health Enterprises Subpoena is QUASHED; (5) Spinal Solutions, Inc. is QUASHED; (6) Aliante Hotel and Casino Subpoena - turn over records to Pltf, but PROTECTED under Rule 26(c); if documents are filed, Commissioner will issue a four figure sanction; (7) Crowder Manufacturing Subpoena is QUASHED; (8) Division of Healthcare Financing and Policy Subpoena is QUASHED; and (9) West Coast Surgery Center Subpoena is QUASHED.

Arguments by counsel. Colloquy re: modifying the Subpoena to identify specific providers for five years (back / spine); the Doctor signed a Declaration. COMMISSIONER RECOMMENDED, the Cigna SUBPOENA IS MODIFIED - ask for any type of pre-existing health care records and health care providers for five years prior to date of accident LIMITED to injuries Pltf claims in this accident (back pain, spinal pain, treatment for spinal condition). Send a letter advising counsel the Subpoena was modified.

Counsel must check Medicaid liens. COMMISSIONER RECOMMENDED, Pltf's Motion for Protective Order (US Bancorp.) is GRANTED, Subpoena is QUASHED. Argument by Mr. Rodriguez. COMMISSIONER RECOMMENDED, Deft Andrea Awerbach's Motion for Protective Order is GRANTED; Commissioner will issue a sanction if she sees this request again; turn records back over to Defense counsel (maintain records in file). Colloquy re: Subpoena to DMV for Andrea Awerbach, and Jared Awerbach's age. Mr. Rodriguez is not putting Andrea Awerbach's character into evidence. COMMISSIONER RECOMMENDED, prior to this accident, DMV records may be calculated to lead to the discovery of admissible evidence.

Commissioner advised counsel contact Pacific Hospital of Long Beach re: recommendations. Colloquy. Commissioner advised Defense counsel submit individual Report and Recommendations, but report must cover the entire recommendation.

Mr. Smith to prepare the Report and Recommendations, and Defense counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Smith to appear at status check hearing to report on the Report and Recommendations.

8/15/14 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 22, 2014

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

August 22, 2014 9:00 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Alan Castle

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT:	Eschweiler, Corey M.	Attorney
	Henderson, Craig A.	Attorney
	Rodriguez, Darren T.	Attorney

JOURNAL ENTRIES

- Deft Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance With Subpoena Duces Tecum ... Deft Andrea Awerbach's Joinder in Deft Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum ... Defendant Andrea Awerbach's Motion to Compel Production of a Medical Record Release Authorization for Dr. Cheryl Brewer on Order Shortening Time ... Pltf's Motion to Compel Rule 35 Psychiatric Examination of Deft Jared Awerbach on Order Shortening Time

Lily Compton, Esq. Pro Hac Vice, counsel for Defendant Jared Awerbach present. Lewis Garfinkel, Esq., counsel for Non-Party Canyon Medical Billing also present. Colloquy regarding location and manner of surgery. COMMISSIONER RECOMMENDED, Deft Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance With Subpoena Duces Tecum; and, Deft Andrea Awerbach's Joinder in Deft Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum is DENIED. COMMISSIONER Finds Dr. Brewer was deposed twice, and unless there is something known that makes it relevant, Plaintiff was not treated by Dr. Brewer for these injuries and RECOMMENDED, Defendant Andrea Awerbach's Motion to Compel Production of a Medical Record Release Authorization for Dr. Cheryl Brewer is DENIED. Colloquy regarding

out-of-state doctor. Discovery Commissioner Finds Rule 35 examination must take place in Nevada. Further, the Discovery Commissioner cannot order rule 35 examination for a doctor who is not licensed in Nevada. COMMISSIONER RECOMMENDED, Plaintiff's Motion to Compel Rule 35 Psychiatric Examination of Deft Jared Awerbach is GRANTED; FURTHER, examination must take place in Clark County, Nevada, and performed by a health provider who is otherwise qualified and licensed to perform services in Clark County, Nevada. Mr. Eschweiler to prepare the Report and Recommendations, and Mr. Henderson, Mr. Rodriguez, Ms. Compton, Mr. Garfinkel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Eschweiler to appear at status check hearing to report on the Report and Recommendations.

9/26/14 11:00 a.m. Status Check: Compliance - Report and Recommendations

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 05, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

**November 05, 2014 3:00 AM Minute Order Minute Order:
Motions set
11/13/2014
CONTINUED to
11/19/2014**

HEARD BY: Allf, Nancy **COURTROOM:**

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that a hearing on Plaintiff s Motion to Strike Defendants Expert Witnesses, filed on Order Shortening Time, was set for November 13, 2014 at 10:00 a.m. and Defendant Andrea Awerbach s Limited Opposition to Plaintiff s Motion to Defendants Expert Witnesses and Countermotion for Sanctions was set for November 13, 2014 at 9:30 a.m.

COURT ORDER for good cause appearing and after review of the file the hearings set for MOTIONS CALENDAR on November 13, 2014 CONTINUED to November 19, 2014 at 10:00 a.m. due to a scheduling conflict.

CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell Resnick, Lily Compton (702-997-3800); Adam Smith (702-933-7043); and Petter Mazzeo, Esq. (702-870-3940)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 18, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

November 18, 2014 9:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO STRIKE DEFENDANTS' EXPERT WITNESSES (1) DR. GREGORY BROWN; (2) DR. MELVIN POHL; I(3) DR. DANIEL SHIODE; (4) DR. RUSSELL SHAW; (4) DR. JOSEPH WU; (6) DR. RAYMOND KELLY; (7) DR. DAVID BEARMAN; (3) DR. GREG KANE; (9) TONY CORROTO; (10) CHIP SIEGEL; (11) DR. MICHAEL KLEIN; AND (12) DR. CURTIS POINDEXTER OR, ALTERNATIVELY, TO EXTEND REBUTTAL EXPERT WITNESS DEADLINE ON ORDERSHORTENINTIME; AND REQUEST FOR LEAVE TO FILE EXTENDED MEMORANDUM OF POINTS AND AUTHORITIES...DEFENDANT ANDREA AWERBACH'S LIMITED OPPOSITION TO PLAINTFF'S MOTION TO STRIKE DEFENDANTS' EXPERT WITNESSES AND COUNTERMOTION FOR SANCTIONS AGAINST PLAINTIFF

Mr. Smith advised he submitted a supplemental reply yesterday. Court stated it has been in trial and was not able to review the supplemental. Arguments by counsel regarding experts that are irrelevant and cumulative, applicable statutes, additional discovery needed with the cumulative witnesses. Court stated its findings noting it is only considering the motion as a motion to strike, COURT ORDERED, motion GRANTED IN PART, DENIED IN PART as follows, subject to further refinement in motion to limines and pretrial motions, with regard to designations, only Jared Awerback may

designate someone to respond to the conclusion in the metro report and may designate someone to testify as to physical and mental history, to the extent it may be relevant to his defense; with regard to Andrea Awerbach, she may designate the four doctors now so Plaintiff can determine what, if any, further discovery is needed; Court will not allow any cumulative testimony at the trial; with regard to the issue of Dr. Elkanich, Court is not inclined to deal with this issue on an order shortening time and will be deferred until pretrial motions and motions in limine. Court stated it will hold counsels' feet to the fire regarding going to trial in February and counsel are to email or fax the designations to Plaintiff by Wednesday, November 26, at noon. COURT ORDERED, status check SET, if matter is resolved as to date and designation then counsel can reduce it to writing and notify the Court. Mr. Strassburg stated there is more than one witness qualified to review the metro report. Court directed Mr. Strassburg to determine which is the most relevant witness. Mr. Strassburg inquired if the witness they choose can rely on the consultation he has had with the other experts. Court stated it will enforce all the rules of evidence with regard to scope and the basis of the conclusions made by experts.

12/3/2014 9:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 21, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

November 21, 2014	9:30 AM	Motion to Quash	Pltf's Motion to Quash Deft Andrea Awerbach's Subpoenas Dces Tecum on (1) Las Vegas Skin and Cancer Clinic and (2) Dr. Karl G. Heine on OST
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HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Colloquy re: Pltf's medication has multiple uses. Upon Commissioner's inquiry, Mr. Smith stated Pltf does not have a diagnosis of rheumatoid arthritis. Commissioner can review information in camera. Arguments by counsel. COMMISSIONER RECOMMENDED, motion is GRANTED. 2011 case; 2/27/15 Trial date STANDS.

Mr. Smith to prepare the Report and Recommendations, and Mr. Mazzeo to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Smith to appear at status check hearing to report on the Report and Recommendations.

12/19/14 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****December 03, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
 vs.
 Jared Awerbach, Defendant(s)

December 03, 2014 9:30 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Mr. Smith stated Mr. Strassburg has made his designations, however, due to communication issues between the offices he did not see the designations until this hearing and he is now aware of the designations. Mr. Smith further stated that due to the communication issues he has lost another week for rebuttal and although he has not had time to finish the reading the email from Mr. Strassburg he has some concerns regarding the second half indicating that one of the experts is going to rely on the opinions of all the other stricken experts. Mr. Strassburg stated that he did also fax the email to Mr. Smith and he has made every effort to comply with Court's order. Mr. Strassburg further stated that experts are allowed to rely upon other experts who's opinions are not in evidence. Colloquy regarding subpoena for Dr. Wu, Dr. Wu's request for a confidentiality agreement, and rebuttal experts Dr. Bearman and Mr. Brown. Court deemed the status check satisfied. Due to the communication issues, Court DIRECTED Mr. Strassburg to fax to Plaintiff's counsel by 5:00 p.m. today any email communication he has had with Plaintiff's counsel since the last hearing on November 18, 2014 so there is no confusion; with regard to the rebuttal witness for Plaintiff, the deadline is extended to December 12, 2014 for all the witnesses with the exception of Dr. Bearman. COURT ORDERED, matter SET for STATUS CHECK on December 10, 2014 regarding Dr. Bearman.

12/10/2014 9:00 AM STATUS CHECK: DR. BEARMAN

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 09, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

**December 09, 2014 3:00 AM Minute Order Minute Order:
Motions set
12/10/2014
CONTINUED to
12/17/2014**

HEARD BY: Allf, Nancy **COURTROOM:**

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that Motions to Exclude Defendants Expert Witnesses were filed on OST on November 26, 2014 with a hearing set for December 10, 2014 at 9:00 a.m. COURT FURTHER FINDS after review that the parties have agreed to move the hearing date to December 17, 2014 at 9:30 a.m.

COURT ORDERS for good cause appearing and after review the hearing set for Motions Calendar on December 10, 2014 at 9:00 a.m. CONTINUED to December 17, 2014 at 9:30 a.m.

CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell Resnick, Lily Compton (702-997-3800); Adam Smith (702-933-7043); and Petter Mazzeo, Esq. (702-870-3940)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****December 12, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 12, 2014	9:30 AM	Motion to Quash	Non-Party Movant Liberty Mutual Insurance Company's Motion to Quash and Request to Vacate on an Order Shortening Time
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Alan Castle**RECORDER:** Richard Kangas**REPORTER:****PARTIES**

PRESENT:	Gould, David M.	Attorney
	Green, Andrew	Attorney
	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Colloquy regarding how subpoena got issued in Arizona. COMMISSIONER FINDS procedurally the process was not properly followed for this case. Discovery Commissioner Finds Movant will have to go to Arizona Court to quash the subpoena. Colloquy regarding domestication of the Arizona subpoena. Discovery Commissioner Finds this issue will be handled substantively today. Colloquy regarding out-of-state commission. COMMISSIONER RECOMMENDED, Non-Party Movant Liberty Mutual Insurance Company's Motion to Quash Subpoena and Request to Vacate Deposition is DENIED WITHOUT PREJUDICE; FURTHER RECOMMENDED, Alternate Relief is granted. Upon inquiry of the Discovery Commissioner, Mr. Green indicated the claims notes, pre-litigation claims files have not been turned over. Further, part of the meet and confer was to address

what portions of the claims file was being requested and what information in terms of notes related to this issue. Colloquy regarding admissibility. Mr. Mazzeo indicated that he spoke with Liberty Mutual co-counsel, and was advised that the subpoena Duces Tecum was complied with last week and that is the basis for Plaintiff's motion to strike Defendant Andrea Awerbach's Answer. Colloquy regarding claims note(s) in question. Arguments by counsel. Discovery Commissioner admonished counsel regarding following the rules of evidence. COMMISSIONER FINDS the deposition of Theresa Meraz (sp.) will go forward and RECOMMENDED, the deposition will be limited to the one note in question, question(s) limited to the issue of permissive use; and, a two (2) hour time limit. Discovery Commissioner notes the testimony is limited to that one note and any of the statements made by either of the Defendants of use of vehicle or permissive use by Defendant Jared Awerbach contained in the Liberty Mutual Records. Mr. Green to prepare the Report and Recommendations, and Mr. Smith, Mr. Mazzeo to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Green to appear at status check hearing to report on the Report and Recommendations.

01/09/15 11:00 a.m. Status Check: Compliance - Report and Recommendations

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 17, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 17, 2014 9:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Kolkoski, Danielle A, ESQ Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO EXCLUDE DEFENDANTS' EXPERT WITNESS TAMARA G. ROCKHOLD ON ORDER SHORTENING TIME...PLAINTIFF'S MOTION TO EXCLUDE DEFENDANTS' EXPERT WITNESS IRVING SCHER ON ORDER SHORTENING TIME...STATUS CHECK: DR. BEARMAN

Arguments by Mr. Smith and Mr. Strassburg regarding merits and opposition to Plaintiffs ' Motion to Exclude Defendants' Expert Witness Irving Scher on Order Shorting Time. COURT ORDERED, motion DENIED WITHOUT PREJUDICE, however, his testimony will be limited, a foundation will have to be laid, and his areas of expertise will need to be defined; Court will limit testimony to those issues and conclusions in the report; scope to be determined at the time of trial. Arguments by Mr. Smith, Mr. Strassburg, and Ms. Kolkoski regarding Plaintiff's Motion to Exclude Defendants' Expert Witness Tamara G. Rockholt on Order Shortening Time. Upon inquiry by the Court, Mr. Smith stated he will not conclude the depositions before they return to Court on December 24th. COURT ORDERED, motion GRANTED IN PART, DENIED IN PART, Tamara Rockholt will not be excluded at this time as there is a prima facie showing that she can be qualified as an expert witness, to the extend she is asked to quantify what the Defendant claims was medically unnecessary treatment, that

would be allowable, however, Court will not allow cumulative testimony. Mr. Smith to prepare the orders and submit them to opposing counsel for approval as to form and content. As to Mr. Bearman, Mr. Smith stated with regard to his opinions regarding police departments conclusions, they can respond to those by the end of the next week, however, if he is going to parrot Dr. Wu's opinions he cannot respond as he does not have complete information and cannot obtain an expert until he knows the scope of Mr. Bearman's testimony and documentation. Upon inquiry by the Court, Mr. Smith stated this is a threshold issue. Colloquy regarding moving Motion to Strike to another hearing date. Mr. Strassburg stated it seemed reasonable to dispose Mr. Bearman prior to the hearing, Dr. Bearman's deposition is not set until January 5th, and it would be appropriate to move the motion to January 15th. Upon inquiry by the Court, Mr. Smith stated they need to resolve the motion before they depose Mr. Bearman. COURT ORDERED Plaintiff's Motion to Strike December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. David Bearman on Order Shortening time set December 24, 2014 CONTINUED to December 30, 2014 at noon; parties may appear telephonically. Upon inquiry by Mr. Smith, Court confirmed rebuttals will not be due until after the hearing.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 23, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 23, 2014 3:00 PM Telephonic Conference

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Kolkoski, Danielle A, ESQ Attorney
 Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- Mr. Strassburg stated the purpose of the call is to request an extension of a number of deadlines. Mr. Strassburg requested the response on dispositive motions be extended to January 9th, the 16.83 pretrial disclosures be extended to January 9th and the responses on the Motion to Show Cause be extended from December 26th to December 29th due to the holidays. Upon inquiry by the Court, Mr. Strassburg stated he did try to obtain a stipulation. Mr. Smith stated the request he received from Mr. Strassburg did not relate to the extension to show cause and that his understanding is that the hearing is January 9th and the response to the motion is not due until December 30th, however, if the response is due on December 26th he would not oppose the extension to December 29th. As there is no opposition, COURT ORDERED, request for Defendant to have until December 29th to file the opposition to the Motion to Show Cause GRANTED. Arguments by Mr. Smith as to the extension of dispositive motions. Mr. Smith stated he understands that some of the motions will need to be filed late as they are still completing depositions, however, extending the deadlines for everything will reduce the parties' ability to prepare for trial. Further arguments made by Mr. Strassburg and Mr. Smith. COURT ORDERED the Defendant will be required to comply with the December 30th date, however, it is only to file a motion that identifies the area for relief, Court will extend the requirement

to support that motion by points and authorities until January 9th as that will provide notice to the Plaintiff of the areas which are being sought by Defendant in the motions in limine and it will defer the requirement to file those points and authorities until a time that is more reasonable. Upon inquiry by Mr. Smith, Court stated the order will be reciprocal to all parties, if any parties feel they cannot meet the deadlines they should contact the Court. Court directed parties that if they need to move the hearings set on January 29th they should try to stipulate and then contact Court's Judicial Executive Assistant. Arguments by Mr. Smith and Mr. Strassburg regarding request to extend pretrial disclosures. COURT ORDERED, request to extend the pretrial disclosure deadlines DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 30, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 30, 2014 12:00 AM Motion to Strike

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Kolkoski, Danielle A, ESQ Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- All counsel appeared telephonically.

Arguments by Mr. Smith and Mr. Strassburg. Ms. Kolkoski stated she had no comments on this issue. COURT ORDERED, Plaintiff's Motion to Strike December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. David Bearman on Order Shortening Time DENIED, scope of testimony will be determined at the time of trial subject to the qualifications in specific areas to be determined, Plaintiff will be given the opportunity to voir dire Dr. Bearman at their choice, Court will not allow Dr. Bearman to testify outside the scope of his expertise, and Court will not allow cumulative testimony by any experts. COURT FURTHER ORDERED, as to the issue of foundation, experts may consider the opinions of others in their opinions, however, they are foundational only, and Court will not allow Mr. Bearman to simply adopt the opinions of the other doctors, if his area of expertise cannot be laid to the Court's satisfaction to allow for conclusions based on the other doctors, then Court will disallow the testimony at the time of trial. Mr. Smith stated that he received the file of Dr. Wu's scans, however, he was not able to open the file and although he has requested to be provided the program to open the files he has not received it yet. Mr. Smith further stated that because he cannot provide the information to an expert it makes it impossible to respond to Dr.

Bearman. Mr. Strassburg stated he has requested the program to open the file from Dr. Wu, however, the he has not been able to contact the office staff due to holidays and staff vacations. Mr. Strassburg further stated he is doing everything he can to accommodate Plaintiff's request. COURT ORDERED, if the requested information is not provided to Plaintiff by January 8th, in a way that Mr. Smith can view the information, then that portion of Dr. Bearman's testimony, based up the Dr. Wu scans, will be stricken at the time of trial, the status of the matter can be taken up on the January 15th hearing date. Mr. Smith advised that counsel have a dispute over the order from last hearing, Plaintiff's will submit their own order tomorrow, and he requests that Court wait to review Defendant's order until the order from Plaintiff is received. Court stated it would review both orders.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 13, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

January 13, 2015	3:00 AM	Minute Order
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HEARD BY: Allf, Nancy	COURTROOM:
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COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that Defendant Jared Awerbach submitted an Order Granting the Motion to Associate Counsel on March 31, 2014 and the Court granted Defendant Jared Awerbach s Motion to Associate Counsel on April 4, 2014 and signed the submitted order. COURT FURTHER FINDS after review that the Order was returned to Defendant Jared Awerbach on April 4, 2014. COURT FURTHER FINDS after review of the case record that the Motion to Associate Counsel has not been filed with the Court pursuant to SCR 42. COURT FURTHER FINDS after review that pursuant to EDCR 7.24, orders signed by the Judge must be filed promptly.

COURT ORDERS for good cause appearing and after review Defendant Jared Awerbach to file the Order Granting Defendant s Motion to Associate Counsel signed on April 4, 2014.

CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell Resnick, Lily Compton, Esq., Roger Strassburg, Esq. (702-997-3800); Adam Smith (702-933-7043); and Petter Mazzeo, Esq. (702-870-3940)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 14, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

January 14, 2015 9:30 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Deft Andrea Awerbach's Motion For Protective Order on OST Deft Jared Awerbach's Joinder To Deft Andrea Awerbach's Motion For Protective Order On OST Pltf's Opposition to Motion for Protective Order; and Countermotion to Strike Dr. Poindexter and Dr. Klein

Lily Richardson, Esquire, for Jared Awerbach.

A number of Motions are set Jan. 15, 2015 before Judge Allf. Counsel agreed to a deposition outside the discovery deadline. Commissioner Bulla addressed the consequences of counsels conduct.

COMMISSIONER RECOMMENDED, matters CONTINUED; put a cost bill together with supporting documentation on \$80,000, and submit to Commissioner for in camera review (include cover letter, no ex-parte). Mr. Mazzeo requested an evidentiary hearing. Commissioner will speak with Judge Allf about it. Counsel must advise Commissioner of Judge Allf's rulings.

Mr. Smith submitted an OST Motion last week concerning a Deposition, but it was returned with a note indicating set a conference call with Commissioner (not enough time to set before Jan. 15th deposition). Mr. Smith stated Deft seeks to depose someone who was not disclosed. Argument by

Ms. Richardson. COMMISSIONER RECOMMENDED, discovery is closed so continue the deposition; if it moves forward, the deposition violated a Court order. Issue will be discussed Jan. 16, 2015. Colloquy. Commissioner advised counsel there may be sanctionable conduct for discovery outside the deadline.

1/16/15 10:00 a.m. (same as above)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 15, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 15, 2015 3:00 AM Minute Order

HEARD BY: Allf, Nancy **COURTROOM:**

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review that at the hearing on Motions Calendar on January 15, 2015, the Court ordered the parties to participate in a Settlement Conference on February 19, 2015. COURT FURTHER FINDS after review that the parties shall be required to participate in good faith and have a representative present with authority to the extent of the policy. COURT FURTHER FINDS after review that the Settlement Judge shall make a finding as to whether all parties participate in good faith.

COURT ORDERS for good cause appearing for each party to contact Tatyana Ristic at 702-671-3633 by Friday, January 17 at 3:00 p.m.

CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell Resnick, Lily Compton, Esq., Roger Strassburg, Esq. (702-997-3800); Adam Smith (702-933-7043); and Peter Mazzeo, Esq. (702-870-3940).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 15, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 15, 2015 9:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Kolkoski, Danielle A, ESQ Attorney
 Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- DEFENDANT JARED AWERBACH'S JOINDER TO DEFENDANT ANDREA AWERBACH'S MOTION TO CONTINUE TRIAL ON ORDER SHORTENING TIME MOTION OF DEFENDANT AWERBACH TO AMEND COURT'S ORDER DELIVERED IN OPEN COURT ON NOV. 18, 2014, TO ADD DR. RAYMOND KELLY ON ORDER SHORTENING TIME PLAINTIFF'S MOTION TO STRIKE (1) DECEMBER 5, 2014, SUPPLEMENTAL REPORT OF DEFENDANTS' EXPERT WITNESS DR. GREGORY BROWN; (2) DECEMBER 5, 2014, SUPPLEMENT OF DR. JOSEPH WU; (3) DECEMBER 5, 2014, SUPPLEMENT OF DR. RAYMOND KELLY; AND (4) DECEMBER 11, 2014, SUPPLEMENT OF DR. CURTIS POINDEXTER ON ORDER SHORTENING TIME DEFENDANT ANDREA AWERBACH'S MOTION TO CONTINUE TRIAL ON ORDER SHORTENING TIME (FIRST REQUEST) PLAINTIFF EMILIA GARCIA'S MOTION FOR PARTIAL SUMMARY JUDGMENT THAT DEFENDANT JARED AWERBACH WAS PER SE IMPAIRED PURSUANT TO NRS 484C.110(3) PLTF'S MOTION FOR ORDER TO SHOW CAUSE WHY DEFT JARED AWERBACH SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATING THE COURT'S PROTECTIVE ORDER; AND REQUEST FOR ATTORNEYS' FEES PLAINTIFF'S MOTION TO STRIKE DEFENDANT ANDREA AWERBACH'S ANSWER

Lily Richardson, Pro Hoc Vice also present.

Colloquy regarding the order of the pro hoc vice of Ms. Richardson. Court directed counsel to file orders in a timely matter. Arguments by Mr. Smith and Mr. Mazzeo as to Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer. Arguments by Mr. Strassburg and Mr. Smith as to Plaintiff Emilia Garcia's Motion for Partial Summary Judgment That Defendant Jared Awerbach was Per Se Impaired Pursuant to NRS 484C.110(3). Colloquy regarding the scans from Dr. Wu's office and remaining motions on calendar. Upon inquiry by the Court, Mr. Smith stated he has filed an opposition to continue the trial and also to the Motion of Defendant Awerbach to Amend Court's Order Delivered in Open Court on Nov. 18, 2014, to Add Dr. Raymond Kelly on Order Shortening Time. COURT ORDERED, Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer TAKEN UNDER SUBMISSION, Court noted there has been a case shown for sanctions to find permissive use however it is taken under submission; Plaintiff Emilia Garcia's Motion for Partial Summary Judgment That Defendant Jared Awerbach was Per Se Impaired Pursuant to NRS 484C.110(3) GRANTED with regard to metabolites only, Defendant Jared Awerbach's Request for Summary Judgment on Punitive Damages, DENIED, the issue may be subject to directed verdict or instructions after evidence, however it is premature at this time; status check for the scans, motions to strike supplemental reports or witnesses, and the order to show cause are DEFERRED on the following condition, that each party appear for a settlement conference with a representative present with full authority on February 19, 2015, Court will request a report from the settlement Judge that the parties each have participated in good faith, should Court receive a report that each side did not participate in good faith, then Court will rule on the motions in the way it has indicated, settlement conference date is not subject to change; motion to continue trial GRANTED, however, it is only continued to the next stack and trial will be completed on the next stack if the matter has not resolved by then, status check SET for the week after February 19, 2015, and Court will rule on any pending matters if there is not a settlement and schedule a trial, all other pending hearings VACATED and set for status on February 26, 2015, pending motions will be reset should parties go to trial and Court will give parties enough time to argue. Mr. Mazzeo requested opposition and reply due dates to the Motions in limine. Court stated the minutes will suffice for today's order and Court's Reporter will transcribe Court's ruling to preserve it for the record. Upon the inquiry of Mr. Mazzeo, Court stated parties have the right to stipulate to dates or follow the rules. Upon inquiry by Mr. Smith, Court directed Mr. Smith to prepare the orders on the rulings Plaintiff's Motion for Partial Summary Judgment and Defendant's Request for Summary Judgment and submit it to opposing counsel for approval.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 16, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

January 16, 2015 10:00 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Pltf s Opposition to Motion for Protective Order; and Countermotion to Strike Dr. Poindexter and Dr. Klein .. Deft Jared Awerbach s Joinder To Deft Andrea Awerbach s Motion For Protective Order On OST .. Deft Andrea Awerbach s Motion For Protective Order on OST

Lily Richardson, Esquire, for Jared Awerbach.

Mr. Smith stated Judge Allf continued the Trial to April, and a Mandatory Settlement Conference is Feb. 19, 2015. Mr. Smith set forth counsels' agreement to complete depositions, but some of Pltf's experts are not working on this case as they haven't been paid or were partially paid; if Deft has to pay costs, Mr. Smith requested payment from Deft, and then moving forward with depositions.

Arguments by counsel. Commissioner has in camera submission and intended to move Motion to Feb. 18, 2015. Colloquy re: outstanding bills, and severe repercussions for not following the Court order. Arguments by counsel.

Commissioner will look at the bills. Colloquy re: discovery needed before MSC, and counsel should have conducted a 2.34 conference. Expert depositions discussed. COMMISSIONER

RECOMMENDED, complete Dr. Oliveri's deposition and rebuttal expert depositions after MSC; complete Defense experts' depositions before MSC; take the employment deposition before the MSC (two hours for depositions); Commissioner will speak with the Judge; discovery cutoff EXTENDED to 3/20/15. COMMISSIONER RECOMMENDED, Pltf's Motion for Protective Order Quashing Jonathan Davis Deposition Subpoena on Feb. 18, 2015 is VACATED.

COMMISSIONER RECOMMENDED, Deft Andrea Awerbach Motion For Protective Order and Deft Jared Awerbach's Joinder are DENIED; Pltf s Countermotion to Strike Dr. Poindexter and Dr. Klein is DENIED.

Mr. Smith to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Smith to appear at status check hearing to report on the Report and Recommendations.

Commissioner is only reviewing the bills and supporting documentation.

2/20/15 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 22, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 22, 2015 10:30 AM At Request of Court

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- Court noted that it vacated all pending matters at the last hearing. Mr. Mazzeo stated counsel was before the Discovery Commissioner and they had confirmed that the Motion for the Order to Show Cause was still pending for this date. COURT ORDERED, order to show cause RESET to January 29th. Court stated it would confer with the Discovery Commissioner regarding this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 23, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

January 23, 2015 3:00 AM Minute Order

HEARD BY: Allf, Nancy **COURTROOM:**

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review Plaintiff s Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt for Violating the Court s Order Regarding Reimbursement of Plaintiff s Discovery Costs on Order Shortening Time was originally scheduled for January 22, 2015 at 10:00 a.m. COURT FURTHER FINDS after review that all future hearing dates were vacated on January 15, 2015 when the Court vacated the trial date and ordered the parties to participate in a settlement conference in good faith.

COURT ORDERS for good cause appearing and after review that despite the vacation of other hearings, due to the nature of this hearing, and the necessity to resolve this issue before the parties can participate in a settlement conference in good faith, it should go forward now. The Hearing originally set for MOTIONS CALENDAR January 22, 2015 at 10:00 a.m. is RESET to MOTIONS CALENDAR January 29, 2015 at 10:00 a.m.

1/29/2015 10:00 AM Plaintiff s Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt for Violating the Court s Order Regarding Reimbursement of Plaintiff s Discovery Costs on Order Shortening Time

CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell Resnick, Lily Compton, Esq.,

Roger Strassburg, Esq. (702-997-3800); Adam Smith (702-997-3800); and Peter Mazzeo, Esq. (702-589-9829).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 30, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 30, 2015 9:00 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- Colloquy re: Motion to Strike; to the extent that opinions contain information where there is no foundation, or should be stricken by the Court is an evidentiary ruling, and issues must be brought to Judge Allf's attention at Trial as the exam already occurred. Upon Mr. Smith's request, COMMISSIONER RECOMMENDED, Plt's Motion to Strike Defts' Medical Expert Michael R. Klein is OFF CALENDAR.

Colloquy re: Rule 26; opinions may be properly supplemented pursuant to 16.1(a)(3) by 3/6/15 (hand deliver). Argument by Mr. Strassburg. Colloquy re: Nurse Rockholt's scope of testimony, and Judge Allf's order. Commissioner advised counsel Nurse Rockholt can only do mathematic calculations, and she must rely on the Doctor's opinions. Commissioner advised counsel get clarification from Judge Allf.

Mr. Strassburg requested to withdraw the Motion. COMMISSIONER RECOMMENDED, Commissioner cautioned counsel supplemental information must be in accordance with the 12/31/14 Order signed by the Court; Deft Jared Awerbach's Motion For Leave To Supplement Opinions Of Nurse Rockholt is OFF CALENDAR. No Report and Recommendation.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 30, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

**January 30, 2015 11:00 AM Motion for Order to Show
Cause**

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- Arguments by Mr. Smith regarding case having been set for trial twice, bills submitted to Defendants that are unpaid, there being no explanation as to why the bills are not paid, and the experts refusing to work for Plaintiff as their bills have not been paid. Arguments by Mr. Mazzeo regarding the bills being high, there being numerous witnesses disclosed by co-defense counsel, order of the Court that Defendants split the costs, insurance company having represented to him that they are in the process of paying the bills, and there being no finding of contempt. Upon inquiry by the Court, Mr. Strassburg stated he did not file an opposition as it was his understanding that the insurance company wanted Mr. Mazzeo to assume lead counsel on this matter and the issue of payment of bills was in his hands. Further arguments by counsel.

Court stated its findings noting that Court FINDS the bills are reasonable, there is a violation of the Court's order, and ORDERED that the individual Defendants are IN CONTEMPT OF COURT; Contempt of Court can be purged by payment in full of all the invoices so that it clears no later than February 11, 2015, a status check is SET for February 12, 2015 at 10:30 am, if the checks have cleared, then counsel may notify the Court and the status check will be vacated. Court ADMONISHED

defendant that if payments are not made Court is likely to vacate the settlement conference and rule on the pending motions. Mr. Smith to prepare the order and submit it to opposing counsel for approval.

2/12/2015 10:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 19, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 19, 2015 10:30 AM Settlement Conference

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Sharon Chun

RECORDER: Rachelle Hamilton

REPORTER:

PARTIES

PRESENT: Eschweiler, Corey M. Attorney
 Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- Counsel also present: Amy Elwood and Greg Kerwin, both representing Liberty Mutual.

The Parties met in good faith for their scheduled Settlement Conference today. The case did not settle; however, the parties have requested that Judge Kishner conduct a second Settlement Conference in March. The Parties will contact Department XXXI directly to schedule the second Settlement Conference.

CLERK'S NOTE: A copy of this minute order has been distributed to:
District Court, Dept 27 - Karen Lawrence, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 26, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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February 26, 2015 10:30 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter Smith, Adam D. Strassburg, Roger	Attorney Attorney Attorney
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JOURNAL ENTRIES

- Court noted parties participated in good faith in the settlement negotiations and Court has entered a decision regarding the pending matters. Upon inquiry by the Court, all parties agreed they had received a copy of the Court's decision. Colloquy regarding availability of trial, continued settlement negotiations, and setting of motions in limine. Court advised counsel of its availability for trial and directed counsel to work with its Judicial Executive Assistant regarding setting dates. Mr. Strassburg stated he intends to file a Motion for reconsider and asked that it be set at the time of Motions in Limine. Court noted it always allows orders shortening time as long as there is ten days.

CLERK'S NOTE: Following the hearing, Motions in limine were RESET on April 1st at 10:00 a.m. Counsel to provide a copy of upcoming schedule conflicts to Judicial Executive Assistant so trial can be set. /nm 2-26-2015

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 25, 2015**

A-11-637772-C

Emilia Garcia, Plaintiff(s)

vs.

Jared Awerbach, Defendant(s)

March 25, 2015**3:00 AM****Minute Order**

**Minute Order:
Hearing on Motions
in Limine set for on
April 1, 2015, at 10:00
a.m. VACATED**

HEARD BY: Allf, Nancy**COURTROOM:****COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review a Hearing on Motions in Limine was set for April 1, 2015 at 10:00 a.m. COURT FURTHER FINDS after review the parties have agreed to set the Hearings on Motions in Limine on May 6, 2015 at 10:00 a.m. COURT ORDERS for good cause appearing and after review the Hearing on Motions in Limine set for MOTIONS CALENDAR on April 1, 2015, at 10:00 a.m. is VACATED; the Motions in Limine remain on MOTIONS CALENDAR on May 6, 2015 at 10:00 a.m.

CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell Resnick, Lily Compton, Esq., Roger Strassburg, Esq. (702-997-3800); Adam Smith (702-877-0110); and Peter Mazzeo, Esq. (702-589-9829).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 15, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

April 15, 2015 9:00 AM Motion for Relief

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Kristen Brown

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney

JOURNAL ENTRIES

- Arguments by counsel. Court stated its findings and ORDERED, Motion DENIED. Mr. Smith to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 06, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

May 06, 2015 10:00 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTIONS IN LIMINE NUMBERS 1-10...PLAINTIFF'S MOTIONS IN LIMINE NUMBERS 11-29...PLAINTIFF'S MOTION IN LIMINE REGARDING APPORTIONMENT OF DAMAGES (MIL #30)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PLAINTIFF RECEIVED WELFARE (MIL #31)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE ALLEGATIONS PLAINTIFF WAS SPEEDING AT THE TIME OF THE ACCIDENT (MIL #32)...PLAINTIFF'S MOTION IN LIMINE TO ADMIT EVIDENCE DEFENDANT JARED AWERBACH PLEADED GUILTY TO VIOLATING NRS 484C.110 (MIL #33)...PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM ARGUING PLAINTIFF WAS MALINGERING OR EXHIBITED SECONDARY GAIN (MIL #34)...PLAINTIFF'S MOTION TO IN LIMINE TO EXCLUDE DEFENDANTS' EXPERT WITNESS DR. CURTIS POINDEXTER (MIL #35)...PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM ARGUING PLAINTIFF HAD AN MRI ON DECEMBER 30, 2010 (MIL #36)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE SURVEILLANCE VIDEO OF PLAINTIFF AT HER JOB AT SAM'S TOWN CASINO (MIL #37)...PLAINTIFF'S MOTION IN LIMINE TO LIMIT THE OPINIONS OF DEFENDANTS' EXPERT WITNESS DR. GREGORY BROWN TO THE SCOPE OF HIS EXPERTISE (MIL #38)...PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM ARGUING DR. BRIAN LEMPER

OVERTREATED IN THIS CASE (MIL #39)...PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM ASKING ABOUT UNRELATED ACCIDENTS, EXCLUDE EVIDENCE OF PLAINTIFF'S SPEEDING TICKETS, AND EXCLUDE QUESTIONING REGARDING A TRIP PLAINTIFF TOOK TO CALIFORNIA (MIL #40)...PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS' EXPERTS FROM OPINING COUNSEL DIRECTED MEDICAL TREATMENT (MIL #41)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE PHOTOGRAPHS OF PROPERTY DAMAGE (MIL #42)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE REFERENCE TO PLAINTIFF'S ALLEGED INCONSISTENT DRUG SCREEN RESULTS (MIL #43)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PERTAINING TO HER TERMINATION FROM ALIANTE (MIL #44)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EMILIA'S IRRELEVANT MEDICAL RECORDS (MIL #45)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE THE OPINIONS OF DEFENDANTS' MEDICAL EXPERT MICHAEL R. KLEIN (MIL #46)...PLAINTIFF'S MOTION IN LIMINE TO LIMIT THE OPINIONS OF DEFENDANTS' EXPERT WITNESS DR. DAVID BEARMAN TO THE SCOPE OF HIS EXPERTISE (MIL #47)...PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM QUESTIONING DR. BRIAN LEMPER REGARDING MARIJUANA (MIL #48)...PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DEFENDANT JARED AWEBACH'S CLAIMED TRAUMATIC BRAIN INJURY (MIL #49) PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PERTAINING TO HER TERMINATION FROM ALIANTE (MIL #44); PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DR. ROBERT ODELL'S OPINIONS PERTAINING TO MEDICAL BILLING (MIL #50); PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF IMPAIRMENT (MIL #52); PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF LIABILITY BECAUSE JARED'S JUDGMENT OF CONVICTION CONCLUSIVELY ESTABLISHES LIABILITY (MIL #53); PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EMILIA'S IRRELEVANT EMPLOYMENT RECORDS (MIL #54); ANDREA AWEBACH'S MOTION IN LIMINE TO EXCLUDE JARED'S RECORDED INTERVIEW AS HEARSAY; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 1 - 4 TO (1) EXCLUDE TRAFFIC REPORT ; (2) EXCLUDE EVIDENCE, TESTIMONY OR MENTION OF TRAFFIC CITATION; (3) EXCLUDE EVIDENCE OR TESTIMONY FROM POLICE OFFERS REGARDING FAULT (4) EXCLUDE EVIDENCE THAT JARED DID NOT HAVE A NEVADA DRIVERS LICENSE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 5 TO PRECLUDE PLAINTIFF'S COUNSEL FROM MENTIONING SPECIFIC DOLLAR AMOUNTS DURING VOIR DIRE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 6 TO EXCLUDE REFERENCE TESTIMONY OR OTHER EVIDENCE REGARDING LIABILITY INSURANCE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 7-9; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 10 TO LIMIT DR MORTILLARO'S TESTIMONY TO THAT GIVEN AT DEPOSITION OR DISCLOSED PRIOR TO DISCOVERY CUT-OFF; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO11 TO EXCLUDE REFERENCE TO THE PLAINTIFF'S FINANCIAL CONDITION OR INABILITY TO PAY MEDICAL BILLS ABSENT A FAVORABLE JURY VERDICT; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 12 TO EXCLUDE IMPROPER ARGUMENT; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 13 TO EXCLUDE ALL REFERENCES TO AND TESTIMONY CONCERNING PRIOR BAD ACTS OR SUBSTANCE ABUSE OF DEFENDANT JARED AWEBACH; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 14 REQUIRING PRE-SCREENING OF ANY DOCUMENTS OR EXHIBITS

PRIOR TO THEIR USE IN OPENING ARGUMENTS OR AT TRIAL; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 15 TO PERMIT REFERENCE TO PLAINTIFF'S MEDICAL LIENS; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 16 TO EXCLUDE STATEMENTS OVERHEARD BY PLAINTIFF AT THE SCENE OF ACCIDENT; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 17 TO EXCLUDE PLAINTIFF'S FUTURE WAGE LOSS CLAIMS; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 18 AND 19; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 20 TO EXCLUDE ALL MEDICAL OPINIONS NOT STATED IN PROVIDERS OWN MEDICAL RECORDS OR DEPOSITION INCLUDING BUT NOT LIMITED TO OPINIONS PERTAINING TO FUTURE MEDICAL CARE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 21 TO EXCLUDE TESTIMONY OF STAN SMITH REGARDING HEDONIC DAMAGES; DEFENDANT JARED AWEBACH'S MOTION TO BIFURCATE PLAINTIFF'S PUNITIVE DAMAGE CLAIMS ON AN ORDER SHORTENING TIME; DEFENDANT JARED AWEBACH'S MOTIONS IN LIMINE TO EXCLUDE AND PRECLUDE MENTION UNTIL ADMISSIBLE OF: NO. 22: RESULTS OF BLOOD TESTS OF JARED AWEBACH UNTIL CHAIN OF CUSTODY ESTABLISHED; NO. 23: RESULTS OF BLOOD TESTS OF JARED AWEBACH UNTIL CONNECTED TO CAUSATION OF ACCIDENT; NO. 24: MEDICAL SPECIALS UNTIL FIRST SHOWN NECESSARY, REASONABLE, AND INCURRED; NO. 25: MEDICAL SPECIALS UNTIL PHYSICIANS VOIR DIRE AS TO QUALIFICATIONS TO OPINE AS TO WHETHER MEDICAL SPECIALS ARE NECESSARY, REASONABLE, AND INCURRED; NO. 26: CRIMINAL PLEA TO DUI UNTIL AFTER ESTABLISH CAUSATION OF ACCIDENT BY INTOXICATED DRIVING; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 27 BIFURCATION OF PUNITIVE DAMAGES FROM THE LIABILITY AND COMPENSATORY DAMAGE PHASES OF THE TRIAL; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 28 EXCLUDE OR PREVENT MENTION OF JARED AWEBACH'S BLOOD THC/METABOLITE LEVELS UNTIL COURT DETERMINES PLAINTIFF CAN PROVIDE BY COMPETENT EVIDENCE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE 29 TO EXCLUDE EVIDENCE THAT CONTRADICTS DCRR REGARDING PLAINTIFF'S TERMINATION FROM ALIANTE CASINO WAS UNRELATED TO PAIN; DEFENDANT'S JARED AWEBACH'S MOTION IN LIMINE NO. 30 THAT NRS 42.010 IS VOID FOR VAGUENESS; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 31 TO EXCLUDE EVIDENCE REGARDING DEFENDANT JARED AWEBACH'S NON- SUPPORT OF HIS CHILDREN; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 32 TO EXCLUDE ANY EVIDENCE REGARDING DEFENDANT JARED AWEBACH'S CHILDREN; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 33 EXCLUDING EVIDENCE OR MENTION OF HIS USE OF PUBLIC ASSISTANCE PROGRAMS; DEFENDANT JARED AWEBACH'S MOTIONS IN LIMINE TO EXCLUDE EVIDENCE OF: NO. 34: DEFENDANT JARED AWEBACH'S CRIMINAL RECORD FOR ALL NON-JUVENILE OFFENSES NO. 35: DEFENDANT JARED AWEBACH'S DRUG ADDICTION NO. 36: DEFENDANT JARED AWEBACH'S DOMESTIC BATTERY OF HIS MOTHER AND HER RESTRAINING ORDER AGAINST JARED NO. 37: DEFENDANT JARED AWEBACH'S DRUG DEALING; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE 38 TO COMMENT TO DR CASH THAT JARED WAS UNDER THE INFLUENCE OF ALCOHOL AT THE TIME OF THE ACCIDENT; DEFENDANT JARED AWEBACH'S MOTIONS IN LIMINE TO ADMIT EVIDENCE OF - NO. 39: PLAINTIFF'S IMPLIED ADMISSION THAT HER SURGERY IN LAS VEGAS COST

\$70,000.00 AND NO. 40: PLAINTIFF'S IMPLIED ADMISSION THAT THE SURGERY WAS EXCESSIVE IN COST AND HER COUNSEL KNEW THE SURGERY WAS EXCESSIVE IN COST; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 41 TO EXCLUDE OR PREVENT MENTION OF PLAINTIFF'S MEDICAL BILLS; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 42 TO ADMIT EVIDENCE OF NON-IMPAIRMENT OF JARED AWERBACH IN MITIGATION OF PUNITIVE DAMAGES CLAIM; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 43 TO ADMIT ADMISSION BY AUTHORIZED AGENTS OF PLAINTIFF AS TO THE EXPECTED COSTS OF HER SURGERY; DEFENDANT JARED AWERBACH'S MOTIONS IN LIMINE TO EXCLUDE: NO 44. JARED'S ATTEMPTS TO FLEE. NO. 45. JARED'S GANG MEMBERSHIP NO.46. JARED'S PRIOR ACCIDENT IN 2008. NO.47. JARED'S MEDICAL CONDITION FROM 2008 ACCIDENT; DEFENDANT ANDREA AWERBACH'S MOTION IN LIMINE TO EXCLUDE REFERENCE OR EVIDENCE OF A PRIOR COMPLAINT FILED AGAINST HER ON ORDER SHORTENING TIME; DEFENDANT ANDREA AWERBACH'S JOINDER IN JARED AWERBACH'S MOTIONS IN LIMINE 1,2,3,5,6,10,12,14-17 AND 20 -21; DEFENDANT ANDREA AWERBACH'S JOINDER IN SELECT; MOTIONS IN LIMINE FILED BY DEFENDANT JARED AWERBACH; DEFENDANT ANDREA AWERBACH'S MOTION IN LIMINE TO EXCLUDE REFERENCE OR EVIDENCE OF A PRIOR COMPLAINT FILED AGAINST HER ON OST; DEFENDANT ANDREA AWERBACH'S MOTION IN LIMINE TO EXCLUDE TESTIMONY FROM INSURANCE COMPANY REPRESENTATIVE CONCERNING INVESTIGATION OF ACCIDENT; PLAINTIFF'S MOTION TO STRIKE DEFENDANT JARED AWERBACH'S NRCP 16.1(A)(3) AMENDED AND SUPPLEMENTAL PRE-TRIAL DISCLOSURES, IN PART, ON ORDER SHORTENING TIME

Following arguments by counsel regarding pending motions in limine, Court stated its findings and ruled as follows:

As to Plaintiff s MIL #1 to Preclude Closing Argument that Emilia asked for a Greater Amount of Money Than Was Expected, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #2 Hypothetical Medical Questions Designed to Confuse Jury, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #3 Suggesting to Jury that There Might be Related Medical Records Prior to the Crash that Have Not Been Disclosed to Defendant, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #4 Precluding Defendants from Referring to Case as Attorney Driven Litigation or a Medical Buildup case, and Precluding any Statements Insinuating that Emilia Sought Treatment at the Direction of Attorneys, or Because of This Litigation, COURT ORDERED, motion GRANTED, if a foundation is laid for facts to the extent of treatment being improper, unneeded, or medically unnecessary, then Defendants can argue that during the case, however, use of the language "attorney driven litigation" or "medical buildup" is highly prejudicial and will be precluded.

As to Plaintiff s MIL #5 Precluding Defendant from Referring to any Ongoing or Past Federal

Investigation or Allegations of Conspiracy between Doctors and Emilia s Attorneys, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #6 Precluding Reference to Emilia s Retention of Counsel, COURT ORDERED, motion DENIED, however, Court will grant any objection that gets into attorney client privilege.

As to Plaintiff s MIL #7 Precluding Reference to Emilia s Counsel Working with Emilia s Treating Physicians on Other Unrelated Cases, COURT ORDERED, motion DENIED, Court will allow limited latitude as to if there is a relevance shown with regard to a relationship between the doctors or a referral from the attorneys to the doctor.

As to Plaintiff s MIL #8 Precluding Negative References to Attorney Advertising, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #9 Closing Arguments Must be Limited to Evidence Presented at Trial, COURT ORDERED, motion GRANTED, and can be further refined before closing arguments.

As to Plaintiff s MIL #10 Precluding Reference to Recent Allegations against Emilia s Counsel Relation to the BP Oil Spill Cases, COURT ORDERED, motion GRANTED reciprocally.

As to Plaintiff s MIL #11 Allowing Voir Dire Questions Regarding Relationship to Any Insurance Company, COURT ORDERED, motion GRANTED, motion will be enforced in accordance with and within the scope of Nevada law, the scope to be defined on the morning of jury selection.

As to Plaintiff s MIL #12 Allowing Voir Dire Questioning Regarding Tort Reform Exposure, COURT ORDERED, motion DEFERRED until the morning of jury selection, counsel to exchange questions in this area at their 2.67 conference.

As to Plaintiff s MIL #13 Allowing Voir Dire Questioning Regarding Verdict Amounts, COURT ORDERED, motion DENIED, Court will not allow specific amounts to be referenced to the venire.

As to Plaintiff s MIL #14 Permitting Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment, and Extent of Disability without a Formal Expert Report, COURT ORDERED, motion GRANTED, scope of testimony will be in accord with the FC1 case from the Supreme Court.

As to Plaintiff s MIL #15 Exclusion of Non-Party Witnesses from Courtroom, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #16 Precluding Negative Inference for Failing to Call Cumulative Witnesses, COURT ORDERED, motion GRANTED reciprocally.

As to Plaintiff s MIL #17 Precluding Reference to Filing Motions in Limine, COURT ORDERED,

motion GRANTED reciprocally.

As to Plaintiff s MIL #18 Precluding Reference to Taxation, COURT ORDERED, motion GRANTED reciprocally.

As to Plaintiff s MIL #19 Precluding Evidence of Offers of Settlement or Compromise, COURT ORDERED, motion GRANTED reciprocally

As to Plaintiff s MIL #20 Precluding References to Collateral Sources, COURT ORDERED, motion GRANTED, however it is relevant whether or not a party treats on a lien.

As to Plaintiff s MIL #21 Excluding Evidence of Prior and Subsequent Unrelated Injuries, Medical Conditions or Medical Treatment, Prior and Subsequent Claims or Lawsuits, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #22 Precluding Defense Counsel from Suggesting that Defendants Will be Required to Pay Jury Award Out of Pocket, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #23 Preclusion of Brian Lemper's Settlement Agreement with the Government, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #24 Lack of Other Injuries from the Crash, COURT ORDERED, motion DENIED, with the scope of Mr. Awerbach's testimony to be determined at the time of trial.

As to Plaintiff s MIL #25 Permitting Emilia to Show Demonstrative Aids Relating to Plaintiff s Surgery, COURT ORDERED, motion deferred to the 2.67 conference.

As to Plaintiff s MIL #26 Permitting the Traffic Accident Report as a Means to Refresh the Police Officer s Recollection, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #27 Evidence Emilia did not Graduate from High School Must be Excluded, COURT ORDERED, motion DENIED.

As to Plaintiff s MIL #28 Evidence of Emilia s Material Status is Irrelevant, COURT ORDERED, motion DENIED, Court will limit cross examination solely to Plaintiff's evidence they choose to bring in with regard to evidence.

As to Plaintiff s MIL #29 Exclude Evidence of Improper Billing Practices against Pacific Hospital of Long Beach, COURT ORDERED, motion DEFERRED to be addressed with Plaintiff's MIL #41.

As to Plaintiff s MIL #30 Regarding Apportionment of Damages, Mr. Smith advised this motion was withdraw. COURT ORDERED, motion WITHDRAWN.

As to Plaintiff s MIL #31 to Exclude Evidence Plaintiff Received Welfare, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #32 to Exclude Allegations Plaintiff was Speeding at the Time of the Accident, COURT ORDERED, GRANTED IN PART as to whether or not Plaintiff was speeding at the time of the accident, DENIED IN PART as to Jared Awerbach's perception whether she speed up at the time of the accident is an issue of fact that he may testify to.

As to Plaintiff s MIL #33 to Admit Evidence Defendant Jared Pleaded Guilty to Violating NRS 484C.110, COURT ORDERED, motion DENIED, the no contest plea can come in, however, a previous not guilty plea is irrelevant.

As to Plaintiff s MIL #34 to Preclude Defendants Arguing Plaintiff was Malingering or Exhibited Secondary Gain, COURT ORDERED, motion DEFERRED until the time of trial as it will depend on the scope of the expert ability to testify as to with regard to how they are qualified and the conclusions they make.

As to Plaintiff s MIL #35 to Exclude Defendant s Expert Witness Dr. Poindexter, COURT ORDERED, motion DENIED, however, there will be no cumulative evidence.

As to Plaintiff s MIL #36 to Preclude Defendants from Arguing Plaintiff had an MRI on December 30, 2010, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #37 to Exclude Surveillance Video of Plaintiff at her Job at Sam s Town Casino, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #38 to Limit the Opinions of Defendants Expert Witness Dr. Brown to the Scope of his Expertise, motion DEFERRED until time of trial, unless he can lay a foundation that he has the ability to interpret the MMPI, then he will not be able to testify to it, same as to the toxicology, Court will not allow any testimony to contradict the per se impairment ruling already made.

As to Plaintiff s MIL #39 to Preclude Defendants from Arguing Dr. Lemper Over-treated in this Case, COURT ORDERED, GRANTED IN PART, DENIED IN PART, Court will not allow any testimony with regard to reputation or character, however, if one of the Defendant's experts opinions a foundation can be laid there was unnecessary treatment given, then that can be testified to.

As to Plaintiff s MIL #40 to Preclude Defendants from Asking about Unrelated Accidents, Evidence of Plaintiff s Speeding Tickets, and Exclude Questioning Regarding a Trip Plaintiff Took to California, COURT ORDERED, motion GRANTED IN PART as to the accident and speeding tickets, DENIED IN PART with regard to the trip to California, depending on the direct testimony of the Plaintiff there may be a very limited scope of cross examination, and at the time parties will approach the bench or make a record as to what the scope will be.

As to Plaintiff s MIL #41 to Preclude Defendants Experts from Opining Counsel Directed Medical Treatment and Plaintiff s MIL #29 Exclude Evidence of Improper Billing Practices against Pacific Hospital of Long Beach, COURT ORDERED, motions GRANTED IN PART, DENIED IN PART, the reasonable and customary charges in Las Vegas would be a matter that is relevant for the time of trial, whether the Plaintiff was referred to a doctor by her attorney would be relevant at the time of trial, and every other portion of these two motions in limine are GRANTED, it will not be relevant if Pacific Hospital overbilled, what would have been reasonable and necessary is relevant.

As to Plaintiff s MIL #42 to Exclude Photographs of Property Damage, COURT ORDERED, motion DENIED.

As to Plaintiff s MIL #43 to Exclude Reference to Plaintiff s Alleged Inconsistent Drug Screen Results, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #44 to Exclude Evidence Pertaining to Her Termination from Aliante, upon the request of Mr. Mazzeo, COURT ORDERED, motion CONTINUED.

As to Plaintiff s MIL #45 to Exclude Emilia s Irrelevant Medical Records, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #46 to Exclude the Opinions of Defendants Medical Expert Klein, COURT ORDERED, motion DENIED, it is only relevant if the Plaintiff's attorney referred the Plaintiff to the doctor, to the extent that Dr. Klein intends to testify to the attorney directing treatment, unless there is a direct referral, that will be excluded; if there is bias it can be tested on cross examination.

As to Plaintiff s MIL #47 to Limit the Opinions of Defendant s Expert Witness Dr. Bearman to the Scope of his Expertise, COURT ORDERED, motion GRANTED, he will not be able to testify contrary to the per se impairment ruling the Court previously entered, if Defendant believes Mr. Bearman is qualified and is given an opinion on something outside of that scope that may be relevant at the time of trial, it will be subject to the proper foundation, any testimony would be conditioned upon Dr. Bearman providing a list of his prior cases along with his affidavit explaining that no later than June 5th. COURT FURTHER ORDERED, matter CONTINUED.

As to Plaintiff s MIL #48 to Preclude Defendant s From Questioning Dr. Lemper Regarding Marijuana, COURT ORDERED, motion GRANTED.

As to Plaintiff s MIL #49 to Exclude Evidence of Defendant Jared s Claimed Traumatic Brain Injury, COURT ORDERED, motion GRANTED with regard to the case in chief, if this goes to a punitive damages phase will consider the scope of allowable evidence at that time.

COURT ORDERED, remaining motions in limine CONTINUED. Plaintiff to prepare the order for the first forty-nine of his motions.

CONTINUED TO.....6/19/2015 10:00 AM PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE PERTAINING TO HER TERMINATION FROM ALIANTE (MIL #44); PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE DR. ROBERT ODELL'S OPINIONS PERTAINING TO MEDICAL BILLING (MIL #50); PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF IMPAIRMENT (MIL #52); PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF LIABILITY BECAUSE JARED'S JUDGMENT OF CONVICTION CONCLUSIVELY ESTABLISHES LIABILITY (MIL #53); PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EMILIA'S IRRELEVANT EMPLOYMENT RECORDS (MIL #54); ANDREA AWEBACH'S MOTION IN LIMINE TO EXCLUDE JARED'S RECORDED INTERVIEW AS HEARSAY; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 1 - 4 TO (1) EXCLUDE TRAFFIC REPORT ; (2) EXCLUDE EVIDENCE, TESTIMONY OR MENTION OF TRAFFIC CITATION; (3) EXCLUDE EVIDENCE OR TESTIMONY FROM POLICE OFFERS REGARDING FAULT (4) EXCLUDE EVIDENCE THAT JARED DID NOT HAVE A NEVADA DRIVERS LICENSE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 5 TO PRECLUDE PLAINTIFF'S COUNSEL FROM MENTIONING SPECIFIC DOLLAR AMOUNTS DURING VOIR DIRE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 6 TO EXCLUDE REFERENCE TESTIMONY OR OTHER EVIDENCE REGARDING LIABILITY INSURANCE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 7-9; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 10 TO LIMIT DR MORTILLARO'S TESTIMONY TO THAT GIVEN AT DEPOSITION OR DISCLOSED PRIOR TO DISCOVERY CUT-OFF; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO11 TO EXCLUDE REFERENCE TO THE PLAINTIFF'S FINANCIAL CONDITION OR INABILITY TO PAY MEDICAL BILLS ABSENT A FAVORABLE JURY VERDICT; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 12 TO EXCLUDE IMPROPER ARGUMENT; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 13 TO EXCLUDE ALL REFERENCES TO AND TESTIMONY CONCERNING PRIOR BAD ACTS OR SUBSTANCE ABUSE OF DEFENDANT JARED AWEBACH; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 14 REQUIRING PRE-SCREENING OF ANY DOCUMENTS OR EXHIBITS PRIOR TO THEIR USE IN OPENING ARGUMENTS OR AT TRIAL; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO. 15 TO PERMIT REFERENCE TO PLAINTIFF'S MEDICAL LIENS; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 16 TO EXCLUDE STATEMENTS OVERHEARD BY PLAINTIFF AT THE SCENE OF ACCIDENT; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 17 TO EXCLUDE PLAINTIFF'S FUTURE WAGE LOSS CLAIMS; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 18 AND 19; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 20 TO EXCLUDE ALL MEDICAL OPINIONS NOT STATED IN PROVIDERS OWN MEDICAL RECORDS OR DEPOSITION INCLUDING BUT NOT LIMITED TO OPINIONS PERTAINING TO FUTURE MEDICAL CARE; DEFENDANT JARED AWEBACH'S MOTION IN LIMINE NO 21 TO EXCLUDE TESTIMONY OF STAN SMITH REGARDING HEDONIC DAMAGES; DEFENDANT JARED AWEBACH'S MOTION TO BIFURCATE PLAINTIFF'S PUNITIVE DAMAGE CLAIMS ON AN ORDER SHORTENING TIME; DEFENDANT JARED AWEBACH'S MOTIONS IN LIMINE TO EXCLUDE AND PRECLUDE MENTION UNTIL ADMISSIBLE OF: NO. 22: RESULTS OF BLOOD TESTS OF JARED AWEBACH UNTIL CHAIN OF CUSTODY ESTABLISHED; NO. 23: RESULTS OF BLOOD TESTS OF JARED AWEBACH UNTIL CONNECTED TO CAUSATION OF ACCIDENT; NO. 24: MEDICAL SPECIALS UNTIL FIRST SHOWN NECESSARY, REASONABLE, AND INCURRED; NO.

25: MEDICAL SPECIALS UNTIL PHYSICIANS VOIR DIRE AS TO QUALIFICATIONS TO OPINE AS TO WHETHER MEDICAL SPECIALS ARE NECESSARY, REASONABLE, AND INCURRED; NO. 26: CRIMINAL PLEA TO DUI UNTIL AFTER ESTABLISH CAUSATION OF ACCIDENT BY INTOXICATED DRIVING; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 27 BIFURCATION OF PUNITIVE DAMAGES FROM THE LIABILITY AND COMPENSATORY DAMAGE PHASES OF THE TRIAL; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 28 EXCLUDE OR PREVENT MENTION OF JARED AWERBACH'S BLOOD THC/METABOLITE LEVELS UNTIL COURT DETERMINES PLAINTIFF CAN PROVIDE BY COMPETENT EVIDENCE; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE 29 TO EXCLUDE EVIDENCE THAT CONTRADICTS DCRR REGARDING PLAINTIFF'S TERMINATION FROM ALIANTE CASINO WAS UNRELATED TO PAIN; DEFENDANT'S JARED AWERBACH'S MOTION IN LIMINE NO. 30 THAT NRS 42.010 IS VOID FOR VAGUENESS; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 31 TO EXCLUDE EVIDENCE REGARDING DEFENDANT JARED AWERBACH'S NON- SUPPORT OF HIS CHILDREN; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 32 TO EXCLUDE ANY EVIDENCE REGARDING DEFENDANT JARED AWERBACH'S CHILDREN; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 33 EXCLUDING EVIDENCE OR MENTION OF HIS USE OF PUBLIC ASSISTANCE PROGRAMS; DEFENDANT JARED AWERBACH'S MOTIONS IN LIMINE TO EXCLUDE EVIDENCE OF: NO. 34: DEFENDANT JARED AWERBACH'S CRIMINAL RECORD FOR ALL NON-JUVENILE OFFENSES NO. 35: DEFENDANT JARED AWERBACH'S DRUG ADDICTION NO. 36: DEFENDANT JARED AWERBACH'S DOMESTIC BATTERY OF HIS MOTHER AND HER RESTRAINING ORDER AGAINST JARED NO. 37: DEFENDANT JARED AWERBACH'S DRUG DEALING; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE 38 TO COMMENT TO DR CASH THAT JARED WAS UNDER THE INFLUENCE OF ALCOHOL AT THE TIME OF THE ACCIDENT; DEFENDANT JARED AWERBACH'S MOTIONS IN LIMINE TO ADMIT EVIDENCE OF - NO. 39: PLAINTIFF'S IMPLIED ADMISSION THAT HER SURGERY IN LAS VEGAS COST \$70,000.00 AND NO. 40: PLAINTIFF'S IMPLIED ADMISSION THAT THE SURGERY WAS EXCESSIVE IN COST AND HER COUNSEL KNEW THE SURGERY WAS EXCESSIVE IN COST; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 41 TO EXCLUDE OR PREVENT MENTION OF PLAINTIFF'S MEDICAL BILLS; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 42 TO ADMIT EVIDENCE OF NON-IMPAIRMENT OF JARED AWERBACH IN MITIGATION OF PUNITIVE DAMAGES CLAIM; DEFENDANT JARED AWERBACH'S MOTION IN LIMINE NO. 43 TO ADMIT ADMISSION BY AUTHORIZED AGENTS OF PLAINTIFF AS TO THE EXPECTED COSTS OF HER SURGERY; DEFENDANT JARED AWERBACH'S MOTIONS IN LIMINE TO EXCLUDE: NO 44. JARED'S ATTEMPTS TO FLEE. NO. 45. JARED'S GANG MEMBERSHIP NO.46. JARED'S PRIOR ACCIDENT IN 2008. NO.47. JARED'S MEDICAL CONDITION FROM 2008 ACCIDENT; DEFENDANT ANDREA AWERBACH'S MOTION IN LIMINE TO EXCLUDE REFERENCE OR EVIDENCE OF A PRIOR COMPLAINT FILED AGAINST HER ON ORDER SHORTENING TIME; DEFENDANT ANDREA AWERBACH'S JOINDER IN JARED AWERBACH'S MOTIONS IN LIMINE 1,2,3,5,6,10,12,14-17 AND 20-21; DEFENDANT ANDREA AWERBACH'S JOINDER IN SELECT; MOTIONS IN LIMINE FILED BY DEFENDANT JARED AWERBACH; DEFENDANT ANDREA AWERBACH'S MOTION IN LIMINE TO EXCLUDE REFERENCE OR EVIDENCE OF A PRIOR COMPLAINT FILED AGAINST HER ON OST;

DEFENDANT ANDREA AWERBACH'S MOTION IN LIMINE TO EXCLUDE TESTIMONY FROM
INSURANCE COMPANY REPRESENTATIVE CONCERNING INVESTIGATION OF ACCIDENT;
PLAINTIFF'S MOTION TO STRIKE DEFENDANT JARED AWERBACH'S NRCP 16.1(A)(3)
AMENDED AND SUPPLEMENTAL PRE-TRIAL DISCLOSURES, IN PART, ON ORDER
SHORTENING TIME

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 28, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

May 28, 2015	9:30 AM	Motion for Order to Show Cause
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HEARD BY: Allf, Nancy	COURTROOM: RJC Courtroom 03A
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COURT CLERK: Nicole McDevitt

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Roger Strassburg present telephonically.

Court stated it has the receipt of notice of bankruptcy on behalf of Jared Awerbach and Court does not intend to proceed on the merits today but only to discuss procedural matters. Arguments by Mr. Smith that the case is not stayed as to Ms. Awerbach, that case can proceed against Ms. Awerbach, and request that any sanctions be jointly and severally against both Defendants. Court stated it will not consider that as an oral request. Colloquy regarding trial setting in September and whether or trial would be going forward. Upon inquiry by the Court, Mr. Strassburg stated he had nothing to add. Mr. Smith stated they did intend to move forward against Ms. Awerbach. COURT ORDERED, status check SET as to trial setting, if counsel report to the court prior to the status check, then Court will vacate the necessity of appearance at hearing. Upon inquiry by the Court, Mr. Smith stated he will look at the motions in limine set for June and advise the Court what can be mooted.

8/20/2015 9:30 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****June 12, 2015**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

June 12, 2015	9:30 AM	Motion for Protective Order	Deft Andrea Awerbach's Motion For Protective Order
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

PRESENT:	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Colloquy re: the Court already determined allocation of fees from the May 7, 2014 hearing. Fees would be equally shared by Defts, and one Deft is now in Bankruptcy. Argument by Mr. Mazzeo. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART and DEFERRED IN PART; the scope of Dr. Fish's work is DEFERRED back to Judge Allf to analyze at or near the time of Trial whether or not the billings themselves are valid. Commissioner will let the Judge know, but counsel are DIRECTED to raise the issue with Judge Allf on June 19, 2015.

COMMISSIONER RECOMMENDED, Andrea Awerbach is RESPONSIBLE for \$11,000, or one half of payment (include calculation). Commissioner will provide the Motion work to Judge Allf. Colloquy the new case re: expert fees are within the Trial Court Judge's discretion. Mr. Smith requested payment of the amount, and if Judge Allf orders it to be paid back, Mr. Smith will pay it back. Colloquy re: keeping payment in counsel's Trust Account, or however counsel manages his funds. Commissioner reminded counsel the Report and Recommendation must be processed, and concerns can be raised with Judge Allf.

Mr. Mazzeo to prepare the Report and Recommendations, and Mr. Smith to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Mr. Mazzeo to appear at status check hearing to report on the Report and Recommendations.

7/10/15 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 19, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

June 19, 2015 10:00 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Henderson, Craig A. Attorney
 Mazzeo, Peter Attorney
 Smith, Adam D. Attorney

JOURNAL ENTRIES

- Following arguments by counsel, Court ruled as follows:

As to Plaintiff's Motion in Limine to Exclude Evidence Pertaining to Her Termination From Aliante (MIL #44), COURT ORDERED, motion GRANTED, if she opens

the door Court will allow it.

As to Plaintiff's Motion in Limine to Preclude Dr. Robert Odell's Opinions Pertaining to Medical Billing (MIL #50), COURT ORDERED, motion DENIED, if

necessary, Court will limit the testimony based on the foundation that can be laid.

As to Plaintiff's Motion in Limine to Exclude Evidence of Impairment (MIL #52), COURT ORDERED, motion GRANTED

As to Plaintiff's Motion in Limine to Exclude Evidence of Liability Because Jared's Judgment of

Conviction Conclusively Establishes Liability (MIL #53),

COURT ORDERED, motion GRANTED.

As to Plaintiff's Motion in Limine to Exclude Emilia's Irrelevant Employment Records (MIL #54), COURT ORDERED, motion DENIED.

As to Andrea's MIL 1 Jared's Recorded Interview as Hearsay, Mr. Smith stated Ms. Awerbach's former counsel filed this motion. Mr. Mazzeo stated he was

not aware of the motion. COURT ORDERED motion DENIED as an advisory ruling only.

As to Andrea's MIL 2 Exclude Reference or Evidence of a Prior Complaint, COURT ORDERED, motion GRANTED, unless she opens the door to it.

As to Andrea's MIL 3 Exclude Andrea's Prior Lawsuits, COURT ORDERED, motion GRANTED, unless she opens the door to it.

As to Andrea's MIL 4 Exclude Andrea's Prior Gambling Addiction, COURT ORDERED, motion GRANTED.

As to Andrea's MIL 5 Exclude Andrea's Department of Motor Vehicle Records, there being no opposition, COURT ORDERED, motion GRANTED.

As to Andrea's MIL 6 Exclude Testimony of Dr. Gross, COURT ORDERED, motion DENIED, however the scope is to be based on the foundation that can be laid.

As to Andrea's MIL 7 Exclude any Reference to De-Designated Expert Dr. Elkanich, there being no opposition, COURT ORDERED, motion GRANTED.

As to Andrea's MIL 8 Exclude Eighth Judicial District Court Family Division Records, there being no opposition, COURT ORDERED, motion GRANTED.

As to Andrea's MIL 9 to find that Dr. Smith's Opinions do not Assist the Trier of Fact and Must be Excluded DENIED.

As to Andrea's MIL 10 to Exclude any Reference or Comment to Testimony from Insurance Company, COURT ORDERED, motion GRANTED, claims will not be admitted,

however, there may be other relevant information with regard to the investigation.

As to the Jared Awerbach motions, Court stated it will not proceed as these motions in limine due to the filing of bankruptcy by Jared Awerbach, despite

whether or not there was a joinder as to Andrea Awerbach. Argument by Mr. Mazzeo. Court stated counsel will be able to make objections at the time of

trial however, Court cannot proceed against Jared Awerbach at this time. Court further stated Mr. Mazzeo could ask for relief from the deadlines from

Discovery Commissioner or Court. Colloquy regarding the issue as to Defendant Andrea Awerbach's motion for protective order regarding David Fish. Mr. Mazzeo stated the Discovery Commissioner directed him to raise the issue before this Court. Court stated it would address the issue at the next hearing. Counsel stated they would provide copies of the briefs to the Court.

7/15/2015 9:00 AM STATUS CHECK: DEFENDANT ANDREA AWERBACH'S MOTION FOR PROTECTIVE ORDER

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 15, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

July 15, 2015 9:00 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney

JOURNAL ENTRIES

- Counsel advised they resolved Plaintiff's Motion to hold Defendant Jared Awerbach's Counsel jointly and Severally Liable for the Court's February 25, 2015, Contempt Sanction order; and Request for Attorneys' Fees and have taken it off calendar. Arguments by counsel regarding the merits of and opposition to the Defendant Andrea Awerbach's motion for protective order. Court stated its findings and ORDERED, motion DENIED. Mr. Smith to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 20, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

August 20, 2015 9:30 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court noted it saw no appearances and matter is set for a status check on trial setting. COURT ORDERED, status check CONTINUED and Court will draft an order setting the status check on trial setting based on parties failure to appear today.

CONTINUED TO.....9/9/2015 9:00 AM

CLERK'S NOTE: A copy of this minute order was faxed to: Adam Smith (702-877-0110) and Peter Mazzeo, Esq. (702-382-5400).

CLERK'S NOTE: Continuance date of 9/9/2015 9:30 AM AMENDED to 9/29/2015 9:00 AM so status check can be heard with the other matters pending on 9/9/2015. A copy of this minute order was faxed to: Adam Smith (702-877-0110) and Peter Mazzeo, Esq. (702-382-5400). /nm 8/25/2015

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 15, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

September 15, 2015 9:00 AM Motion

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Plaintiff's Motion to Disqualify Defendant Jared Awerbach's Counsel Randall Tindall and Motion for Reassignment to Department 27 on Order Shortening Time; and Request for Leave to File Extended Memorandum of Points and Authorities

Mr. Smith argued that the Defense was portraying "gamesmanship" hiring Mr. Tindall as counsel to disqualify the Judge assigned and to create further costs. Opposition by Mr. Mazzeio and Mr. Strassburg. Statement regarding Bankruptcy stay. Court does not find conspiracy. COURT ORDERED, motion to disqualify and reassign, DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 13, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

October 13, 2015 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Estanislao, Maria U. Attorney
 Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Defendant Andrea Awerbach's Motion In Limine To Exclude Reference and Evidence of Jared s Marijuana Sale and Use
Defendant Andrea Awerbach's Motion for Summary Judgment Regarding Punitive Damages
Andrea Awerbach's Motion to Incorporate by Reference To Select Motions in Limine Filed by Defendant Jared Awerbach
Plaintiff's Motion to Strike Defendant Jared Awerbach's 10th Supplemental Disclosure Pursuant to NRCP 16.1; and Request for Attorneys' Fees on Order Shortening Time
Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt of Court for Failing to Comply with the Court's Reimbursement Order on Order Shortening Time
Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52 on an Order Shortening Time
Jared Awerbach's Motion to Clarify Order Re Tami Rockholt on an Order Shortening Time
Re-Notice of Hearing of Jared Awerbach's Previously Briefed Motions in Limine, Motion for Judicial Notice of Time of Sunset and Motion for Judicial Notice Regarding Plaintiff's False Statements on an

Order Shortening Time Already Set for 10/31/15
Deft's Motion in Limine 1-49

At request of counsel, Jared Awerbach's Motion to Clarify Order Re Tami Rockholt on an Order Shortening Time RESCHEDULED to 11/3/15.

Matter submitted by counsel. COURT ORDERED, Andrea Awerbach's Motion to Incorporate by Reference To Select Motions in Limine Filed by Defendant Jared Awerbach, GRANTED.

Ms. Estanislao argued the probative value was outweighed by the prejudicial value. Opposition by Mr. Smith. Argument regarding negligent entrustment; perception of the events of the accident by Defendant's son and that he was under the influence of marijuana. COURT ORDERED, Defendant Andrea Awerbach's Motion In Limine To Exclude Reference and Evidence of Jared s Marijuana Sale and Use, GRANTED AS TO THE SALE; DENIED AS TO USE.

Mr. Mazzeo argued that Andrea was not at fault as she was not driving during the accident. Opposition by Mr. Smith. Argument regarding conscience disregard. COURT ORDERED, Defendant Andrea Awerbach's Motion for Summary Judgment Regarding Punitive Damages, GRANTED AS TO 42.010 AND 41.440; PLAINTIFF MAY PROVE PUNITIVE DAMAGES UNDER 42.005.

Mr. Smith argued that discovery was closed. Opposition by Mr. Mazzeo and Mr. Strassburg. Statement regarding bankruptcy stay and expert of neurological brain injuries. COURT ORDERED, Plaintiff's Motion to Strike Defendant Jared Awerbach's 10th Supplemental Disclosure Pursuant to NRCP 16.1; and Request for Attorneys' Fees on Order Shortening Time, DENIED; NOT STRIKING DISCLOSURE.

COURT FURTHER ORDERED, PENDING MOTIONS CONTINUED TO 10/15/15 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 15, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

October 15, 2015 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Estanislao, Maria U. Attorney
 Mazzeo, Peter Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt of Court for Failing to Comply with the Court's Reimbursement Order
Re-Notice of Hearing of Jared Awerbach's Previously Briefed Motions in Limine, Motion for Judicial Notice of Time of Sunset and Motion for Judicial Notice Regarding Plaintiff's False Statements
Deft's Motions in Limine 1-49 (regarding Notice filed 9/24/15)
Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52

Following arguments by counsel. COURT ORDERED Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt of Court for Failing to Comply with the Court's Reimbursement Order, GRANTED IN PART; GRANTED as to paying the bill; DENIED as to being held in contempt of Court.

Following arguments by counsel. COURT ORDERED, Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52, UNDER ADVISEMENT and will issue a written

order from Chambers.

Following arguments by counsel. COURT ORDERED, Re-Notice of Hearing of Jared Awerbach's Previously Briefed Motions in Limine, Motion for Judicial Notice of Time of Sunset and Motion for Judicial Notice Regarding Plaintiff's False Statements, GRANTED.

Deft's Motions in Limine 1-49 (regarding Notice filed 9/24/15). Following arguments by counsel. COURT ORDERED as followed:

1. To exclude the traffic accident report; WITHDRAWN BY COUNSEL.
2. To exclude evidence of the traffic citation; GRANTED AS UNOPPOSED.
- 3 10 exclude evidence of police officers regarding fault; GRANTED, BUT WILL OBSERVATION TESTIMONY.
4. To exclude evidence that Jared Awerbach did not have a driver s license; DENIED, AS TO NEGLIGENT ENTRUSTMENT CLAIM.
5. To prevent Plaintiffs counsel from mentioning specific dollar amounts during voir dire; GRANTED.
- 6 To exclude evidence or mention of insurance; DENIED.
7. To exclude opinion testimony from treating physicians or non-designated experts; GRANTED IN PART CONSISTENT TO PLAINTIFF'S MOTION IN LIMINE #14.
8. To limit opinion testimony of no expert witnesses; GRANTED AS TO COMPLY WITH THE STATUTE; DIFFER RULING ON EVIDENCE OF TRIAL.
9. To exclude undisclosed expert opinions; WITHDRAWN BY COUNSEL.
10. To limit Dr. Mortillaro testimony to that given at deposition or disclosed prior to the discovery cutoff; GRANTED IN PART; LIMIT DISCLOSURE TO 30 DAYS PRIOR TO TRIAL.
11. To exclude reference to Plaintiffs financial condition or alleged inability to pay medical bills absent a favorable jury verdict; CONTINUED TO 11/13/15.
12. To exclude improper arguments; GRANTED.
13. To exclude mention or testimony of Jared Awerbach s prior bad acts or substance abuse; WITHDRAWN BY COUNSEL.
14. To require pre-screening of documents prior to their use in opening statement or at trial; CAN NOT SHOW UNLESS ADMITTED.
15. To permit reference to medical liens; WILL ALLOW LIENS BUT NOT REDUCTION OR SALE OF THE LIEN; WILL ALLOW REASONABLENESS OF THE COST OF MEDICAL CARE.
16. To exclude statements overheard by Plaintiff at the accident scene; RESERVED FOR TRIAL.
17. To exclude Plaintiffs future earnings loss claims; DENIED WITHOUT PREJUDICE.
18. WITHDRAWN;
19. To prevent questions during voir dire about higher insurance premiums; WILL NOT ALLOW PREMIUMS BUT WILL ALLOW TORT REFORM QUESTION.
20. WITHDRAWN;
21. To exclude testimony of Stan Smith regarding hedonic damages; DENIED WITHOUT PREJUDICE.
22. To exclude blood test results until a chain of custody is established; DENIED WITHOUT PREJUDICE.

23. To exclude blood test results until connected to accident causation; DENIED BUT IF PLAINTIFF OPENS THE DOOR IS ALLOWED AS TO IMPAIRMENT.
24. WITHDRAWN
25. WITHDRAWN;
26. To exclude mention of the criminal plea to the DUI charge until it is established that intoxication caused the accident; GRANTED AS TO CRIMINAL PLEA; CONVICTION WILL DEPEND ON EVIDENCE.
27. To bifurcate the trial into liability/compensatory and punitive phases; DENIED WITHOUT PREJUDICE AS TO JARED; GRANTED AS TO ANDREA.
28. To prevent mention of blood THC/Metabolite levels until after Plaintiff proves them by competent evidence; DENIED AS TO METABOLITE LEVELS; IF PLAINTIFF OPENS THE DOOR ON THC, ALLOWED.
29. To exclude evidence that contradicts the Discovery Commissioner findings that Plaintiffs termination from Aliante Casino was unrelated to pain; CONTINUED TO 11/3/15.
30. That NRS 42.0 10 is void for vagueness; CONTINUED TO 11/3/15; ATTORNEY GENERAL OFFICE HAD NOT BEEN NOTIFIED.
31. Evidence regarding Defendant Jared Non-Support of Children; GRANTED.
32. To exclude reference to Jared Awerbach s children; WITHDRAWN BY COUNSEL
33. To exclude mention of Jared Awerbach s use of public assistance programs; GRANTED AS UNOPPOSED.
34. To exclude Jared Awerbach non-juvenile offenses; CONTINUED TO 11/3/15.
35. To exclude Jared Awerbach drug addiction; GRANTED AS TO AFTER THE DATE OF LOSS BUT NOT AS TO BEFORE THE DATE OF LOSS AS TO NEGLIGENT ENTRUSTMENT CLAIM AGAINST ANDREA.
36. To exclude Jared Awerbach domestic battery against his motion and restraining order; GRANTED.
37. To exclude Jared Awerbach drug dealing; EXCLUDE SALE; WILL ALLOW USE.
38. To exclude Plaintiffs statement to Dr. Cash that Jared Awerbach was under the influence alcohol at the time of the accident; GRANTED AS UNOPPOSED.
39. To admit Plaintiffs implied that her surgery in Las Vegas cost \$70,000, DENIED.
40. To admit Plaintiffs implied admission that the surgery she received was excessive in cost and that her counsel knew it was excessive in cost; DENIED.
41. To exclude mention of Plaintiffs medical bills; DENIED.
42. To admit evidence of non-impairment in mitigation of a punitive damages claim; DENIED.
43. To admit admission by Plaintiffs authorized agents as to the expected costs of her surgery; DENEID.
44. To exclude alleged attempt to flee the accident scene; DENIED WITHOUT PREJUDICE.
45. To exclude Jared Awerbach s gang membership; GRANTED AS UNOPPOSED.
46. To exclude Jared Awerbach s prior 2008 accident; DENIED.
47. To exclude Jared Awerbach s medical condition from the prior 2008 accident; GRANTED AS UNOPPOSED.
48. Motion for judicial notice of the time of sunset on the date of the accident; GRANTED.
49. Motion for judicial notice regarding Plaintiffs false statements in subrogation contracts/liens with

certain medical providers regarding the availability of health insurance coverage; CONTINUED TO 11/3/15.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 19, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

October 19, 2015 9:00 AM Pre Trial Conference

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Counsel estimated 3 weeks. Due to the Court's calendar, COURT ORDERED, trial dates VACATED and RESET.

1/11/16 9:00 AM PTC

2/1/16 9:00 AM CC

2/8/16 10:30 AM JT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 20, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

October 20, 2015 9:00 AM Minute Order

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant, Jared Awerbach's Motion for Clarification on the ruling on Plaintiff's Motion in Limine No. 52 came on for hearing on October 15, 2015. The parties were represented by counsel. After having reviewed the pleadings and papers on file, and having heard oral argument, the Court took the matter under advisement. Good cause appearing, the Court now enters the following Minute Order:

Defendant, Jared, requests that the Court clarify Judge Allf's prior ruling regarding Plaintiff's Motion in Limine No. 52, and Defendant contends that when Motion in Limine 52 was heard, Defendant, Jared, was under the protection of the automatic bankruptcy stay, and was unable to participate in the hearing. Defendant, Jared, argues that had he been able to participate, he would have explained to Judge Allf how the Plaintiff's Motion in Limine No. 52 was different and distinguishable from the Court's prior Order Granting Partial Summary Judgment, with regard to the issue of impairment. Defendant, Jared, seeks an order from this Court allowing him to present evidence that he was not impaired, for the purpose of mitigation of punitive damages.

In reviewing Judge Allf's Order regarding Plaintiff's Motion for Partial Summary Judgment, which Order is dated 1/28/15 (prior to any bankruptcy stay), Judge Allf made it very clear that Defendant Jared Awerbach is deemed per se impaired as a matter of law based on the undisputed level of marijuana metabolite in his blood at the time of the crash. This fact is conclusively established for purposes of trial. Such ruling was based upon the interaction of NRS 42.010(1) with

NRS 484C.110(3)(h). Since the legal level of marijuana metabolite set forth in NRS 484C.110(3)(h) is 5 ng/mL, and since Jared's toxicology laboratory study indicated he had 47 ng/mL of marijuana metabolite, Judge Allf indicated that Jared is, therefore, deemed per se impaired as a matter of law based on the undisputed level of marijuana metabolite in his blood at the time of the crash, regardless of whether Jared was actually impaired at the time of the January 2, 2011, accident. This fact is deemed conclusively established for purposes of trial.

While the Defendant may want to present evidence that he was not impaired, at the time of the motor vehicle accident, Judge Allf has made it abundantly clear that his impairment is conclusively established for purposes of trial.

Consequently, and based upon the foregoing, it does not seem that there is any issue with regard to the clarity of Judge Allf's Order regarding Plaintiff's Motion for Partial Summary Judgment. While the Order granting Plaintiff's Motion in Limine #52 is somewhat vague, it must be read in conjunction with the Court's prior order. This Court sees no ambiguity in the Court's prior Order, and consequently, there is really no need for clarification. For purposes of Trial, the Defendant, Jared, is deemed per se impaired as a matter of law, and his impairment is conclusively established for purposes of trial. Consequently, it would be considered jury nullification for the Defendant to present evidence that he was not impaired, as such evidence or argument would directly contradict the Court's prior ruling and determination. Thus, Defendant's Motion for Clarification, is hereby DENIED.

The Court requests that Plaintiff's counsel prepare an Order consistent with the foregoing, submit it to defense counsel to approve as to form and content, and then submit such order to the Court within 10 days.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 03, 2015

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

December 03, 2015 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Henderson, Craig A.	Attorney
	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- As to: Jared Awerbach's Motion to Clarify Order Re Tami Rockholt ; Defendant Andrea Awerbach's Joinder in Jared Awerbach's Motion to Clarify Order re Tami Rckholt
Mr. Strassburg argued medical bills reviewed being reduced based on duplication and work not reflected. Mr. Mazzeo joined in the motion. Opposition by Mr. Smith. COURT ORDERED, based on Judge Alf's prior order the Court will not allow opinions offered but may offer mathematical testimony, witness not excluded but can not testify what the amount should have been. Motion DENIED WITHOUT PREJUDICE.

As to: Deft's Motion in Limine #11 To exclude reference to Plaintiff's financial condition or inability to pay medical bills absent a favorable jury verdict.
Mr. Strassburg submitted on the pleading. Mr. Smith argued loss of earnings and that the financial condition of the Plaintiff was relevant. COURT ORDERED, motion GRANTED as to the Verdict; DENIED as to the remainder.

As to: Deft's Motion in Limine #29 To exclude evidence that contradicts the Discovery Commissioner's findings that Plaintiffs termination from Aliante Casino was unrelated to pain. Mr. Strassburg argued that the pain made the Plaintiff short tempered which resulted in her termination and loss wage claim. Opposition by Mr. Smith. COURT ORDERED, motion GRANTED as it contradicted the Discovery Commissioners Report and Recommendations.

As to: Deft's Motion in Limine #30 NRS.010 is Void for Vagueness.
Mr. Strassburg argued the marijuana consumption statute and marijuana metabolite after use. Mr. Smith submitted on the pleading. Court finds the Defendant did not have a license for marijuana. COURT ORDERED, motion DENIED.

As to: Def's Motion in Limine #34 To exclude Jared Awerbach's non-juvenile offenses; Jared Awerbach's Motion in Limine to Exclude Evidence of Criminal Convictions and Juvenile Adjudications.

Following arguments by counsel regarding negligent entrustment and impeachment. COURT ORDERED, drug use is relevant but possession is not relevant; convictions and charges do not come in.

As to Motion for judicial notice regarding the availability of health insurance coverage. Colloquy between court and counsel regarding collateral source rule. Mr. Strassburg argued the Plaintiff lied about having insurance coverage, therefore, the amount was higher on the lien. Furthermore, it showed how the Plaintiff was deceptive and against her credibility. Mr. Smith submitted on the Opposition. COURT ORDERED, DENIED as it violated the collateral source rule.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 08, 2015

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 08, 2015 9:00 AM Motion to Exclude

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Smith, Adam D. Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Plaintiff's Motion to Exclude Reports and Testimony of Raymond Kelly and David Bearman;
Evidence Regarding Jared's Eyesight; and Photographs Related to Jared's Eyesight

Following arguments by counsel, COURT ORDERED, as followed as to:

1. Raymond Kelly, there being no opposition, EXCLUDED.
2. David Bearman, DENIED- NOT EXCLUDED but will have limited testimony, no discussion allowed regarding impairment.
3. Evidence regarding Jared's eyesight, NOT EXCLUDED, but will need proper foundation.

Mr. Smith to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 11, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 11, 2016 9:00 AM Pre Trial Conference

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Mott, Timothy Andrew Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Counsel estimated 3-4 weeks for trial as there was a punitive damages claim. COURT ORDERED, trial date STANDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 14, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 14, 2016 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Defendant Andrea Awerbach's Motion for Summary Judgment on Punitive Damages Pursuant to NRS 42.005

Deft's Adrea Awerbach Motion to Amend Jury Questionnaire

Arguments by counsel regarding asking the opinion of the prospective jurors how they felt about people driving under the influence. Arguments by counsel regarding previous use and the THC metabolites of marijuana. COURT ORDERED motion to amend jury questionnaire, GRANTED as to allowing questions 3,5,8,and 9; Court will allow 200 jurors. Colloquy between the Court and counsel regarding bifurcation of the trial related to punitive damages under the DUI statute. Court instructed counsel to further brief that subject and submit to the Court.

Mr. Mazzeo argued that Andrea Awerbach was not involved in the accident; did not give Jared permission to drive the vehicle; therefore, the elements for punitive damages could not be satisfied.

Opposition by Mr. Smith. Court does not find fraud but finds that implied malice goes to oppression. There being a genuine issue of material fact remaining, COURT ORDERED, motion for summary judgment on punitive damages, DENIED. Mr. Smith to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 28, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 28, 2016 9:00 AM Motion

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
Mott, Timothy Andrew Attorney
Roberts, D Lee, Jr. Attorney
Smith, Adam D. Attorney
Tindall, Randy W. Attorney

JOURNAL ENTRIES

- JARED AWERBACH'S MOTION TO ESTABLISH CRITERIA FOR JURY SELECTION AND VOIR DIRE

Mr. Tindal argued for the criteria of questions allowed to the prospective jury panel to establish racial bias, and views on punitive damages. Mr. Tindal further argued that the jury panel did not consist of equal race; it could prejudice the Defendants case; and requested additional preemptory challenges at trial. Opposition by Mr. Lee. Argument regarding negligent entrustment of Andrea Awerbach, diverse interest of the Defendants, and there was no evidence of racial exclusion. COURT ORDERED, request for additional preemptory challenges, DENIED; Court will allow questions regarding racial bias but would not allow improper arguments or the conscience of the community.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 28, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 28, 2016 9:00 AM Motion in Limine

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
Mott, Timothy Andrew Attorney
Roberts, D Lee, Jr. Attorney
Smith, Adam D. Attorney
Tindall, Randy W. Attorney

JOURNAL ENTRIES

- JARED AWERBACH'S MOTION IN LIMINE TO EXCLUDE FACEBOOK INFORMATION AND SUBSTANCE ABUSE

Mr. Mazzeo and Mr. Tindall stated that Jared Awerbach's Facebook photos and posts were inflammatory and irrelevant, therefore, they should not come into evidence. Opposition by Mr. Lee. Argument that the Facebook content should not be excluded as a whole; that he would be addressing topics during the course of trial; therefore, he would have opportunity to impeach the Defendant is necessary. COURT ORDERED, motion GRANTED. If the door is opened at the time of trial it could be addressed further at that time.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 28, 2016

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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January 28, 2016	9:00 AM	Motion for Protective Order
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HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Mott, Timothy Andrew	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- Motion for Protective Order

Mr. Mazzeo argued that they had a legitimate dispute regarding the reimbursement portion of Judge Alf's order, which ordered Defendants to pay the Plaintiff's reasonable Discovery costs. Defendants were not responsible for the expense of Plaintiff hiring of an additional expert; Discovery was now closed; the costs are unreasonable and unnecessary; moreover, the Court should impose some limitations to Judge Alf's Order. Furthermore, Mr. Mazzeo directed the Court's attention to a bill from Dr. Oliveri in the amount of \$3,125.00, and requested the Court to limit Plaintiffs recovery from that bill. Opposition by Mr. Smith as Dr. Oliveri's bill was related to Discovery costs, and Defendants should reimburse the Plaintiff for the payment. Court advised Plaintiff would not be awarded Dr. Oliveri's bill of \$3,125.00, and ORDERED, motion DENIED. The Court cannot issue a blanket protective order, as the motion was too broad. Furthermore, each bill had to be addressed

individually, and determined if related to Discovery or trial preparation. Mr. Mazzeo to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 28, 2016

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

January 28, 2016 9:00 AM Motion to Exclude

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO EXCLUDE UNTIMELY OPINIONS FROM DR. ROBERT ODELL; DR. MICHAEL KLEIN; AND DR. CURTIS POINDEXTER ON ORDER SHORTENING TIME

Mr. Smith argued to exclude the opinions of Dr. Robert Odell, Dr. Michael Klein, and Dr. Curtis Poindexter as they were disclosed untimely and past the imposed deadline. Opposition by Mr. Mazzeo as they were disclosed within the 30 days because the date fell on a Saturday. Court finds the disclosures were not untimely. COURT ORDERED as to: Dr. Klein, Court will not allow opinions; as to Dr. Odell, based on Judge Alf s Order, the Court will not exclude billing, opinions, or new opinions and must have proper foundation; as to Dr. Poindexter, will allow opinions from the initial report but may not bring up new records or offer new opinions not disclosed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 28, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

January 28, 2016 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Natalie Ortega

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Estanislao, Maria U. Attorney
Mazzeo, Peter Attorney
Mott, Timothy Andrew Attorney
Roberts, D Lee, Jr. Attorney
Smith, Adam D. Attorney
Tindall, Randy W. Attorney

JOURNAL ENTRIES

- JARED AWERBACH'S MOTION TO ESTABLISH CRITERIA FOR JURY SELECTION AND VOIR DIRE...JARED AWERBACH'S MOTION IN LIMINE TO EXCLUDE FACEBOOK INFORMATION AND SUBSTANCE ABUSE...MOTION FOR PROTECTIVE ORDER...PLAINTIFF'S MOTION TO EXCLUDE UNTIMELY OPINIONS FROM DR. ROBERT ODELL; DR. MICHAEL KLEIN; AND DR. CURTIS POINDEXTER ON ORDER SHORTENING TIME

AS TO JARED AWERBACH'S MOTION TO ESTABLISH CRITERIA FOR JURY SELECTION AND VOIR DIRE:

Mr. Tindall argued for the criteria of questions allowed to the prospective jury panel to establish racial bias, and views on punitive damages. Mr. Tindall further argued that the jury panel did not

consist of equal race; it could prejudice the Defendant's case; and requested additional preemptory challenges at trial. Opposition by Mr. Lee. Argument regarding negligent entrustment of Andrea Awerbach, diverse interest of the Defendants, and there was no evidence of racial exclusion. COURT ORDERED, request for additional preemptory challenges, DENIED; Court will allow questions regarding racial bias, but would not allow improper arguments or the conscience of the community.

AS TO JARED AWERBACH'S MOTION IN LIMINE TO EXCLUDE FACEBOOK INFORMATION AND SUBSTANCE ABUSE:

Mr. Mazzeo and Mr. Tindall stated that Jared Awerbach's Facebook photos and posts were inflammatory and irrelevant, therefore, they should not come into evidence. Opposition by Mr. Lee. Argument that the Facebook content should not be excluded as a whole; that he would be addressing topics during the course of trial; therefore, he would have opportunity to impeach the Defendant if necessary. COURT ORDERED, motion GRANTED. If the door is opened at the time of trial it could be addressed further at that time.

AS TO DEFENDANT ANDREA AWERBACH'S MOTION FOR PROTECTIVE ORDER:

Mr. Mazzeo argued that they had a legitimate dispute regarding the reimbursement portion of Judge Alf's Order, which ordered Defendants to pay the Plaintiff's reasonable Discovery costs. Defendants were not responsible for the expense of Plaintiff hiring of an additional expert; Discovery was now closed; the costs are unreasonable and unnecessary; moreover, the Court should impose some limitations to Judge Alf's Order. Furthermore, Mr. Mazzeo directed the Court's attention to a bill from Dr. Oliveri in the amount of \$3,125.00, and requested the Court to limit Plaintiff's recovery from that bill. Opposition by Mr. Smith as Dr. Oliveri's bill was related to Discovery costs, and Defendants should reimburse the Plaintiff for the payment. Court advised Plaintiff would not be awarded Dr. Oliveri's bill of \$3,125.00, and ORDERED, motion DENIED. The Court cannot issue a blanket protective order, as the motion was too broad. Furthermore, each bill had to be addressed individually, and determined if related to Discovery or trial preparation. Mr. Mazzeo to prepare the order.

AS TO PLAINTIFF'S MOTION TO EXCLUDE UNTIMELY OPINIONS FROM DR. ROBERT ODELL; DR. MICHAEL KLEIN; AND DR. CURTIS POINDEXTER ON ORDER SHORTENING TIME:

Mr. Smith argued to exclude the opinions of Dr. Robert Odell, Dr. Michael Klein, and Dr. Curtis Poindexter as they were disclosed untimely and past the imposed deadline. Opposition by Mr. Mazzeo as they were disclosed within the 30 days because the date fell on a Saturday. COURT FINDS the disclosures were not untimely. COURT ORDERED as to: Dr. Klein, Court will not allow opinions; as to Dr. Odell, based on Judge Alf's Order, the Court will not exclude billing, opinions, or new opinions and must have proper foundation; as to Dr. Poindexter, will allow opinions from the initial report but may not bring up new records or offer new opinions not disclosed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 08, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 08, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Awerbach, Andrea	Defendant
	Awerbach, Jared	Defendant
	Mazzeo, Peter	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY:

Exclusionary Rule INVOKED. Alternates Jurors selected #9 and #10. Court listed prospective jurors to be excused prior to Voir Dire.

THE PRESENCE OF THE PROSPECTIVE JURY: Role Call. Clerk swore prospective jury panel. General Voir Dire conducted.

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel. Arguments regarding permissive use and negligent entrustment. Court finds after speaking to Judge Alf that her previous ruling regarding permissive use was with the intent for rebuttal presumption and not a determination of law. Mr. Roberts moved the Court for mistrial as counsel was not ready to go forward on this ruling. Challenge for cause against the jury panel by Mr. roberts. Court ordered, request for mistrial DENIED as the Court could not hear the trial before the 5 year rule ran. Court

advised it would not dismiss the jury panel at that time.

COURT ADMONISHED and EXCUSED the prospective jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....2/9/16 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 08, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 08, 2016 10:30 AM Motion to Reconsider

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Mr. Roberts argued for the punitive damages phase and conscience of the community in the trial. COURT ORDERED it would let in the punitive damages phase but would not allow it at the initial part of trial.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 09, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 09, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Awerbach, Jared	Defendant
	Estanislao, Maria U.	Attorney
	Garcia, Emilia	Plaintiff
	Mazzeo, Peter	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Objections put on the record regarding the term marijuana use and impairment. Court advised it would allow it during the punitive damage phase.

THE PRESENCE OF THE PROSPECTIVE JURY: General Voir Dire conducted.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Objections put on the record by counsel regarding caps and higher insurance premiums.

CONTINUED....2/11/16 10:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 11, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 11, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Awerbach, Andrea	Defendant
	Awerbach, Jared	Defendant
	Estanislao, Maria U.	Attorney
	Mazzeo, Peter	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- THE PRESENCE OF THE PROSPECTIVE JURY: General Voir Dire conducted. Jury panel selected and sworn.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....2/12/16 10:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 12, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 12, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Awerbach, Andrea	Defendant
	Awerbach, Jared	Defendant
	Estanislao, Maria U.	Attorney
	Mazzeo, Peter	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding disposing the Adjuster and insurance possibly being introduced into the trial to prove bias. Court finds usage could be for impeachment if necessary, however, to not say insurance and use "party". Arguments by counsel regarding the claims note. Court indicated it would allow Ms. Awerbach to be redeposed if necessary. Colloquy regarding demonstrative exhibits for opening statements.

IN THE PRESENCE OF THE JURY: Opening statements by counsel.

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding liens, collateral source, implied permission and termination of the Plaintiff. Exhibits stipulated on the record 4-9, 15-39, 40,41,43.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....2/16/16 10:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 16, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 16, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding opening statements to the Jury and religious comments.

IN THE PRESENCE OF THE JURY: Opening statements by counsel. Witness testimony of David Figueroa and Cherise Killian. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....2/17/16 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 17, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 17, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY: Witness testimony of Jeffrey Gross. Exhibits presented and admitted. (see worksheets).

2:28 P.M. -- Court Clerk Susan Jovanovich covering trial for Court Clerk Alice Jacobson.

JURY PRESENT: Exhibits presented (See Worksheets.). Court admonished and excused Jury for evening, to return tomorrow morning at 10:00 a.m.

OUTSIDE PRESENCE OF JURY: Mr. Strassburg made offer of proof in support of defense' request to cross examine witness Dr. Jeffrey Gross about a newspaper article listing criminal fraud action by individuals, involving a California hospital and surgical instruments having allegedly been used. Following arguments by counsel, Court DENIED the Motion; stating this information is too collateral. Court stated it would allow certain things if felony case was involving Dr. Gross, however, the information is too collateral to come in on this case, and Court does not believe it is relevant. Court

advised counsel if there are credible issues with the physician witness, parties are allowed to explore issues, however, parties are not permitted to use an alleged fraud conviction of someone else. Parties stated their previous objections which were made at Bench during testimony earlier, on the record; which included issues with surgery costs, reductions, and billing, plus relevancy. Mr. Roberts requested a specific comment made about lumbar adjustment from a chiropractor causing damage, be stricken from record. Mr. Mazzeo stated he will need to look at the record first, before he can address this, therefore, he cannot respond to this. Court advised parties this can be discussed tomorrow. Colloquy as to witness line up for tomorrow, including Dr. Cash and Dr. Lemper.

Evening recess. TRIAL CONTINUES.

2/18/16 10:00 A.M. TRIAL BY JURY

CONTINUED....2/19/16 9:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 19, 2016

A-11-637772-C	Emilia Garcia, Plaintiff(s)
	vs.
	Jared Awerbach, Defendant(s)

February 19, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding liens. Walter Kiedell sworn and questioned regarding medical liens.

IN THE PRESENCE OF THE JURY: Witness testimony of Walter Kiedell. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding future care.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED...2/22/16 10:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 22, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 22, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Keri Cromer

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Estanislao, Maria U.	Attorney
	Mazzeo, Peter	Attorney
	Mott, Timothy Andrew	Attorney
	Roberts, D Lee, Jr.	Attorney
	Rodriguez-Shapoval, Marisa	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY

Mr. Tindall advised they filed a trial memorandum regarding Mr. Awerbach's video deposition being presented in lieu of live testimony and argued in opposition thereto. Mr. Mazzeo concurred and joined the argument. Arguments by Mr. Smith in support of using video deposition. Colloquy regarding adverse party. Court advised it would review the brief and they could discuss this after lunch.

JURY PRESENT

Parties stipulated to the presence of the jury. Testimony presented (see worksheet). Bench conference. Testimony continued. Court admonished and excused the jury for recess.

OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding trial memorandum. Court advised it would allow Plaintiff to use Mr. Awerbach's video deposition. Colloquy regarding trial memorandum pertaining to Dr. Smith. Court believed this was a motion for reconsideration and that it was untimely.

JURY PRESENT

Parties stipulated to the presence of the jury. Testimony continued. Bench conference. Testimony continued. Court admonished and excused the jury for recess. Parties stipulated to the presence of the jury. Testimony continued. Bench conference. Testimony continued. bench conference. COURT ORDERED, Jury Trial CONTINUED. Court admonished and excused the jury for recess.

CONTINUED TO 2/23/2016 - 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 23, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 23, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding Dr. Smith's methodology, calculation of household services and damages.

IN THE PRESENCE OF THE JURY: Witness testimony of Stan Smith. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding wage loss.

IN THE PRESENCE OF THE JURY: Witness testimony of David Gross. Exhibits presented and admitted. (see worksheets).

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....2/24/16 9:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 24, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 24, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Louisa Garcia

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
Mott, Timothy Andrew Attorney
Roberts, D Lee, Jr. Attorney
Strassburg, Roger Attorney
Tindall, Randy W. Attorney

JOURNAL ENTRIES

- JURY PRESENT: Testimony continued (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Argument by counsel regarding objection raised at the Bench. Mr. Mazzeo referenced Dr. Kiedwell's statement wherein he stated it was his understanding Ms. Garcia was broadsided and was involved in a violent act. Mr. Mazzeo argued Dr. Kiedwell was not an expert and his testimony should be stricken. Mr. Lee stated, as previously discussed, the testimony had been going on for some time without objection. Court advised, in layman's terms, the doctor understood it was a violent act.

JURY PRESENT: Testimony resumed. (See Worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Mr. Tindall stated there was a deposition issue; he had two objections as to what Plaintiff Intended to play. One was information regarding the child in car. Court noted this was previously ruled on and goes to reckless disregard as to the punitive damages

claim. The second issue was the statement regarding impairment. Argument. COURT ADVISED, with respect to Jared Awerbach, Page 127, Line 21 and Page 128, Line 7 may be added. As to Andrea Awerbach, Page 167, starting on line 9 through page 168 may be also added.

JURY PRESENT: Continued testimony. (See Worksheets). Court admonished and excused the Jury for the evening.

OUTSIDE THE PRESENCE OF THE JURY: Counsel stated they would be taking Dr. Scher out of order tomorrow. Plaintiff had no opposition. Colloquy regarding the doctor s 98 slide Power Point presentation. Opposition by Plaintiffs. Court instructed counsel to provide it with a copy in the morning; they may have to discuss each one before it is played.
EVENING RECESS.

CONTINUED TO 2/24/16 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 25, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 25, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY: Witness testimony by Irving Scher.

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding foundation of evidence based on speculation and that the witness relied on photographs. Mr. Scher questioned by the Court and counsel. COURT ORDERED, Mr. Scher EXCLUDED.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....2/26/16 9:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 26, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 26, 2016 10:30 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Shelley Boyle

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding Dr. Poindexter's opinions.

IN THE PRESENCE OF THE JURY: Court instructed the Jury to disregard Dr. Scher's testimony. Witness testimony by Curtis Poindexter. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding scope of pain management treatment.

IN THE PRESENCE OF THE JURY: Witness testimony by Curtis Poindexter. Exhibits presented and admitted. (see worksheets).

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial

CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding spasms.

CONTINUED...3/1/16 10:00 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 01, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 01, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Rodriguez-Shapoval, Marisa Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding opinions of Mr. Klein.

IN THE PRESENCE OF THE JURY: Witness testimony by Michael Klein. Exhibits presented and admitted. (see worksheets).

**** 1:00 PM, Louisa Garcia, Court Clerk present.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Mazzeo made a record as to Court's warning regarding cumulative testimony and referred to Motion in Limine 35 excluding Dr. Poindexter. Mr. Mazzeo stated it did not have anything to do with Dr. Klein; they specialize in different areas. Mr. Smith stated as a general rule you cannot have experts testify as to the same thing and offer the same opinions. COURT ADVISED Dr. Klein was different than Dr. Poindexter and statements would be allowed in.

JURY PRESENT: Testimony resumed. Conference at the Bench. Continued testimony.

OUTSIDE THE PRESENCE OF THE JURY: Statement by Mr. Mazzeo regarding slides he intended to proceed with. Opposition by Mr. Smith. COURT ADVISED if it was not previously disclosed it could not be offered; if the opinion was in the report it was fair game.

JURY PRESENT: Testimony continued. Bench Conference. COURT ORDERED, Jury to disregard any statements concerning post-operative x-rays. Continued testimony. Court admonished and excused the Jury for the evening. TRIAL CONTINUES.

3/02/16 9:00 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 02, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 02, 2016 9:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Estanislao, Maria U. Attorney
 Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Rodriguez-Shapoval, Marisa Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY: Witness testimony of Thomas Ireland and Robert Klein. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding opinions of June 2014 xray.

IN THE PRESENCE OF THE JURY: Witness testimony of Emilia Garcia. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding Plaintiff's employment and termination records. Arguments regarding wage loss claim.

IN THE PRESENCE OF THE JURY: Witness testimony of Emilia Garcia. Exhibits presented and admitted. (see worksheets).

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....3/3/16 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 03, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 03, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Estanislao, Maria U. Attorney
 Mazzeo, Peter Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding nuclear family set up of Plaintiff , life style, and Facebook pictures.

IN THE PRESENCE OF THE JURY: Witness testimony of Emilia Garcia. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding pain and functionality of Plaintiff.

IN THE PRESENCE OF THE JURY: Witness testimony of Emilia Garcia and Jonathan Davis. Exhibits presented and admitted. (see worksheets).

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial

A-11-637772-C

CONTINUED.

CONTINUED....3/4/16 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 04, 2016

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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March 04, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Estanislao, Maria U.	Attorney
	Mazzeo, Peter	Attorney
	Mott, Timothy Andrew	Attorney
	Roberts, D Lee, Jr.	Attorney
	Rodriguez-Shapoval, Marisa	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY: Emilia Garcia sworn and testified (exhibits admitted, see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record regarding Plaintiff's trip to California following surgery.

IN THE PRESENCE OF THE JURY: Emilia Garcia sworn and testified (exhibits admitted, see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record regarding Plaintiff's

facebook pictures, and loss of enjoyment of life. Objections put on the record regarding prior bad acts of Jared Awerbach.

IN THE PRESENCE OF THE JURY: Jeffrey Gross sworn and testified (exhibits admitted, see worksheets).

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....3/4/16 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 07, 2016

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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March 07, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Awerbach, Andrea	Defendant
	Awerbach, Jared	Defendant
	Estanislao, Maria U.	Attorney
	Garcia, Emilia	Plaintiff
	Mazzeo, Peter	Attorney
	Mott, Timothy Andrew	Attorney
	Roberts, D Lee, Jr.	Attorney
	Rodriguez-Shapoval, Marisa	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: 50A Motion by Mr. Mazzeo regarding Dr. Smith's opinion of household services performed prior the Plaintiff's accident and enjoyment of life that should be stricken from the recorded. Opposition by Mr. Roberts. Court ordered, motion DENIED. Colloquy regarding facebook pictures between the court and counsel.

IN THE PRESENCE OF THE JURY: Plaintiff rests. Witness testimony by logan Colesondrop and Andrea Awerbach. Exhibits presented and admitted. (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record by counsel regarding

admissions, hourly wage and insurance the Plaintiff. Objections put on the record regarding Jared Awerbach drug sales.

IN THE PRESENCE OF THE JURY: Defendant rests.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Roberts requested a directed verdict regarding permissive use. COURT ORDERED, request DENIED. Mr. Roberts requested a directed verdict on causation. Opposition by Mr. Mazzeo. COURT ORDERED, request GRANTED. Court does not find evidence that the Plaintiff was not injured in the accident. Objections put on the record of statements allowed to be made during closing statements. Jury Instructions settled on the record.

CONTINUED....3/8/16 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 08, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 08, 2016 10:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT:	Awerbach, Andrea	Defendant
	Awerbach, Jared	Defendant
	Estanislao, Maria U.	Attorney
	Garcia, Emilia	Plaintiff
	Mazzeo, Peter	Attorney
	Mott, Timothy Andrew	Attorney
	Roberts, D Lee, Jr.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions settled on the record.

IN THE PRESENCE OF THE JURY: Court instructed the jury. Closing statements by counsel.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Mazzeo moved the Court for a Direct Verdict on Punitive Damages. Opposition by Mr. Roberts. Court finds it was an issue for the Jury to decide.

IN THE PRESENCE OF THE JURY: Closing statements by counsel.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....3/9/16 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 09, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 09, 2016 9:00 AM Jury Trial

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Leah Armendariz

PARTIES

PRESENT:	Garcia, Emilia	Plaintiff
	Mott, Timothy Andrew	Attorney
	Roberts, D Lee, Jr.	Attorney
	Rodriguez-Shapoval, Marisa	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney
	Tindall, Randy W.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding scheduling.

JURY PRESENT:

Mr. Strassburg begins closing argument. Jury ADMONISHED, and excused for recess.

OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding the length of closing arguments and Pltf.'s. rebuttal, and the lunch schedule.

JURY PRESENT:

Closing argument by Mr. Strassburg continues. Jury ADMONISHED, and excused for lunch.

OUTSIDE THE PRESENCE OF THE JURY:

Argument and colloquy regarding slides used by Mr. Strassburg during his closing argument, inconsistency in Pltf's. statements, and if another event could have caused Pltf's pain.

JURY PRESENT:

Closing argument by Mr. Strassburg continues. Jury ADMONISHED, and excused for recess.

OUTSIDE THE PRESENCE OF THE JURY:

Argument and colloquy regarding evidence determining the degree Deft. was impaired.

JURY PRESENT:

Rebuttal by Mr. Roberts. Juror's 9 and 10 listed as the Alternatives. COURT ORDERED, Trial CONTINUES, Jury to begin deliberations. Jury ADMONISHED, and released for the evening.

CONTINUED TO: 03/10/16 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 10, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 10, 2016 9:00 AM Jury Trial

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Leah Armendariz

PARTIES

PRESENT: Estanislao, Maria U. Attorney
 Mazzeo, Peter Attorney
 Mott, Timothy Andrew Attorney
 Roberts, D Lee, Jr. Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

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At the hour of 9:00 a.m. the jury retired to deliberate. Verdict returned at the hour of 4:34 p.m. in favor of the Plaintiff. Jury polled.

COURT THANKED and EXCUSED the jury.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 10, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

May 10, 2016 9:00 AM Status Check

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

PARTIES

PRESENT: Mazzeo, Peter Attorney
Mott, Timothy Andrew Attorney
Roberts, D Lee, Jr. Attorney
Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Briefing order set by the Court as follows:

5/2/6/16 Plaintiffs post trial motion briefing due.

6/9/16 Responsive pleadings due.

6/18/16 Reply briefs due.

6/23/16 Hearing to be on all post trial motions.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 23, 2016

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

June 23, 2016 9:00 AM All Pending Motions

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Leah Armendariz

PARTIES

PRESENT: Mazzeo, Peter Attorney
 Mott, Timothy Andrew Attorney
 Roberts, D Lee, Jr. Attorney
 Rodriguez-Shapoval, Marisa Attorney
 Smith, Adam D. Attorney
 Tindall, Randy W. Attorney

JOURNAL ENTRIES

- Defendant Andrea Awerbach's Opposition to Plaintiff's Motion for New Trial, or in the Alternative Additur and Countermotion for Remittitur.

Pltf's Motion for New Trial Alternatively for Additur

Pltf's Motion for Judgment as a Matter of Law

Jared Awerbach Motion for new Trial

Following arguments by counsel. COURT ORDERED, matters UNDER ADVISEMENT and will issue a written order form Chambers.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 22, 2016

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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August 22, 2016	9:00 AM	Minute Order
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HEARD BY: Wiese, Jerry A.	COURTROOM: RJC Courtroom 14A
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COURT CLERK: Alice Jacobson

RECORDER:

REPORTER: Kristy Clark

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The above-referenced matter last came on for hearing on June 23, 2016. Subsequently, the Court issued a written Order Re: Post-Trial Motions, which was filed on 8/12/2016. It has come to the Court's attention that the Court erroneously failed to rule on the Plaintiff's Renewed Motion for Judgment as a Matter of Law. The Court now Orders that based upon the same reasoning that the Motion was denied previously, that the Plaintiff's Renewed Motion for Judgment as a Matter of Law is hereby DENIED.

VAULT EXHIBIT FORM

CASE NO:	A637772	HEARING DATE:	2-8-16
DEPT. NO:	30	JUDGE:	Jerry Weie
		CLERK:	Alice Jackson
	Emilia Garcia	REPORTER:	Kristy Clark
PLAINTIFF:		JURY FEES:	
			Lee Roberts
	Jared Auerbach	COUNSEL FOR PLAINTIFF:	
DEFENDANT:			Peter Mazzeo
		COUNSEL FOR DEFENDANT:	

Date Offered	Objection	Date Admitted
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[illegible]

PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
		TX - PG-PG			
1.	Docs from LV PD	0001 - 1-212			
2.	State of Nevada Traffic Accident Report No. LVMPD-110102-3282	0002 - 1-6			
3.	Chain of custody documents produced by LVMPD	0003 - 1-6			
4.	911 Calls and audio transcript	0004- 1-4 & audio cd	2-12-16	Stip	2-12-16
5.	Photograph of 2001 Hyndai Santa Fe	0005 - 1-6	I	I	I
6.	Photographs of 2007 Suzuki Forenz	0006 - 1-4	I	I	I
7.	Documents received pursuant to Subpoena Duces Tecum from Ewing Bros, Inc.	0007 - 1-4	I	I	I
8.	Property Damage Estimate of Plaintiff's Vehicle	0008 - 1-8	I	I	I
9.	Salvage title for Plaintiff's 2001 Hyndai Santa Fe	0009 - 1	2-12-16	Stip	2-12-16
10.	Intentionally left blank	0010 - 1			
11.	Intentionally left blank	0011 - 1-14			
12.	Affidavit of Cherise Killian	0012 - 1-2			
13.	Transcript of recorded statement of Plaintiff, Emilia Garcia	0013 - 1-9			
14.	Recorded Statement of Jared Awerbach	0014 - 1-7			
15.	Medical Bill and Records from The Neck & Back Clinics	0015 - 1-226	2-12-16	Stip	2-12-16
16.	Medical Bill and Records from Primary Care Consultants	0016 - 1-119	2-12-16	Stip	2-12-16

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
17.	Medical Bill from Select Physical Therapy / Key Health Medical Solutions, Inc.	0017 - 1-3	2-12-16	Stip	2-12-16
18.	Medical Bill and Records from Mountainview Hospital	0018 - 1-48			
19.	Medical Bill and Records from Las Vegas Radiology	0019 - 1-28			
20.	Medical Bill and Records from Millennium Laboratories	0020 - 1-13			
21.	Medical Bill and Records from Brian Lemper, DO	0021 - 1-754			
22.	Medical Bill and Records from The Center for Surgical Intervention	0022 - 1-397			
23.	Medical Bill and Records from Desert Institute of Spine Care	0023 - 1-36			
24.	Medical Bill and Records from Comprehensive Injury Institute	0024 - 1-648			
25.	Medical Bill from Nevada Imaging	0025 - 1-24			
26.	Medical Bill and Records from The Pain Institute of Nevada	0026 - 1-723			
27.	Medical Bill and Records from Medical District Surgery Center	0027 - 1-31			
28.	Medical Bill and Records from Pacific Hospital of Long Beach	0028 - 1-18			
29.	Medical Bill and Records from National Intra-Operative Monitoring	0029 - 1-6			
30.	Medical Bill and Records from Luke R. Watson, MD	0030 - 1-5			
31.	Medical Bill and Records from Alla Garsman, MD	0031 - 1-10	2-12-16	Stip	2-12-16

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
32.	Medical Bill from Ronald Fillmore, RN-FA	0032 - 1-3	2-12-16	Stip	2-12-16
33.	Medical Bill and Records from Louis Mortillaro, PhD	0033 - 1-210			
34.	Medical Bill from Freemont Emergency Services	0034 - 1-3			
35.	Medical Bill from Diogenes Anesthesia Medical Group, Inc.	0035 - 1-18			
36.	Medical Bills from Medical Strategy Management	0036 - 1-14			
37.	Medical Bill and Records from Matt Smith Physical Therapy	0037 - 1-138			
38.	Medical Bills and Records from Valley View Surgery Center	0038 - 1-3			
39.	Medical Billing and Record from Surgical Arts Surgery Center	0039 - 1-34			
40.	1/26/11 MRI of Lumbar	0040 - 1-255	2-12-16	Stip	2-12-16
41.	8/17/11 MRI Thoracic w/o & MRI Cervical w/o	cd	2-12-16	Stip	2-12-16
42.	Audio and Transcript from NV Imaging	0042 - 1-5 & audio			
43.	Summary of Medical Bills	0043 - 1	2-12-16	Stip	2-12-16
44.	Certified Copy of Court Docket from Las Vegas Municipal Court, regarding Defendant Jared Awerbach's DUI case	0044 - 1-3			
45.	Driver's License History regarding Defendant Jared Awerbach, dated 03/04/14	0045 - 1-2			
46.	Records from State of Nevada Department of Motor Vehicles regarding Defendant Jared	0046 - 1-43			

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
	Awerbach				
47.	Amended Complaint related to Clark County District Court Case No. A367273, <u>Andrea Awerbach v. Farmers Insurance Exchange</u> , dated 10/10/97	0047 – 1-13			
48.	Complaint for Declaratory Relief regarding related to Clark County District Court Case No. A391116, <u>Farmers Insurance Exchange v. Andrea Awerbach</u> , dated 07/22/98	0048 – 1-7			
49.	Medical Records for Defendant Jared Awerbach, from Human Behavior Institute	0049 – 1-18			
50.	Medical Records for Defendant Jared Awerbach, from Southern Nevada Mental Health – Rawson-Neal Psychiatric Hospital	0050 – 1-244			
51.	Medical Records for Defendant Jared Awerbach, from Mojave Mental Health/Mohave Adult, Child and Family Services	0051 – 1-21			
52.	Employment Records from Bartech Systems, International, Inc., for Jared Awerbach	0052 – 1-4			
53.	Medical Records from Active Life Health and Wellness for Defendant Jared Awerbach	0053 – 1-105			
54.	Certificate of Custodian of Record of The Lovaas Center	0054 - 1			
55.	Records from Valley Health System Billing Department regarding Defendant Jared Awerbach	0055 – 1-11			
56.	Records from North Las Vegas Justice Court regarding Defendant Jared Awerbach	0056 – 1-22			

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
57.	Liberty Mutual Claims Notes	0057 – 1-15			
58.	Liberty Mutual Claims Notes (redacted)	0058 – 1-17			
59.	Liberty Mutual Policy A02-268-633569-400	0059 – 1-33			
60.	Student Records of Jared Awerbach from Clark County School District	0060 – 1-12			
61.	Records from Desert Rose High School regarding Defendant Jared Awerbach	0061 – 1-2			
62.	Records from Eighth Judicial District Court Family Division regarding Defendants Jared Awerbach and Andrea Awerbach (excluded pursuant to Court Order (7/15/15); set forth herein to preserve record)	0062 – 1-52			
63.	Records from Summerlin Hospital Medical Center regarding Defendant Jared Awerbach	0063 – 1-323			
64.	Medical Records from Retina Consultants of Nevada regarding Defendant Jared Awerbach	0064 – 1-111			
65.	Certificate of Custodian of Record of North Las Vegas Municipal Court in Regards to Defendant Jared Awerbach, dated 08/25/14	0065 – 1-73			
66.	Certificate of No Records from Nadine Cracraft, MRT regarding Defendant Jared Awerbach	0066 – 1			
67.	Printout of Andrea Awerbach's Facebook page	0067 – 1-37			
68.	Printout of Defendant Jared Awerbach's Facebook page	0068 – 1-217			

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
69.	LVMPD records from 2008 Awerbach MVA – GJL 3725-3749	0069 – 1-25			
70.	Records from The Valley Health System/Summerlin Hospital Medical Center regarding Defendant Jared Awerbach	0070 – 1-12			
71.	Records from California Casualty regarding Defendants Jared Awerbach and Andrea Awerbach	0071 – 1-172			
72.	Andrea Awerbach employment records from CCSD	0072 – 1-100			
73.	Dr. Cash CV	0073 – 1-12			
74.	Dr. Gross CV / Report	0074 – 1-71			
75.	Dr. Kidwell CV	0075 – 1-3			
76.	Dr. Lemper CV	0076 – 1-17			
77.	Dr. Mortillaro CV	0077 – 1-13			
78.	Dr. Oliveri CV	0078 – 1-14			
79.	Dr. Smith CV	0079 – 1-63			
80.	Dr. Oliveri Reports	0080 – 1-106			
81.	Dr. Smith Reports	0081 – 1-149			
82.	Stan Smith File	0082 – 1-776			
83.	Mack – CV / reports	0083 – 1-40			
84.	Thompson – CV / reports	0084 – 1-44			
85.	Piasecki - CV / reports	0085 – 1-33			
86.	Speilher – CV / Reports	0086 – 1-29			

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
87.	Fish – CV / Reports	0087 – 1-48			
88.	Freeman – CV / Reports	0088 – 1-56			
89.	Gann – CV / Reports	0089 – 1-42			
90.	Defendant Jared Awerbach Responses to Written Discovery	0090 – 1-44			
91.	Defendant Andrea Awerbach Responses to Written Discovery	0091 – 1-47			
92.	Drug Screening results from Las Vegas Recovery Center	0092 – 1-2			
93.	Economic Assesments Invoice	0093 – 1-8			
94.	MP Investigations CD Part 1 & 2	CD			
95.	MP Investigations report	0095 – 1-13			
96.	10/2/13 DeBecker Surveillance Video of Emilia Garcia	CD			
97.	Photos depicting Jared's eyesight limitations	0097 - 1			
98.	2009 Form 1040 U.S. Individual Tax Return of Emilia Garcia	0098 – 1-12			
99.	2010 Form 1040 U.S. Individual Tax Return of Emilia Garcia	0099 – 1-5			
100.	2011 Form 1040 U.S. Individual Tax Return of Emilia Garcia	0100 – 1-9			
101.	2012 Form 1040 U.S. Individual Tax Return of Emilia Garcia	0101 – 1-15			
102.	2013 Form 1040 U.S. Individual Tax Return of Emilia Garcia	0102 – 1-15			
103.	Plaintiff's Employment records from Sam's Town Casino	0103 – 1-401			
104.	Records from Fiesta Rancho	0104 – 1-97			

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PLAINTIFF'S EXHIBITS*

TX#	DOCUMENT DESCRIPTION	Bates	Date Offered	Objection	Date Admitted
	Casino				
105.	Emilia Garcia's employment records from Rancho Fiesta Casino	0105 – 1-89			
106.	Misc records from Rancho Fiesta	0106 – 1-17			
107.	Job Description for Case Assistant Shift Supervisor from Rancho Fiesta	0107 – 1-3			
108.	Certificate of COR for Aliante Gaming	0108 – 1			
109.	Certificate of COR from Aliante Stations Casino	0109 - 1			
110.	Aliante Casino Attendance & Disciplinary History Matrix	0110 – 1-2			
111.	Plaintiff's Employment records from Aliante Casino	0111 – 1-47			
112.	Docs rec'd from Aliante Casino	0112 – 1-28			
113.	Docs rec'd from Aliante Stations Casino	0113 – 1-35			
114.	Smith article - Hedonic Damages and Personal injury: A Conceptual Approach	0114 – 1-8			
115.	Southwest Medical Records	0115 – 1-169			
116.					
117.					
118.					

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P1 + f15

EXHIBITS

CASE NO. AL 37772

[illegible]

DEFENDANT ANDREA AWERBACH'S TRIAL EXHIBITS
Trial Date: February 8, 2016

Case No. : A-11-637772-C	Clerk: Alice Jacobson
Dept. XXX Judge: JERRY WIESE	Recorder:
Plaintiff: Emilia Garcia	Plaintiff Counsel: Lee Roberts, Esq./8877 Adam D. Smith, Esq./9690
Defendant: Andrea Awerbach,	Deft Counsel: Peter Mazzeo, Esq./ 9387 Maria Estanislao, Esq./ 8059
Defendant Jared Awerbach	Deft Counsel: Roger Strassburg, Esq./8682 Randy Tindall, Esq./6522

Exh No.	Title/Description	Date Offered	Obj.	Date Admitted
A.	Nevada Traffic Accident Report			
B.	911 Call Audio and Transcript			
C.	Plaintiff, Emilia Garcia's Recorded Statement			
D.	Ultimate Collision Repair Center Property damage estimate			
E.	Photographs of 2001 Hyundai Sante Fe <i>pages E1 through E1e</i>	3-4-16	NO	3-4-16
F.	Photographs of 2007 Suzuki Forenza			
G.	Fiesta Rancho Employment Records			
H.	Aliante Casino Employment Records <i>pages AAH1; AAH19 through 34</i>	3-2-16	YES	3-2-16
I.	Aliante Casino Incident Records <i>pages I1 through I31</i>	3-2-16	YES	NO
J.	Sam's Town Casino Employment Records			
K.	Plaintiff's Facebook Pictures <i>page 13 only</i>	3-3-16	NO	3-3-16
L.	Plaintiff's Facebook Postings			

Exh No.	Title/Description	Date Offered	Obj.	Date Admitted
M.	Las Vegas Radiology Imaging Studies and Reports			
N.	Nevada Imaging Centers Imaging Studies and Reports			
O.	Harmony HealthCare Records			

Def Jared EXHIBITS
Auerbach

CASE NO. A637772

Date Offered Objection Date Admitted

Supplemental List

Pages:

C) 26, 47, 25, 72, 30, 27, 82, 3-3-16 yes 3-3-16
33, 78, 44, 42, 24, 81, 23, 22, 21, only

Courts EXHIBITS

CASE NO. AL37772

	Date Offered	Objection	Date Admitted
1. Juror Question #3 Juror			2/16/14
2. Juror Question #8			2/16/14
3. Juror Question #9 (asked)			2/22/14
4. Juror Question #5			2/23
5. " " #14			2/23
6. " " #9			2/23
7. Courts Exhibit Powerpoint Slides page 1-97			2/24
8. Demonstrative Drawing			2/25
9. Document / Guidance Engineering Qualifications			2/26
10. Document - Guidance Engineering Accident			2/26
11. Powerpoint Slides pg 1-98			2/26
12. Document Mountain Rehab - Addendum			2/26
13. Document Mountain Rehab - Record			2/26
14. Juror Question #9			3-2-14
15. Juror Question #			3-2-14
16. Transcript pages of Juror pg 45-52			3-8-14
17. Juror Question			3-10-14
18. Juror Question			3-10-14
19. Juror Question			3-10-14
20. Juror Question			3-10-14



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

DANIEL F. POLSENBERG
3993 HOWARD HUGHES PARKWAY, SUITE 600
LAS VEGAS, NV 89169

DATE: September 22, 2016
CASE: A-11-367772-C

RE CASE: EMILIA GARCIA vs. JARED AWERBACH; ANDREA AWERBACH

NOTICE OF APPEAL FILED: September 19, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CERTIFICATE OF SERVICE OF NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER RE: POST-TRIAL MOTIONS; NOTICE OF ENTRY OF ORDER RE: POST-TRIAL MOTIONS; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

EMILIA GARCIA,

Plaintiff(s),

vs.

JARED AWERBACH; ANDREA
AWERBACH,

Defendant(s),

Case No: A-11-637772-C

Dept No: XXX

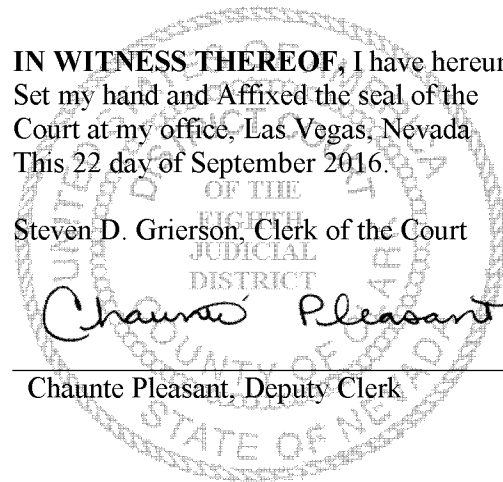
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 22 day of September 2016.

Steven D. Grierson, Clerk of the Court



Chaunte Pleasant, Deputy Clerk





**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Brandi J. Wendel
Court Division Administrator

September 22, 2016

Tracie Lindeman
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: EMILIA GARCIA vs. JARED AWERBACH; ANDREA AWERBACH
D.C. CASE: A-11-637772-C

Dear Ms. Lindeman:

Please find enclosed a Notice of Appeal packet, filed September 19, 2016. Due to extenuating circumstances minutes from the date(s) listed below have not been included:

February 10, 2016

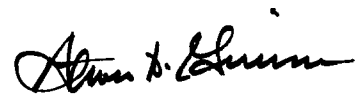
We do not currently have a time frame for when these minutes will be available.

If you have any questions regarding this matter, please contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk



CLERK OF THE COURT

Electronically Filed
Sep 23 2016 03:36 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 **NOAS**
2 DANIEL F. POLSENBERG (SBN 2376)
3 JOEL D. HENRIOD (SBN 8492)
4 LEWIS ROCA ROTHGERBER CHRISTIE LLP
5 3993 Howard Hughes Parkway, Suite 600
6 Las Vegas, Nevada 89169-5996
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9 JHenriod@LRRC.com

6 ROGER W. STRASSBURG, JR. (SBN 8682)
7 RANDALL TINDALL (SBN 6522)
8 RESNICK & LOUIS, P.C.
9 5940 South Rainbow Boulevard
10 Las Vegas, Nevada 89118
11 (702) 997-3800
12 RStrassburg@RLAttorneys.com
13 RTindall@RLAttorneys.com

Attorneys for Defendant
Jared Awerbach

DISTRICT COURT

CLARK COUNTY, NEVADA

14 EMILIA GARCIA,

15 Plaintiff,

16 *vs.*

17 JARED AWERBACH, individually; ANDREA
18 AWERBACH, individually; DOES I-X; and
19 ROE CORPORATIONS I- X, inclusive,

20 Defendants.

Case No. A-11-637772-C
Dept. No. 30

NOTICE OF APPEAL

NOTICE OF APPEAL

22 Please take notice that Jared Awerbach hereby appeals to the Supreme
23 Court of Nevada from:

- 24 1. All judgments and orders in this case;
25 2. "Order re: Post-Trial Motions," entered on August 12, 2016, notice
26 of entry of which was served electronically on August 17, 2016 (Exhibit A);
27 3. All rulings and interlocutory orders made appealable by any of the
28 foregoing.

1 Dated this 19th day of September, 2016.

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By /s/ Joel D. Henriod

5 DANIEL F. POLSENBERG (SBN 2376)
6 JOEL D. HENRIOD (SBN 8492)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
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5940 South Rainbow Boulevard
Las Vegas, Nevada 89118
10 (702) 997-3800

11 *Attorneys for Defendant Jared Awerbach*

DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-

EMILIA GARCIA,

Plaintiff,

vs.

JARED AWERBACH, individually, and
ANDREA AWERBACH, individually,

Defendants.

CASE NO.: A637772
DEPT. XXX

NOTICE OF
ENTRY OF
ORDER RE:
POST-TRIAL
MOTIONS

Electronically Filed
08/17/2016 07:31:16 AM



CLERK OF THE COURT

NOTICE OF ENTRY OF ORDER

RE: POST-TRIAL MOTIONS

You are hereby notified that this Court entered an Order Re: Post-Trial Motions, a copy of which is attached hereto.

DATED this 16th day of August, 2016.



JERRY A WIESE
DISTRICT COURT JUDGE

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

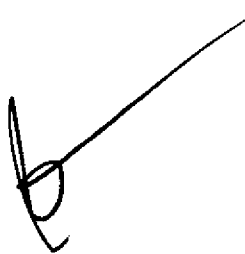
PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

TIM MOTT



Tatyana Ristic, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**
-oOo-

Electronically Filed
08/12/2016 02:12:57 PM

EMILIA GARCIA,

Plaintiff,

vs.

**JARED AWERBACH, individually, and
ANDREA AWERBACH, individually,**

Defendants.

**CASE NO.: A637772
DEPT. XXX**


CLERK OF THE COURT

**ORDER RE:
POST-TRIAL
MOTIONS**

On June 23, 2016, the above-referenced matter came on for hearing before Judge Jerry A. Wiese II, with regard to Plaintiff's Motion for New Trial or, in the Alternative, for Additur, Plaintiff's Renewed Motion for Judgment as a Matter of Law, Jared Awerbach's Motion for New Trial, and Andrea Auerbach's Countermotion for Remittitur. The Court had previously reviewed the pleadings, and at the time of the hearing allowed oral argument on the part of all parties. The Court indicated that it would subsequently issue an Order, and the Court's Order now follows:

With regard to Plaintiff's and Jared Awerbach's Motions for New Trial, NRCP 59 provides the following standard:

(a) Grounds. A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes or grounds materially affecting the substantial rights of an aggrieved party: (1) Irregularity in the proceedings of the court, jury, master, or adverse party, or any order of the court, or master, or abuse of discretion by which either party was prevented from having a fair trial; (2) Misconduct of the jury or prevailing party; (3) Accident or surprise which ordinary prudence could not have guarded against; (4) Newly discovered evidence material for the party making the motion which the party could not, with reasonable diligence, have discovered and produced at the trial; (5) Manifest disregard by the jury of the instructions of the court; (6) Excessive damages appearing to have been given under the influence of passion or prejudice; or, (7) Error in law occurring at the trial and objected to by the party making the motion. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

1 [As amended; effective January 1, 2005.]¹

2 Plaintiff argues that she is entitled to a New Trial, based upon the following
3 arguments: 1) the jury engaged in improper experimentation during deliberations; 2)
4 the jury was improperly advised by the Court during deliberations that they may award
5 Ms. Garcia past medical expenses and not award future medical expenses; 3)
6 Defendants inappropriately previewed Dr. Scher's opinions, and then used them again
7 in closing argument, even though Dr. Scher's opinions were stricken; 4) defense
8 counsel violated numerous pre-trial Orders; and 5) the damages awarded to Ms. Garcia
9 were clearly inadequate, and consequently, additur is necessary. The Court will
10 address each argument in order.

11 **1) Did the jury conduct an improper experiment during deliberations,
12 which warrants a new trial?**

13 Plaintiff argues that she is entitled to a new trial because the jury conducted an
14 improper experiment during deliberations. This argument is obviously premised on
15 the Declaration of Keith Berkery, (Juror 5) in which he explained how the jury chose
16 Juror 6, Jessica Bias, to reach over the wood hand/rail/divider, to pick up a water
17 bottle, which the Jurors had apparently seen the Plaintiff do during the Trial, so they
18 could determine the effect that it had on Ms. Bias, and therefore, on the Plaintiff.

19 In *ACP Reno Assoc., ACP v. Airmotive and Villanova*,² the Nevada Supreme
20 Court affirmed its adherence to the general rule "prohibiting the use of juror affidavits
21 to impeach the jury's verdict."³ The Court has held that there is an exception to the
22 general rule, and "[w]here the misconduct involves extrinsic information or contact
23 with the jury, juror affidavits or testimony establishing the fact that the jury received
24 the information or was contacted are permitted."⁴ An extraneous influence includes,
25 among other things, publicity or media reports received and discussed among jurors
26 during deliberations, consideration by jurors of extrinsic evidence, and third-party
27 communications with sitting jurors. In contrast, intra-jury or intrinsic influences

28 ¹ NRCp 59.

² 109 Nev. 314, 849 P.2d 277 (1993).

³ *ACP Reno Assoc., ACP v. Airmotive and Villanova*, 109 Nev. 314, 318, 949 P.2d 277 (1993); See
also *Weaver Brothers, Ltd. V. Misskelley*, 98 Nev. 232, 645 P.2d 438 (1982).

⁴ *Meyer v. State*, 119 Nev. 554, 80 P.3d 447, 454.

1 involve improper discussions among jurors (such as considering a defendant's failure
2 to testify), intimidation or harassment of one juror by another, or other similar
3 situations that are generally not admissible to impeach a verdict."⁵ The Court stated
4 that "proof of misconduct must be based on objective facts and not the state of mind or
5 deliberative process of the jury. Juror affidavits that delve into a juror's thought
6 process cannot be used to impeach a jury verdict and must be stricken."⁶

7 The Nevada Supreme Court has cited heavily to the case of *Meyer v. State*, for
8 the proposition that "[A] motion for a new trial may . . . be premised upon juror
9 misconduct where such misconduct is readily ascertainable from objective facts and
10 overt conduct without regard to the state of mind and mental processes of any juror."⁷
11 Additionally, *ACP Reno Assocs. v. Airmotive & Villanova, Inc.*,⁸ holds that "juror
12 affidavits [are] inadmissible to show that the jurors misunderstood the judge's
13 instructions." In order to prevail on a motion for a new trial based on juror
14 misconduct, admissible evidence must establish "(1) the occurrence of juror
15 misconduct, and (2) a showing that the misconduct was prejudicial."⁹ "Prejudice is
16 shown whenever there is a reasonable probability or likelihood that the juror
misconduct affected the verdict."¹⁰

17 Plaintiff's Motion cites to the case of *Russell v. State*,¹¹ in which the appellant's
18 counsel argued during closing argument, that the accused would not have been able to
19 get from Reno to Carson City in time to commit the alleged offense. During a recess in
20 the trial, a juror drove to Reno, and then measured the time it took him to drive to
21 Carson City from the accused's place of employment in Reno. During the jury
22 deliberations, he told the other jurors that it took him twenty-five minutes to travel that
23 distance. The District Court agreed that the juror's actions constituted "misconduct,"
24 but concluded that the misconduct was "harmless." The Nevada Supreme Court,
however, concluded that the district court's conclusion was an abuse of discretion. The

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26 ⁵ *Meyer v. State*, 119 Nev. 554, 562, 80 P.3d 447, 454 (2003).

27 ⁶ *Id.*, at pg. 563.

28 ⁷ *Meyer* at pg. 563.

⁸ 109 Nev. 314, 318, 849 P.2d 277, 279 (1993).

⁹ *Meyer* at pgs. 563-64.

¹⁰ *Meyer* at pg. 564, (Note that the Court has taken these citations directly from a Nevada Supreme Court Order of Reversal and Remand in *Estate of William George Dyer v. Vicky Guernier, et al.*, Nev. Supreme Court Case No.: 62941, filed 2/19/2015.)

¹¹ 99 Nev. 265, 661 P.2d 1293 (1983).

1 Supreme Court noted that "juror misconduct is particularly egregious where, as here,
2 the juror has engaged in independent 'research' of the facts."¹² The Court further
3 noted that "the information disclosed by the juror related to a crucial aspect of
4 appellant's defense. Appellant's case was therefore significantly harmed by his inability
5 to cross-examine the juror, during the trial, concerning the many variables which may
6 have affected his driving time."¹³

7 This Court notes that the "experiment" conducted by the jury in the present case,
8 occurred after the jury had asked to return to the courtroom to view the steps leading
9 into the witness stand.¹⁴ The Court saw no problem with this "view" because it was
10 something that the jury had been able to view throughout the trial. There was no
11 indication that the jury intended to conduct any type of experiment, or the Court would
12 not have allowed it. Based upon Mr. Berkery's affidavit, however, the jury used the
13 opportunity to conduct an "experiment" and reenact what Mr. Berkery had apparently
14 seen the Plaintiff do (the Plaintiff leaning over the wooden rail to obtain a bottle of
15 water.) According to the Nevada Supreme Court, a juror's affidavit may only be
16 considered as it relates to establishing objective facts.¹⁵ In the present case, this Court
17 may rely on Mr. Berkery's affidavit, only to the extent that it establishes the objective
18 fact that an "experiment" was conducted, and how it was conducted. The
19 determination of whether, and to what extent, the experiment affected the jurors, must
20 be determined based on an "objective" standard, not on a juror's affidavit. This Court
21 concludes that the experiment conducted by the jurors, in the Courtroom, constituted
22 juror misconduct. The jurors had been instructed that they were to "decide all
23 questions of fact in this case from the evidence received in this trial and not from any
24 other source."¹⁶ They were instructed not to "make any independent investigation . . .
[or to] visit the scene, conduct experiments, or consult reference works for additional

25 ¹² *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹³ *Russell* at pg. 267.

27 ¹⁴ The actual question from the jury foreperson said, "We would like to see a courtroom to see the stairs in
the witness area and the attorney area." (See Court Exhibit 17, March 10, 2016).

28 ¹⁵ "A motion for a new trial may . . . be premised upon juror misconduct where such misconduct is readily
ascertainable from objective facts and overt conduct without regard to the state of mind and mental processes of
any juror." *Meyer v. State*, 119 Nev. 554, 563, 80 P.3d 447, 454 (2003).

¹⁶ See Jury Instruction No. 6.

1 information.”¹⁷ Clearly, the affidavit of Mr. Berkery establishes that the jury did
2 conduct an “independent investigation,” and conducted an “experiment” in violation of
3 Jury Instruction No. 6. As the Supreme Court has indicated, “juror misconduct is
4 particularly egregious where . . . the juror has engaged in independent ‘research’ of the
5 facts.”¹⁸

6 After concluding that misconduct occurred, the more important question, and
7 the one that is more difficult to answer, is whether the jury’s misconduct was
8 “prejudicial.”¹⁹ The Supreme Court has indicated that “[p]rejudice is shown whenever
9 there is a reasonable probability or likelihood that the juror misconduct affected the
10 verdict.”²⁰ This Court concludes that the experiment conducted by the jurors “related
11 to a crucial aspect” of the Plaintiff’s case – credibility of the plaintiff, and the nature
12 and extent of the plaintiff’s injuries. The Court further concludes that the Plaintiff’s
13 case was “significantly harmed by [her] inability to cross-examine the juror . . .
14 concerning the many variables which may have affected [the result of the
15 experiment].”²¹ The Court concludes that there is a reasonable probability or likelihood
16 that the juror misconduct affected the verdict.”²²

17 **Did the Court improperly advise the jury that it could award past
18 medical expenses and no future medical expenses?**

19 Plaintiff contends that it was error for the Court to advise the jury that it could
20 award the Plaintiff her past medical expenses and no future medical expenses. The
21 question posed by the jury foreperson was as follows: “Based on Instruction 25 would
22 it [be] possible to award the Plaintiff [the] entire amount of Past Medical Expenses
23 without awarding anything for Future medical expenses?” The Court responded with
24 “yes.”²³ The Plaintiff argues that the Plaintiff’s future medical expenses were “either

24 ¹⁷ See Jury Instruction No. 6 .

25 ¹⁸ *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹⁹ See *Meyer* at pgs. 563-64.

27 ²⁰ *Meyer* at pg. 564.

28 ²¹ *Russell* at pg. 267.

²² *Meyer* at pg. 564.

²³ See Court Exhibit 19, March 10, 2016. Note that Instruction No. 25 read as follows: If you find that a Defendant is liable for the original injury to the Plaintiff, then Defendant is also liable for any aggravation of the original injury caused by negligent medical or hospital treatment or care of the original injury, or for any additional injury caused by negligent medical or hospital treatment or care of the original injury.”

1 undisputed or [were] disputed on the exact same grounds as her past expenses.”²⁴
2 Consequently, since the jury awarded all of Ms. Garcia’s past medical expenses
3 (\$574,846.01), Plaintiff argues that the jury had no choice but to award the Plaintiff her
4 future medical expenses.

5 This Court finds that Plaintiff’s argument lacks merit, as the jurors were
6 instructed to “bring to the consideration of the evidence [their] everyday common
7 sense and judgment as reasonable men and women;”²⁵ they were instructed that it was
8 up to them to determine the “credibility or believability” of the witnesses;²⁶ they were
9 instructed about “discrepancies in a witness’s testimony;”²⁷ they were told that they
10 were “not bound” by any expert testimony, but that they were to give such testimony
11 “the weight to which [they] deem it entitled;”²⁸ and with regard to damages, they were
12 instructed that they could award the Plaintiff the “damages [they] believe from the
13 evidence Plaintiff has sustained,” and they could award “[t]he reasonable medical
14 expenses which [they believed] Plaintiff probably will incur in the future as a result of
15 the accident;”²⁹ and finally, the jurors were instructed that “[w]hether any of these
16 elements of damage have been proven by the evidence is for [them] to determine.”³⁰
17 The jury was free to disregard the testimony of the experts, and was free to believe or
18 disbelieve the testimony of the Plaintiff, the treating doctors, etc. This Court will not
19 disturb the verdict of the Jury with regard to its award of future medical expenses, or
20 refusal to award such damages. The Court recalls that there was sufficient evidence
21 presented, through cross-examination of the medical care providers, cross-examination
22 of the Plaintiff herself, and other evidence, upon which the Jury could have based its
23 decision to deny the Plaintiff any future medical expenses. Particularly, the Court
24 recalls Facebook pictures that were presented to the Jury showing the Plaintiff
25 participating in activities which could have been interpreted as inconsistent with the
26 Plaintiff’s pain complaints. Although Plaintiff argues that the evidence supporting past
27 and future damages was “undisputed,” the Court does not agree, and the Jury was free

24 (See Motion for New Trial at pg. 7 of 30).

25 See Jury Instruction No. 7.

26 See Jury Instruction No. 15.

27 See Jury Instruction No. 16.

28 See Jury Instruction No. 18.

29 See Jury Instruction No. 33.

30 See Jury Instruction No. 37.

1 to accept or to disregard the evidence which it saw and heard, and reach the verdict
2 that it reached. A verdict that is unsupported by evidence is improper and must be
3 overturned,³¹ but in this case, the verdict was supported by the evidence, and need not
4 be overturned.

5 **2) Did the Court err in allowing Defense counsel to preview Dr. Scher's**
6 **opinions during opening statement, and then refer to such opinions**
7 **during closing argument?**

8 Plaintiff next argues that the Court erred in allowing Defense counsel to preview
9 Dr. Scher's foundationless opinions regarding forces of impact, during opening
10 statement, and then Defense counsel again referred to such evidence in Closing
11 Argument, even after Dr. Scher's testimony had been stricken. The Court allowed a
12 preview of Dr. Scher's opinions during opening statement, because the Court allows the
13 attorneys to explain what the evidence will show, and what they have a good faith belief
14 will be entered into evidence during the course of the trial. Based upon representations
15 from Defense counsel, the Court had no reason to believe at the outset, that Dr. Scher's
16 testimony would be stricken. Prior to Trial, the Court had evaluated the proposed
17 testimony of Dr. Scher, and was convinced that there was "at least arguably" sufficient
18 foundation for that testimony. During the presentation of evidence, however, it became
19 evident that there was "inadequate foundation" for Dr. Scher's opinions, and
20 consequently, his testimony was stricken from the record, and the Jury was instructed
21 to disregard it. During closing argument, Mr. Awerbach's counsel argued that the
22 Plaintiff sustained "no physical forces greater than the roller coasters she rode
23 before."³² The Court overruled an objection to that statement, indicating that the Court
24 felt that Mr. Strassburg was simply using a "common sense" argument, but later the
25 Court noted that the Court should have sustained the objection because it was a
26 conclusion that didn't have any basis in evidence.³³ The Court acknowledges that the
27 objection should have been sustained, and Defense counsel should have been
28 admonished not to "testify" or refer to Dr. Scher's opinions during closing argument,
since Dr. Scher's opinions had been stricken from the record. Although the Court
acknowledges the error, the Court is not convinced that the statement regarding the

³¹ *Arnold v. Mt. Wheeler Power*, 101 Nev. 612, 614, 707 P.2d 1137, 1139 (1985).

³² See Trial Transcript 3/9/16 at pg. 19:6-7.

³³ See Trial Transcript 3/9/16 at pg. 65:10-24.

1 "roller coasters" or the other general references to "forces" were sufficiently prejudicial
2 to have made a difference to the Jury. There is no indication that such statements
3 made a difference in the minds of the jurors, and the jurors were instructed more than
4 once that opening statements and closing arguments were "not evidence." Although
5 the Court acknowledges the error, the Court finds that such error may have been
6 harmless, and by itself such error would not justify a new trial. In combination with the
7 other irregularities during Trial, however, it may.

8 **3) Did the accumulation of juror misconduct, error, and improper**
9 **presentation of biomechanical testimony, and repeated violation of**
10 **Pre-Trial Orders prejudice the Plaintiff to the extent that a new trial**
11 **is warranted?**

12 Plaintiff's final argument in support of its Motion for New Trial is that the
13 accumulation of juror misconduct, error, and improper presentation of biomechanical
14 testimony, in addition to repeated violations of Pre-Trial Orders by Defense counsel,
15 prejudiced the Plaintiff and affected the verdict. Plaintiff argues that defense counsel
16 violated at least 15 Pre-Trial Orders. This Court acknowledges that Defense counsel did
17 walk a fine line, coming close to violating, and sometimes went past the line, actually
18 violating, some of the Pre-Trial Orders. Consequently, many of Plaintiff's counsel's
19 objections in that regard were sustained. The Court is not convinced that such
20 violations, by themselves, justify a new trial, but in combination with other
21 irregularities, they may.

22 **4) Are the damages "clearly inadequate" such that Plaintiff is entitled to**
23 **an "additur?"**

24 Plaintiff argues that as an alternative to a new trial, she is entitled to an
25 "additur." The Plaintiff correctly cites to the cases of *Drummond v. Mid-West*
26 *Growers*,³⁴ and *Lee v. Ball*,³⁵ as authority for the potential use of an additur, but those
27 cases stand for the proposition that an additur is only appropriate if 1) the damages are
28 clearly inadequate; and 2) the case would be a proper one for granting a motion for new
trial limited to damages. This Court cannot conclude that the damages awarded by the
Jury are "clearly inadequate," and consequently, the Court does not feel comfortable

³⁴ 91 Nev. 698 (1975).

³⁵ 121 Nev. 391, 393-94 (2005).

1 substituting its judgment regarding damages for that of the Jury. As a result, the Court
2 concludes that an "additur" in this case would not be appropriate. A similar analysis
3 would preclude the Court from granting Andrea Awerbach's request for "remittitur."

4 **CONCLUSION AND ORDER**

5 Based upon the foregoing, this Court finds that a "new trial" of all issues is
6 warranted, based upon NRCP 59(a)(2) (Misconduct of the jury – conducting an
7 experiment); NRCP 59(a)(5) (Manifest disregard by the jury of the instructions of the
8 court – specifically the instruction that the jury was prohibited from conducting its own
9 experiments or investigation); and NRCP 59(a)(7) (Error in law occurring at the trial
10 and objected to by the party making the motion – specifically the statements by
11 Defense Counsel during closing argument, improperly referencing the "forces of
12 impact" testimony of Dr. Scher, as well as the cumulative effect of multiple violations of
13 various Pre-Trial Orders). Based upon these irregularities, the Court concludes that the
14 parties were prejudiced, and were prevented from having a fair trial.

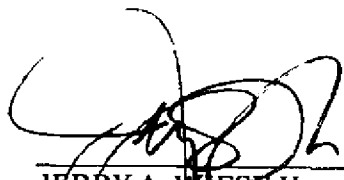
15 Based upon the foregoing, and good cause appearing therefor,

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion for New Trial or, in the
17 Alternative, for Additur, is hereby **GRANTED** as it relates to a request for a new trial,
18 and **DENIED** as it relates to a requested additur.

19 **IT IS FURTHER ORDERED** that Andrea Awerbach's Countermotion for
20 Remittitur is hereby **DENIED**.

21 **IT IS FURTHER ORDERED** that a new trial will be scheduled at the Court's
22 next available date in the regular course, and a new Trial Setting Order will issue.

23 DATED this 12th day of August, 2016.
24

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JERRY A. WIESE II
DISTRICT COURT JUDGE
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT XXX

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

TIM MOTT



Tatyana Ristic, Judicial Executive Assistant


CLERK OF THE COURT

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Attorneys for Defendant
Jared Awerbach

DISTRICT COURT
CLARK COUNTY, NEVADA

EMILIA GARCIA,

Plaintiff,

vs.

JARED AWERBACH, individually; ANDREA
AWERBACH, individually; DOES I-X; and
ROE CORPORATIONS I- X, inclusive,

Defendants.

Case No. A-11-637772-C
Dept. No. XXX

CERTIFICATE OF SERVICE
OF NOTICE OF APPEAL

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2016, I served the attached "Notice of Appeal" (filed September 19, 2016) on counsel through the Court's electronic service system and by courtesy e-mail and U.S. Mail to the following people:

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14 /s/ Gabriela Mercado
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EXHIBIT A

EXHIBIT A


CLERK OF THE COURT

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*Attorneys for Defendant
Jared Awerbach*

DISTRICT COURT
CLARK COUNTY, NEVADA

EMILIA GARCIA,

Plaintiff,

vs.

JARED AWERBACH, individually; ANDREA
AWERBACH, individually; DOES I-X; and
ROE CORPORATIONS I- X, inclusive,

Defendants.

Case No. A-11-637772-C
Dept. No. 30

NOTICE OF APPEAL

NOTICE OF APPEAL

Please take notice that Jared Awerbach hereby appeals to the Supreme
Court of Nevada from:

1. All judgments and orders in this case;
2. "Order re: Post-Trial Motions," entered on August 12, 2016, notice
of entry of which was served electronically on August 17, 2016 (Exhibit A);
3. All rulings and interlocutory orders made appealable by any of the
foregoing.

1 Dated this 19th day of September, 2016.

2 LEWIS ROCA ROTHGERBER CHRISTIE LLP

3
4 By /s/ Joel D. Henriod

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10 (702) 997-3800

11 *Attorneys for Defendant Jared Awerbach*

DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-

EMILIA GARCIA,

Plaintiff,

vs.

JARED AWERBACH, individually, and
ANDREA AWERBACH, individually,

Defendants.

CASE NO.: A637772
DEPT. XXX

NOTICE OF
ENTRY OF
ORDER RE:
POST-TRIAL
MOTIONS

Electronically Filed
08/17/2016 07:31:16 AM


CLERK OF THE COURT

NOTICE OF ENTRY OF ORDER

RE: POST-TRIAL MOTIONS

You are hereby notified that this Court entered an Order Re: Post-Trial Motions, a copy of which is attached hereto.

DATED this 16th day of August, 2016.


JERRY A WIESE
DISTRICT COURT JUDGE

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system. or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

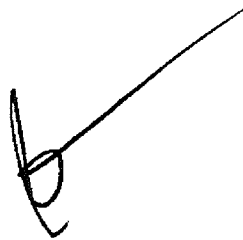
PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

TIM MOTT



Tatyana Ristic, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

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08/12/2016 02:12:57 PM

EMILIA GARCIA,

Plaintiff,

vs.

**JARED AWERBACH, individually, and
ANDREA AWERBACH, individually,**

Defendants.

**CASE NO.: A63777
DEPT. XXX**

Alvin B. Quinn
CLERK OF THE COURT

**ORDER RE:
POST-TRIAL
MOTIONS**

On June 23, 2016, the above-referenced matter came on for hearing before Judge Jerry A. Wiese II, with regard to Plaintiff's Motion for New Trial or, in the Alternative, for Additur, Plaintiff's Renewed Motion for Judgment as a Matter of Law, Jared Awerbach's Motion for New Trial, and Andrea Auerbach's Countermotion for Remittitur. The Court had previously reviewed the pleadings, and at the time of the hearing allowed oral argument on the part of all parties. The Court indicated that it would subsequently issue an Order, and the Court's Order now follows:

With regard to Plaintiff's and Jared Awerbach's Motions for New Trial, NRCP 59 provides the following standard:

(a) Grounds. A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes or grounds materially affecting the substantial rights of an aggrieved party: (1) Irregularity in the proceedings of the court, jury, master, or adverse party, or any order of the court, or master, or abuse of discretion by which either party was prevented from having a fair trial; (2) Misconduct of the jury or prevailing party; (3) Accident or surprise which ordinary prudence could not have guarded against; (4) Newly discovered evidence material for the party making the motion which the party could not, with reasonable diligence, have discovered and produced at the trial; (5) Manifest disregard by the jury of the instructions of the court; (6) Excessive damages appearing to have been given under the influence of passion or prejudice; or, (7) Error in law occurring at the trial and objected to by the party making the motion. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

1 [As amended; effective January 1, 2005.]¹

2 Plaintiff argues that she is entitled to a New Trial, based upon the following
3 arguments: 1) the jury engaged in improper experimentation during deliberations; 2)
4 the jury was improperly advised by the Court during deliberations that they may award
5 Ms. Garcia past medical expenses and not award future medical expenses; 3)
6 Defendants inappropriately previewed Dr. Scher's opinions, and then used them again
7 in closing argument, even though Dr. Scher's opinions were stricken; 4) defense
8 counsel violated numerous pre-trial Orders; and 5) the damages awarded to Ms. Garcia
9 were clearly inadequate, and consequently, additur is necessary. The Court will
10 address each argument in order.

11 **1) Did the jury conduct an improper experiment during deliberations,
12 which warrants a new trial?**

13 Plaintiff argues that she is entitled to a new trial because the jury conducted an
14 improper experiment during deliberations. This argument is obviously premised on
15 the Declaration of Keith Berkery, (Juror 5) in which he explained how the jury chose
16 Juror 6, Jessica Bias, to reach over the wood hand/rail/divider, to pick up a water
17 bottle, which the Jurors had apparently seen the Plaintiff do during the Trial, so they
18 could determine the effect that it had on Ms. Bias, and therefore, on the Plaintiff.

19 In *ACP Reno Assoc., ACP v. Airmotive and Villanova*,² the Nevada Supreme
20 Court affirmed its adherence to the general rule "prohibiting the use of juror affidavits
21 to impeach the jury's verdict."³ The Court has held that there is an exception to the
22 general rule, and "[w]here the misconduct involves extrinsic information or contact
23 with the jury, juror affidavits or testimony establishing the fact that the jury received
24 the information or was contacted are permitted."⁴ An extraneous influence includes,
25 among other things, publicity or media reports received and discussed among jurors
26 during deliberations, consideration by jurors of extrinsic evidence, and third-party
27 communications with sitting jurors. In contrast, intra-jury or intrinsic influences

28 ¹ NRCp 59.

² 109 Nev. 314, 849 P.2d 277 (1993).

³ *ACP Reno Assoc., ACP v. Airmotive and Villanova*, 109 Nev. 314, 318, 949 P.2d 277 (1993); See
also *Weaver Brothers, Ltd. V. Misskelley*, 98 Nev. 232, 645 P.2d 438 (1982).

⁴ *Meyer v. State*, 119 Nev. 554, 80 P.3d 447, 454.

1 involve improper discussions among jurors (such as considering a defendant's failure
2 to testify), intimidation or harassment of one juror by another, or other similar
3 situations that are generally not admissible to impeach a verdict."⁵ The Court stated
4 that "proof of misconduct must be based on objective facts and not the state of mind or
5 deliberative process of the jury. Juror affidavits that delve into a juror's thought
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7 The Nevada Supreme Court has cited heavily to the case of *Meyer v. State*, for
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11 Additionally, *ACP Reno Assocs. v. Airmotive & Villanova, Inc.*,⁸ holds that "juror
12 affidavits [are] inadmissible to show that the jurors misunderstood the judge's
13 instructions." In order to prevail on a motion for a new trial based on juror
14 misconduct, admissible evidence must establish "(1) the occurrence of juror
15 misconduct, and (2) a showing that the misconduct was prejudicial."⁹ "Prejudice is
16 shown whenever there is a reasonable probability or likelihood that the juror
misconduct affected the verdict."¹⁰

17 Plaintiff's Motion cites to the case of *Russell v. State*,¹¹ in which the appellant's
18 counsel argued during closing argument, that the accused would not have been able to
19 get from Reno to Carson City in time to commit the alleged offense. During a recess in
20 the trial, a juror drove to Reno, and then measured the time it took him to drive to
21 Carson City from the accused's place of employment in Reno. During the jury
22 deliberations, he told the other jurors that it took him twenty-five minutes to travel that
23 distance. The District Court agreed that the juror's actions constituted "misconduct,"
24 but concluded that the misconduct was "harmless." The Nevada Supreme Court,
however, concluded that the district court's conclusion was an abuse of discretion. The

25
26 ⁵ *Meyer v. State*, 119 Nev. 554, 562, 80 P.3d 447, 454 (2003).

27 ⁶ *Id.*, at pg. 563.

28 ⁷ *Meyer* at pg. 563.

⁸ 109 Nev. 314, 318, 849 P.2d 277, 279 (1993).

⁹ *Meyer* at pgs. 563-64.

¹⁰ *Meyer* at pg. 564, (Note that the Court has taken these citations directly from a Nevada Supreme Court Order of Reversal and Remand in *Estate of William George Dyer v. Vicky Guernier, et al.*, Nev. Supreme Court Case No. 62941, filed 2/19/2015.)

¹¹ 99 Nev. 265, 661 P.2d 1293 (1983).

1 Supreme Court noted that "juror misconduct is particularly egregious where, as here,
2 the juror has engaged in independent 'research' of the facts."¹² The Court further
3 noted that "the information disclosed by the juror related to a crucial aspect of
4 appellant's defense. Appellant's case was therefore significantly harmed by his inability
5 to cross-examine the juror, during the trial, concerning the many variables which may
6 have affected his driving time."¹³

7 This Court notes that the "experiment" conducted by the jury in the present case,
8 occurred after the jury had asked to return to the courtroom to view the steps leading
9 into the witness stand.¹⁴ The Court saw no problem with this "view" because it was
10 something that the jury had been able to view throughout the trial. There was no
11 indication that the jury intended to conduct any type of experiment, or the Court would
12 not have allowed it. Based upon Mr. Berkery's affidavit, however, the jury used the
13 opportunity to conduct an "experiment" and reenact what Mr. Berkery had apparently
14 seen the Plaintiff do (the Plaintiff leaning over the wooden rail to obtain a bottle of
15 water.) According to the Nevada Supreme Court, a juror's affidavit may only be
16 considered as it relates to establishing objective facts.¹⁵ In the present case, this Court
17 may rely on Mr. Berkery's affidavit, only to the extent that it establishes the objective
18 fact that an "experiment" was conducted, and how it was conducted. The
19 determination of whether, and to what extent, the experiment affected the jurors, must
20 be determined based on an "objective" standard, not on a juror's affidavit. This Court
21 concludes that the experiment conducted by the jurors, in the Courtroom, constituted
22 juror misconduct. The jurors had been instructed that they were to "decide all
23 questions of fact in this case from the evidence received in this trial and not from any
24 other source."¹⁶ They were instructed not to "make any independent investigation . . .
[or to] visit the scene, conduct experiments, or consult reference works for additional

25 ¹² *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹³ *Russell* at pg. 267.

27 ¹⁴ The actual question from the jury foreperson said, "We would like to see a courtroom to see the stairs in
the witness area and the attorney area." (See Court Exhibit 17, March 10, 2016).

28 ¹⁵ "A motion for a new trial may . . . be premised upon juror misconduct where such misconduct is readily
ascertainable from objective facts and overt conduct without regard to the state of mind and mental processes of
any juror." *Meyer v. State*, 119 Nev. 554, 563, 80 P.3d 447, 454 (2003).

¹⁶ See Jury Instruction No. 6.

1 information."¹⁷ Clearly, the affidavit of Mr. Berkery establishes that the jury did
2 conduct an "independent investigation," and conducted an "experiment" in violation of
3 Jury Instruction No. 6. As the Supreme Court has indicated, "juror misconduct is
4 particularly egregious where . . . the juror has engaged in independent 'research' of the
5 facts."¹⁸

6 After concluding that misconduct occurred, the more important question, and
7 the one that is more difficult to answer, is whether the jury's misconduct was
8 "prejudicial."¹⁹ The Supreme Court has indicated that "[p]rejudice is shown whenever
9 there is a reasonable probability or likelihood that the juror misconduct affected the
10 verdict."²⁰ This Court concludes that the experiment conducted by the jurors "related
11 to a crucial aspect" of the Plaintiff's case – credibility of the plaintiff, and the nature
12 and extent of the plaintiff's injuries. The Court further concludes that the Plaintiff's
13 case was "significantly harmed by [her] inability to cross-examine the juror . . .
14 concerning the many variables which may have affected [the result of the
15 experiment]."²¹ The Court concludes that there is a reasonable probability or likelihood
16 that the juror misconduct affected the verdict."²²

17 **Did the Court improperly advise the jury that it could award past
18 medical expenses and no future medical expenses?**

19 Plaintiff contends that it was error for the Court to advise the jury that it could
20 award the Plaintiff her past medical expenses and no future medical expenses. The
21 question posed by the jury foreperson was as follows: "Based on Instruction 25 would
22 it [be]possible to award the Plaintiff [the] entire amount of Past Medical Expenses
23 without awarding anything for Future medical expenses?" The Court responded with
24 "yes."²³ The Plaintiff argues that the Plaintiff's future medical expenses were "either

24 ¹⁷ See Jury Instruction No. 6 .

25 ¹⁸ *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹⁹ See *Meyer* at pgs. 563-64.

27 ²⁰ *Meyer* at pg. 564.

28 ²¹ *Russell* at pg. 267.

²² *Meyer* at pg. 564.

²³ See Court Exhibit 19, March 10, 2016. Note that Instruction No. 25 read as follows: If you find that a Defendant is liable for the original injury to the Plaintiff, then Defendant is also liable for any aggravation of the original injury caused by negligent medical or hospital treatment or care of the original injury, or for any additional injury caused by negligent medical or hospital treatment or care of the original injury."

1 undisputed or [were] disputed on the exact same grounds as her past expenses.”²⁴
2 Consequently, since the jury awarded all of Ms. Garcia’s past medical expenses
3 (\$574,846.01), Plaintiff argues that the jury had no choice but to award the Plaintiff her
4 future medical expenses.

5 This Court finds that Plaintiff’s argument lacks merit, as the jurors were
6 instructed to “bring to the consideration of the evidence [their] everyday common
7 sense and judgment as reasonable men and women;”²⁵ they were instructed that it was
8 up to them to determine the “credibility or believability” of the witnesses;²⁶ they were
9 instructed about “discrepancies in a witness’s testimony;”²⁷ they were told that they
10 were “not bound” by any expert testimony, but that they were to give such testimony
11 “the weight to which [they] deem it entitled;”²⁸ and with regard to damages, they were
12 instructed that they could award the Plaintiff the “damages [they] believe from the
13 evidence Plaintiff has sustained,” and they could award “[t]he reasonable medical
14 expenses which [they believed] Plaintiff probably will incur in the future as a result of
15 the accident;”²⁹ and finally, the jurors were instructed that “[w]hether any of these
16 elements of damage have been proven by the evidence is for [them] to determine.”³⁰
17 The jury was free to disregard the testimony of the experts, and was free to believe or
18 disbelieve the testimony of the Plaintiff, the treating doctors, etc. This Court will not
19 disturb the verdict of the Jury with regard to its award of future medical expenses, or
20 refusal to award such damages. The Court recalls that there was sufficient evidence
21 presented, through cross-examination of the medical care providers, cross-examination
22 of the Plaintiff herself, and other evidence, upon which the Jury could have based its
23 decision to deny the Plaintiff any future medical expenses. Particularly, the Court
24 recalls Facebook pictures that were presented to the Jury showing the Plaintiff
25 participating in activities which could have been interpreted as inconsistent with the
26 Plaintiff’s pain complaints. Although Plaintiff argues that the evidence supporting past
27 and future damages was “undisputed,” the Court does not agree, and the Jury was free

24 (See Motion for New Trial at pg. 7 of 30).

25 See Jury Instruction No. 7.

26 See Jury Instruction No. 15.

27 See Jury Instruction No. 16.

28 See Jury Instruction No. 18.

29 See Jury Instruction No. 33.

30 See Jury Instruction No. 37.

1 to accept or to disregard the evidence which it saw and heard, and reach the verdict
2 that it reached. A verdict that is unsupported by evidence is improper and must be
3 overturned,³¹ but in this case, the verdict was supported by the evidence, and need not
4 be overturned.

5 **2) Did the Court err in allowing Defense counsel to preview Dr. Scher's**
6 **opinions during opening statement, and then refer to such opinions**
7 **during closing argument?**

8 Plaintiff next argues that the Court erred in allowing Defense counsel to preview
9 Dr. Scher's foundationless opinions regarding forces of impact, during opening
10 statement, and then Defense counsel again referred to such evidence in Closing
11 Argument, even after Dr. Scher's testimony had been stricken. The Court allowed a
12 preview of Dr. Scher's opinions during opening statement, because the Court allows the
13 attorneys to explain what the evidence will show, and what they have a good faith belief
14 will be entered into evidence during the course of the trial. Based upon representations
15 from Defense counsel, the Court had no reason to believe at the outset, that Dr. Scher's
16 testimony would be stricken. Prior to Trial, the Court had evaluated the proposed
17 testimony of Dr. Scher, and was convinced that there was "at least arguably" sufficient
18 foundation for that testimony. During the presentation of evidence, however, it became
19 evident that there was "inadequate foundation" for Dr. Scher's opinions, and
20 consequently, his testimony was stricken from the record, and the Jury was instructed
21 to disregard it. During closing argument, Mr. Awerbach's counsel argued that the
22 Plaintiff sustained "no physical forces greater than the roller coasters she rode
23 before."³² The Court overruled an objection to that statement, indicating that the Court
24 felt that Mr. Strassburg was simply using a "common sense" argument, but later the
25 Court noted that the Court should have sustained the objection because it was a
26 conclusion that didn't have any basis in evidence.³³ The Court acknowledges that the
27 objection should have been sustained, and Defense counsel should have been
28 admonished not to "testify" or refer to Dr. Scher's opinions during closing argument,
since Dr. Scher's opinions had been stricken from the record. Although the Court
acknowledges the error, the Court is not convinced that the statement regarding the

³¹ *Arnold v. Mt. Wheeler Power*, 101 Nev. 612, 614, 707 P.2d 1137, 1139 (1985).

³² See Trial Transcript 3/9/16 at pg. 19:6-7.

³³ See Trial Transcript 3/9/16 at pg. 65:10-24.

1 "roller coasters" or the other general references to "forces" were sufficiently prejudicial
2 to have made a difference to the Jury. There is no indication that such statements
3 made a difference in the minds of the jurors, and the jurors were instructed more than
4 once that opening statements and closing arguments were "not evidence." Although
5 the Court acknowledges the error, the Court finds that such error may have been
6 harmless, and by itself such error would not justify a new trial. In combination with the
7 other irregularities during Trial, however, it may.

8 **3) Did the accumulation of juror misconduct, error, and improper**
9 **presentation of biomechanical testimony, and repeated violation of**
10 **Pre-Trial Orders prejudice the Plaintiff to the extent that a new trial**
11 **is warranted?**

12 Plaintiff's final argument in support of its Motion for New Trial is that the
13 accumulation of juror misconduct, error, and improper presentation of biomechanical
14 testimony, in addition to repeated violations of Pre-Trial Orders by Defense counsel,
15 prejudiced the Plaintiff and affected the verdict. Plaintiff argues that defense counsel
16 violated at least 15 Pre-Trial Orders. This Court acknowledges that Defense counsel did
17 walk a fine line, coming close to violating, and sometimes went past the line, actually
18 violating, some of the Pre-Trial Orders. Consequently, many of Plaintiff's counsel's
19 objections in that regard were sustained. The Court is not convinced that such
20 violations, by themselves, justify a new trial, but in combination with other
21 irregularities, they may.

22 **4) Are the damages "clearly inadequate" such that Plaintiff is entitled to**
23 **an "additur?"**

24 Plaintiff argues that as an alternative to a new trial, she is entitled to an
25 "additur." The Plaintiff correctly cites to the cases of *Drummond v. Mid-West*
26 *Growers*,³⁴ and *Lee v. Ball*,³⁵ as authority for the potential use of an additur, but those
27 cases stand for the proposition that an additur is only appropriate if 1) the damages are
28 clearly inadequate; and 2) the case would be a proper one for granting a motion for new
trial limited to damages. This Court cannot conclude that the damages awarded by the
Jury are "clearly inadequate," and consequently, the Court does not feel comfortable

³⁴ 91 Nev. 698 (1975).

³⁵ 121 Nev. 391, 393-94 (2005).

1 substituting its judgment regarding damages for that of the Jury. As a result, the Court
2 concludes that an "additur" in this case would not be appropriate. A similar analysis
3 would preclude the Court from granting Andrea Awerbach's request for "remittitur."

4 **CONCLUSION AND ORDER**

5 Based upon the foregoing, this Court finds that a "new trial" of all issues is
6 warranted, based upon NRCP 59(a)(2) (Misconduct of the jury – conducting an
7 experiment); NRCP 59(a)(5) (Manifest disregard by the jury of the instructions of the
8 court – specifically the instruction that the jury was prohibited from conducting its own
9 experiments or investigation); and NRCP 59(a)(7) (Error in law occurring at the trial
10 and objected to by the party making the motion – specifically the statements by
11 Defense Counsel during closing argument, improperly referencing the "forces of
12 impact" testimony of Dr. Scher, as well as the cumulative effect of multiple violations of
13 various Pre-Trial Orders). Based upon these irregularities, the Court concludes that the
14 parties were prejudiced, and were prevented from having a fair trial.

15 Based upon the foregoing, and good cause appearing therefor,

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion for New Trial or, in the
17 Alternative, for Additur, is hereby **GRANTED** as it relates to a request for a new trial,
18 and **DENIED** as it relates to a requested additur.

19 **IT IS FURTHER ORDERED** that Andrea Awerbach's Countermotion for
20 Remittitur is hereby **DENIED**.

21 **IT IS FURTHER ORDERED** that a new trial will be scheduled at the Court's
22 next available date in the regular course, and a new Trial Setting Order will issue.

23 DATED this 12th day of August, 2016.

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28



JERRY A. WIESE II
DISTRICT COURT JUDGE
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT XXX

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

TIM MOTT



Tatyana Ristic, Judicial Executive Assistant

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

§
§
§
§
§

Location: **Department 30**
Judicial Officer: **Wiese, Jerry A.**
Filed on: **03/25/2011**
Case Number History:
Cross-Reference Case Number: **A637772**

CASE INFORMATION

Case Type: **Negligence - Auto**
Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Arbitration Exemption Granted

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-11-637772-C
Court	Department 30
Date Assigned	08/31/2015
Judicial Officer	Wiese, Jerry A.

PARTY INFORMATION

Plaintiff	Garcia, Emilia
Defendant	Awerbach, Andrea
	Awerbach, Jared






Lead Attorneys

Smith, Adam D. <i>Retained</i> 702-877-1500(W)	Mazzeo, Peter <i>Retained</i> 702-382-3636(W)	Call, Gary W. <i>Retained</i> 702-997-3800(W)
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DATE












EVENTS & ORDERS OF THE COURT

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











03/25/2011	 Complaint Filed By: Plaintiff Garcia, Emilia <i>Complaint</i>	
03/25/2011	Case Opened	
07/25/2011	 Ex Parte Motion for Enlargement of Time Filed By: Plaintiff Garcia, Emilia <i>Ex Parte Application for Enlargement of Time to Serve Defendant</i>	
09/14/2011	 Notice of Appearance Party: Plaintiff Garcia, Emilia <i>Notice of Appearance</i>	
09/22/2011	 Minute Order (3:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Minute Order re: Dept. 28 Recusal</i>	
09/22/2011	 Demand for Jury Trial	

CASE SUMMARY










CASE NO. A-11-637772-C

	Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Demand for Jury Trial</i>
09/26/2011	 Notice of Department Reassignment
10/13/2011	 Order to Enlarge Time for Service Filed By: Plaintiff Garcia, Emilia <i>Order Granting Application for Enlargement of Time to Serve Defendant</i>
11/07/2011	 Ex Parte Application Party: Plaintiff Garcia, Emilia <i>Ex Parte Application for Service by Publication</i>
11/17/2011	 Order Granting Filed By: Plaintiff Garcia, Emilia <i>Order Granting Application for Order Allowing Service by Publication</i>
11/22/2011	 Notice of Service Party: Plaintiff Garcia, Emilia <i>Notice of Service on Nevada Department of Motor Vehicles</i>
12/02/2011	 Affidavit of Compliance Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Compliance</i>
12/21/2011	 Affidavit of Publication Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Publication - Andrea Awerbach</i>
01/05/2012	 Acceptance of Service Filed By: Plaintiff Garcia, Emilia <i>Acceptance of Service</i>
01/23/2012	 Initial Appearance Fee Disclosure Filed By: Defendant Awerbach, Jared <i>Defendants' Initial Appearance Fee Disclosure</i>
01/23/2012	 Demand for Jury Trial Filed By: Defendant Awerbach, Jared <i>Defendants' Demand for Jury Trial</i>
01/23/2012	 Answer to Complaint Filed by: Defendant Awerbach, Jared <i>Defendants' Answer to Complaint</i>
02/15/2012	 Commissioners Decision on Request for Exemption - Granted Party: Plaintiff Garcia, Emilia <i>Commissioner's Decision on Reuquest For Exemption</i>
05/08/2012	 Joint Case Conference Report Filed By: Plaintiff Garcia, Emilia <i>Joint Case Conference Report</i>
05/09/2012	

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CASE NO. A-11-637772-C

	 Errata Filed By: Plaintiff Garcia, Emilia <i>Errata to Joint Case Conference Report</i>
05/15/2012	 Scheduling Order <i>Scheduling Order</i>
05/23/2012	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call Filed By: Plaintiff Garcia, Emilia <i>Order Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
11/13/2012	 Motion to Amend Complaint Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Amend Complaint</i>
11/16/2012	 Notice of Hearing Filed By: Plaintiff Garcia, Emilia <i>Notice of Hearing on Plaintiff's Motion to Amend Complaint</i>
12/03/2012	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Opposition to Plaintiff's Motion to Amend Complaint</i>
12/04/2012	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Re-Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
12/05/2012	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Garcia, Emilia <i>Stipulation and Order to Extend Discovery Deadlines and Amend the Scheduling Order and Continue Trial Date (EDCR 2.35-First Request)</i>
12/11/2012	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Stipulation and Order</i>
12/11/2012	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Amend Complaint</i>
12/20/2012	 Motion to Amend Complaint (9:00 AM) (Judicial Officer: Allf, Nancy) Events: 11/13/2012 Motion to Amend Complaint <i>Plaintiff's Motion to Amend Complaint</i>
01/09/2013	 Order Granting Motion Filed By: Plaintiff Garcia, Emilia <i>Order Granting Plaintiff's Motion to Amend Complaint</i>
01/11/2013	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
01/14/2013	 Amended Complaint Filed By: Plaintiff Garcia, Emilia <i>Amended Complaint</i>

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CASE NO. A-11-637772-C













02/07/2013	 Answer to Amended Complaint Filed By: Defendant Awerbach, Jared <i>Defendants' Answer to Amended Complaint</i>
04/12/2013	 Association of Counsel Filed By: Defendant Awerbach, Jared <i>Association of Counsel for Jared Awerbach</i>
06/20/2013	CANCELED Pretrial/Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Stipulation and Order</i>
06/24/2013	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Stipulation and Order</i>
07/03/2013	 Motion to Compel Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Compel Discovery Response</i>
07/11/2013	 Notice of Deposition Filed By: Defendant Awerbach, Jared <i>Notice of Continuation of Deposition of Plaintiff Emilia Garcia</i>
07/22/2013	 Opposition to Motion to Compel Filed By: Defendant Awerbach, Jared <i>Limited Opposition to Plaintiff's Motion to Compel Discovery Response</i>
07/25/2013	 Notice of Withdrawal Filed By: Plaintiff Garcia, Emilia <i>Notice of Withdrawal of Plaintiff's Motion to Compel Discovery Response</i>
07/31/2013	 Deposition Filed By: Defendant Awerbach, Jared <i>Notice Of Continuation Of Deposition Of Plaintiff Emilia Garcia</i>
08/09/2013	 Designation of Expert Witness Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Designation Of Expert Witness And Reports</i>
08/09/2013	CANCELED Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated</i> <i>Plaintiff's Motion to Compel Discovery Response</i>
08/09/2013	 Amended Notice of Taking Deposition Filed By: Defendant Awerbach, Jared <i>Amended Notice of Deposition of Plaintiff Emilia Garcia</i>
08/12/2013	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Jared <i>Subpoena Duces Tecum</i>
09/03/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Person Most Knowledgeable Regarding Employee Emilia Garcia At Aliante Casino</i>

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09/17/2013	 Substitution of Attorney Filed by: Defendant Awerbach, Jared <i>Notice of Substitution of Counsel</i>
09/19/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Person Most Knowledgeable Regarding Employee Emilia Garcia at Aliante Casino</i>
09/19/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Custodian of Records for: Harmony Healthcare</i>
09/19/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Custodian of Records for: The Neck & Back Clinics</i>
09/23/2013	 Application for Issuance of Commission to Take Deposition Party: Defendant Awerbach, Jared <i>Application for Issuance of Commission to Take Deposition Outside of the State of Nevada</i>
09/23/2013	 Notice of Deposition Filed By: Defendant Awerbach, Jared <i>Notice of Deposition of Emilia Garcia</i>
09/23/2013	 Notice of Deposition Filed By: Defendant Awerbach, Jared <i>Notice to Take Deposition Outside of the State of Nevada of the Person(s) Most Knowledgeable from Pacific Hospital of Long Beach</i>
09/25/2013	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendants' Rebuttal Expert Witness Thomas Ireland</i>
10/01/2013	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
10/02/2013	 Application for Issuance of Commission to Take Deposition Party: Defendant Awerbach, Jared <i>Application For Issuance Of Commission To Take Deposition Outside Of The State Of Nevada</i>
10/07/2013	 Deposition Subpoena Filed By: Defendant Awerbach, Jared <i>Deposition Subpoena for Personal Appearance and Production of Documents, Electronically Stored Information, and Things in Action Pending Outside California</i>
10/09/2013	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerach's Response in Opposition to Plaintiff's Motion to Strike Thomas Ireland [and] Request for Sanctions Based on Plaintiff's Violations of NEV.C.R. 123 and NRPC 3.4(C) in its Motion to Strike Defendants' Expert Thomas Ireland</i>
10/09/2013	

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	 Designation of Expert Witness Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Designation of Expert Witnesses and Disclosure of Supplemental Expert Reports</i>
10/09/2013	 Application Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Expedited Application to File Motion Under Seal of the Court</i>
10/11/2013	 Errata Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Notice of Errata</i>
10/17/2013	 Order Filed By: Defendant Awerbach, Jared <i>ORDER GRANTING DEFENDANTS' MOTION TO FILE UNDER SEAL</i>
10/18/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service - Brian A. Larson, Boyd Gaming Corporation</i>
10/18/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Custodian of Records for Michele C. Tofany, ED.D., LMFT Inc.</i>
10/18/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Custodian of Records for Human Behavior Institute, LTD. C/O Anis Abi-Karam, Ph.D</i>
10/18/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Custodian of Records for Brian A. Larson, Boyd Gaming Corporation, Registered Agent</i>
10/18/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service of Custodian of Records for Frank, Riggsby, Registered Agent c/o Michelle C. Tofany, Ed.D., LMFT Inc.</i>
10/21/2013	 Filed Under Seal Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Omnibus Motion On An Order Shortening Time; Declaration Of Jaffery Pitegoff, ESQ.; To Extend Discovery and Trial Deadlines; To Compel Hippa Release For the Plaintiff's Nevada Board Of Pharmacy Controlled Substance Report; Protective Order; Jared Awerbach's First Request For Extension</i>
10/21/2013	 Filed Under Seal Filed By: Defendant Awerbach, Jared <i>Appendix In Support of Defendant Jared Awerbach's Omnibus Motion On An Order Shortening time; To Extend Discovery Trial Deadlines: To Compel Hippa Release For Plaintiff's Nevada Board of Pharmacy Controlled Substance Report; Protective Order</i>
10/23/2013	 Reply in Support Filed By: Plaintiff Garcia, Emilia

CASE SUMMARY

CASE NO. A-11-637772-C










Plaintiff's Reply in Support of Motion to Strike Defendants' Rebuttal Expert Witness Thomas Ireland and Opposition to Defendants' Countermotion for Sanctions

10/28/2013	 Opposition and Countermotion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Omnibus Motion on an Order Shortening Time to Extend Discovery and Trial Deadlines; to Compel HIPPA Release for Plaintiff's Board of Pharmacy Controlled Substances Report; Protective Order; and Countermotion for Protective Order</i>
10/30/2013	 Motion to Strike (9:00 AM) (Judicial Officer: Allf, Nancy) Events: 09/25/2013 Motion to Strike <i>Plaintiff's Motion to Strike Defendants' Rebuttal Expert Witness Thomas Ireland</i>
10/30/2013	 Notice of Hearing
10/31/2013	 Recorders Transcript of Hearing Party: Plaintiff Garcia, Emilia <i>Recorder's Transcript of Proceedings: Plaintiff's Motion to Strike the Defendants' Rebuttal Expert Witness -- 10-30-13</i>
11/04/2013	 Notice of Change of Address Filed By: Defendant Awerbach, Jared <i>Notice of Change of Address</i>
11/06/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service - Custodian of Records for Brian A Larson</i>
11/06/2013	 Affidavit of Service Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service - Custodian of Records for Human Behavior Institute Ltd</i>
11/06/2013	 Affidavit of Service Filed By: Defendant Awerbach, Jared <i>Affidavit of Service - Custodian of Records for Frank RIggsby</i>
11/08/2013	 Motion for Summary Judgment Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion for Summary Judgment.</i>
11/08/2013	 Notice of Withdrawal of Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Notice of Withdrawal of Request for Sanctions Based on Plaintiff's Violations of NEV.S.C.R. 123 and NRPC 3.4(C) REQUEST FOR SANCTIONS BASED ON PLAINTIFF'S VIOLATIONS OF NEV.S.C.R. 123 AND NRPC 3.4(C)</i>
11/13/2013	 Application Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Expedited Application To File Reply To Plaintiff's Opposition To Omnibus Motion Under Seal Of The Court</i>
11/13/2013	CANCELED Motion for Sanctions (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Defendant Jared Awerach's Response in Opposition to Plaintiff's Motion to Strike Thomas Ireland [and] Request for Sanctions Based on Plaintiff's Violations of NEV.C.R. 123 and</i>

CASE SUMMARY

CASE NO. A-11-637772-C

NRPC 3.4(C) in its Motion to Strike Defendants' Expert Thomas Ireland

11/13/2013	 Certificate of Mailing Filed By: Defendant Awerbach, Andrea <i>Certificate of Mailing</i>
11/21/2013	 Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Allow Plaintiff to Present a Jury Questionnaire Prior to Voir Dire</i>
11/22/2013	Motion to Extend Discovery (9:00 AM) (Judicial Officer: Bulla, Bonnie) Events: 10/21/2013 Filed Under Seal <i>Deft Jared Awerbach's Omnibus Motion On OST; Declaration Of Jeffery Pitegoff, ESQ.; To Extend Discovery and Trial Deadlines; To Compel Pltf's HIPAA Release for Nevada Board Of Pharmacy Controlled Substance Report; Protective Order; Jared Awerbach's First Request For Extension</i>
11/22/2013	Opposition and Countermotion (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Opposition to Deft Jared Awerbach's Omnibus Motion on an OST to Extend Discovery and Trial Deadlines; to Compel Pltf's HIPAA Release for Board of Pharmacy Controlled Substances Report; Protective Order; and Countermotion for Protective Order</i>
11/22/2013	 All Pending Motions (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Deft Jared Awerbach's Omnibus Motion On OST; Declaration Of Jeffery Pitegoff, ESQ.; To Extend Discovery and Trial Deadlines; To Compel Pltf's HIPAA Release for Nevada Board Of Pharmacy Controlled Substance Report; Protective Order; Jared Awerbach's First Request For Extension Pltf's Opposition and Countermotion for Protective Order</i>
11/27/2013	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motions in Limine Numbers 1-10</i>
11/27/2013	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motions in Limine Numbers 11-29</i>
11/27/2013	 Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Andrea Awerbach's Motion In Limine to Exclude Jared's Recorded Interview As Hearsay</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No.'S 1 - 4 To (1) Exclude Traffic Report ; (2) Exclude Evidence, Testimony Or Mention Of Traffic Citation; (3) Exclude Evidence Or Testimony From Police Offers Regarding Fault (4) Exclude Evidence That Jared Did Not Have A Nevada Drivers License</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 5 to Preclude Plaintiff's Counsel From Mentioning Specific Dollar Amounts During Voir Dire</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 6 to Exclude Reference Testimony or Other Evidence Regarding Liability Insurance</i>

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12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 7-9</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 10 to Limit Dr Mortillaro's Testimony to that Given at Deposition or Disclosed Prior to Discovery Cut-Off</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No11 to Exclude Reference to the Plaintiff's Financial Condition or Inability to Pay Medical Bills Absent a Favorable Jury Verdict</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 12 to Exclude Improper Argument</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 13 to Exclude All References to and Testimony Concerning Prior Bad Acts or Substance Abuse of Defendant Jared Awebach</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 14 Requiring Pre-Screening of any Documents or Exhibits Prior to their Use in Opening Arguments or at Trial</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 16 to Exclude Statements Overheard by Plaintiff at the Scene of Accident</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 17 to Exclude Plaintiff's Future Wage Loss Claims</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No18 and 19</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 20 to Exclude All Medical Opinions Not Stated in Providers Own Medical Records or Deposition Including but not Limited to Opinions Pertaining to Future Medical Care</i>
12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awebach's Motion in Limine No 21 to Exclude Testimony of Stan Smith Regarding Hedonic Damages</i>
12/02/2013	 Order Filed By: Defendant Awerbach, Jared

CASE SUMMARY

CASE NO. A-11-637772-C

Defendant Jared Awebach's Competing Order Granting In Part, And Denying in Part, Plaintiff's Motion to Strike Defendant's Expert Thomas Ireland


12/02/2013	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion in Limine No. 15 to Permit Reference to Plaintiff's Medical Liens</i>
12/02/2013	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Garcia, Emilia <i>Opposition to Defendant Andrea Awerbach's Motion for Summary Judgment</i>
12/02/2013	 Opposition to Motion For Summary Judgment Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition in Response to Andrea Awerbach's Motion for Summary Judgment</i>
12/04/2013	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendants' Untimely Supplemental Expert Reports on an Order Shortening Time</i>
12/05/2013	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
12/11/2013	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Plaintiff's Motions in Limine 11-14, 16, 18, and 20-29</i>
12/12/2013	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Motion to Strike Supplemental Expert Reports</i>
12/12/2013	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition to Plaintiff's Motions in Limine 1 through 10</i>
12/13/2013	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Plaintiff's Motions in Limine 1 through 10</i>
12/13/2013	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition to Plaintiff's Motion to Strike Defendant's Untimely Supplemental Expert Reports on an Order Shortening Time</i>
12/13/2013	 Motion to Strike (9:00 AM) (Judicial Officer: Bulla, Bonnie) Events: 12/04/2013 Motion to Strike <i>Pltf's Motion to Strike Defs' Untimely Supplemental Expert Reports on an OST</i>
12/13/2013	 Certificate of Mailing Filed By: Defendant Awerbach, Andrea <i>Certificate of Mailing</i>


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CASE SUMMARY
CASE NO. A-11-637772-C


12/16/2013	 Notice of Withdrawal of Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Withdrawal of Motion for Summary Judgment</i>
12/16/2013	 Notice of Entry of Order Filed By: Defendant Awerbach, Jared <i>Notice of Entry of Order Granting in Part and Denying in Part Plaintiff's Motion to Strike defendant's Expert Thomas Ireland.</i>
12/16/2013	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Partial Opposition to Plaintiff's Motion to Allow Plaintiff to Present a Jury Questionnaire Prior to Voir Dire</i>
12/17/2013	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Motion for Summary Judgment set 12/18/2013 VACATED</i>
12/18/2013	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
12/18/2013	 Motion to Amend Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Amend Order Granting in Part and Denying in Part Plaintiff's Motion to Strike Defendants' Expert Thomas Ireland on an Order Shortening Time</i>
12/18/2013	CANCELED Motion for Summary Judgment (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
12/18/2013	 Stipulation and Order Filed by: Plaintiff Garcia, Emilia <i>Stipulation and Order Regarding Responses to Jared Awerbach's Motions in Limine</i>
12/20/2013	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated</i>
12/20/2013	 Motion to Bifurcate Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion to Bifurcate Plaintiff's Punitive Damage Claims On An Order Shortening Time</i>
12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 1</i>
12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 2</i>
12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 3</i>
12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia


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CASE NO. A-11-637772-C


Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 4


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 5


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 6


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine Nos. 7 and 20


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 8


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 9


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 10


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 11


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 12

12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 13


12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 14

12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 15

12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 16

12/23/2013  Opposition to Motion in Limine
Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 17

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12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 18</i>
12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 19</i>
12/23/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine No. 21</i>
12/23/2013	 Supplement to Opposition Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Supplement to His Partial Opposition to Plaintiff's Motion to Provide Potential Jurors with Jury Questionnaire Prior to Voir Dire.</i>
12/23/2013	 Joinder to Opposition to Motion Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder In Defendant Jared Awerbach's Partial Opposition To Plaintiff's Motion To Allow Plaintiff To Present A Jury Questionnaire Prior To Voir Dire</i>
12/24/2013	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Limited Opposition To Plaintiff's Motions In Limine</i>
12/24/2013	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Jared Awerbach's Motions In Limine #4 and #13</i>
12/24/2013	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Jared's Recorded Interview as Hearsay</i>
12/26/2013	 Motion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Allow Plaintiff to Present a Jury Questionnaire Prior to Voir Dire</i>
12/30/2013	 Stipulation and Order Filed by: Plaintiff Garcia, Emilia <i>Stipulation and Order Regarding Hearing on Motions in Limine</i>
12/31/2013	 Joinder To Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Jared Awerbach's Motions In Limine 1,2,3,5,6,10,12,14-17 and 20-21</i>
01/02/2014	CANCELED Motion to Continue Trial (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Stipulation and Order</i> <i>Defendant Jared Awerbach's Emergency Motion to Continue Trial</i>
01/02/2014	 Stipulation and Order Filed by: Defendant Awerbach, Jared <i>Stipulation to Continue Trial and Related Dates</i>

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01/04/2014	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Opposition to Plaintiff's Motion to Amend Order Granting in Part and Denying in Part Plaintiff's Motion to Strike Defendants' Expert Thomas Ireland on an Order Shortening Time</i>
01/06/2014	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion to Bifurcate Plaintiff's Punitive Damages Claims on an Order Shortening Time</i>
01/08/2014	 Order Granting Motion Filed By: Plaintiff Garcia, Emilia <i>Order Granting Motion to Allow Plaintiff to Present a Jury Questionnaire Prior to Voir Dire</i>
01/10/2014	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
01/13/2014	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
01/16/2014	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioners Report and Recommendations</i>
01/16/2014	 Stipulation Filed by: Defendant Awerbach, Jared <i>Stipulation to Continue Hearing on Motion to Amend Order Granting In Part and Denying In Part Plaintiff's Motion to Strike Defendants' Expert Thomas Ireland</i>
01/17/2014	 Reply to Opposition Filed by: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Reply to Plaintiff's Opposition to Defendant Jared Awerbach's Motion to Bifurcate Punitive Damage Claims</i>
01/21/2014	 Errata Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Notice of Errata</i>
01/22/2014	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioners Report and Recommendations</i>
01/29/2014	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioner's Report and Recommendations</i>
02/03/2014	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioner's Report and Recommendation</i>
02/05/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Amend Order Granting in Part and Denying in Part Plaintiff's Motion to Strike Defendants' Expert Thomas Ireland on an Order Shortening Time</i>

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02/10/2014	 Notice of Association of Counsel Filed By: Defendant Awerbach, Andrea <i>Association of Counsel</i>
02/11/2014	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Defendant Jared Awerbach's Opposition to Plaintiff's Motion to Amend Order Granting in Part and Denying in Part Plaintiff's Motion to Strike Defendant's Expert Thomas Ireland on OST</i>
02/12/2014	 Motion to Amend (9:30 AM) (Judicial Officer: Allf, Nancy) Events: 12/18/2013 Motion to Amend <i>Plaintiff's Motion to Amend Order Granting In Part and Denying in Part Plaintiff's Motion to Strike Defendants' Expert Thomas Ireland on an Order Shortening Time</i>
02/14/2014	 Substitution of Attorney Filed by: Defendant Awerbach, Jared <i>Notice of Substitution of Counsel Within Firm</i>
02/18/2014	 Substitution of Attorney Filed by: Defendant Awerbach, Andrea <i>Substitution of Attorneys</i>
02/20/2014	 Motion for Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Protective Order and Attorneys' Fees on an Order Shortening Time</i>
02/21/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
02/25/2014	 Opposition to Motion For Protective Order Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion for Protective Order and Attorney's Fees on OST</i>
02/25/2014	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Re-Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
02/25/2014	 Opposition to Motion For Protective Order Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition To Plaintiff's Motion For Protective Order On Order Shortening Time</i>
02/26/2014	 Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion for Protective Order and Attorneys' Fees on an OST</i>
02/27/2014	 Notice of Deposition Filed By: Defendant Awerbach, Andrea <i>Notice of Deposition of Leslie Loretto</i>
02/28/2014	 Motion Filed By: Defendant Awerbach, Jared

CASE SUMMARY

CASE NO. A-11-637772-C

Defendant Jared Awerbach's Motion To Re-Open Discovery For Limited Purpose Of Subpoenaing Jared Awerbach's Medical Records In Preparation For Deposition And Anticipated Competency Hearing

03/05/2014



Subpoena

Filed by: Defendant Awerbach, Andrea
Subpoena to Leslie Loretto

03/11/2014



Motion

Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST

03/11/2014



Certificate of Mailing

Filed By: Defendant Awerbach, Andrea
Certificate of Service of Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST

03/12/2014



Recorders Transcript of Hearing

Recorder's transcript of Proceedings: Motion - February 12, 2014

03/17/2014



Opposition to Motion

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion to Re-Open Discovery for Limited Purpose of Subpoenaing Jared Awerbach's Medical Records in Preparation for Deposition and Anticipated Competency Hearing

03/17/2014



Opposition to Motion

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Andrea Awerbach's Motion to Re-Open Discovery and Continue Trial Date on OST

03/17/2014



Affidavit

Filed By: Defendant Awerbach, Jared
Affidavit of Gregory Brown, MD

03/17/2014



Objection

Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Objection to Discovery Commission's Report and Recommendation Granting in Part and Denying in Part Plaintiff's Motion for Protective Order and Attorney's Fees Oral Argument Requested

03/17/2014



Motion to Strike

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Motion to Strike Defendant Andrea Awerbach's Untimely Expert Witness Designation and Quash Defendant Jared Awerbach's Untimely Subpoenas; and Motion for Attorneys' Fees on Order Shortening Time

03/18/2014



Receipt of Copy

Filed by: Plaintiff Garcia, Emilia
Receipt of Copy

03/18/2014












Opposition

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Joinder to Defendant Andrea Awerbach's Motion to Re-Open Discovery and Continue Trial Date on OST

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C








03/18/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
03/18/2014	 Supplemental Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Supplemental Briefing in Support of Motion to Reopen Discovery and Continue Trial Date on OST</i>
03/18/2014	 Joinder To Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Joinder to Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST</i>
03/18/2014	 Opposition and Countermotion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion to Strike Andrea Awerbach's Untimely Expert Witness Designation and Motion for Attorneys' Fees on OST and Defendant's Countermotion for Sanctions Against Plaintiff</i>
03/19/2014	 Objection to Discovery Commissioners Report and Recommend Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Objections to Discovery Commissioners Report and Recommendations Re; February 26, 2014 Hearing</i>
03/19/2014	Motion (9:30 AM) (Judicial Officer: Bulla, Bonnie) Events: 03/11/2014 Motion <i>Deft Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST</i>
03/19/2014	Motion to Strike (9:30 AM) (Judicial Officer: Bulla, Bonnie) Events: 03/17/2014 Motion to Strike <i>Pltf's Motion to Strike Deft Andrea Awerbach's Untimely Expert Witness Designation and Quash Deft Jared Awerbach's Untimely Subpoenas; and Motion for Attorneys' Fees on OST</i>
03/19/2014	 All Pending Motions (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Strike Deft Andrea Awerbach's Untimely Expert Witness Designation and Quash Deft Jared Awerbach's Untimely Subpoenas; and Motion for Attorneys' Fees on OST</i> <i>Deft Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST</i>
03/21/2014	 Joinder to Opposition to Motion Filed by: Defendant Awerbach, Jared <i>defendant jared awerbach's joinder to defendant andrea awerbach's opposition to plaintiff's motion to strike and motion for attorney's fees and countermotion</i>
03/25/2014	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Jared <i>Subpoena Duces Tecum - Custodian of Records for Summerlin Hospital Medical Center</i>
03/25/2014	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Jared <i>Subpoena Duces Tecum - Custodian of Records for Human Behavior Institute Ltd</i>
03/25/2014	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Jared <i>Subpoena Duces Tecum - Custodian of Records for Rawson-Neal Psychiatric Hospital</i>

DEPARTMENT 30
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CASE NO. A-11-637772-C

03/26/2014	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Omnibus Motions in Limine 1-10</i>
03/26/2014	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Omnibus Motions in Limine 11-29</i>
03/27/2014	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioner's Report and Recommendations</i>
03/27/2014	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andera Awerbach's Joinder in Select Motions in Limine Filed by Defendant Jared Awerbach</i>
03/27/2014	 Motion to Associate Counsel Filed By: Defendant Awerbach, Jared <i>Motion to Associate Counsel</i>
03/27/2014	 Notice of Motion Filed By: Defendant Awerbach, Jared <i>Notice of Motion</i>
03/27/2014	Sanctions (Judicial Officer: Allf, Nancy) Debtors: Jared Awerbach (Defendant) Creditors: Emilia Garcia (Plaintiff) Judgment: 03/27/2014, Docketed: 04/03/2014 Total Judgment: 2,500.00
03/28/2014	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioner's Report and Recommendation</i>
03/28/2014	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
03/31/2014	 Response Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Response to Defendant Andrea Awerbach's Objection to Discovery Commissioner's Report and Recommendations Granting in Part and Denying in Part Plaintiff's Motion for Protective Order and Attorneys' Fees; and Response to Defendant Jared Awerbach's Objections to Discovery Commissioner's Report and Recommendations Re: February 26, 2014, Hearing</i>
04/01/2014	 Non Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Non-Opposition to Defendant Jared Awerbach's Motion to Associate Counsel</i>
04/02/2014	CANCELED Motion (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Stipulation and Order</i> <i>Defendant Jared Awerbach's Motion To Re-Open Discovery For Limited Purpose Of Subpoenaing Jared Awerbach's Medical Records In Preparation For Deposition And Anticipated Competency Hearing</i>
04/03/2014	

CASE SUMMARY

CASE NO. A-11-637772-C

	 Recorders Transcript of Hearing <i>Transcript Re: Defendant Andrea Awerbach's Motion To Reopen Discovery and Continue Trial Date on OST; Plaintiff's Motion to Strike Defendant Andrea Awerbach's Untimely Expert Witness Designation and Quash Defendant Jared Awerbach's Untimely Subpoenas; and Motion for Attorney's Fees on OST March 19, 2014</i>
04/03/2014	 Stipulation and Order Filed by: Defendant Awerbach, Jared <i>Stipulation and Order to Vacate April 2, 2014 Hearing on Jared Awerbach's Motion to Re-Open Discovery For Limited Purpose of Subpoenaing Jared Awerbach's Medical Records</i>
04/03/2014	 Reporters Transcript <i>Recorder's Transcript Re: Plaintiff's Motion for Protective Order and Attorney's Fees, On OST, Wednesday, February 26, 2014</i>
04/04/2014	 Motion to Associate Counsel (3:00 AM) (Judicial Officer: Allf, Nancy) Events: 03/27/2014 Motion to Associate Counsel <i>Notice of Motion</i>
04/04/2014	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion in Limine to Exclude Evidence Plaintiff Received Welfare (MIL #31)</i>
04/04/2014	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion in Limine Regarding Apportionment of Damages (MIL#30)</i>
04/04/2014	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion in Limine to Exclude Allegations Plaintiff Was Speeding at the Time of the Accident (MIL #32)</i>
04/04/2014	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply in Support of Objection to DCRR Granting in Part and Denying in Part Plaintiff's Motion for Protective Order and Attorney's Fees</i>
04/07/2014	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motions In Limine to Exclude and Preclude Mention Until Admissible of: No. 22: Results of Blood Tests of Jared Awerbach Until Chain of Custody Established; No. 23: Results of Blood Tests of Jared Awerbach Until Connected to Causation of Accident; No. 24: Medical Specials Until First Shown Necessary, Reasonable, and Incurred; No. 25: Medical Specials Until Physicians Voir Dire as to Qualifications to Opine as to Whether Medical Specials are Necessary, Reasonable, and Incurred; No. 26: Criminal Plea to DUI Until After Establish Causation of Accident by Intoxicated Driving</i>
04/07/2014	 Supplement to Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Supplemental Opposition to Defendant Andrea Awerbach's Objection to Discovery Commissioner's Report and Recommendations Granting in Part and Denying in Part Plaintiff's Motion for Protective Order and Attorneys' Fees</i>
04/08/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>












DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

04/10/2014	 Objection to Discovery Commissioner's Report (10:00 AM) (Judicial Officer: Allf, Nancy) Events: 03/19/2014 Objection to Discovery Commissioners Report and Recommend
04/11/2014	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
04/17/2014	 Order Shortening Time Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Objection on Order Shortening Time to Discovery Commissioner's Report and Recommendation denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial</i>
04/18/2014	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition to Plaintiff's Motions in Limine 30-32</i>
04/21/2014	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motions in Limine 22 Through 26</i>
04/21/2014	 Pre-Trial Disclosure Party: Defendant Awerbach, Andrea <i>Defendant's Andrea Awerbach's NRC 16.1(a)(3) Pretiral Disclosures</i>
04/22/2014	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine Regarding Apportionment of Damages</i>
04/22/2014	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine to Exclude Allegations Plaintiff was Speeding at the Time of the Accident</i>
04/22/2014	 Non Opposition Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Non-Opposition to Plaintiff's Motion in Limine to Exclude Evidence Plaintiff Received Welfare</i>
04/22/2014	 Order Filed By: Defendant Awerbach, Andrea <i>Order Regarding Defendants' Objection to Discovery Commissioner's Report and Recommendations</i>
04/22/2014	 Notice of Entry of Order Filed By: Defendant Awerbach, Andrea <i>Notice of Entry of Order</i>
04/23/2014	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendants' Untimely Expert Tami Rockholt and Request for Monetary Sanctions on Order Shortening Time</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

04/23/2014	 Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion in Limine to Exclude Reference or Evidence of a Prior Compliant Filed Against her on OST</i>
04/23/2014	 Joinder To Motion Filed By: Defendant Awerbach, Jared <i>Joinder to Defendant Andrea Awerbach's Objection To Discovery Commissioner's Report and Recommendation Denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial.</i>
04/24/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
04/28/2014	 Response Filed by: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Response to Plaintiff's Motion to Strike Defendant's Untimely Expert Tami Rockholt and Request for Monetary Sanctions</i>
04/28/2014	 Response Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Response to Defendant Andrea Awerbach's Objection on Order Shortening Time to Discovery Commissioner's Report and Recommendation Denying Defendant Andrea Awerbach's Motion to Re-Open Discovery and Continue Trial Date</i>
04/28/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Reply in Support of Motion in Limine Regarding Apportionment of Damages (MIL #30)</i>
04/28/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion in Limine to Exclude Allegations Plaintiff was Speeding at the Time of the Accident (MIL #32)</i>
04/28/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motions in Limine Numbers 1-10</i>
04/28/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motions in Limine Numbers 11-29</i>
04/29/2014	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Defendant Jared Awerbach's Opposition to Plaintiff's Motion to Strike Defendant's Untimely Expert Tami Rockholt and REquest for Monetary Sanctions on OST</i>
04/29/2014	 Response Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Response to Defendant Jared Awerbach's Joinder to Defendant Andrea Awerbach's Objection to Discovery Commissioner's Report and Recommendations Denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

04/29/2014	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply Brief in Support of Objection to Discovery Commissioner's REport and Recommendation Denying Defendant's Motion to Reopen Discovery and Continue Trial</i>
04/30/2014	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Evidence or Reference of a Priot Complaint Filed Against Her on Order Shortening Time</i>
04/30/2014	 Motion to Strike (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Strike Defts' Untimely Expert Tami Rockholt and Request for Monetary Sanctions on OST</i>
04/30/2014	Objection to Discovery Commissioner's Report (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant Andrea Awerbach's Objection on Order Shortening Time to Discovery Commissioner's Report and Recommendation Denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial</i>
04/30/2014	Joinder (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Joinder to Defendant Andrea Awerbach's Objection To Discovery Commissioner's Report and Recommendation Denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial.</i>
04/30/2014	 All Pending Motions (10:30 AM) (Judicial Officer: Allf, Nancy)
05/06/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Defendant Andrea Awerbach's Objection on Order Shortening Time to Discovery Commissioner's Report and Recommendation Denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Joinder to Andrea Awerbach's Objection to Discovery Commissioner's Report and Recommendation Denying Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial - April 30, 2014</i>
05/06/2014	 Status Report Filed By: Plaintiff Garcia, Emilia <i>Joint Status Report</i>
05/07/2014	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioner's Report and Recommendations</i>
05/07/2014	 Status Check (10:30 AM) (Judicial Officer: Allf, Nancy)
05/13/2014	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioner's Report and Recommendation</i>
05/13/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Status Check - May 7, 2014</i>
05/15/2014	CANCELED Pretrial/Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
05/15/2014	 Reply in Support

CASE SUMMARY

CASE NO. A-11-637772-C

	Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply Brief in Support of Motion in Limine to Exclude Reference or Evidence of a Prior Complaint Filed Against her on OST</i>
05/19/2014	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
05/19/2014	 Order <i>Scheduling Order and Order Re-Setting Civil Jury Trial, and Calendar Call</i>
06/03/2014	 Motion for Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Protective Order</i>
06/06/2014	 Application for Issuance of Commission to Take Deposition Party: Defendant Awerbach, Jared <i>Application for Issuance of Commission to Take Deposition Outside of the State of Nevada of the Person(s) Most Knowledgeable from Crowder Manufacturing Co.</i>
06/06/2014	 Commission to Take Deposition Outside the State of Nevada Filed By: Defendant Awerbach, Jared <i>Commission to Take Deposition Outside of the State of Nevada</i>
06/10/2014	 Application for Issuance of Commission to Take Deposition Party: Plaintiff Garcia, Emilia <i>Application for Issuance of Commission to Take Deposition Outside of Nevada</i>
06/13/2014	 Motion to Compel Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion to Compel Independent Medical Examination on OST</i>
06/13/2014	 Notice of Taking Deposition Filed By: Plaintiff Garcia, Emilia <i>Notice of Taking Deposition of Custodian of Records for Odyssey House</i>
06/13/2014	 Commission to Take Deposition Outside the State of Nevada Filed By: Plaintiff Garcia, Emilia <i>Commission to Take Deposition Outside of the State of Nevada</i>
06/13/2014	 Motion for Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Protective Order Quashing Jared Awerbach's Subpoena on Pacific Hospital of Long Beach in Part</i>
06/17/2014	 Telephonic Conference (1:00 PM) (Judicial Officer: Allf, Nancy) <i>Telephonic Conference: Competing Orders Regarding Objections to the Discovery Commissioner's Report and Recommendations</i>
06/17/2014	 Order <i>Order Regarding Defendants' Objection To Discovery Commissioner's Report And Recommendations Denying Motion To Reopen Discovery And Continue Trial</i>
06/18/2014	 Recorders Transcript of Hearing <i>Transcript Re: Defendant Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST Plaintiff's Motion to Strike Defendant Andrea Awerbach's Untimely Expert</i>

CASE SUMMARY

CASE NO. A-11-637772-C

Witness Designation and Quash Defendant Jared Awerbach's Untimely Subpoenas; and Motion for Attorney's Fees on OST March 19, 2014

06/20/2014	 Opposition to Motion For Protective Order Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition To Plaintiff's Motion For Protective Order Quashing Jared Awerbach's Subpoena To Pacific Hospital Of Long Beach In Part, and Motion To Strike Plaintiff's Motion</i>
06/20/2014	 Motion for Protective Order (9:30 AM) (Judicial Officer: Bulla, Bonnie) 06/20/2014, 07/16/2014 <i>Plt's Motion for Protective Order Quashing Jared Awebach's Subpoena on Pacific Hospital of Long Beach in Part</i>
06/25/2014	 Motion for Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Protective Order Quashing Jared Awerbach's Subpoenas on (1) Cigna; (2) National Intraoperative Monitoring; (3) Molina Healthcare; (4) College Health Enterprises; (5) Spinal Solutions, Inc.; (6) Aliante Hotel and Casino, In Part; (7) Crowder Manufacturing; (8) Division of Healthcare Financing and Policy; and (9) West Coast Surgery Center Management, Inc. On Order Shortening Time</i>
06/26/2014	CANCELED Pretrial/Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
06/30/2014	 Opposition to Motion to Compel Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion to Compel Independent Medical Examination on Order Shortening Time</i>
06/30/2014	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
07/07/2014	 Motion to Compel Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion to Compel Independent Medical Examination of Plaintiff</i>
07/08/2014	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Jared <i>Subpoena Duces Tecum</i>
07/08/2014	 Opposition to Motion For Protective Order Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition in Response to Plaintiff's Motion for Protective Order</i>
07/08/2014	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Defendant Jared Awerbach's Opposition to Plaintiff's Motion for Protective Order Quashing Jared Awerbach's Subpoena to Pacific Hospital of Long Beach</i>
07/09/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Reply in Support of Motion for Protective Order Quashing Jared Awerbach's Subpoena on Pacific Hospital of Long Beach in Part; and Opposition to Motion to Strike Plaintiff's Motion</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

07/09/2014	 Opposition to Motion For Protective Order Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Supplemental Opposition to Plaintiff's Motion for Protective Order Quashing Jared Awerbach Subpoena on Pacific Hospital of Long Beach in Part and Motion to Strike Plaintiff's Motion</i>
07/09/2014	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendnat Andrea Awerbach's Reply Brief in Support of Motion to Compel Independent Medical Examination on OST</i>
07/10/2014	 Motion for Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Protective Order Quashing Defendant Jared Awerbach's Deposition Subpoena Directed to Plaintiff's Counsel on Order Shortening Time</i>
07/10/2014	 Supplemental Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Supplement to Joinder in Defendant Jared Awerbach's Opposition to Plaintiff's Motion for Protective Order Quashing Jared Awerbach's Subpoena to Pacific Hospital of Long Beach</i>
07/10/2014	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Defendant Jared Awerbach's Opposition to Plaintiff's Motion for Protective Order Regarding Subpoena on US Bancorp</i>
07/10/2014	 Motion for Protective Order Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion for Protective Order on OST</i>
07/14/2014	 Opposition to Motion For Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion for Protective Order on Order Shortening Time</i>
07/14/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Reply In Support of Motion for Protective Order (Regarding US Bank Records)</i>
07/14/2014	 Motion to Compel Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion to Compel Independent Medical Examination of Plaintiff (scheduled)</i>
07/14/2014	 Certificate of Mailing Filed By: Defendant Awerbach, Andrea <i>Certificate of Service</i>
07/14/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Sur-Reply in Support of Motion for Portective Order Quashing Jared Awerbach's Subpoena on Pacific Hospital of Long Beach in Part</i>
07/15/2014	 Opposition to Motion For Protective Order

CASE SUMMARY

CASE NO. A-11-637772-C

Filed By: Defendant Awerbach, Jared
Opposition to Motion for Protective Order Quashing the Deposition Subpoena of Adam Smith

07/15/2014



Opposition to Motion For Protective Order

Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Opposition to Plaintiff's Motion for Protective Order Quashing Defendant Jared Awerbach's Subpoena Directed to Plaintiff's Counsel on OST

07/16/2014



Opposition to Motion For Protective Order

Filed By: Defendant Awerbach, Jared
Defendant Jared Awerbach's Opposition to Plaintiff's Motion for Protective Order Quashing Jared Awerbach's Subpoenas to (1) CIGNA; (2) National Intraoperative Monitoring; (3) Molina Healthcare; (4) College Health Enterprises; (5) Spinal Solutions, Inc.; (6) Alliant Hotel and Casino in Part; (7) Crowder Manufacturing; (8) Division of Healthcare Financing and Policy; and (9) West Coast Surgery Center Management, Inc. on OST

07/16/2014

Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie)
Pltf's Motion for Protective Order

07/16/2014

Motion to Compel (10:00 AM) (Judicial Officer: Bulla, Bonnie)
Deft Andrea Awerbach's Motion to Compel Independent Medical Examination on OST

07/16/2014

Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie)
Pltf's Motion for Protective Order Quashing Jared Awerbach's Subpoenas on (1) Cigna; (2) National Intraoperative Monitoring; (3) Molina Healthcare; (4) College Health Enterprises; (5) Spinal Solutions, Inc.; (6) Aliante Hotel and Casino, In Part; (7) Crowder Manufacturing; (8) Division of Healthcare Financing and Policy; and (9) West Coast Surgery Center Mgmt, Inc. on OST

07/16/2014

Motion to Compel (10:00 AM) (Judicial Officer: Bulla, Bonnie)
Deft Jared Awerbach's Motion to Compel Independent Medical Examination of Pltf

07/16/2014

Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie)
Deft Andrea Awerbach's Motion for Protective Order on OST

07/16/2014

Motion for Protective Order (10:00 AM) (Judicial Officer: Bulla, Bonnie)
Pltf's Motion for Protective Order Quashing Deft Jared Awerbach's Deposition Subpoena Directed to Pltf's Counsel on OST

07/16/2014



All Pending Motions (10:00 AM) (Judicial Officer: Bulla, Bonnie)

07/17/2014



Recorders Transcript of Hearing

Recorder's Transcript of Proceedings: Telephonic Conference: Competing Orders Regarding Objections to the Discovery Commissioner's Report and Recommendations - June 17, 2014

07/21/2014



Subpoena

Filed by: Defendant Awerbach, Andrea
Subpoena to Officer D. Figueroa

07/22/2014



Motion to Compel

Filed By: Defendant Awerbach, Jared
Defendant Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance With Subpoena Duces Tecum

07/24/2014



Motion to Compel

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Motion to Compel Rule 35 Psychiatric Examination of Defendant Jared Awerbach on Order Shortening Time

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

07/24/2014	 Certificate of Service Filed by: Defendant Awerbach, Jared <i>Certificate of Service</i>
07/24/2014	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Defendant Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum</i>
07/28/2014	 Notice Filed By: Defendant Awerbach, Jared <i>Notice of Subpoena Duces Tecum</i>
07/31/2014	 Recorders Transcript of Hearing <i>Transcript of Proceedings All Pending Motions Wednesday, July 16, 2014</i>
08/01/2014	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Plaintiff's Motion To Strike Defendants' Untimely Supplemental Expert Reports on an Order Shortening Time, Friday, December 13, 2013 Supplemental Expert Reports On An Order Shortening Time Friday, December 13, 2013</i>
08/01/2014	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Defendants' Omnibus Discovery Motions Friday, November 22, 2013</i>
08/08/2014	 Opposition to Motion to Compel Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum</i>
08/13/2014	 Motion to Compel Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion to Compel Production of a Medical Record Release Authorization for Dr. Cheryl Brewer on OST</i>
08/15/2014	 Objection to Discovery Commissioners Report and Recommend Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Objection to Discovery Commissioner's Report and Recommendations</i>
08/15/2014	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
08/20/2014	 Opposition to Motion to Compel Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion to Compel Production of a Medical Authorization</i>
08/20/2014	 Opposition to Motion to Compel Filed By: Defendant Awerbach, Jared <i>Non-Party Canyon Medical Billing, LLC's Preliminary Opposition to Defendant Jared Awerbach's Motion to Compel Canyon Medical Billing, LLC's Compliance with Subpoena Duces Tecum</i>
08/21/2014	 Subpoena

CASE SUMMARY

CASE NO. A-11-637772-C

Filed by: Defendant Awerbach, Andrea
Subpoena - Brian Lemper MD

08/21/2014



Reply in Support

Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Reply in Support of Motion to Compel Production of a Medical Record Release Authorization for Dr. Cheryl Brewer

08/22/2014

Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Deft Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance With Subpoena Duces Tecum

08/22/2014

Joinder (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Deft Andrea Awerbach's Joinder in Deft Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum

08/22/2014

Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Pltf's Motion to Compel Rule 35 Psychiatric Examination of Deft Jared Awerbach on OST

08/22/2014

Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Defendant Andrea Awerbach's Motion to Compel Production of a Medical Record Release Authorization for Dr. Cheryl Brewer on OST

08/22/2014



All Pending Motions (9:00 AM) (Judicial Officer: Bulla, Bonnie)

08/22/2014



Reply to Opposition

Filed by: Defendant Awerbach, Jared
Defendant Jared Awerbach's Reply to Canyon Medical Billings Opposition to Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum

08/26/2014



Notice of Entry

Filed By: Plaintiff Garcia, Emilia
Notice of Entry of Discovery Commissioner's Report and Recommendation

08/26/2014



Discovery Commissioners Report and Recommendations

Filed By: Plaintiff Garcia, Emilia
Discovery Commissioner's Report and Recommendations

08/29/2014



Recorders Transcript of Hearing

Recorder's Transcript Re: Plaintiff's Motion to Compel Rule 35 Psychiatric Examination of Defendant Jared Awerbach, on OST; Defendant Jared Awerbach's Motion to Compel Canyon Medical Billing's Compliance with Subpoena Duces Tecum; Defendant Andrea Awerbach's Joinder to Motion to Compel Canyon Med. Billing's Compliance with Subpoena Duces Tecum - heard on Aug. 22, 2014

09/24/2014



Application for Issuance of Commission to Take Deposition

Party: Plaintiff Garcia, Emilia
Application for Issuance of Commission to Take Deposition Outside of Nevada

09/26/2014

CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner













09/29/2014











Commission to Take Deposition Outside the State of Nevada

Filed By: Plaintiff Garcia, Emilia
Commission to Take Deposition Outside of the State of Nevada (Records Only)














DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

10/02/2014	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioner's Report and Recommendations</i>
10/02/2014	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioner's Report and Recommendation</i>
10/02/2014	 Notice of Entry of Order Filed By: Defendant Awerbach, Jared <i>Notice of Entry of Order</i>
10/27/2014	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendants' Expert Witnesses (1) Dr. Gregory Brown; (2) Dr. Melvin Pohl; (3) Dr. Daniel Shiode; (4) Dr. Russell Shah; (5) Dr. Joseph Wu; (6) Dr. Raymond Kelly; (7) Dr. David Bearman; (8) Dr. Greg Kane; (9) Tony Corroto; (10) Chip Siegel; (11) Dr. Michael Klein; and (12) Dr. Curtis Poindexter or, Alternatively, to Extend Rebuttal Expert Witness Deadline on Order Shortening Time; and Request for Leave to File Extended Memorandum of Points and Authorities</i>
10/28/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
11/04/2014	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Limited Opposition to Plaintiff's Motion to Strike Defendants' Expert Witnesses and Countermotion for Sanctions Against Plaintiff</i>
11/05/2014	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)
11/06/2014	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Andrea <i>Subpoena Duces Tecum - Custodian of Records - Karl G Heine MD</i>
11/06/2014	 Subpoena Duces Tecum Filed by: Defendant Awerbach, Andrea <i>Subpoena Duces Tecum - Custodian of Records for UMC Quick Care</i>
11/11/2014	 Substitution of Attorney Filed by: Defendant Awerbach, Andrea <i>Substitution of Attorney for Defendant Andrea Awerbach</i>
11/12/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Strike Defendants' Expert Witnesses (1) Dr. Gregory Brown; (2) Dr. Melvin Pohl; (3) Dr. Daniel Shiode; (4) Dr. Russell Shah; (5) Dr. Joseph Wu; (6) Dr. Raymond Kelly; (7) Dr. David Bearman; (8) Dr. Greg Kane; (9) Tony Corroto; (10) Chip Siegel; (11) Dr. Michael Klein; and (12) Dr. Curtis Poindexter, or Alternatively, To Extend Rebuttal Expert Witness Deadline; and Opposition to Defendant Andrea Awerbach's Countermotion for Sanctions Against Plaintiff</i>
11/12/2014	 Response Filed by: Defendant Awerbach, Jared <i>Response to Plaintiff's Motion to Strike Defendants' Expert Witnesses</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

11/12/2014	 Application for Issuance of Commission to Take Deposition Party: Plaintiff Garcia, Emilia <i>Application for Issuance of Commission to Take Custodian of Records Deposition Outside of Nevada</i>
11/13/2014	 Commission to Take Deposition Outside the State of Nevada Filed By: Plaintiff Garcia, Emilia <i>Commission to Take Custodian of Records Deposition Outside of the State of Nevada</i>
11/13/2014	CANCELED Motion to Strike (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Duplicate Entry</i> <i>Plaintiff's Motion to Strike Defendants' Expert Witnesses (1) Dr. Gregory Brown; (2) Dr. Melvin Pohl; (3) Dr. Daniel Shiode; (4) Dr. Russell Shah; (5) Dr. Joseph Wu; (6) Dr. Raymond Kelly; (7) Dr. David Bearman; (8) Dr. Greg Kane; (9) Tony Corroto; (10) Chip Siegel; (11) Dr. Michael Klein; and (12) Dr. Curtis Poindexter or, Alternatively, to Extend Rebuttal Expert Witness Deadline on Order Shortening Time; and Request for Leave to File Extended Memorandum of Points and Authorities</i>
11/13/2014	 Notice of Taking Deposition Filed By: Plaintiff Garcia, Emilia <i>Notice of Taking Deposition of Custodian of Records for Dr. Joseph Wu</i>
11/17/2014	 Motion to Quash Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Quash Defendant Andrea Awerbach's Subpoenas Dces Tecum on (1) Las Vegas Skin and Cancer Clinic and (2) Dr. Karl G. Heine on Order Shortening Time</i>
11/17/2014	 Commission to Take Deposition Outside the State of Nevada Filed By: Plaintiff Garcia, Emilia <i>Commission to Take Custodian of Records Deposition Outside of the State of Nevada</i>
11/17/2014	 Amended Notice of Taking Deposition Filed By: Plaintiff Garcia, Emilia <i>Amended Notice of Taking Deposition of Custodian of Records for Dr. Joseph Wu</i>
11/17/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Supplemental Reply in Support of Plaintiff's Motion to Strike Defendants' Expert Witnesses (1) Dr. Gregory Brown; (2) Dr. Melvin Pohl; (3) Dr. Daniel Shiode; (4) Dr. Russell Shah; (5) Dr. Joseph Wu; (6) Dr. Raymond Kelly; (7) Dr. David Bearman; (8) Dr. Greg Kane; (9) Tony Corroto; (10) Chip Siegel; (11) Dr. Michael Klein; and (12) Dr. Curtis Poindexter or, Alternatively, to Extend Rebuttal Expert Witness Deadline on Order Shortening Time</i>
11/18/2014	Motion to Strike (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Strike Defendants' Expert Witnesses (1) Dr. Gregory Brown; (2) Dr. Melvin Pohl; (3) Dr. Daniel Shiode; (4) Dr. Russell Shah; (5) Dr. Joseph Wu; (6) Dr. Raymond Kelly; (7) Dr. David Bearman; (8) Dr. Greg Kane; (9) Tony Corroto; (10) Chip Siegel; (11) Dr. Michael Klein; and (12) Dr. Curtis Poindexter or, Alternatively, to Extend Rebuttal Expert Witness Deadline on Order Shortening Time; and Request for Leave to File Extended Memorandum of Points and Authorities</i>
11/18/2014	Opposition and Countermotion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant Andrea Awerbach's Limited Opposition to Plaintiff's Motion to Strike Defendants' Expert Witnesses and Countermotion for Sanctions Against Plaintiff</i>
11/18/2014	 All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy)




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CASE NO. A-11-637772-C

11/19/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
11/20/2014	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion to Quash Subpoena Duces Tecum on Las Vegas Skin and Cancer Clinic and Dr. Karl Heine.</i>
11/21/2014	 Motion to Quash (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Pltf's Motion to Quash Deft Andrea Awerbach's Subpoenas Dces Tecum on (1) Las Vegas Skin and Cancer Clinic and (2) Dr. Karl G. Heine on OST</i>
11/26/2014	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
11/26/2014	 Motion to Exclude Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Exclude Defendants' Expert Witnerss Irving Scher on Order Shortening Time</i>
11/26/2014	 Motion to Exclude Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Exclude Defendants' Expert Witness Tamara G. Rockholt on Order Shortening Time</i>
11/26/2014	 Amended Notice Filed By: Defendant Awerbach, Andrea <i>Amended Notice of Deposition of Dr. Andrew Cash</i>
12/02/2014	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer</i>
12/03/2014	 Status Check (9:30 AM) (Judicial Officer: Allf, Nancy)
12/08/2014	 Motion for Order to Show Cause Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Order to Show Cause Why Defendant Jared Awerbach Should Not be Held in Contempt for Violating the Court's Protective Order; and Request for Attorneys' Fees</i>
12/08/2014	 Order Filed By: Plaintiff Garcia, Emilia <i>Order</i>
12/09/2014	 Stipulation Filed by: Defendant Awerbach, Jared <i>Amended Stipulation Re: Confidentiality of Disclosure of Documents By Dr. Joseph Wu (Amended Only To Add Service List)</i>
12/09/2014	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>







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12/09/2014	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Motions set 12/10/2014 CONTINUED to 12/17/2014</i>
12/09/2014	 Stipulation Filed by: Defendant Awerbach, Jared <i>Stipulation Re: Confidentiality of Disclosure of Documents by Dr. Joseph Wu</i>
12/09/2014	 Motion to Quash Filed By: Subpoena'd (Non) Party Liberty Mutual Insurance Company <i>Non-Party Movant Liberty Mutual Insurance Company's Motion to Quash and Request to Vacate on an Order Shortening Time</i>
12/10/2014	 Motion for Partial Summary Judgment Filed By: Plaintiff Garcia, Emilia <i>Plaintiff Emilia Garcia's Motion for Partial Summary Judgment That Defendant Jared Awerbach was Per Se Impaired Pursuant to NRS 484C.110(3)</i>
12/10/2014	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Non-Party Movant Liberty Mutual Insurance Company's Motion to Quash and Request to Vacate on Order Shortening Time</i>
12/11/2014	 Joinder To Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Non Party Movant Liberty Mutual Insurance Company's Motion to Quash and Request to Vacate on Order Shortening Time</i>
12/11/2014	 Response Filed by: Defendant Awerbach, Jared <i>Response By Jared Awerbach To Motion To Exclude Dr. Scher, Expert Biomechanical Engineer, And In The Alternative, Motion For Voir Dire/Frye Hearing On Testimony Of Dr. Scher</i>
12/11/2014	 Reply in Support Filed By: Subpoena'd (Non) Party Liberty Mutual Insurance Company <i>Non-Party Movant Liberty Mutual Insurance Company's Reply In Support of Motion to Quash and Request to Vacate on an Order Shortening Time</i>
12/12/2014	 Motion to Quash (9:30 AM) (Judicial Officer: Bulla, Bonnie) Events: 12/09/2014 Motion to Quash <i>Non-Party Movant Liberty Mutual Insurance Company's Motion to Quash and Request to Vacate on an Order Shortening Time</i>
12/15/2014	 Joinder To Motion Filed By: Defendant Awerbach, Andrea <i>Joinder to Defendant Jared Awerbach's Response to Motion to Exclude Dr. Scher, Expert Biomechanical Engineer and in the alternative, Motion for Voir Dire/Frye Hearing on Testimony of Dr. Scher.</i>
12/15/2014	 Opposition Filed By: Defendant Awerbach, Jared <i>Opposition to Plaintiff's Motion to Exclude Defendant's Expert Witness Tamara Rockholt</i>
12/15/2014	 Affidavit

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	Filed By: Defendant Awerbach, Jared <i>Affidavit of Irving Scher</i>
12/15/2014	 Affidavit Filed By: Defendant Awerbach, Jared <i>Affidavit of Irving Scher</i>
12/16/2014	 Joinder To Motion Filed By: Defendant Awerbach, Andrea <i>Joinder to Defendant Jared Awerbach's Opposition to Motion to Exclude Tamara G. Rockholt</i>
12/16/2014	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Exclude Defendants' Expert Witness Irving Scher on Order Shortening Time</i>
12/17/2014	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. David Bearman on Order Shortening Time</i>
12/17/2014	Motion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Exclude Defendants' Expert Witness Irving Scher on Order Shortening Time</i>
12/17/2014	Motion (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Exclude Defendants' Expert Witness Tamara G. Rockholt on Order Shortening Time</i>
12/17/2014	Status Check (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Status Check: Dr. Bearman</i>
12/17/2014	 All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy)
12/18/2014	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Andrea Awerbach's Opposition to Plaintiff's Motion to Strike Answer</i>
12/19/2014	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
12/23/2014	 Telephonic Conference (3:00 PM) (Judicial Officer: Allf, Nancy) <i>Telephonic Conference: Scheduling Issues</i>
12/29/2014	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioner's Report and Recommendations</i>
12/29/2014	 Response Filed by: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Response To Plaintiff's Motion To Exclude Dr. Bearman</i>
12/29/2014	 Supplement Filed by: Defendant Awerbach, Jared <i>Supplement to Awerbach's Response Opposing Plaintiff's Motion To Exclude Bearman</i>

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12/29/2014	 Recorders Transcript of Hearing <i>Transcript Re: Non-Party Movant Liberty Mutual Insurance Company's Motion To Quash And Request To Vacate, On Order Shortening Time Friday, December 12, 2014</i>
12/30/2014	 Order Filed By: Defendant Awerbach, Jared <i>Proposed Order on Motion to Exclude Scher and Rockholt</i>
12/30/2014	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Plaintiff's Motion to Exclude Defendants' Expert Witness Tamara G. Rockholt on Order Shortening Time Plaintiff's Motion to Exclude Defendants' Expert Witness Irving Scher on Order Shortening Time Status Check: Dr. Bearman - December 17, 2014</i>
12/30/2014	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Designation of Topics for Motions in Limine Per This Court's Order</i>
12/30/2014	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's List of Proposed Motions in Limine</i>
12/30/2014	 Motion for Protective Order Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion For Protective Order On Order Shortening Time</i>
12/30/2014	 Motion to Strike (12:00 PM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Strike December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. David Bearman on Order Shortening Time</i>
12/30/2014	 Response Filed by: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Response to Motion to Show Cause and Motion to Amend Order Dated August 26, 2014 and Motion for in Camera Inspection of Records</i>
12/31/2014	 Pre-Trial Disclosure Party: Plaintiff Garcia, Emilia <i>Plaintiff's Third Amended Pre-Trial Disclosures</i>
12/31/2014	 Order Filed By: Plaintiff Garcia, Emilia <i>Order</i>
01/02/2015	 Pre-Trial Disclosure Party: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Third Amended NRCP 16.1 (a)(3) Pretrial Disclosures</i>
01/02/2015	 Motion to Continue Trial Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion to Continue Trial on Order Shortening Time (First Request)</i>
01/05/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>

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01/05/2015	 Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion In Limine to Exclude Testimony From Insurance Company Representative Concerning Investigation of Accident</i>
01/05/2015	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioner's Report and Recommendation</i>
01/06/2015	 Notice of Compliance Party: Defendant Awerbach, Jared <i>Notice of Compliance With Court's Order</i>
01/07/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer</i>
01/08/2015	 Motion for Partial Summary Judgment Filed By: Defendant Awerbach, Jared <i>Motion for Partial Summary Judgment by Defendant jared Awerbach on Claims for Punitive Damages and Response to Plaintiff's Motion for Partial Summary Judgment</i>
01/08/2015	 Declaration Filed By: Defendant Awerbach, Jared <i>Declaration of Dr David Bearman</i>
01/08/2015	 Reply Filed by: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion for Order to Show Cause Why Defendant Jared Awerbach Should Not Be Held in Contempt for Violating This Court's Protective Order; and Request for Attorneys' Fees; and Opposition to Countermotions</i>
01/09/2015	 Motion to Amend Filed By: Defendant Awerbach, Jared <i>Motion of Defendant Awerbach to Amend Court's Order Delivered in Open Court on November 18, 2014, to Add Dr. Raymond Kelly On Order Shortening Time</i>
01/09/2015	 Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Supplemental Points and Authorities for Omnibus Motion in Limine.</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion in Limine to Admit Evidence Defendant Jared Awerbach Pleaded Guilty to Violating NRS 484C.110 (MIL 33)#</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Preclude Defendants From Arguing Plaintiff Was Malingering or Exhibited Secondary Gain (MIL #34)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia

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Motion to in Limine to Exclude Defendants' Expert Witness Dr. Curtis Poindexter (MIL #35)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Preclude Defendants From Arguing Plaintiff Had an MRI on December 30, 2010 (MIL #36)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Plaintiff's Motion in Limine to Exclude Surveillance Video of Plaintiff at Her Job at Sam's Town Casino (MIL #37)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Limit the Opinions of Defendants' Expert Witness Dr. Gregory Brown to the Scope of his Expertise (MIL #38)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Preclude Defendants From Arguing Dr. Brian Lemper Overtreated in this Case (MIL #39)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Preclude Defendants From Asking About Unrelated Accidents, Exclude Evidence of Plaintiff's Speeding Tickets, And Exclude Questioning Regarding a Trip Plaintiff Took to California (MIL #40)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Preclude Defendants' Experts From Opining Counsel Directed Medical Treatment (MIL #41)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Exclude Photographs of Property Damage (MIL #42)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Exclude Reference to Plaintiff's Alleged Inconsistent Drug Screen Results (MIL #43)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Exclude Evidence Pertaining to Her Termination From Aliante (MIL #44)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Motion in Limine to Exclude Emilia's Irrelevant Medical Records (MIL #45)

01/09/2015



Motion in Limine

Filed By: Plaintiff Garcia, Emilia









Motion in Limine to Exclude the Opinions of Defendants' Medical Expert Michael R. Klein (MIL #46)

01/09/2015













DEPARTMENT 30
CASE SUMMARY
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	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Preclude Defendants From Questioning Dr. Brian Lemper Regarding Marijuana (MIL #48)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Exclude Evidence of Defendant Jared Awerbach's Claimed Traumatic Brain Injury (MIL #49)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Exclude Emilia's Irrelevant Employment Records (MIL #54)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Preclude Dr. Robert Odell's Opinions Pertaining to Medical Billing (MIL #50)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Exclude Evidence of Impairment (MIL #52)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Exclude Evidence of Liability Because Jared's Judgment of Conviction Conclusively Establishes Liability (MIL #53)</i>
01/09/2015	 Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Motion in Limine to Limit the Opinions of Defendants' Expert Witness Dr. David Bearman to the Scope of his Expertise (MIL #47)</i>
01/09/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No. 31 to Exclude Evidence Regarding Defendant Jared Awerbach's Non- Support of His Children</i>
01/09/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion in Limine No. 33 Excluding Evidence or Mention of His Use of Public Assistance Programs</i>
01/09/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion in Limine No. 30 that NRS 42.010 is Void for Vagueness</i>
01/09/2015	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike (1) December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. Gregory Brown; (2) December 5, 2014, Supplement of Dr. Joseph Wu; (3) December 5, 2014, Supplement of Dr. Raymond Kelly; and (4) December 11, 2014, Supplement of Dr. Curtis Poindexter on Order Shortening Time</i>
01/10/2015	 Motion in Limine

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	<p>Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion in Limine No. 28 Exclude or Prevent Mention of Jared Awerbach's Blood THC/Metabolite Levels Until Court Determines Plaintiff Can Provide by Competent Evidence</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motions in Limine to Exclude: No 44. Jared's Attempts to Flee. No. 45. Jared's Gang Membership No.46. Jared's Prior Accident in 2008. No.47. Jared's Medical Condition From 2008 Accident.</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine 29 To Exclude Evidence That Contradicts Derr Regarding Plaintiff's Termination From Aliante Casino Was Unrelated To Pain</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion in Limine 38 to Comment to Dr Cash that Jared was Under the Influence of Alcohol at the Time of the Accident</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No. 42 To Admit Evidence Of Non-Impairment Of Jared Awerbach In Mitigation Of Punitive Damages Claim</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No. 43 To Admit Admission By Authorized Agents Of Plaintiff As To The Expected Costs Of Her Surgery</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion in Limine No. 27 Bifurcation of Punitive Damages from the Liability and Compensatory Damage Phases of the Trial</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motions In Limine To Exclude Evidence Of: No. 34: Defendant Jared Awerbach's Criminal Record For All Non-Juvenile Offenses No. 35: Defendant Jared Awerbach's Drug Addiction No. 36: Defendant Jared Awerbach's Domestic Battery Of His Mother And Her Restraining Order Against Jared No. 37: Defendant Jared Awerbach's Drug Dealing</i></p>
01/10/2015	<p> Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No. 32 To Exclude Any Evidence Regarding Defendant Jared Awerbach's Children</i></p>
01/12/2015	<p> Opposition to Motion For Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Motion for Protective Order; and Countermotion to Strike Dr. Poindexter and Dr. Klein</i></p>
01/12/2015	<p> Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply Brief in Support of Motion for Protective Order on OST.</i></p>










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01/12/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Status Check - December 3, 2014</i>
01/12/2015	 Joinder Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Joinder To Defendant Andrea Awerbach's Motion To Continue Trial On Order Shortening Time</i>
01/12/2015	 Joinder Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Joinder To Defendant Andrea Awerbach's Motion For Protective Order On Order Shortening Time</i>
01/12/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No. 32 To Exclude Any Evidence Regarding Defendant Jared Awerbach's Children</i>
01/12/2015	 Joinder Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Supplemental Joinder To Defendant Andrea Awerbach's Motion To Continue Trial On Order Shortening time</i>
01/13/2015	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion to Continue Trial on Order Shortening Time; and Opposition to Defendant Jared Awerbach's Joinder</i>
01/13/2015	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order:</i>
01/13/2015	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Motion of Defendant Awerbach to Amend Court's Order Delivered in Open Court November 18, 2014, to Add Dr. Raymond Kelly on Order Shortening Time</i>
01/13/2015	 Motion for Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Protective Order Quashing Jonathan Davis Deposition Subpoena</i>
01/13/2015	 Order Admitting to Practice Filed By: Defendant Awerbach, Jared <i>Order Granting Defendant Jared Awerbach's Motion to Associate as Counsel.</i>
01/13/2015	 Motion for Order to Show Cause Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt for Violating This Court's Order Regarding Reimbursement of Plaintiff's Discovery Costs on Order Shortening Time</i>
01/13/2015	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>

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01/13/2015	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
01/13/2015	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
01/13/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motions In Limine To Admit Evidence Of - No. 39: Plaintiff's Implied Admission That Her Surgery In Las Vegas Cost \$70,000.00 and No. 40: Plaintiff's Implied Admission That The Surgery Was Excessive In Cost And Her Counsel Knew The Surgery Was Excessive In Cost</i>
01/13/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion In Limine No. 41 To Exclude Or Prevent Mention of Plaintiff's Medical Bills</i>
01/13/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff Emilia Garcia's Motion for Partial Summary Judgment that Defendant Jared Awerbach Was Per Se Impaired Pursuant to NRS 484C.110(3) and Opposition to Defendant Jared Awerbach's Countermotion for Summary Judgment on Claims for Punitive Damages</i>
01/14/2015	 Request Filed by: Defendant Awerbach, Jared <i>Request for Judicial Notice Regarding Time of Sunset on Date of Accident</i>
01/14/2015	 Supplemental Filed by: Plaintiff Garcia, Emilia <i>Supplement to Plaintiff's Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt for Violating this Court's Order Regarding Reimbursement of Plaintiff's Discovery Costs on Order Shortening Time</i>
01/14/2015	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Jared Awerbach's Opposition to Plaintiff's Motion for Order to Show Cause Why Defendant Jared Awerbach Should Not be Held in Contempt for Violating this Court's Protective Order.</i>
01/14/2015	Motion for Protective Order (9:30 AM) (Judicial Officer: Bulla, Bonnie) 01/14/2015, 01/16/2015 <i>Deft Andrea Awerbach's Motion For Protective Order on OST</i>
01/14/2015	Joinder (9:30 AM) (Judicial Officer: Bulla, Bonnie) 01/14/2015, 01/16/2015 <i>Deft Jared Awerbach's Joinder To Deft Andrea Awerbach's Motion For Protective Order On OST</i>
01/14/2015	Opposition and Countermotion (9:30 AM) (Judicial Officer: Bulla, Bonnie) 01/14/2015, 01/16/2015 <i>Plt's Opposition to Motion for Protective Order; and Countermotion to Strike Dr. Poindexter and Dr. Klein</i>
01/14/2015	 All Pending Motions (9:30 AM) (Judicial Officer: Bulla, Bonnie)

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



01/14/2015	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
01/14/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply In Support Of Motion To Continue Trial On Order Shortening Time</i>
01/14/2015	 Request for Judicial Notice Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Request for Judicial Notice re: Plaintiff's Misrepresentations in Subrogation Contracts/Liens with Certian Medical Providers Regarding Availability of Health Insurance Coverage</i>
01/14/2015	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition To Motion To Strike Defendants' Supplemental Expert Curtis Poindexter M.D's Report Dated November 10, 2014</i>
01/15/2015	 Order Filed By: Plaintiff Garcia, Emilia <i>Order</i>
01/15/2015	 Order Setting Settlement Conference <i>Order Setting Settlement Conference</i>
01/15/2015	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)
01/15/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
01/15/2015	 Opposition to Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition to Plaintiff's Motion to Strike (1) Decemebr 5, 2014 Supplemental Report of Defendant's Expert Gregory Brown; (2) December 5, 2014 Supplement of Dr. Jospheh Wu; (3) December 5, 2014 Supplement of Dr. Raymond Kelly; and (4) Decemeber 11, 2014 Supplement of Dr Curtis Poindexter on Order Shortening Time</i>
01/15/2015	Motion to Strike (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer</i>
01/15/2015	Motion for Order to Show Cause (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Pltf's Motion for Order to Show Cause Why Deft Jared Awerbach Should Not be Held in Contempt for Violating the Court's Protective Order; and Request for Attorneys' Fees</i>
01/15/2015	Motion for Partial Summary Judgment (9:30 AM) (Judicial Officer: Allf, Nancy) Events: 12/10/2014 Motion for Partial Summary Judgment <i>Plaintiff Emilia Garcia's Motion for Partial Summary Judgment That Defendant Jared Awerbach was Per Se Impaired Pursuant to NRS 484C.110(3)</i>
01/15/2015	Motion to Continue Trial (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant Andrea Awerbach's Motion to Continue Trial on Order Shortening Time (First Request)</i>

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01/15/2015	Motion to Strike (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Strike (1) December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. Gregory Brown; (2) December 5, 2014, Supplement of Dr. Joseph Wu; (3) December 5, 2014, Supplement of Dr. Raymond Kelly; and (4) December 11, 2014, Supplement of Dr. Curtis Poindexter on Order Shortening Time</i>
01/15/2015	Motion to Amend (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Motion of Defendant Awerbach to Amend Court's Order Delivered in Open Court on Nov. 18, 2014, to Add Dr. Raymond Kelly on Order Shortening Time</i>
01/15/2015	Joinder (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant Jared Awerbach's Joinder To Defendant Andrea Awerbach's Motion To Continue Trial On Order Shortening Time</i>
01/15/2015	 All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy)
01/15/2015	CANCELED All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
01/15/2015	CANCELED All Pending Motions (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - On In Error</i>
01/16/2015	 All Pending Motions (10:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Plt's Opposition to Motion for Protective Order; and Countermotion to Strike Dr. Poindexter and Dr. Klein Deft Jared Awerbach's Joinder To Deft Andrea Awerbach's Motion For Protective Order On OST.....Deft Andrea Awerbach s Motion For Protective Order on OST</i>
01/16/2015	CANCELED All Pending Motions (10:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated</i>
01/19/2015	 Pre-Trial Disclosure Party: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Objections To Plaintiff's Third Amended NRCP 16.1(A)(3) Pretrial Disclosures</i>
01/19/2015	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant's Andrea Awerbach's Opposition to Plaintiff's Motion for Order to Show Cause Why Defendant's Should Not Be Held In Contempt For Violating This Court's Order Regarding Reimbursement of Plaintiff's Discovery Costs On Order Shortening Time</i>
01/20/2015	 Objection Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Objection to Plaintiff's Pre-Trial Disclosures</i>
01/21/2015	 Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Motion For Leave To Supplement Opinions Of Nurse Rockholt On Order Shortening Time - with Hearing Date and Time</i>
01/21/2015	CANCELED Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i>
01/21/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held In Contempt For Violating This Court's Order Regarding Reimbursement Of Plaintiff's Discovery Costs On Order Shortening Time</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

01/22/2015	 Objection Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Objections To Plaintiff's Fifth Amended NRCP 16.1(a)(3) Pretrial Disclosures</i>
01/22/2015	 Recorders Transcript of Hearing Party: Plaintiff Garcia, Emilia <i>Recorder's Transcript of Proceedings: Telephonic Conference: Scheduling Issues - December 23, 2014</i>
01/22/2015	 Recorders Transcript of Hearing Party: Plaintiff Garcia, Emilia <i>Recorder's Transcript of Proceedings: Plaintiff's Motion to Strike December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. David Bearman on Order Shortening Time - December 30, 2014</i>
01/22/2015	CANCELED Motion for Order to Show Cause (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt for Violating this Court's Order Regarding Reimbursement of Plaintiff's Discovery Costs on Order Shortening Time</i>
01/22/2015	 At Request of Court (10:30 AM) (Judicial Officer: Allf, Nancy)
01/22/2015	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion for Leave to Supplement Opinions of Nurse Rockholt on Order Shortening Time</i>
01/23/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Motions - January 15, 2015</i>
01/23/2015	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy)
01/23/2015	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendants' Medical Expert Michael R. Klein on Order Shortening Time</i>
01/26/2015	 Notice of Change of Address Filed By: Defendant Awerbach, Jared <i>Notice of Change of Address</i>
01/26/2015	 Reply to Motion Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Submittal of Proposed Order For Court's Ruling On Motions For Summary Judgment Regarding Punitive Damages</i>
01/27/2015	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition To Plaintiff's Motion To Strike Defendants' Medical Expert Michael R. Klein On Order Shortening Time</i>
01/28/2015	 Order

CASE SUMMARY

CASE NO. A-11-637772-C

Filed By: Plaintiff Garcia, Emilia

Order Granting, in Part, and Denying, in Part, Plaintiff's Motion for Partial Summary Judgment that Defendant Jared Awerbach was Per Se Impaired Pursuant to NRS 484C.110(3); and Denying Defendant Jared Awerbach's Motion for Partial Summary Judgment on Punitive Damage Claims

01/28/2015

Partial Summary Judgment (Judicial Officer: Allf, Nancy)

Debtors: Jared Awerbach (Defendant)

Creditors: Emilia Garcia (Plaintiff)

Judgment: 01/28/2015, Docketed: 02/03/2015

Comment: Certain Claims

01/29/2015



Notice of Entry of Order

Filed By: Plaintiff Garcia, Emilia

Notice of Entry of Order

01/30/2015

Motion for Leave (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Deft Jared Awerbach's Motion For Leave To Supplement Opinions Of Nurse Rockholt on OST - with Hearing Date and Time

01/30/2015

Motion to Strike (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Pltf's Motion to Strike Defts' Medical Expert Michael R. Klein on OST

01/30/2015



All Pending Motions (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Deft Jared Awerbach's Motion For Leave To Supplement Opinions Of Nurse Rockholt on OST - with Hearing Date and Time Pltf's Motion to Strike Defts' Medical Expert Michael R. Klein on OST

01/30/2015

Motion for Order to Show Cause (11:00 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt for Violating this Court's Order Regarding Reimbursement of Plaintiff's Discovery Costs on Order Shortening Time.

02/02/2015

CANCELED Jury Trial (10:00 AM) (Judicial Officer: Allf, Nancy)

Vacated

02/06/2015



Opposition to Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #27 to Bifurcate Punitive Damages from the Liability and Compensatory Damage Phases of Trial

02/06/2015



Opposition to Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #29 to Exclude Evidence that Contradicts DCRR Regarding Plaintiff's Termination from Aliante Casino was Unrelated to Pain

02/06/2015



Opposition to Motion in Limine

Filed By: Plaintiff Garcia, Emilia

Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #30 NRS 42.010 is Void for Vagueness

02/06/2015



Opposition to Motion in Limine

Filed By: Plaintiff Garcia, Emilia











Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #31 to Exclude Evidence Regarding Defendant Jared Awerbach's Non-Support of His Children

02/06/2015















Opposition to Motion in Limine

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

	Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Opposition to Defendant Jared Awerbach's Motion in Limine #32 to Exclude Any Evidence Regarding Defendant Jared Awerbach's Children</i>
02/06/2015	 Non Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Non-Opposition to Defendant Jared Awerbach's Motion in Limine #33 to Exclude Evidence or Mention of Use of Public Assistance Programs</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motions in Limine #34, #35, and #37; and Non-Opposition to Motion #36</i>
02/06/2015	 Non Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Non-Opposition to Defendant Jared Awerbach's Motion in Limine #38 to Comment [Sic] to Dr. Cash that Jared was Under the Influence of Alcohol</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motions in Limine #39: Plaintiff's Implied Admission Her Surgery in Las Vegas Cost \$70,000; and Opposition to No. 40: Plaintiff's Implied Admission that the Surgery was Excessive in Cost and Her Counsel Knew the Surgery was Excessive in Cost</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #41 to Exclude or Prevent Mention of Plaintiff's Medical Bills</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #42 to Admit Evidence of Non-Impairment of Jared Awerbach in Mitigation of Punitive Damages Claim</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #43 to Admit Admission by Authorized Agents of Plaintiff as to the Expected Cost of Her Surgery</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Request for Judicial Notice Regarding Time of Sunset on Date of Accident</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Request for Judicial Notice Regarding Plaintiff's False Statements in Subrogation Contracts/Liens with Certain Medical Providers Regarding Availability of Health Insurance/Coverage</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Evidence of Andrea's Gambling Addiction and Treatment</i>

CASE SUMMARY

CASE NO. A-11-637772-C


02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Non-Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Evidence of Andrea's DMV Records</i>
02/06/2015	 Non Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Non-Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Any Reference to De-Designated Expert G. Michael Elkanich</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Any Reference or Comment to Testimony from Insurance Company Representative Concerning Investigation of Subject Accident</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Partial Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Evidence of Andrea's Prior Lawsuits</i>
02/06/2015	 Non Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Non-Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Eighth Judicial District Court Family Division Records Regarding Jared and Andrea</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion in Limine that Plaintiff's Economist, Stan Smith's, Opinions Do Not Assist the Trier of Fact and Must be Excluded</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Testimony of Jeffrey D. Gross Regarding Biomechanical Engineering Opinions</i>
02/06/2015	 Stipulation and Order Filed by: Plaintiff Garcia, Emilia <i>Stipulation and Order Regarding Motions in Limine Oppositions</i>
02/06/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>(Withdrawal 5/1/15) Plaintiff's Opposition to Defendant Jared Awerbach's Motion in Limine #28 to Exclude or Prevent Mention of Jared Awerbach's Blood/THC Metabolite Levels Until the Court Determines Plaintiff Can Prove by Competent Evidence</i>
02/09/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Plaintiff's Motion in Limine No. 37</i>
02/09/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Plaintiff's Motion in Limine No. 38</i>
02/09/2015	 Opposition to Motion in Limine

CASE SUMMARY


CASE NO. A-11-637772-C

Filed By: Defendant Awerbach, Jared
Jared Awerbach's Opposition to Plaintiff's Motion in Limine No. 33


02/09/2015

 Opposition to Motion in Limine
 Filed By: Defendant Awerbach, Jared
Jared Awerbach's Opposition to Motions in Limine No. 47

02/09/2015

 Opposition to Motion in Limine
 Filed By: Defendant Awerbach, Jared
Opposition to Plaintiff's Motion in Limine to Exclude Evidence of Jared Awerbach's Traumatic Brain Injury (MIL #49)


02/09/2015

 Opposition to Motion in Limine
 Filed By: Defendant Awerbach, Jared
Defendant Jared Awerbach's Opposition to Plaintiff's Motion to Limine to Exclude Evidence of Impairment (MIL #52)


02/10/2015

 Order
 Filed By: Plaintiff Garcia, Emilia
Order

02/10/2015

 Recorders Transcript of Hearing
Recorder's Transcript of Proceedings: Plaintiff's Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt for Violating this Court's Order Regarding Reimbursement of Plaintiff's Discovery Costs on Order Shortening Time - January 30, 2015


02/10/2015

 Opposition to Motion in Limine
 Filed By: Defendant Awerbach, Jared
Defendant Jared Awerbach's Opposition to Plaintiff's Motion in Limine #53 to Exclude Evidence of Liability

02/10/2015

 Omnibus Motion In Limine
 Filed by: Defendant Awerbach, Jared
Defendant Jared Awerbach's Opposition to Plaintiff's Motion in Limine to Preclude Defendants from Questioning Dr. Brian Lemper Regarding Marijuana (MIL #48).

02/11/2015

 Notice of Entry of Order
 Filed By: Plaintiff Garcia, Emilia
Notice of Entry of Order


02/12/2015

CANCELED Status Check: Compliance (10:30 AM) (Judicial Officer: Allf, Nancy)
Vacated - Moot


02/12/2015

CANCELED Status Check: Compliance (10:30 AM) (Judicial Officer: Allf, Nancy)
Vacated











02/13/2015

 Opposition to Motion in Limine
 Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine No. 39 to Preclude Defendants' from Arguing Dr. Brian Lemper Over Treated in this Case

02/13/2015

 Opposition to Motion in Limine
 Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine No. 44 to Exclude Emilia's Irrelevant Employment Records









DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Limited Opposition To Plaintiff's Motion In Limine No. 45 To Exclude Emilia's Irrelevant Medical Records</i>
02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine No. 46 to Exclude the Opinions of Defendants' Medical Expert Michael R. Klein</i>
02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition To Plaintiff's Motion In Limine No. 34 To Preclude Defendants From Arguing Plaintiff Was Malingering Or Exhibited Secondary Gain</i>
02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition To Plaintiff's Motion In Limine No.40 To Preclude Defendants From Asking About Unrelated Accidents, Exclude Evidence Of Plaintiff's Speeding Tickets And Exclude Questioning Regarding A Trip Plaintiff Took To California</i>
02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition To Plaintiff's Motion In Limine No. 42 To Exclude Photographs Of The Damaged Vehicles</i>
02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine No. 35 to Exclude Defendants' Expert Dr. Curtis Poindexter</i>
02/13/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition To Plaintiff's Motion In Limine No.41 To Preclude Defendants' Experts From Opining Counsel Directed Medical Treatment</i>
02/18/2015	 Reply in Support Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Reply in Support of MIL 28</i>
02/18/2015	 Reply in Support Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Reply in Support of MIL 30</i>
02/18/2015	CANCELED Motion for Protective Order (9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i> <i>Plaintiff's Motion for Protective Order Quashing Jonathan Davis Deposition Subpoena</i>
02/18/2015	 Reply in Support Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Reply In Support of Motion in Limine Nos. 34, 35 & 37</i>
02/19/2015	CANCELED Settlement Conference (10:30 AM) <i>Vacated - Moot</i>
02/19/2015	 Settlement Conference (10:30 AM) (Judicial Officer: Kishner, Joanna S.)



DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

02/19/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion in Limine No. 50 to Exclude Dr. Robert Odell's Opinions on Medical Billing</i>
02/19/2015	 Reply in Support Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Reply in Support of Motion in Limine 27 to Bifurcate Punitive Damage Phase of Trial</i>
02/19/2015	 Reply in Support Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Reply in Support of Motion in Limine 29 Exclude Evidence that Contradicts DCRR Regarding Plaintiff's Termination from Aliante Casino was Unrelated to Pain</i>
02/20/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply In Support Of Motion In Limine To Exclude Testimony Of Jeffrey Gross, MD Regarding Biomechanical Opinions</i>
02/20/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply In Support Of Motion In Limine To Exclude Evidence Of Andrea's Prior Lawsuits</i>
02/20/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply In Support Of Motion In Limine To Exclude Economist Dr. Stan Smith's Opinions Which Will Not Assist The Trier Of Fact</i>
02/20/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply In Support Of Motion In Limine To Exclude Evidence Of Andrea's Gambling Addiction And Treatment</i>
02/20/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply In Support Of Motion In Limine To Exclude Testimony From Insurance Company Representative Concerning Investigation Of Accident</i>
02/20/2015	 Supplemental Brief Filed By: Defendant Awerbach, Andrea <i>Supplemental Brief In Support Of Defendant Andrea Awerbach's Opposition To Plaintiff's Motion To Strike Answer</i>
02/20/2015	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
02/24/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Strike (1) December 5, 2014, Supplemental Report of Defendants' Expert Witness Dr. Gregory Brown; (2) December 5, 2014, Supplement of Dr. Joseph Wu; (3) December 5, 2014, Supplement of Dr. Raymond Kelly; (4) December 11, 2014, Supplement of Dr. Curtis Poindexter on Order Shortening Time</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

02/24/2015	 Supplemental Filed by: Plaintiff Garcia, Emilia <i>Supplemental Reply in Support of Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer</i>
02/25/2015	 Decision and Order Filed By: Plaintiff Garcia, Emilia <i>Decision and Order Denying Plaintiff's Motion to Strike Andrea Awerbach's Answer; Granting Plaintiff's Motion for Order to Show Cause; and Granting in Part and Denying in Part Plaintiff's Motion to Strike Supplemental Reports</i>
02/26/2015	 Status Check (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Status Check: Status Check of the Case</i>
02/27/2015	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Garcia, Emilia <i>Discovery Commissioner's Report and Recommendations</i>
02/27/2015	 Decision and Order <i>Decision and Order Denying Plaintiff's Motion to Strike Andrea Awerbach's Answer; Granting Plaintiff's Motion for Order to Show Cause; and Granting in Part and Denying in Part Plaintiff's Motion to Strike Supplemental Reports</i>
02/27/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
03/02/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Discovery Commissioner's Report and Recommendation</i>
03/10/2015	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Re-Setting Civil Jury Trial, Pre-Trial/Calendar Call</i>
03/13/2015	 Motion for Relief Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion For Relief From Final Court Order</i>
03/25/2015	 Minute Order (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Hearing on Motions in Limine set for on April 1, 2015, at 10:00 a.m. VACATED</i>
03/30/2015	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Plaintiff Andrea Awerbach's Motion for Relief from Final Court Order</i>
04/01/2015	CANCELED Hearing (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Hearing: Motions in Limine</i>
04/02/2015	CANCELED Pretrial/Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Superseding Order</i>
04/06/2015	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Superseding Order</i>

DEPARTMENT 30
CASE SUMMARY
CASE NO. A-11-637772-C

04/06/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply in Support of Motion for Relief from Final Court Order.</i>
04/07/2015	 Motion for Protective Order Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion For Protective Order</i>
04/08/2015	 Motion to Compel Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Compel Production of Defendants' Expert Witness Bills</i>
04/15/2015	 Motion for Relief (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Defendant Andrea Awerbach's Motion For Relief From Final Court Order</i>
04/20/2015	 Opposition to Motion to Compel Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition to Plaintiff's Motion to Compel Production of Defendant's Expert Witness Bills and Defendant Jared Awerbach's Request for Sanctions Under 37 (a)(4)(B)</i>
04/23/2015	 Order Denying Motion Filed By: Plaintiff Garcia, Emilia <i>Order Denying Defendant Andrea Awerbach's Motion for Relief from Final Court Order</i>
04/24/2015	 Opposition to Motion For Protective Order Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion for Protective Order</i>
04/24/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
04/27/2015	 Motion for Order to Show Cause Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt of Court for Failing to Pay Court Ordered Sanctions; and Request for Attorneys' Fees</i>
04/27/2015	 Decision and Order <i>Decision and Order Denying Defendant Andrea Awerbach's Motion for Relief from Final Court Order</i>
04/27/2015	 Decision and Order <i>Decision and Order Denying Defendant Andrea Awerbach's Motion for Relief from Final Court Order</i>
04/29/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion in Limine to Admit Evidence Defendant Jared Awerbach Pleaded Guilty to Violating NRS 484C.110 (MIL #33)</i>
04/29/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia

CASE SUMMARY
CASE NO. A-11-637772-C

Reply in Support of Plaintiff's Motion in Limine to Preclude Defendants From Arguing Plaintiff Was Malingering or Exhibited Secondary Gain (MIL #34)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Defendants' Expert Witness Dr. Curtis Poindexter (MIL #35)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Surveillance Video of Plaintiff at Her Job at Sam's Town Casino (MIL #37)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Limit The Opinions of Defendants' Expert Witness Dr. Gregory Brown to the Scope of His Expertise (MIL #38)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Preclude Defendants from Arguing Dr. Brian Lemper Overtreated in this Case (MIL #39)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Preclude Defendants From Asking About Unrelated Accidents; Exclude Evidence of Plaintiff's Speeding Tickets; And Exclude Questioning Regarding A Trip Plaintiff Took to California (MIL #40)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Preclude Defendants' Experts From Opining Counsel Directed Medical Treatment (MIL #41)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Photographs of Property Damage (MIL #42)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Irrelevant Medical Records (MIL #45)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude the Opinions of Defendants' Medical Expert Michael R. Klein (MIL #46)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine To Limit The Opinions Of Defendants' Expert Witness Dr. David Bearman To The Scope Of His Expertise (MIL #47)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

CASE SUMMARY

CASE NO. A-11-637772-C

Reply in Support of Plaintiff's Motion in Limine to Preclude Defendants From Questioning Dr. Brian Lemper Regarding Marijuana (MIL #48)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Evidence of Defendant Jared Awerbach's Claimed Traumatic Brain Injury (MIL #49)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Preclude Dr. Robert Odell's Opinions Pertaining to Medical Billing (MIL #50)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Evidence of Impairment (MIL #52)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Evidence of Liability Because Defendant Jared Awerbach's Judgment of Conviction Conclusively Establishes Liability (MIL #53)

04/29/2015



Reply in Support

Filed By: Plaintiff Garcia, Emilia

Reply in Support of Plaintiff's Motion in Limine to Exclude Irrelevant Employment Records (MIL #54)

05/01/2015



Notice of Withdrawal

Defendant Jared Awerbach's Notice of Withdrawal Of Opposition To Certain Of Plaintiff's Motions In Limine

05/05/2015



Joinder to Opposition to Motion

Filed by: Defendant Awerbach, Andrea

Defendant Andrea Awerbach's Joinder in Select Opposition Filed By Defendant Jared Awerbach to Plaintiff's Motions in Limine

05/06/2015

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motions in Limine Numbers 1-10

05/06/2015

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

Plaintiff's Motions in Limine Numbers 11-29

05/06/2015

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

05/06/2015, 06/19/2015

Andrea Awerbach's Motion In Limine to Exclude Jared's Recorded Interview As Hearsay

05/06/2015

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

05/06/2015, 06/19/2015

Defendant Jared Awerbach's Motion in Limine No 5 to Preclude Plaintiff's Counsel From Mentioning Specific Dollar Amounts During Voir Dire

05/06/2015

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

05/06/2015, 06/19/2015

Defendant Jared Awerbach's Motion in Limine No 6 to Exclude Reference Testimony or Other Evidence Regarding Liability Insurance

05/06/2015

Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

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	05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 5 1 - 4 To (1) Exclude Traffic Report ; (2) Exclude Evidence, Testimony Or Mention Of Traffic Citation; (3) Exclude Evidence Or Testimony From Police Offers Regarding Fault (4) Exclude Evidence That Jared Did Not Have A Nevada Drivers License</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 7-9</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 10 to Limit Dr Mortillaro's Testimony to that Given at Deposition or Disclosed Prior to Discovery Cut-Off</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No11 to Exclude Reference to the Plaintiff's Financial Condition or Inability to Pay Medical Bills Absent a Favorable Jury Verdict</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 12 to Exclude Improper Argument</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 13 to Exclude All References to and Testimony Concerning Prior Bad Acts or Substance Abuse of Defendant Jared Awebach</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 14 Requiring Pre-Screening of any Documents or Exhibits Prior to their Use in Opening Arguments or at Trial</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 16 to Exclude Statements Overheard by Plaintiff at the Scene of Accident</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 17 to Exclude Plaintiff's Future Wage Loss Claims</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No18 and 19</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 20 to Exclude All Medical Opinions Not Stated in Providers Own Medical Records or Deposition Including but not Limited to Opinions Pertaining to Future Medical Care</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awebach's Motion in Limine No 21 to Exclude Testimony of Stan Smith Regarding Hedonic Damages</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion in Limine No. 15 to Permit Reference to Plaintiff's Medical Liens</i>

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05/06/2015	Motion to Bifurcate (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion to Bifurcate Plaintiff's Punitive Damage Claims on an Order Shortening Time</i>
05/06/2015	Joinder to Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Andrea Awerbach's Joinder in Jared Awerbach's Motions In Limine 1,2,3,5,6,10,12,14-17 and 20-21</i>
05/06/2015	Joinder to Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Andera Awerbach's Joinder in Select Motions in Limine Filed by Defendant Jared Awerbach</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Evidence Plaintiff Received Welfare (MIL #31)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine Regarding Apportionment of Damages (MIL#30)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Allegations Plaintiff Was Speeding at the Time of the Accident (MIL #32)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motions In Limine to Exclude and Preclude Mention Until Admissible of: No. 22: Results of Blood Tests of Jared Awerbach Until Chain of Custody Established; No. 23: Results of Blood Tests of Jared Awerbach Until Connected to Causation of Accident; No. 24: Medical Specials Until First Shown Necessary, Reasonable, and Incurred; No. 25: Medical Specials Until Physicians Voir Dire as to Qualifications to Opine as to Whether Medical Specials are Necessary, Reasonable, and Incurred; No. 26: Criminal Plea to DUI Until After Establish Causation of Accident by Intoxicated Driving</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Andrea Awerbach's Motion in Limine to Exclude Reference or Evidence of a Prior Complaint Filed Against her on Order Shortening Time</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Andrea Awerbach's Motion in Limine to Exclude Reference or Evidence of a Prior Complaint Filed Against her on OST</i>
05/06/2015	Motion to Strike (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Plaintiff's Motion to Strike Defendant Jared Awerbach's NRCP 16.1(a)(3) Amended and Supplemental Pre-Trial Disclosures, In Part, on Order Shortening Time</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Andrea Awerbach's Motion In Limine to Exclude Testimony From Insurance Company Representative Concerning Investigation of Accident</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Admit Evidence Defendant Jared Awerbach Pleaded Guilty to Violating NRS 484C.110 (MIL 33)#</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to in Limine to Exclude Defendants' Expert Witness Dr. Curtis Poindexter (MIL #35)</i>




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05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Preclude Defendants From Arguing Plaintiff Was Malingering or Exhibited Secondary Gain (MIL #34)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Preclude Defendants From Arguing Plaintiff Had an MRI on December 30, 2010 (MIL #36)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Limit the Opinions of Defendants' Expert Witness Dr. Gregory Brown to the Scope of his Expertise (MIL #38)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Preclude Defendants From Arguing Dr. Brian Lemper Overtreated in this Case (MIL #39)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Preclude Defendants From Asking About Unrelated Accidents, Exclude Evidence of Plaintiff's Speeding Tickets, And Exclude Questioning Regarding a Trip Plaintiff Took to California (MIL #40)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Photographs of Property Damage (MIL #42)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Preclude Defendants' Experts From Opining Counsel Directed Medical Treatment (MIL #41)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Surveillance Video of Plaintiff at Her Job at Sam's Town Casino (MIL #37)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Reference to Plaintiff's Alleged Inconsistent Drug Screen Results (MIL #43)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Emilia's Irrelevant Medical Records (MIL #45)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Plaintiff's Motion in Limine to Exclude Emilia's Irrelevant Employment Records (MIL #54)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Plaintiff's Motion in Limine to Exclude Evidence Pertaining to Her Termination From Aliante (MIL #44)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Preclude Defendants From Questioning Dr. Brian Lemper Regarding Marijuana (MIL #48)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude the Opinions of Defendants' Medical Expert Michael R. Klein (MIL #46)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Exclude Evidence of Defendant Jared Awerbach's Claimed Traumatic Brain Injury (MIL #49)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

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	05/06/2015, 06/19/2015 <i>Plaintiff's Motion in Limine to Preclude Dr. Robert Odell's Opinions Pertaining to Medical Billing (MIL #50)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Plaintiff's Motion in Limine to Exclude Evidence of Impairment (MIL #52)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion in Limine No. 27 Bifurcation of Punitive Damages from the Liability and Compensatory Damage Phases of the Trial</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Plaintiff's Motion in Limine to Exclude Evidence of Liability Because Jared's Judgment of Conviction Conclusively Establishes Liability (MIL #53)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion in Limine to Limit the Opinions of Defendants' Expert Witness Dr. David Bearman to the Scope of his Expertise (MIL #47)</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion in Limine No. 33 Excluding Evidence or Mention of His Use of Public Assistance Programs</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant's Jared Awerbach's Motion in Limine No. 30 that NRS 42.010 is Void for Vagueness</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 31 to Exclude Evidence Regarding Defendant Jared Awerbach's Non-Support of His Children</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 43 To Admit Admission By Authorized Agents Of Plaintiff As To The Expected Costs Of Her Surgery</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion in Limine No. 28 Exclude or Prevent Mention of Jared Awerbach's Blood THC/Metabolite Levels Until Court Determines Plaintiff Can Provide by Competent Evidence</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 32 To Exclude Any Evidence Regarding Defendant Jared Awerbach's Children</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 42 To Admit Evidence Of Non-Impairment Of Jared Awerbach In Mitigation Of Punitive Damages Claim</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine 29 To Exclude Evidence That Contradicts Decr Regarding Plaintiff's Termination From Aliante Casino Was Unrelated To Pain</i>
05/06/2015	Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy)

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	<p>05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motions In Limine To Exclude Evidence Of: No. 34: Defendant Jared Awerbach's Criminal Record For All Non-Juvenile Offenses No. 35: Defendant Jared Awerbach's Drug Addiction No. 36: Defendant Jared Awerbach's Domestic Battery Of His Mother And Her Restraining Order Against Jared No. 37: Defendant Jared Awerbach's Drug Dealing</i></p>
05/06/2015	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion in Limine 38 to Comment to Dr Cash that Jared was Under the Influence of Alcohol at the Time of the Accident</i></p>
05/06/2015	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motions in Limine to Exclude: No 44. Jared's Attempts to Flee. No. 45. Jared's Gang Membership No.46. Jared's Prior Accident in 2008. No.47. Jared's Medical Condition From 2008 Accident.</i></p>
05/06/2015	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 32 To Exclude Any Evidence Regarding Defendant Jared Awerbach's Children</i></p>
05/06/2015	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motions In Limine To Admit Evidence Of - No. 39: Plaintiff's Implied Admission That Her Surgery In Las Vegas Cost \$70,000.00 and No. 40: Plaintiff's Implied Admission That The Surgery Was Excessive In Cost And Her Counsel Knew The Surgery Was Excessive In Cost</i></p>
05/06/2015	<p>Motion in Limine (10:00 AM) (Judicial Officer: Allf, Nancy) 05/06/2015, 06/19/2015 <i>Defendant Jared Awerbach's Motion In Limine No. 41 To Exclude Or Prevent Mention of Plaintiff's Medical Bills</i></p>
05/06/2015	<p> All Pending Motions (10:00 AM) (Judicial Officer: Allf, Nancy)</p>
05/13/2015	<p>CANCELED Motion to Compel (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated</i> <i>Plaintiff's Motion to Compel Production of Defendants' Expert Witness Bills</i></p>
05/13/2015	<p> Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply in Support of Motion for Protective Order.</i></p>
05/14/2015	<p> Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Motions in Limine - May 6, 2015</i></p>
05/15/2015	<p> Notice of Change of Hearing <i>Notice of Change of Hearing</i></p>
05/18/2015	<p> Opposition Filed By: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Opposition to Plaintiff's Motion for Order to Show Cause Why Defendants Should not be Held in Contempt of Court for Failing to Pay Court Ordered Sanctions and Request for Attorney's Fees</i></p>
05/20/2015	<p> Reply in Support Filed By: Plaintiff Garcia, Emilia</p>

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Reply in Support of Motion For Order To Show Cause Why Defendant Should Not Be Held In Contempt of Court For Failing to Pay Court Ordered Sanctions

05/26/2015	 Notice Filed By: Defendant Awerbach, Jared <i>Notice of Bankruptcy Filing by Defendant Jared Awerbach and Automatic Stay of Proceedings</i>
05/27/2015	 Notice of Bankruptcy Filed By: Defendant Awerbach, Jared <i>Amended Notice of Bankruptcy Filing By Defendant Jared Awerbach and Automatic Stay of Proceedings</i>
05/28/2015	 Motion for Order to Show Cause (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion for Order to Show Cause Why Defendants Should Not be Held in Contempt of Court for Failing to Pay Court Ordered Sanctions; and Request for Attorneys' Fees</i>
06/01/2015	 Order Filed By: Plaintiff Garcia, Emilia <i>Order Regarding Plaintiff's Motions in Limine Numbers 1 through 49</i>
06/01/2015	 Opposition to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff Motion in Limine No. 44 to Exclude Evidence Pertaining To Her Termination From Aliante</i>
06/08/2015	 Motion for Contempt Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Hold Defendant Jared Awerbach's Counsel Jointly and Severally Liable for the Court's February 25, 2015, Contempt Sanction Order; and Request for Attorneys' Fees</i>
06/12/2015	 Motion for Protective Order (9:30 AM) (Judicial Officer: Bulla, Bonnie) Events: 04/07/2015 Motion for Protective Order <i>Deft Andrea Awerbach's Motion For Protective Order</i>
06/15/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Reply in Support of Motion in Limine to Exclude Evidence Pertaining to Her Termination from Aliante (MIL #44)</i>
06/17/2015	 Joinder To Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Limited Joinder In Jared Awerbach Motions In Limine</i>
06/19/2015	Joinder (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Defendant Andrea Awerbach's Limited Joinder In Jared Awerbach Motions In Limine</i>
06/19/2015	 All Pending Motions (10:00 AM) (Judicial Officer: Allf, Nancy)
06/25/2015	 Notice of Change of Facsimile Number Filed By: Defendant Awerbach, Andrea <i>Notice of Change of Phone Number</i>
07/06/2015	 Notice Filed By: Defendant Awerbach, Jared <i>Notice of Substitution of Attorney In Firm</i>

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07/10/2015	 Order Filed By: Plaintiff Garcia, Emilia <i>Order Regarding Plaintiff's Motions in Limine Numbers 44, 50, 52, 53, and 54</i>
07/10/2015	CANCELED Status Check: Compliance (11:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
07/13/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
07/15/2015	CANCELED Motion (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Moot</i> <i>Plaintiff's Motion to Hold Defendant Jared Awerbach's Counsel Jointly and Severally Liable for the Court's February 25, 2015, Contempt Sanction Order; and Request for Attorneys' Fees</i>
07/15/2015	 Status Check (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Status Check: Defendant Andrea Awerbach's Motion for Protective Order</i>
07/15/2015	 Order Filed By: Defendant Awerbach, Andrea <i>Order Regarding Defendant Andrea Awerbach's Motions in Limine.</i>
07/16/2015	 Notice of Entry of Order Filed By: Defendant Awerbach, Andrea <i>Notice of Entry of Order</i>
07/17/2015	 Discovery Commissioners Report and Recommendations Filed By: Defendant Awerbach, Andrea <i>Discovery Commisioner's Report and Recommendations</i>
07/23/2015	 Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Andrea Awerbach's Motion to Incorporate by Reference To Select Motions in Limine Filed by Defendant Jared Awerbach.</i>
07/23/2015	 Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion In Limine To Exclude Reference and Evidence of Jared's Marijuana Sale and Use</i>
07/31/2015	 Order Denying Motion Filed By: Plaintiff Garcia, Emilia <i>Order Denying Defendant Andrea Awerbach's Motion for Protective Order</i>
08/10/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Andrea Awerbach's Motion in Limine to Exclude Reference and Evidence of Jared's Marijuana Sale and Use</i>
08/10/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Opposition to Andrea Awerbach's Motion to Incorporate by Reference to Select Motions in Limine Filed by Defendant Jared Awerbach</i>

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08/18/2015	 Motion for Summary Judgment Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion for Summary Judgment Regarding Punitive Damages on OST</i>
08/19/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: All Pending Motions - June 19, 2015</i>
08/19/2015	 Notice of Association of Counsel Filed By: Defendant Awerbach, Jared <i>Notice of Association of Counsel</i>
08/20/2015	 Status Check (9:30 AM) (Judicial Officer: Allf, Nancy) <i>Status Check: Trial Setting</i>
08/21/2015	 Pre-Trial Disclosure Party: Defendant Awerbach, Andrea <i>Defendant's Andrea Awerbach's Fourth Amended NRCP 16.1(a)(3) Pretrial Disclosures</i>
08/24/2015	 Order <i>Order</i>
08/24/2015	 Amended Certificate of Service Party: Plaintiff Garcia, Emilia <i>Amended Certificate of Service</i>
08/27/2015	 Notice of Rescheduling <i>Notice Of Rescheduling Of Hearing</i>
08/27/2015	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
08/28/2015	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
08/28/2015	 Peremptory Challenge Filed by: Defendant Awerbach, Jared <i>Peremptory Challenge of Judge</i>
08/31/2015	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
08/31/2015	 Peremptory Challenge Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Peremptory Challenge of Judge</i>
09/03/2015	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply in Support of Motion in Limine to Exclude Reference and Evidence of Jared's Marijuana Sale and Use</i>
09/04/2015	 Opposition to Motion For Summary Judgment

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	Filed By: Plaintiff Garcia, Emilia <i>Opposition to Defendant Andrea Awerbach's Motion for Summary Judgment Regarding Punitive Damages</i>
09/08/2015	 Notice Filed By: Defendant Awerbach, Jared <i>Notice of Lifting Stay By Bankruptcy Court Regarding Defendant Jared Awerbach and Request For Scheduling of Motions For Oral Argument and Decision</i>
09/08/2015	 Motion to Disqualify Attorney Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Disqualify Defendant Jared Awerbach's Counsel Randall Tindall and Motion for Reassignment to Department 27 on Order Shortening Time; and Request for Leave to File Extended Memorandum of Points and Authorities</i>
09/09/2015	CANCELED Motion in Limine (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - Duplicate Entry</i> <i>Defendant Andrea Awerbach's Motion In Limine To Exclude Reference and Evidence of Jared's Marijuana Sale and Use</i>
09/10/2015	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
09/10/2015	 Order Setting Jury Trial <i>Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call</i>
09/11/2015	 Reply Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply in Support of Her Motion for Summary Judgment Regarding Punitive Damages</i>
09/14/2015	 Opposition Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Motion to Disqualify and for Reassignment</i>
09/14/2015	 Opposition Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion to Disqualify Defendant Jared Awerbach's Counsel Randall Tindall and Motion for Reassignment to Department 27 on OST.</i>
09/15/2015	 Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Motion to Disqualify Defendant Jared Awerbach's Counsel Randall Tindall and Motion for Reassignment to Department 27 on Order Shortening Time; and Request for Leave to File Extended Memorandum of Points and Authorities</i>
09/17/2015	CANCELED Pretrial/Calendar Call (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Vacated - per Judge</i>
09/21/2015	CANCELED Jury Trial (9:30 AM) (Judicial Officer: Adair, Valerie) <i>Vacated - per Judge</i>
09/22/2015	 Motion to Strike Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Defendant Jared Awerbach's 10th Supplemental Disclosure Pursuant to NRCp 16.1; and Request for Attorneys' Fees on Order Shortening Time</i>

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09/24/2015	 Motion for Order to Show Cause Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt of Court for Failing to Comply with the Court's Reimbursement Order on Order Shortening Time</i>
09/24/2015	 Notice Filed By: Defendant Awerbach, Jared <i>Re-Notice of Hearing of Jared Awerbach's Previously Briefed Motions in Limine, Motion for Judicial Notice of Time of Sunset and Motion for Judicial Notice Regarding Plaintiff's False Statements on an Order Shortening Time Already Set for 10/31/15</i>
09/24/2015	 Opposition Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Motion to Strike Defendant's Tenth Supplemental NRCP 16.1 Disclosure and for Sanctions</i>
09/24/2015	 Order Denying Motion Filed By: Defendant Awerbach, Jared <i>Order Re: Plaintiff's Motion to Exclude Randall Tindall and to Reassign the Case to Judge Allf</i>
09/29/2015	 Notice of Entry of Order Filed By: Defendant Awerbach, Jared <i>Notice of Entry of Order Re: Plaintiff's Motion to Exclude Randall Tindall and to Reassign This Case to Judge Allf</i>
10/01/2015	 Motion for Clarification Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52 on an Order Shortening Time</i>
10/01/2015	 Motion for Clarification Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion to Clarify Order Re Tami Rockholt on an Order Shortening Time</i>
10/02/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Opposition to Defendant Jared Awerbach's Motions in Limine Numbers 45, 46, 47 and 48</i>
10/06/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Reply in Support of Plaintiff's Motion to Strike Defendant Jared Awerbach's 10th Supplemental Disclosure Pursuant to NRCP 16.1; and Request for Attorneys' Fees on Order Shortening Time</i>
10/08/2015	 Opposition Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion for Order to Show Cause why Defendant should not be held in Contempt for Failing to Comply with Court's Reimbursement Order on OST</i>
10/08/2015	 Opposition Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Limited Opposition to Plaintiff's Motion to Strike Jared Awerbach's 10th Supplemental Disclosure on OST</i>

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CASE NO. A-11-637772-C

10/08/2015	 Reply to Opposition Filed by: Defendant Awerbach, Jared <i>Jared Awerbach's Reply to Limited Opposition to Motions in Limine Numbers 46 and 48</i>
10/09/2015	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52 On Order Shortening Time</i>
10/13/2015	Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Andrea Awerbach's Motion to Incorporate by Reference To Select Motions in Limine Filed by Defendant Jared Awerbach</i>
10/13/2015	Motion in Limine (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Andrea Awerbach's Motion In Limine To Exclude Reference and Evidence of Jared's Marijuana Sale and Use</i>
10/13/2015	Motion for Summary Judgment (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Andrea Awerbach's Motion for Summary Judgment Regarding Punitive Damages on OST</i>
10/13/2015	Motion to Strike (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Motion to Strike Defendant Jared Awerbach's 10th Supplemental Disclosure Pursuant to NRCp 16.1; and Request for Attorneys' Fees on Order Shortening Time</i>
10/13/2015	Motion for Order to Show Cause (9:00 AM) (Judicial Officer: Wiese, Jerry A.) 10/13/2015, 10/15/2015 <i>Plaintiff's Motion for Order to Show Cause Why Defendants Should Not Be Held in Contempt of Court for Failing to Comply with the Court's Reimbursement Order on Order Shortening Time</i>
10/13/2015	Motion for Clarification (9:00 AM) (Judicial Officer: Wiese, Jerry A.) 10/13/2015, 10/15/2015 <i>Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52 on an Order Shortening Time</i>
10/13/2015	Motion in Limine (9:00 AM) (Judicial Officer: Wiese, Jerry A.) 10/13/2015, 10/15/2015 <i>Re-Notice of Hearing of Jared Awerbach's Previously Briefed Motions in Limine, Motion for Judicial Notice of Time of Sunset and Motion for Judicial Notice Regarding Plaintiff's False Statements on an Order Shortening Time Already Set for 10/31/15</i>
10/13/2015	Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) 10/13/2015, 10/15/2015, 12/03/2015 <i>Def't's Motion in Limine #11 To eclude refernce to Plaintiff's financial condition or inability to pay medical bills absent a favorable jury verdict. Def't's Motion in Limine #29 To exclude evidence that contradicts the Discovery Commissioner's findings that Plaintiffs termination from Aliante Casino was unrelated to pain. Def't's Motion in Limine #30 NRS.010 is Void for Vagueness. Def's Motion in Limine #34 To exclude Jared Awerbach's non-juvenile offenses. Motion for judicial notice regarding the availability of health insurance coverage.</i>
10/13/2015	 All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
10/15/2015	 All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
10/16/2015	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Jared Awerbach's Motion to Clarify Order re Tami Rockholt</i>

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10/16/2015	 Notice Filed By: Defendant Awerbach, Jared <i>Notice of Constitutional Challenge to The Atty. Gen. of the State of Nevada</i>
10/16/2015	 Pre-trial Memorandum Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awebach's Pretrial Memorandum</i>
10/19/2015	 Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
10/20/2015	 Minute Order (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant, Jared Awerbach s Motion for Clarification on the ruling on Plaintiff s Motion in Limine No. 52</i>
10/21/2015	 Amended Notice Filed By: Defendant Awerbach, Jared <i>Amended Notice of Constitutional Challenge To The Atty. Gen. of the State of Nevada</i>
10/21/2015	 Order Setting Jury Trial <i>Sixth Amended Order Setting Civil Jury Trial, Pre-Trial Conference and Calendar Call</i>
10/22/2015	 Joinder Filed By: Defendant Awerbach, Andrea <i>Defendat Andrea Awerbach's Joinder in Jared Awerbach's Motion to Clarify Order re Tami Rckholt on an Order Shortening Time</i>
10/26/2015	CANCELED Pre Trial Conference (10:00 AM) (Judicial Officer: Leavitt, Michelle) <i>Vacated</i>
10/30/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion in Limine to Exclude Evidence of Criminal Convictions and Juvenile Adjudicaitons on an Order Shortening Time</i>
11/03/2015	 Order Filed By: Plaintiff Garcia, Emilia <i>Order Granting in Part and Denying in Part Plaintiff's Motion to Strike Defendant Jared Awerbach's 10th Supplemental Disclosure Pursuant to NRCP 16.1; and Request for Attorneys' Fees</i>
11/03/2015	 Order Filed By: Plaintiff Garcia, Emilia <i>Rulings on Jared Awerbach's Motions in Limine Numbers 1-47 and Motions to Take Judicial Notice (2)</i>
11/03/2015	 Order Filed By: Plaintiff Garcia, Emilia <i>Order Granting in Part and Denying in Part Plaintiff's Motion for Order to Show Cause Why Defendants Should not be Held in Contempt of Court for Failing to Comply with the Court's Reimbursement Order on Order Shortening Time</i>
11/05/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>

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11/05/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
11/05/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
11/05/2015	 Motion to Exclude Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Exclude Reports and Testimony of Raymond Kelly and David Bearman; Evidence Regarding Jared's Eyesight; and Photographs Related to Jared's Eyesight</i>
11/06/2015	 Order Denying Motion Filed By: Plaintiff Garcia, Emilia <i>Order Denying Jared Awerbach's Motion for Clarification on the Ruling on Plaintiff's Motion in Limine No. 52</i>
11/09/2015	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
11/09/2015	CANCELED Calendar Call (10:00 AM) (Judicial Officer: Leavitt, Michelle) <i>Vacated - Case Closed</i>
11/10/2015	 Notice Filed By: Plaintiff Garcia, Emilia <i>Notice of Filing of Petition for Extraordinary Writ Relief</i>
11/12/2015	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
11/16/2015	 Opposition to Motion in Limine Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Opposition to Defendant Jared Awerbach's Motion in Limine to Exclude Evidence of Criminal Convictions and Juvenile Adjudications on an Order Shortening Time</i>
11/16/2015	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
11/17/2015	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Vacated - Case Closed</i>
11/22/2015	 Reply Filed by: Defendant Awerbach, Jared <i>Sur-Reply Regarding Constitutionality of NRS 42.010</i>
11/23/2015	 Response Filed by: Defendant Awerbach, Jared <i>Response In Opposition To Plaintiff's Motion To Exclude Reports and Testimony of Raymond Kelly and David Bearman: Evidence Regarding Jared's Eyesight: And Photographs Related to Jared's Eyesight</i>
11/30/2015	 Response Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Response to Defendant Jared Awerbach's Sur-Reply in Support of Jared's Motion in</i>

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Limine #30 Regarding Constitutionality of NRS 42.010

12/01/2015	 Reply in Support Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Reply in Support of Motion to Exclude Reports and Testimony of Raymond Kelly and David Bearman; Evidence Regarding Jared's Eyesight; and Photographs Related to Jared's Eyesight</i>
12/02/2015	 Joinder to Motion in Limine Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Joinder in Jared Awerbach's Motion in Limine to Exclude Evidence of Criminal Convictions on OST.</i>
12/02/2015	 Joinder To Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach Joins in Defendant Jared Awerbach's Motions to Clarify Order re Tami Rockholt on OST.</i>
12/03/2015	Motion to Clarify (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Jared Awerbach's Motion to Clarify Order Re Tami Rockholt on an Order Shortening Time</i>
12/03/2015	Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Andrea Awerbach's Joinder in Jared Awerbach's Motion to Clarify Order re Tami Rckholt on an Order Shortening Time</i>
12/03/2015	Motion in Limine (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Jared Awerbach's Motion in Limine to Exclude Evidence of Criminal Convictions and Juvenile Adjudicaitons on an Order Shortening Time</i>
12/03/2015	 All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
12/08/2015	 Motion to Exclude (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Motion to Exclude Reports and Testimony of Raymond Kelly and David Bearman; Evidence Regarding Jared's Eyesight; and Photographs Related to Jared's Eyesight</i>
12/21/2015	 Motion for Protective Order Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion for Protective Order.</i>
12/28/2015	 Motion in Limine Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion in Limine to Exclude Facebook Information and Substance Abuse</i>
12/28/2015	 Motion Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion to Establish Criteria for Jury Selection and Voir Dire</i>
01/05/2016	 Notice of Appearance Party: Plaintiff Garcia, Emilia <i>Notice of Appearance</i>
01/07/2016	 Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Motion to Amend Jury Questionnaire On OST</i>
01/08/2016	 Motion

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CASE NO. A-11-637772-C

Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Motion for Summary Judgment on Punitive Damages Pursuant to NRS 42.005 on OST

01/08/2016



Receipt of Copy

Filed by: Defendant Awerbach, Andrea
Reciept of Copy

01/08/2016



Order Granting Motion

Filed By: Defendant Awerbach, Andrea
Order Granting Defendant Andrea Awerbach's Motion for Summary Judgment

01/08/2016

Summary Judgment (Judicial Officer: Wiese, Jerry A.)

Debtors: Emilia Garcia (Plaintiff)

Creditors: Andrea Awerbach (Defendant)

Judgment: 01/08/2016, Docketed: 01/19/2016

Comment: Certain Claim

01/11/2016

**Pre Trial Conference** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

01/11/2016

CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.)*Vacated*

01/11/2016



Initial Appearance Fee Disclosure

Filed By: Defendant Awerbach, Andrea
Initial Appearance Fee Disclosure

01/11/2016



Opposition to Motion For Protective Order

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Andrea Awerbach's Motion for Protective Order

01/11/2016



Notice of Entry of Order

Filed By: Defendant Awerbach, Andrea
Notice of Entry of Order

01/12/2016



Opposition to Motion For Summary Judgment

Filed By: Plaintiff Garcia, Emilia
Opposition to Defendant Andrea Awerbach's Motion for Summary Judgment on Punitive Damages Pursuant to NRS 42.005 on OST

01/12/2016



Opposition to Motion

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Andrea Awerbach's Motion to Amend Jury Questionnaire on OST

01/12/2016



Reply in Support

Filed By: Defendant Awerbach, Andrea
Defendant Andrea Awerbach's Reply in Support of Her Motion for Summary Judgment on Punitive Damages Regarding NS 42.005

01/14/2016













Opposition to Motion

Filed By: Plaintiff Garcia, Emilia
Plaintiff's Opposition to Defendant Jared Awerbach's Motion to Exclude Facebook Information and Substance Abuse










01/14/2016

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CASE NO. A-11-637772-C


	 Opposition Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Opposition to Defendant Jared Awerbach's Motion to Establish Criteria for Jury Selection and Voir Dire</i>
01/14/2016	Motion to Amend (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Andrea Awerbach's Motion to Amend Jury Questionnaire On OST</i>
01/14/2016	Motion for Summary Judgment (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Andrea Awerbach's Motion for Summary Judgment on Punitive Damages Pursuant to NRS 42.005 on OST</i>
01/14/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
01/20/2016	 Reply in Support Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Reply in Support of Motion for Protective Order</i>
01/21/2016	 Reply Filed by: Defendant Awerbach, Jared <i>Jared Awerbach's Reply to Opposit8on to Motion to Establish Criteria for Jury Selection and Voir Dire</i>
01/25/2016	 Objection Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Objections to Andrea Awerbach's Fifth Amended NRCP 16.1(a)(3) Pretrial Disclosures</i>
01/25/2016	 Objection Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Objections to Jared Awerbach's NRCP 16.1 Pretrial Disclosure Statement</i>
01/26/2016	 Motion to Exclude Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Exclude Untimely Opinions from Dr. Robert Odell; Dr. Michael Klein; and Dr. Curtis Poindexter on Order Shortening Time</i>
01/27/2016	 List of Witnesses Filed By: Plaintiff Garcia, Emilia <i>List of Witnesses</i>
01/27/2016	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Andrea Awerbach's Opposition to Plaintiff's Motion to Exclude Untimely Opinions From Dr. Robert Odell; Dr. Klein, and Dr. Poindexter</i>
01/27/2016	 Receipt of Copy Filed by: Plaintiff Garcia, Emilia <i>Receipt of Copy</i>
01/28/2016	Motion for Protective Order (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
01/28/2016	Motion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Jared Awerbach's Motion to Establish Criteria for Jury Selection and Voir Dire</i>
01/28/2016	Motion in Limine (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

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

Jared Awerbach's Motion in Limine to Exclude Facebook Information and Substance Abuse

01/28/2016	Motion to Exclude (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Motion to Exclude Untimely Opinions from Dr. Robert Odell; Dr. Michael Klein; and Dr. Curtis Poindexter on Order Shortening Time</i>
01/28/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
02/01/2016	 Memorandum Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Individual Pre-Trial Memorandum</i>
02/01/2016	 Pre-trial Memorandum Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Pre-Trial Memorandum</i>
02/01/2016	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
02/01/2016	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
02/01/2016	 Affidavit Filed By: Plaintiff Garcia, Emilia <i>Affidavit of Service</i>
02/02/2016	 Pre-trial Memorandum Filed by: Defendant Awerbach, Andrea <i>Andrea Awerbach's Pretrial Memorandum</i>
02/03/2016	 Motion to Reconsider Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Reconsider the Exclusion of "Conscience of the Community" on Order Shortening Time</i>
02/03/2016	 Objection Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Objections to Jared Awerbach's Proposed Trial Exhibits, Received Friday, January 29, 2016</i>
02/03/2016	 Objection Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Objections to Andrea Awerbach's Sixth Amended NRCP 16.1(A)(3) Pretrial Disclosures</i>
02/03/2016	 Objection Filed By: Plaintiff Garcia, Emilia <i>Plaintiffs' Objections to Andrea Awerbach's Seventh Amended NRCP 16.1(A)(3) Pretrial Disclosures</i>
02/04/2016	 Order Filed By: Plaintiff Garcia, Emilia <i>Order Granting in Part, and Denying in Part, Defendant Andrea Awerbach's Motion to Amend Jury Questionnaire on OST; and Granting in Part, and Denying in Part Defendant Andrea Awerbach's Motion for Summary Judgment on Punitive Damages Pursuant to NRS 42.005 on OST</i>

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CASE SUMMARY
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02/04/2016	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order: Order Granting in Part, and Denying in Part, Defendant Andrea Awerbach's Motion to Amend Jury Questionnaire on OST; and Granting in Part, and Denying in Part Defendant Andrea Awerbach's Motion for Summary Judgment on Punitive Damages Pursuant to NRS 42.005 on OST</i>
02/04/2016	 Trial Subpoena Filed by: Plaintiff Garcia, Emilia <i>Trial Subpoena - Cherise Killian</i>
02/04/2016	 Trial Subpoena Filed by: Plaintiff Garcia, Emilia <i>Trial Subpoena - Custodian of Records Nevada Department of Motor Vehicles</i>
02/05/2016	 Trial Memorandum Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Trial Memorandum Regarding Voir Dire</i>
02/05/2016	 Brief Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Trial Brief Regarding Punitive Damages</i>
02/05/2016	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion to Reconsider The Exclusion of "Conscience of the Community" On Order Shortening Time</i>
02/05/2016	 Opposition Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Motion to Reconsider "Community Conscience" Ruling</i>
02/08/2016	 Trial Memorandum Filed by: Defendant Awerbach, Jared <i>Jared Awerbach's Trial Memorandum</i>
02/08/2016	 Jury Trial (10:30 AM) (Judicial Officer: Wiese, Jerry A.) 02/08/2016-02/12/2016, 02/16/2016-02/19/2016, 02/22/2016-02/26/2016, 03/01/2016-03/04/2016, 03/07/2016-03/10/2016
02/08/2016	CANCELED Jury Trial (10:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i>
02/08/2016	 Motion to Reconsider (10:30 AM) (Judicial Officer: Wiese, Jerry A.)
02/10/2016	 Brief Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Trial Brief Regarding Permissive Use</i>
02/11/2016	 Jury List
02/12/2016	 Order <i>Order Modifying Prior Order of Judge Allf</i>







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02/16/2016	 Brief Filed By: Defendant Awerbach, Andrea <i>Defendant's Andrea Awerbach's Trial Memorandum Regarding Compliance With FCH, LLC d/b/a Fiesta Palms</i>
02/17/2016	 Trial Memorandum Filed by: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Trial Memorandum Regarding Stan Smith</i>
02/22/2016	 Trial Memorandum Filed by: Defendant Awerbach, Jared <i>Defendant Jared Awerbach's Trial Memorandum Re: Exclusion of the Use of Video Deposition in Lieu of Live Testimony</i>
02/29/2016	 Brief Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Trial Brief Regarding Mr. Awerbach's Treatment at Las Vegas Rescue Mission</i>
03/08/2016	 Proposed Jury Instructions Not Used At Trial
03/08/2016	 Jury Instructions
03/09/2016	 Amended Jury List
03/10/2016	 Jury Verdict
03/10/2016	Verdict (Judicial Officer: Wiese, Jerry A.) Debtors: Jared Awerbach (Defendant) Creditors: Emilia Garcia (Plaintiff) Judgment: 03/10/2016, Docketed: 03/17/2016
04/14/2016	 Notice of Hearing <i>Notice of Hearing</i>
04/18/2016	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - On in Error</i>
05/10/2016	 Status Check (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Status Check re: Post Trial Motions</i>
05/26/2016	 Motion for New Trial Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Motion for a New Trial or, in the Alternative, for Additur</i>
05/26/2016	 Appendix Filed By: Plaintiff Garcia, Emilia <i>Appendix of Exhibits: Plaintiff's Motion for a New Trial or, in the Alternative, for Additur</i>
05/26/2016	 Motion for Judgment Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Renewed Motion for Judgment as a Matter of Law</i>
05/26/2016	

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	 Appendix Filed By: Plaintiff Garcia, Emilia <i>Appendix of Exhibits: Plaintiff's Renewed Motion for Judgment as a Matter of Law</i>
05/26/2016	 Motion for New Trial Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Motion for New Trial on an Order Shortening Time</i>
06/09/2016	 Opposition to Motion Filed By: Plaintiff Garcia, Emilia <i>Plaintiff's Limited Opposition to Jared Awerbach's Motion for A New Trial on Order Shortening Time</i>
06/09/2016	 Appendix Filed By: Plaintiff Garcia, Emilia <i>Appendix of Exhibits: Plaintiff's Limited Opposition to Jared Awerbach's Motion for A New Trial (Volume I)</i>
06/09/2016	 Appendix Filed By: Plaintiff Garcia, Emilia <i>Appendix of Exhibits: Plaintiff's Limited Opposition to Jared Awerbach's Motion for A New Trial (Volume II)</i>
06/13/2016	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Auerbach's Opposition to Plaintiff's Motion for New Trial, or in the Alternative Additur and Counter-motion for Remittitur.</i>
06/13/2016	 Opposition to Motion Filed By: Defendant Awerbach, Andrea <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Renewed Motion for Judgment as a Matter of law.</i>
06/13/2016	 Motion for Summary Judgment Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Plaintiff's Motion for New Trial and Alternative Motion for Summary Judgment</i>
06/16/2016	 Reply Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Untimely Opposition or, Alternatively, Reply in Support of Plaintiff's Renewed Motion for Judgment As A Matter of Law</i>
06/16/2016	 Reply Filed by: Plaintiff Garcia, Emilia <i>Plaintiff's Motion to Strike Untimely Oppositions Or, Alternatively, Reply in Support of Plaintiff's Motion for a New Trial or, In the Alternative, for Additur</i>
06/17/2016	 Opposition Filed By: Defendant Awerbach, Jared <i>Jared Awerbach's Opposition to Plaintiff's Motion to Exclude Untimely Oppositions</i>
06/22/2016	 Notice of Association of Counsel Filed By: Defendant Awerbach, Jared <i>Notice of Association of Counsel</i>

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06/23/2016	Hearing (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Post Trial Motions</i>
06/23/2016	Motion for New Trial (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Motion for a New Trial or, in the Alternative, for Additur</i>
06/23/2016	Motion for Judgment (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Renewed Motion for Judgment as a Matter of Law</i>
06/23/2016	Motion for New Trial (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Jared Awerbach's Motion for New Trial on an Order Shortening Time</i>
06/23/2016	Opposition and Countermotion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Andrea Auerbach's Opposition to Plaintiff's Motion for New Trial, or in the Alternative Additur and Countermotion for Remittitur.</i>
06/23/2016	CANCELED Opposition and Countermotion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Duplicate Entry</i> <i>Defendant Andrea Awerbach's Opposition to Plaintiff's Motion for New Trial, or in the Alternative, for Additur and Countermotion for Remittitur</i>
06/23/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
08/12/2016	 Order <i>Order re: Post trial Motions</i>
08/17/2016	 Notice of Entry of Order Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of Order</i>
08/22/2016	 Notice of Entry Filed By: Plaintiff Garcia, Emilia <i>Notice of Entry of order re: Minute Order of 8/22/16</i>
08/22/2016	 Minute Order (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Renewed Motion for Judgment as a Matter of Law</i>
09/19/2016	 Notice of Appeal Filed By: Defendant Awerbach, Jared <i>Notice of Appeal</i>

CIVIL COVER SHEET

Clark County, Nevada

A - 11 - 637772 - C

Case No. _____

XXVIII

(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): EMILIA GARCIA

Defendant(s) (name/address/phone): JARED AWERBACH, individually, ANDREA AWERBACH, individually, DOES I - X, and ROE CORPORATIONS I - X, inclusive

Attorney (name/address/phone):

THE POWELL LITIGATION GROUP; Paul D. Powell, Esq.
9525 Hillwood Drive, Suite 100 Las Vegas, NV 89134

Attorney (name/address/phone):

UNKNOWN

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

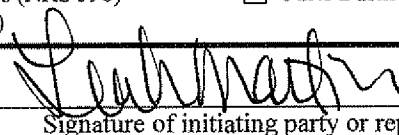
Civil Cases

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input checked="" type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

3/25/11
Date


Signature of initiating party or representative

**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

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EMILIA GARCIA,

Plaintiff,

vs.

**JARED AWERBACH, individually, and
ANDREA AWERBACH, individually,**

Defendants.

**CASE NO.: A637772
DEPT. XXX**


CLERK OF THE COURT

**ORDER RE:
POST-TRIAL
MOTIONS**

On June 23, 2016, the above-referenced matter came on for hearing before Judge Jerry A. Wiese II, with regard to Plaintiff's Motion for New Trial or, in the Alternative, for Additur, Plaintiff's Renewed Motion for Judgment as a Matter of Law, Jared Awerbach's Motion for New Trial, and Andrea Auerbach's Countermotion for Remittitur. The Court had previously reviewed the pleadings, and at the time of the hearing allowed oral argument on the part of all parties. The Court indicated that it would subsequently issue an Order, and the Court's Order now follows:

With regard to Plaintiff's and Jared Awerbach's Motions for New Trial, NRCP 59 provides the following standard:

(a) Grounds. A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes or grounds materially affecting the substantial rights of an aggrieved party: (1) Irregularity in the proceedings of the court, jury, master, or adverse party, or any order of the court, or master, or abuse of discretion by which either party was prevented from having a fair trial; (2) Misconduct of the jury or prevailing party; (3) Accident or surprise which ordinary prudence could not have guarded against; (4) Newly discovered evidence material for the party making the motion which the party could not, with reasonable diligence, have discovered and produced at the trial; (5) Manifest disregard by the jury of the instructions of the court; (6) Excessive damages appearing to have been given under the influence of passion or prejudice; or, (7) Error in law occurring at the trial and objected to by the party making the motion. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

1 [As amended; effective January 1, 2005.]¹

2 Plaintiff argues that she is entitled to a New Trial, based upon the following
3 arguments: 1) the jury engaged in improper experimentation during deliberations; 2)
4 the jury was improperly advised by the Court during deliberations that they may award
5 Ms. Garcia past medical expenses and not award future medical expenses; 3)
6 Defendants inappropriately previewed Dr. Scher's opinions, and then used them again
7 in closing argument, even though Dr. Scher's opinions were stricken; 4) defense
8 counsel violated numerous pre-trial Orders; and 5) the damages awarded to Ms. Garcia
9 were clearly inadequate, and consequently, additur is necessary. The Court will
10 address each argument in order.

11 **1) Did the jury conduct an improper experiment during deliberations,
12 which warrants a new trial?**

13 Plaintiff argues that she is entitled to a new trial because the jury conducted an
14 improper experiment during deliberations. This argument is obviously premised on
15 the Declaration of Keith Berkery, (Juror 5) in which he explained how the jury chose
16 Juror 6, Jessica Bias, to reach over the wood hand/rail/divider, to pick up a water
17 bottle, which the Jurors had apparently seen the Plaintiff do during the Trial, so they
18 could determine the effect that it had on Ms. Bias, and therefore, on the Plaintiff.

19 In *ACP Reno Assoc., ACP v. Airmotive and Villanova*,² the Nevada Supreme
20 Court affirmed its adherence to the general rule "prohibiting the use of juror affidavits
21 to impeach the jury's verdict."³ The Court has held that there is an exception to the
22 general rule, and "[w]here the misconduct involves extrinsic information or contact
23 with the jury, juror affidavits or testimony establishing the fact that the jury received
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25 among other things, publicity or media reports received and discussed among jurors
26 during deliberations, consideration by jurors of extrinsic evidence, and third-party
27 communications with sitting jurors. In contrast, intra-jury or intrinsic influences

28 ¹ NRCP 59.

² 109 Nev. 314, 849 P.2d 277 (1993).

³ *ACP Reno Assoc., ACP v. Airmotive and Villanova*, 109 Nev. 314, 318, 949 P.2d 277 (1993); See
also *Weaver Brothers, Ltd. V. Misskelley*, 98 Nev. 232, 645 P.2d 438 (1982).

⁴ *Meyer v. State*, 119 Nev. 554, 80 P.3d 447, 454.

1 involve improper discussions among jurors (such as considering a defendant's failure
2 to testify), intimidation or harassment of one juror by another, or other similar
3 situations that are generally not admissible to impeach a verdict."⁵ The Court stated
4 that "proof of misconduct must be based on objective facts and not the state of mind or
5 deliberative process of the jury. Juror affidavits that delve into a juror's thought
6 process cannot be used to impeach a jury verdict and must be stricken."⁶

7 The Nevada Supreme Court has cited heavily to the case of *Meyer v. State*, for
8 the proposition that "[A] motion for a new trial may . . . be premised upon juror
9 misconduct where such misconduct is readily ascertainable from objective facts and
10 overt conduct without regard to the state of mind and mental processes of any juror."⁷
11 Additionally, *ACP Reno Assocs. v. Airmotive & Villanova, Inc.*,⁸ holds that "juror
12 affidavits [are] inadmissible to show that the jurors misunderstood the judge's
13 instructions." In order to prevail on a motion for a new trial based on juror
14 misconduct, admissible evidence must establish "(1) the occurrence of juror
15 misconduct, and (2) a showing that the misconduct was prejudicial."⁹ "Prejudice is
16 shown whenever there is a reasonable probability or likelihood that the juror
misconduct affected the verdict."¹⁰

17 Plaintiff's Motion cites to the case of *Russell v. State*,¹¹ in which the appellant's
18 counsel argued during closing argument, that the accused would not have been able to
19 get from Reno to Carson City in time to commit the alleged offense. During a recess in
20 the trial, a juror drove to Reno, and then measured the time it took him to drive to
21 Carson City from the accused's place of employment in Reno. During the jury
22 deliberations, he told the other jurors that it took him twenty-five minutes to travel that
23 distance. The District Court agreed that the juror's actions constituted "misconduct,"
24 but concluded that the misconduct was "harmless." The Nevada Supreme Court,
25 however, concluded that the district court's conclusion was an abuse of discretion. The

26 ⁵ *Meyer v. State*, 119 Nev. 554, 562, 80 P.3d 447, 454 (2003).

27 ⁶ *Id.*, at pg. 563.

28 ⁷ *Meyer* at pg. 563.

⁸ 109 Nev. 314, 318, 849 P.2d 277, 279 (1993).

⁹ *Meyer* at pgs. 563-64.

¹⁰ *Meyer* at pg. 564, (Note that the Court has taken these citations directly from a Nevada Supreme Court Order of Reversal and Remand in *Estate of William George Dyer v. Vicky Guernier, et al.*, Nev. Supreme Court Case No.: 62941, filed 2/19/2015.)

¹¹ 99 Nev. 265, 661 P.2d 1293 (1983).

1 Supreme Court noted that “juror misconduct is particularly egregious where, as here,
2 the juror has engaged in independent ‘research’ of the facts.”¹² The Court further
3 noted that “the information disclosed by the juror related to a crucial aspect of
4 appellant’s defense. Appellant’s case was therefore significantly harmed by his inability
5 to cross-examine the juror, during the trial, concerning the many variables which may
6 have affected his driving time.”¹³

7 This Court notes that the “experiment” conducted by the jury in the present case,
8 occurred after the jury had asked to return to the courtroom to view the steps leading
9 into the witness stand.¹⁴ The Court saw no problem with this “view” because it was
10 something that the jury had been able to view throughout the trial. There was no
11 indication that the jury intended to conduct any type of experiment, or the Court would
12 not have allowed it. Based upon Mr. Berkery’s affidavit, however, the jury used the
13 opportunity to conduct an “experiment” and reenact what Mr. Berkery had apparently
14 seen the Plaintiff do (the Plaintiff leaning over the wooden rail to obtain a bottle of
15 water.) According to the Nevada Supreme Court, a juror’s affidavit may only be
16 considered as it relates to establishing objective facts.¹⁵ In the present case, this Court
17 may rely on Mr. Berkery’s affidavit, only to the extent that it establishes the objective
18 fact that an “experiment” was conducted, and how it was conducted. The
19 determination of whether, and to what extent, the experiment affected the jurors, must
20 be determined based on an “objective” standard, not on a juror’s affidavit. This Court
21 concludes that the experiment conducted by the jurors, in the Courtroom, constituted
22 juror misconduct. The jurors had been instructed that they were to “decide all
23 questions of fact in this case from the evidence received in this trial and not from any
24 other source.”¹⁶ They were instructed not to “make any independent investigation . . .
[or to] visit the scene, conduct experiments, or consult reference works for additional

25 ¹² Russell at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹³ Russell at pg. 267.

27 ¹⁴ The actual question from the jury foreperson said, “We would like to see a courtroom to see the stairs in
the witness area and the attorney area.” (See Court Exhibit 17, March 10, 2016).

28 ¹⁵ “A motion for a new trial may . . . be premised upon juror misconduct where such misconduct is readily
ascertainable from objective facts and overt conduct without regard to the state of mind and mental processes of
any juror.” *Meyer v. State*, 119 Nev. 554, 563, 80 P.3d 447, 454 (2003).

¹⁶ See Jury Instruction No. 6.

1 information.”¹⁷ Clearly, the affidavit of Mr. Berkery establishes that the jury did
2 conduct an “independent investigation,” and conducted an “experiment” in violation of
3 Jury Instruction No. 6. As the Supreme Court has indicated, “juror misconduct is
4 particularly egregious where . . . the juror has engaged in independent ‘research’ of the
5 facts.”¹⁸

6 After concluding that misconduct occurred, the more important question, and
7 the one that is more difficult to answer, is whether the jury’s misconduct was
8 “prejudicial.”¹⁹ The Supreme Court has indicated that “[p]rejudice is shown whenever
9 there is a reasonable probability or likelihood that the juror misconduct affected the
10 verdict.”²⁰ This Court concludes that the experiment conducted by the jurors “related
11 to a crucial aspect” of the Plaintiff’s case – credibility of the plaintiff, and the nature
12 and extent of the plaintiff’s injuries. The Court further concludes that the Plaintiff’s
13 case was “significantly harmed by [her] inability to cross-examine the juror . . .
14 concerning the many variables which may have affected [the result of the
15 experiment].”²¹ The Court concludes that there is a reasonable probability or likelihood
16 that the juror misconduct affected the verdict.”²²

17 **Did the Court improperly advise the jury that it could award past
18 medical expenses and no future medical expenses?**

19 Plaintiff contends that it was error for the Court to advise the jury that it could
20 award the Plaintiff her past medical expenses and no future medical expenses. The
21 question posed by the jury foreperson was as follows: “Based on Instruction 25 would
22 it [be]possible to award the Plaintiff [the] entire amount of Past Medical Expenses
23 without awarding anything for Future medical expenses?” The Court responded with
24 “yes.”²³ The Plaintiff argues that the Plaintiff’s future medical expenses were “either

25 ¹⁷ See Jury Instruction No. 6 .

26 ¹⁸ *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

27 ¹⁹ See *Meyer* at pgs. 563-64.

28 ²⁰ *Meyer* at pg. 564.

²¹ *Russell* at pg. 267.

²² *Meyer* at pg. 564.

²³ See Court Exhibit 19, March 10, 2016. Note that Instruction No. 25 read as follows: If you find that a Defendant is liable for the original injury to the Plaintiff, then Defendant is also liable for any aggravation of the original injury caused by negligent medical or hospital treatment or care of the original injury, or for any additional injury caused by negligent medical or hospital treatment or care of the original injury.”

1 undisputed or [were] disputed on the exact same grounds as her past expenses.”²⁴
2 Consequently, since the jury awarded all of Ms. Garcia’s past medical expenses
3 (\$574,846.01), Plaintiff argues that the jury had no choice but to award the Plaintiff her
4 future medical expenses.

5 This Court finds that Plaintiff’s argument lacks merit, as the jurors were
6 instructed to “bring to the consideration of the evidence [their] everyday common
7 sense and judgment as reasonable men and women;”²⁵ they were instructed that it was
8 up to them to determine the “credibility or believability” of the witnesses;²⁶ they were
9 instructed about “discrepancies in a witness’s testimony;”²⁷ they were told that they
10 were “not bound” by any expert testimony, but that they were to give such testimony
11 “the weight to which [they] deem it entitled;”²⁸ and with regard to damages, they were
12 instructed that they could award the Plaintiff the “damages [they] believe from the
13 evidence Plaintiff has sustained,” and they could award “[t]he reasonable medical
14 expenses which [they believed] Plaintiff probably will incur in the future as a result of
15 the accident;”²⁹ and finally, the jurors were instructed that “[w]hether any of these
16 elements of damage have been proven by the evidence is for [them] to determine.”³⁰
17 The jury was free to disregard the testimony of the experts, and was free to believe or
18 disbelieve the testimony of the Plaintiff, the treating doctors, etc. This Court will not
19 disturb the verdict of the Jury with regard to its award of future medical expenses, or
20 refusal to award such damages. The Court recalls that there was sufficient evidence
21 presented, through cross-examination of the medical care providers, cross-examination
22 of the Plaintiff herself, and other evidence, upon which the Jury could have based its
23 decision to deny the Plaintiff any future medical expenses. Particularly, the Court
24 recalls Facebook pictures that were presented to the Jury showing the Plaintiff
25 participating in activities which could have been interpreted as inconsistent with the
26 Plaintiff’s pain complaints. Although Plaintiff argues that the evidence supporting past
27 and future damages was “undisputed,” the Court does not agree, and the Jury was free

24 (See Motion for New Trial at pg. 7 of 30).

25 See Jury Instruction No. 7.

26 See Jury Instruction No. 15.

27 See Jury Instruction No. 16.

28 See Jury Instruction No. 18.

29 See Jury Instruction No. 33.

30 See Jury Instruction No. 37.

1 to accept or to disregard the evidence which it saw and heard, and reach the verdict
2 that it reached. A verdict that is unsupported by evidence is improper and must be
3 overturned,³¹ but in this case, the verdict was supported by the evidence, and need not
4 be overturned.

5 **2) Did the Court err in allowing Defense counsel to preview Dr. Scher's**
6 **opinions during opening statement, and then refer to such opinions**
7 **during closing argument?**

8 Plaintiff next argues that the Court erred in allowing Defense counsel to preview
9 Dr. Scher's foundationless opinions regarding forces of impact, during opening
10 statement, and then Defense counsel again referred to such evidence in Closing
11 Argument, even after Dr. Scher's testimony had been stricken. The Court allowed a
12 preview of Dr. Scher's opinions during opening statement, because the Court allows the
13 attorneys to explain what the evidence will show, and what they have a good faith belief
14 will be entered into evidence during the course of the trial. Based upon representations
15 from Defense counsel, the Court had no reason to believe at the outset, that Dr. Scher's
16 testimony would be stricken. Prior to Trial, the Court had evaluated the proposed
17 testimony of Dr. Scher, and was convinced that there was "at least arguably" sufficient
18 foundation for that testimony. During the presentation of evidence, however, it became
19 evident that there was "inadequate foundation" for Dr. Scher's opinions, and
20 consequently, his testimony was stricken from the record, and the Jury was instructed
21 to disregard it. During closing argument, Mr. Awerbach's counsel argued that the
22 Plaintiff sustained "no physical forces greater than the roller coasters she rode
23 before."³² The Court overruled an objection to that statement, indicating that the Court
24 felt that Mr. Strassburg was simply using a "common sense" argument, but later the
25 Court noted that the Court should have sustained the objection because it was a
26 conclusion that didn't have any basis in evidence.³³ The Court acknowledges that the
27 objection should have been sustained, and Defense counsel should have been
28 admonished not to "testify" or refer to Dr. Scher's opinions during closing argument,
since Dr. Scher's opinions had been stricken from the record. Although the Court
acknowledges the error, the Court is not convinced that the statement regarding the

³¹ *Arnold v. Mt. Wheeler Power*, 101 Nev. 612, 614, 707 P.2d 1137, 1139 (1985).

³² See Trial Transcript 3/9/16 at pg. 19:6-7.

³³ See Trial Transcript 3/9/16 at pg. 65:10-24.

1 “roller coasters” or the other general references to “forces” were sufficiently prejudicial
2 to have made a difference to the Jury. There is no indication that such statements
3 made a difference in the minds of the jurors, and the jurors were instructed more than
4 once that opening statements and closing arguments were “not evidence.” Although
5 the Court acknowledges the error, the Court finds that such error may have been
6 harmless, and by itself such error would not justify a new trial. In combination with the
7 other irregularities during Trial, however, it may.

8 **3) Did the accumulation of juror misconduct, error, and improper**
9 **presentation of biomechanical testimony, and repeated violation of**
10 **Pre-Trial Orders prejudice the Plaintiff to the extent that a new trial**
11 **is warranted?**

12 Plaintiff’s final argument in support of its Motion for New Trial is that the
13 accumulation of juror misconduct, error, and improper presentation of biomechanical
14 testimony, in addition to repeated violations of Pre-Trial Orders by Defense counsel,
15 prejudiced the Plaintiff and affected the verdict. Plaintiff argues that defense counsel
16 violated at least 15 Pre-Trial Orders. This Court acknowledges that Defense counsel did
17 walk a fine line, coming close to violating, and sometimes went past the line, actually
18 violating, some of the Pre-Trial Orders. Consequently, many of Plaintiff’s counsel’s
19 objections in that regard were sustained. The Court is not convinced that such
20 violations, by themselves, justify a new trial, but in combination with other
21 irregularities, they may.

22 **4) Are the damages “clearly inadequate” such that Plaintiff is entitled to**
23 **an “additur?”**

24 Plaintiff argues that as an alternative to a new trial, she is entitled to an
25 “additur.” The Plaintiff correctly cites to the cases of *Drummond v. Mid-West*
26 *Growers*,³⁴ and *Lee v. Ball*,³⁵ as authority for the potential use of an additur, but those
27 cases stand for the proposition that an additur is only appropriate if 1) the damages are
28 clearly inadequate; and 2) the case would be a proper one for granting a motion for new
trial limited to damages. This Court cannot conclude that the damages awarded by the
Jury are “clearly inadequate,” and consequently, the Court does not feel comfortable

³⁴ 91 Nev. 698 (1975).

³⁵ 121 Nev. 391, 393-94 (2005).

1 substituting its judgment regarding damages for that of the Jury. As a result, the Court
2 concludes that an "additur" in this case would not be appropriate. A similar analysis
3 would preclude the Court from granting Andrea Awerbach's request for "remittitur."

4 **CONCLUSION AND ORDER**

5 Based upon the foregoing, this Court finds that a "new trial" of all issues is
6 warranted, based upon NRCP 59(a)(2) (Misconduct of the jury – conducting an
7 experiment); NRCP 59(a)(5) (Manifest disregard by the jury of the instructions of the
8 court – specifically the instruction that the jury was prohibited from conducting its own
9 experiments or investigation); and NRCP 59(a)(7) (Error in law occurring at the trial
10 and objected to by the party making the motion – specifically the statements by
11 Defense Counsel during closing argument, improperly referencing the "forces of
12 impact" testimony of Dr. Scher, as well as the cumulative effect of multiple violations of
13 various Pre-Trial Orders). Based upon these irregularities, the Court concludes that the
14 parties were prejudiced, and were prevented from having a fair trial.


15 Based upon the foregoing, and good cause appearing therefor,

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion for New Trial or, in the
17 Alternative, for Additur, is hereby **GRANTED** as it relates to a request for a new trial,
18 and **DENIED** as it relates to a requested additur.

19 **IT IS FURTHER ORDERED** that Andrea Awerbach's Countermotion for
20 Remittitur is hereby **DENIED**.

21 **IT IS FURTHER ORDERED** that a new trial will be scheduled at the Court's
22 next available date in the regular course, and a new Trial Setting Order will issue.

23 DATED this 12th day of August, 2016.
24

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26
27
28

JERRY A. WIESE II
DISTRICT COURT JUDGE
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT XXX

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

TIM MOTT



Tatyana Ristic, Judicial Executive Assistant

DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-

EMILIA GARCIA,

Plaintiff,

vs.


JARED AWERBACH, individually, and
ANDREA AWERBACH, individually,

Defendants.

CASE NO.: A637772
DEPT. XXX

NOTICE OF
ENTRY OF
ORDER RE:
POST-TRIAL
MOTIONS

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CLERK OF THE COURT

NOTICE OF ENTRY OF ORDER

RE: POST-TRIAL MOTIONS

You are hereby notified that this Court entered an Order Re: Post-Trial Motions, a copy of which is attached hereto.

DATED this 16th day of August, 2016.



JERRY A WIESE
DISTRICT COURT JUDGE

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

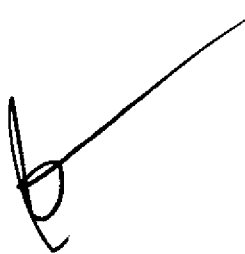
PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

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Tatyana Ristic, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**
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ANDREA AWERBACH, individually,**

Defendants.

**CASE NO.: A637772
DEPT. XXX**


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POST-TRIAL
MOTIONS**

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28 ¹ NRCp 59.

² 109 Nev. 314, 849 P.2d 277 (1993).

³ *ACP Reno Assoc., ACP v. Airmotive and Villanova*, 109 Nev. 314, 318, 949 P.2d 277 (1993); See
also *Weaver Brothers, Ltd. V. Misskelley*, 98 Nev. 232, 645 P.2d 438 (1982).

⁴ *Meyer v. State*, 119 Nev. 554, 80 P.3d 447, 454.

1 involve improper discussions among jurors (such as considering a defendant's failure
2 to testify), intimidation or harassment of one juror by another, or other similar
3 situations that are generally not admissible to impeach a verdict."⁵ The Court stated
4 that "proof of misconduct must be based on objective facts and not the state of mind or
5 deliberative process of the jury. Juror affidavits that delve into a juror's thought
6 process cannot be used to impeach a jury verdict and must be stricken."⁶

7 The Nevada Supreme Court has cited heavily to the case of *Meyer v. State*, for
8 the proposition that "[A] motion for a new trial may . . . be premised upon juror
9 misconduct where such misconduct is readily ascertainable from objective facts and
10 overt conduct without regard to the state of mind and mental processes of any juror."⁷
11 Additionally, *ACP Reno Assocs. v. Airmotive & Villanova, Inc.*,⁸ holds that "juror
12 affidavits [are] inadmissible to show that the jurors misunderstood the judge's
13 instructions." In order to prevail on a motion for a new trial based on juror
14 misconduct, admissible evidence must establish "(1) the occurrence of juror
15 misconduct, and (2) a showing that the misconduct was prejudicial."⁹ "Prejudice is
16 shown whenever there is a reasonable probability or likelihood that the juror
misconduct affected the verdict."¹⁰

17 Plaintiff's Motion cites to the case of *Russell v. State*,¹¹ in which the appellant's
18 counsel argued during closing argument, that the accused would not have been able to
19 get from Reno to Carson City in time to commit the alleged offense. During a recess in
20 the trial, a juror drove to Reno, and then measured the time it took him to drive to
21 Carson City from the accused's place of employment in Reno. During the jury
22 deliberations, he told the other jurors that it took him twenty-five minutes to travel that
23 distance. The District Court agreed that the juror's actions constituted "misconduct,"
24 but concluded that the misconduct was "harmless." The Nevada Supreme Court,
however, concluded that the district court's conclusion was an abuse of discretion. The

25
26 ⁵ *Meyer v. State*, 119 Nev. 554, 562, 80 P.3d 447, 454 (2003).

27 ⁶ *Id.*, at pg. 563.

28 ⁷ *Meyer* at pg. 563.

⁸ 109 Nev. 314, 318, 849 P.2d 277, 279 (1993).

⁹ *Meyer* at pgs. 563-64.

¹⁰ *Meyer* at pg. 564, (Note that the Court has taken these citations directly from a Nevada Supreme Court Order of Reversal and Remand in *Estate of William George Dyer v. Vicky Guernier, et al.*, Nev. Supreme Court Case No.: 62941, filed 2/19/2015.)

¹¹ 99 Nev. 265, 661 P.2d 1293 (1983).

1 Supreme Court noted that "juror misconduct is particularly egregious where, as here,
2 the juror has engaged in independent 'research' of the facts."¹² The Court further
3 noted that "the information disclosed by the juror related to a crucial aspect of
4 appellant's defense. Appellant's case was therefore significantly harmed by his inability
5 to cross-examine the juror, during the trial, concerning the many variables which may
6 have affected his driving time."¹³

7 This Court notes that the "experiment" conducted by the jury in the present case,
8 occurred after the jury had asked to return to the courtroom to view the steps leading
9 into the witness stand.¹⁴ The Court saw no problem with this "view" because it was
10 something that the jury had been able to view throughout the trial. There was no
11 indication that the jury intended to conduct any type of experiment, or the Court would
12 not have allowed it. Based upon Mr. Berkery's affidavit, however, the jury used the
13 opportunity to conduct an "experiment" and reenact what Mr. Berkery had apparently
14 seen the Plaintiff do (the Plaintiff leaning over the wooden rail to obtain a bottle of
15 water.) According to the Nevada Supreme Court, a juror's affidavit may only be
16 considered as it relates to establishing objective facts.¹⁵ In the present case, this Court
17 may rely on Mr. Berkery's affidavit, only to the extent that it establishes the objective
18 fact that an "experiment" was conducted, and how it was conducted. The
19 determination of whether, and to what extent, the experiment affected the jurors, must
20 be determined based on an "objective" standard, not on a juror's affidavit. This Court
21 concludes that the experiment conducted by the jurors, in the Courtroom, constituted
22 juror misconduct. The jurors had been instructed that they were to "decide all
23 questions of fact in this case from the evidence received in this trial and not from any
24 other source."¹⁶ They were instructed not to "make any independent investigation . . .
[or to] visit the scene, conduct experiments, or consult reference works for additional

25 ¹² *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹³ *Russell* at pg. 267.

27 ¹⁴ The actual question from the jury foreperson said, "We would like to see a courtroom to see the stairs in
the witness area and the attorney area." (See Court Exhibit 17, March 10, 2016).

28 ¹⁵ "A motion for a new trial may . . . be premised upon juror misconduct where such misconduct is readily
ascertainable from objective facts and overt conduct without regard to the state of mind and mental processes of
any juror." *Meyer v. State*, 119 Nev. 554, 563, 80 P.3d 447, 454 (2003).

¹⁶ See Jury Instruction No. 6.

1 information.”¹⁷ Clearly, the affidavit of Mr. Berkery establishes that the jury did
2 conduct an “independent investigation,” and conducted an “experiment” in violation of
3 Jury Instruction No. 6. As the Supreme Court has indicated, “juror misconduct is
4 particularly egregious where . . . the juror has engaged in independent ‘research’ of the
5 facts.”¹⁸

6 After concluding that misconduct occurred, the more important question, and
7 the one that is more difficult to answer, is whether the jury’s misconduct was
8 “prejudicial.”¹⁹ The Supreme Court has indicated that “[p]rejudice is shown whenever
9 there is a reasonable probability or likelihood that the juror misconduct affected the
10 verdict.”²⁰ This Court concludes that the experiment conducted by the jurors “related
11 to a crucial aspect” of the Plaintiff’s case – credibility of the plaintiff, and the nature
12 and extent of the plaintiff’s injuries. The Court further concludes that the Plaintiff’s
13 case was “significantly harmed by [her] inability to cross-examine the juror . . .
14 concerning the many variables which may have affected [the result of the
15 experiment].”²¹ The Court concludes that there is a reasonable probability or likelihood
16 that the juror misconduct affected the verdict.”²²

17 **Did the Court improperly advise the jury that it could award past
18 medical expenses and no future medical expenses?**

19 Plaintiff contends that it was error for the Court to advise the jury that it could
20 award the Plaintiff her past medical expenses and no future medical expenses. The
21 question posed by the jury foreperson was as follows: “Based on Instruction 25 would
22 it [be] possible to award the Plaintiff [the] entire amount of Past Medical Expenses
23 without awarding anything for Future medical expenses?” The Court responded with
24 “yes.”²³ The Plaintiff argues that the Plaintiff’s future medical expenses were “either

24 ¹⁷ See Jury Instruction No. 6 .

25 ¹⁸ *Russell* at pg. 267, citing to *Barker v. State*, 95 Nev. 308, 312, 594 P.2d 719 (1979).

26 ¹⁹ See *Meyer* at pgs. 563-64.

27 ²⁰ *Meyer* at pg. 564.

28 ²¹ *Russell* at pg. 267.

²² *Meyer* at pg. 564.

²³ See Court Exhibit 19, March 10, 2016. Note that Instruction No. 25 read as follows: If you find that a Defendant is liable for the original injury to the Plaintiff, then Defendant is also liable for any aggravation of the original injury caused by negligent medical or hospital treatment or care of the original injury, or for any additional injury caused by negligent medical or hospital treatment or care of the original injury.”

1 undisputed or [were] disputed on the exact same grounds as her past expenses.”²⁴
2 Consequently, since the jury awarded all of Ms. Garcia’s past medical expenses
3 (\$574,846.01), Plaintiff argues that the jury had no choice but to award the Plaintiff her
4 future medical expenses.

5 This Court finds that Plaintiff’s argument lacks merit, as the jurors were
6 instructed to “bring to the consideration of the evidence [their] everyday common
7 sense and judgment as reasonable men and women;”²⁵ they were instructed that it was
8 up to them to determine the “credibility or believability” of the witnesses;²⁶ they were
9 instructed about “discrepancies in a witness’s testimony;”²⁷ they were told that they
10 were “not bound” by any expert testimony, but that they were to give such testimony
11 “the weight to which [they] deem it entitled;”²⁸ and with regard to damages, they were
12 instructed that they could award the Plaintiff the “damages [they] believe from the
13 evidence Plaintiff has sustained,” and they could award “[t]he reasonable medical
14 expenses which [they believed] Plaintiff probably will incur in the future as a result of
15 the accident;”²⁹ and finally, the jurors were instructed that “[w]hether any of these
16 elements of damage have been proven by the evidence is for [them] to determine.”³⁰
17 The jury was free to disregard the testimony of the experts, and was free to believe or
18 disbelieve the testimony of the Plaintiff, the treating doctors, etc. This Court will not
19 disturb the verdict of the Jury with regard to its award of future medical expenses, or
20 refusal to award such damages. The Court recalls that there was sufficient evidence
21 presented, through cross-examination of the medical care providers, cross-examination
22 of the Plaintiff herself, and other evidence, upon which the Jury could have based its
23 decision to deny the Plaintiff any future medical expenses. Particularly, the Court
24 recalls Facebook pictures that were presented to the Jury showing the Plaintiff
25 participating in activities which could have been interpreted as inconsistent with the
26 Plaintiff’s pain complaints. Although Plaintiff argues that the evidence supporting past
27 and future damages was “undisputed,” the Court does not agree, and the Jury was free

27 ²⁴ (See Motion for New Trial at pg. 7 of 30).

28 ²⁵ See Jury Instruction No. 7.

²⁶ See Jury Instruction No. 15.

²⁷ See Jury Instruction No. 16.

²⁸ See Jury Instruction No. 18.

²⁹ See Jury Instruction No. 33.

³⁰ See Jury Instruction No. 37.

1 to accept or to disregard the evidence which it saw and heard, and reach the verdict
2 that it reached. A verdict that is unsupported by evidence is improper and must be
3 overturned,³¹ but in this case, the verdict was supported by the evidence, and need not
4 be overturned.

5 **2) Did the Court err in allowing Defense counsel to preview Dr. Scher's**
6 **opinions during opening statement, and then refer to such opinions**
7 **during closing argument?**

8 Plaintiff next argues that the Court erred in allowing Defense counsel to preview
9 Dr. Scher's foundationless opinions regarding forces of impact, during opening
10 statement, and then Defense counsel again referred to such evidence in Closing
11 Argument, even after Dr. Scher's testimony had been stricken. The Court allowed a
12 preview of Dr. Scher's opinions during opening statement, because the Court allows the
13 attorneys to explain what the evidence will show, and what they have a good faith belief
14 will be entered into evidence during the course of the trial. Based upon representations
15 from Defense counsel, the Court had no reason to believe at the outset, that Dr. Scher's
16 testimony would be stricken. Prior to Trial, the Court had evaluated the proposed
17 testimony of Dr. Scher, and was convinced that there was "at least arguably" sufficient
18 foundation for that testimony. During the presentation of evidence, however, it became
19 evident that there was "inadequate foundation" for Dr. Scher's opinions, and
20 consequently, his testimony was stricken from the record, and the Jury was instructed
21 to disregard it. During closing argument, Mr. Awerbach's counsel argued that the
22 Plaintiff sustained "no physical forces greater than the roller coasters she rode
23 before."³² The Court overruled an objection to that statement, indicating that the Court
24 felt that Mr. Strassburg was simply using a "common sense" argument, but later the
25 Court noted that the Court should have sustained the objection because it was a
26 conclusion that didn't have any basis in evidence.³³ The Court acknowledges that the
27 objection should have been sustained, and Defense counsel should have been
28 admonished not to "testify" or refer to Dr. Scher's opinions during closing argument,
since Dr. Scher's opinions had been stricken from the record. Although the Court
acknowledges the error, the Court is not convinced that the statement regarding the

³¹ *Arnold v. Mt. Wheeler Power*, 101 Nev. 612, 614, 707 P.2d 1137, 1139 (1985).

³² See Trial Transcript 3/9/16 at pg. 19:6-7.

³³ See Trial Transcript 3/9/16 at pg. 65:10-24.

1 "roller coasters" or the other general references to "forces" were sufficiently prejudicial
2 to have made a difference to the Jury. There is no indication that such statements
3 made a difference in the minds of the jurors, and the jurors were instructed more than
4 once that opening statements and closing arguments were "not evidence." Although
5 the Court acknowledges the error, the Court finds that such error may have been
6 harmless, and by itself such error would not justify a new trial. In combination with the
7 other irregularities during Trial, however, it may.

8 **3) Did the accumulation of juror misconduct, error, and improper**
9 **presentation of biomechanical testimony, and repeated violation of**
10 **Pre-Trial Orders prejudice the Plaintiff to the extent that a new trial**
11 **is warranted?**

12 Plaintiff's final argument in support of its Motion for New Trial is that the
13 accumulation of juror misconduct, error, and improper presentation of biomechanical
14 testimony, in addition to repeated violations of Pre-Trial Orders by Defense counsel,
15 prejudiced the Plaintiff and affected the verdict. Plaintiff argues that defense counsel
16 violated at least 15 Pre-Trial Orders. This Court acknowledges that Defense counsel did
17 walk a fine line, coming close to violating, and sometimes went past the line, actually
18 violating, some of the Pre-Trial Orders. Consequently, many of Plaintiff's counsel's
19 objections in that regard were sustained. The Court is not convinced that such
20 violations, by themselves, justify a new trial, but in combination with other
21 irregularities, they may.

22 **4) Are the damages "clearly inadequate" such that Plaintiff is entitled to**
23 **an "additur?"**

24 Plaintiff argues that as an alternative to a new trial, she is entitled to an
25 "additur." The Plaintiff correctly cites to the cases of *Drummond v. Mid-West*
26 *Growers*,³⁴ and *Lee v. Ball*,³⁵ as authority for the potential use of an additur, but those
27 cases stand for the proposition that an additur is only appropriate if 1) the damages are
28 clearly inadequate; and 2) the case would be a proper one for granting a motion for new
trial limited to damages. This Court cannot conclude that the damages awarded by the
Jury are "clearly inadequate," and consequently, the Court does not feel comfortable

³⁴ 91 Nev. 698 (1975).

³⁵ 121 Nev. 391, 393-94 (2005).

1 substituting its judgment regarding damages for that of the Jury. As a result, the Court
2 concludes that an "additur" in this case would not be appropriate. A similar analysis
3 would preclude the Court from granting Andrea Awerbach's request for "remittitur."

4 **CONCLUSION AND ORDER**

5 Based upon the foregoing, this Court finds that a "new trial" of all issues is
6 warranted, based upon NRCP 59(a)(2) (Misconduct of the jury – conducting an
7 experiment); NRCP 59(a)(5) (Manifest disregard by the jury of the instructions of the
8 court – specifically the instruction that the jury was prohibited from conducting its own
9 experiments or investigation); and NRCP 59(a)(7) (Error in law occurring at the trial
10 and objected to by the party making the motion – specifically the statements by
11 Defense Counsel during closing argument, improperly referencing the "forces of
12 impact" testimony of Dr. Scher, as well as the cumulative effect of multiple violations of
13 various Pre-Trial Orders). Based upon these irregularities, the Court concludes that the
14 parties were prejudiced, and were prevented from having a fair trial.

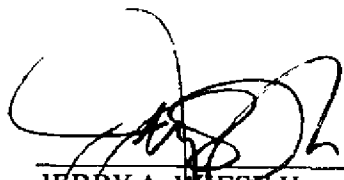
15 Based upon the foregoing, and good cause appearing therefor,

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion for New Trial or, in the
17 Alternative, for Additur, is hereby **GRANTED** as it relates to a request for a new trial,
18 and **DENIED** as it relates to a requested additur.

19 **IT IS FURTHER ORDERED** that Andrea Awerbach's Countermotion for
20 Remittitur is hereby **DENIED**.

21 **IT IS FURTHER ORDERED** that a new trial will be scheduled at the Court's
22 next available date in the regular course, and a new Trial Setting Order will issue.

23 DATED this 12th day of August, 2016.
24

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26
27
28

JERRY A. WIESE II
DISTRICT COURT JUDGE
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT XXX

Certificate of Service

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

ADAM SMITH

CRAIG HENDERSON

DANIEL POLSENBERG

MARIA ESTANISLO

PETER MAZZEO

RANDY TINDALL

AUDRA BOONEY

GEMMA ENDOZO

TIM MOTT



Tatyana Ristic, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 22, 2011

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

**September 22, 2011 3:00 AM Minute Order Minute Order re:
Dept. 28 Recusal**

HEARD BY: Israel, Ronald J. **COURTROOM:**

COURT CLERK: Kathy Klein

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- To avoid the appearance of impropriety or implied bias, this Court hereby RECUSES itself pursuant to NCJC Canon 3E(1) and ORDERS, this matter be RANDOMLY REASSIGNED. FURTHER, Master Calendar to RESET any pending motions before the new Department and notify the parties of same.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Adam Smith, Esq. (Glen Lerner & Assoc).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 20, 2012

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

**December 20, 2012 9:00 AM Motion to Amend
Complaint**

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Henderson, Craig A. Attorney
Trujillo, Heather L. Attorney

JOURNAL ENTRIES

- Arguments by Mr. Henderson regarding adding a cause of action for joint liability and punitive damages against the driver, there being no statute of limitations issue, deadline for amending being July 2013, deadline for discovery being October 2013 and there being no prejudice or harm inflicted by allowing the amendment. Arguments by Mr. Ms. Trujillo regarding this not being newly discovered evidence and the allegations having been stated in the complaint. Court stated its findings and ORDERED, Plaintiff's Motion to Amend Complaint GRANTED. Mr. Henderson to prepare the order and submit it to Ms. Trujillo for approval as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 30, 2013

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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October 30, 2013 9:00 AM Motion to Strike

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Foley, Jennifer L. McLeod, Alexandra B. Smith, Adam D.	Attorney Attorney Attorney
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JOURNAL ENTRIES

- Arguments by Mr. Smith and Ms. Foley. regarding the merits of the motion, qualification of Witness Thomas Ireland as an expert witness, calculation of hedonic damages, and further arguments. Court stated its findings and ORDERED, Plaintiff's Motion to Strike Defendants' Rebuttal Expert Witness Thomas Ireland GRANTED IN PART as to hedonic damages and DENIED IN PART as to other aspects of the motion. Mr. Smith requested Court rule on, and take off calendar, the Request for Sanctions Based on Plaintiff's Violation of NEV.C.R. 123 and NRPC 3.4(C) in it's Motion to Strike Defendants' Expert Thomas Ireland set November 13, 2013. Colloquy. Court stated it would not take the motion off calendar based on an oral request. Mr. Smith to prepare the order and submit it to Ms. Foley for approval as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 22, 2013

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

November 22, 2013 9:00 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT: McLeod, Alexandra B. Attorney
Pitegoff, Jeffrey I Attorney
Smith, Adam D. Attorney

JOURNAL ENTRIES

- Deft Jared Awerbach's Omnibus Motion On OST; Declaration Of Jeffery Pitegoff, ESQ.; To Extend Discovery and Trial Deadlines; To Compel Pltf's HIPAA Release for Nevada Board Of Pharmacy Controlled Substance Report; Protective Order; Jared Awerbach's First Request For Extension Pltf's Opposition and Countermotion for Protective Order

Motion was filed under seal, Opposition wasn't, and a Reply wasn't filed yet. Commissioner advised counsel today's Hearing will not be closed. COMMISSIONER RECOMMENDED, Deft should be entitled to ensure they have controlled substance records; provide authorization as soon as possible. Arguments by counsel. Commissioner advised counsel to have a good wage earning history for three to five years. Commissioner advised Mr. Smith he had obligations to identify prior employers pursuant to 16.1. Argument by Mr. Pitegoff. 2011 case; 1/13/14 Trial date STANDS. COMMISSIONER RECOMMENDED, Deft Jared Awerbach's Omnibus Motion is GRANTED IN PART; Declaration Of Jeffery Pitegoff, ESQ.; To Extend Discovery is GRANTED; Trial Deadlines is DENIED WITHOUT PREJUDICE, and DEFERRED to the District Court Judge as information before Commissioner Bulla is insufficient; Compel Pltf's HIPAA Release for Nevada Board Of Pharmacy Controlled Substance Report is GRANTED; Pltf's Countermotion for Protective Order is GRANTED

IN PART; discovery cutoff EXTENDED to 12/20/13 for LIMITED purposes; (1) Pltf must provide medical release for controlled substances; (2) provide wage release for Sam's Town records; (3) the oldest daughter can be deposed after school hours limited to 1.5 hours; contact Commissioner to attend deposition if necessary; notice REDUCED to three business days; (4) Pltf can be re-deposed on current condition LIMITED to four hours; no repeat questions; set on three (3) business days notice if everyone agrees; if new information comes up and follow up questions are needed, counsel must allow questions as discussed in Open Court. Upon Mr. Pitegoff's request, COMMISSIONER RECOMMENDED, request to depose Doctors is DENIED as there is not enough time; no further depositions. Mr. Smith include dates in recommendation; counsel approve form and content; submit report within ten (10) days of this hearing, otherwise, counsel will pay a CONTRIBUTION for failure to comply; status check SET; Mr. Smith must appear if report is not timely submitted.

12/20/13 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****December 13, 2013**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 13, 2013	9:00 AM	Motion to Strike	Pltf's Motion to Strike Defts' Untimely Supplemental Expert Reports on an OST
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Patti Slattery**REPORTER:****PARTIES**

PRESENT:	McLeod, Alexandra B.	Attorney
	Pitegoff, Jeffrey I	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Colloquy re: Dr. Elkanich and Dr. O'Dell, the new opinion from Dr. Elkanich, and attack on billing should not have been part of supplement. Arguments by counsel. COMMISSIONER RECOMMENDED, 16.1(a)(3) disclosures are due today (hand deliver); most Judge's would cut off billing today (30 days before Trial); motion is GRANTED IN PART; expert reports are NOT STRICKEN, but Commissioner RECOMMENDS the District Court NOT PERMIT testimony re: billing practices of certain treating physicians (include in recommendation), and PROHIBIT testimony re: questions from billing practices from 2011 or 2012. Argument by Ms. McLeod. For any opinions of Defts' experts dealing with billing reasonably available well before initial expert deadlines, Commissioner RECOMMENDS the District Court Judge DISALLOW opinions at the time of Trial; motion to Strike Reports is DENIED. Argument by Ms. McLeod. Mr. Smith prepare recommendation; counsel approve form and content; submit report within ten (10) days of this hearing, otherwise, counsel will pay a CONTRIBUTION for failure to comply; status check SET; Mr.

Smith must appear if report is not timely submitted.

1/10/14 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 17, 2013

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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December 17, 2013 3:00 AM Minute Order

**Minute Order:
Motion for Summary
Judgment set
12/18/2013 VACATED**

HEARD BY: Allf, Nancy

COURTROOM:

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review Defendant Andrea Awerbach filed a Notice of Withdrawal of Motion for Summary Judgment on December 16, 2013 which was served via mail and facsimile to all parties. COURT FURTHER FINDS after review the Motion for Summary Judgment had been opposed by Plaintiff and was set for Hearing on MOTION CALENDAR on December 18, 2013 at 10.00 a.m. COURT ORDERS for good cause appearing Hearing on Defendant Andrea Awerbach Motion for Summary Judgment on MOTION CALENDAR on December 18, 2013 at 10.00 a.m. VACATED.

CLERK'S NOTE: A copy of this minute order was faxed to: Jeff Pitegoff, Esq. (997-3800), Alexandra B. McLeod, Esq. (697-6505), and Corey M. Eschweiler, Esq. (933-7043)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****December 26, 2013**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

December 26, 2013	9:30 AM	Motion	Plaintiff's Motion to Allow Plaintiff to Present a Jury Questionnaire Prior to Voir Dire
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HEARD BY: Allf, Nancy**COURTROOM:** RJC Courtroom 03A**COURT CLERK:** Nicole McDevitt**RECORDER:** Traci Rawlinson**REPORTER:****PARTIES**

PRESENT:	Call, Gary W.	Attorney
	Smith, Adam D.	Attorney
	Tomova, Virginia T.	Attorney

JOURNAL ENTRIES

- Colloquy regarding Mr. Smith's emergency motion to continue trial on order shortening time. COURT ORDERED, order to shorten time GRANTED and emergency motion to continue trial SET for hearing on January 2, 2013 at 10:00 a.m. Court stated anyone that needs to appear by phone may do so. Arguments by counsel regarding jury questionnaire, disputed questions, and joinder to include questions. COURT ORDERED, Plaintiff's motion to allow Plaintiff to present a jury questionnaire prior to voir dire GRANTED and Defendant Andrea Awerbach's Joinder In Defendant Jared Awerbach's Partial Opposition To Plaintiff's Motion To Allow Plaintiff To Present A Jury Questionnaire Prior To Voir Dire GRANTED. COURT FURTHER ORDERED parties to attend a mandatory settlement conference.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 12, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 12, 2014 9:30 AM Motion to Amend

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Grant, Lee J Attorney
 Mazzeo, Peter Attorney
 Smith, Adam D. Attorney
 Strassburg, Roger Attorney

JOURNAL ENTRIES

- Mr. Smith noticed the motion was filed late. Court stated it would deal with the motion on the merits. Arguments by counsel as to Plaintiff's Motion to Amend Order Granting in Part and Denying Part Plaintiff's Motion to Strike Defendants' Expert Thomas Ireland. Court stated there are no grounds to re-review issue and Court intends to further refine at trial the scope.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****February 26, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

February 26, 2014	10:00 AM	Motion for Protective Order	Pltf's Motion for Protective Order and Attorneys' Fees on an OST
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Richard Kangas**REPORTER:****PARTIES**

PRESENT:	Foley, Jennifer L.	Attorney
	Mazzeo, Peter	Attorney
	Smith, Adam D.	Attorney

JOURNAL ENTRIES

- Commissioner advised counsel sending a Subpoena after discovery closes is a violation of the Rules of Discovery. Arguments by counsel. Colloquy re: Rule 16.1(a)(3) in conjunction with Rule 26(e). Commissioner advised all counsel read the evidence rules. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; Motion is GRANTED with respect to any other discovery other than the 911 call; other depositions or Subpoenas for documents are QUASHED and PROTECTED; Commissioner PERMITS discovery that occurred to obtain 911 call; get a COR to authenticate the call; admissibility of evidence at Trial is DEFERRED to the District Court Judge; Deft who served discovery must pay Pltf \$2,500 attorney fees for having to bring the Motion and deal with issues after close of discovery, and violating the rules; payment due within 30 days after Court signs recommendation; discovery cutoff EXTENDED to 3/31/14 to set forth foundation of tape is ALLOWED; no more discovery. Mr. Smith requested the three page document. COMMISSIONER RECOMMENDED, issue is DEFERRED to the Trial Court Judge. Mr. Smith include date in recommendation; counsel approve form and content; submit report within ten (10) days of this

hearing, otherwise, counsel will pay a CONTRIBUTION for failure to comply; status check SET; Mr. Smith must appear if report is not timely submitted. Mr. Mazzeo requested to depose the investigating Police Officer. Arguments by counsel. COMMISSIONER RECOMMENDED, Request is DENIED; discovery is not reopened for any other purpose.

3/28/14 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 19, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

March 19, 2014 9:30 AM All Pending Motions

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
Rodriguez, Darren T. Attorney
Smith, Adam D. Attorney
Strassburg, Roger Attorney

JOURNAL ENTRIES

- Pltf's Motion to Strike Deft Andrea Awerbach's Untimely Expert Witness Designation and Quash Deft Jared Awerbach's Untimely Subpoenas; and Motion for Attorneys' Fees on OST Deft Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date on OST

Arguments by counsel. Supplement and List of each supplement provided in Open Court by Mr. Smith. Deft was released from the Facility, if he's drug free he can proceed to Trial, and his deposition is set per Mr. Smith (based on information provided from Mr. Strassburg). Colloquy re: status of discovery. Commissioner advised Mr. Mazzeo he made a misrepresentation by omission.

COMMISSIONER RECOMMENDED, Deft Andrea Awerbach's Motion to Reopen Discovery and Continue Trial Date is DENIED; however, discovery is RE-OPENED to 4/18/14 to 1) depose Jared Awerbach; 2) Jared Awerbach will obtain medical records; 3) Pltf's LIMITED re-deposition; 5/19/14 Trial date STANDS. Mr. Mazzeo requested to re-depose Pltf. Arguments by counsel. COMMISSIONER RECOMMENDED, Pltf's re-deposition is LIMITED, and WILL NOT EXCEED

seven hours (breakdown as discussed in Open Court); COMPLETE all discovery by 4/18/14.

COMMISSIONER RECOMMENDED, Pltf's Motion to Strike Deft Andrea Awerbach's Untimely Expert Witness Designation and Quash Deft Jared Awerbach's Untimely Subpoenas; and Motion for Attorneys' Fees is DENIED; alternative relief was provided as discussed; experts can be shared by other Defts. COMMISSIONER RECOMMENDED, obtaining Jared Awerbach's records by Subpoena is GRANTED; obtain by 4/18/14; contact Commissioner by conference call if necessary; if records are provided May 1st, do not contact Commissioner Bulla.

Mr. Strassburg confirmed Pltf is seeking punitive damages from Jared Awerbach, and counsel requested Dr. Gregory Brown (Psychiatrist) perform an assessment, and allow Dr. Brown as a witness on state of mind for punitive damages. Commissioner DEFERRED issue for the District Court Judge to decide whether or not it's necessary on punitive damages (counsel could use an Affidavit); counsel can make a Motion with the Court, Commissioner is NOT GIVING any input, and expert deadlines are closed (not a discovery issue, but an evidentiary issue for the Court to determine).

Mr. Strassburg requested a supplemental IME. COMMISSIONER RECOMMENDED, Request is DENIED; discovery closed October 2013; however, Mr. Strassburg may file a Motion for IME on OST. Arguments by counsel. Mr. Mazzeo requested sanctions. COMMISSIONER RECOMMENDED, Request is DENIED; no sanctions to any Attorney.

Colloquy re: procedure to submit Report and Recommendation, and counsel's action is needed when a R/R is at issue. Colloquy. April 2, 2014 Motion is before the Court; Motion STANDS.

Mr. Smith include dates in recommendation; counsel approve form and content; submit report within ten (10) days of this hearing, otherwise, counsel will pay a CONTRIBUTION for failure to comply; status check SET; Mr. Smith must appear if report is not timely submitted.

4/11/14 11:00 a.m. Status Check: Compliance

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 04, 2014

A-11-637772-C	Emilia Garcia, Plaintiff(s) vs. Jared Awerbach, Defendant(s)
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April 04, 2014	3:00 AM	Motion to Associate Counsel
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HEARD BY: Allf, Nancy	COURTROOM:
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COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT FINDS after review Defendant Jared Awerbach filed a Motion to Associate Counsel Lily Compton, Esq. on March 27, 2014, and the Motion was set for CHAMBERS CALENDAR on April 29, 2014. COURT FURTHER FINDS after review the Motion was served to all relevant parties on March 27, 2014, and the Plaintiff filed a Non-Opposition on April 1, 2014.

COURT ORDERS for good cause appearing and finding that the requirements of SCR 42 have been satisfied, and pursuant to EDCR 2.20 (e), failure to file an opposition may be construed as an admission that the motion is meritorious and a consent to granting the same, Defendant s Motion to Associate Lily Compton GRANTED; the Court will sign the submitted Order forthwith; hearing set for CHAMBERS CALENDAR on April 29, 2014 VACATED.

CLERK'S NOTE: A copy of this minute order was faxed to: CLERK'S NOTE: A copy of this minute order was faxed to: Mitchell J. Resnick, Esq. (997-3800), Peter Mazzeo, Esq. (870-3950), and Corey M. Eschweiler, Esq. (933-7043).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****April 10, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
 vs.
 Jared Awerbach, Defendant(s)

**April 10, 2014 10:00 AM Objection to Discovery
 Commissioner's Report**

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Mazzeo, Peter	Attorney
	Rodriguez, Darren T.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Arguments by Mr. Mazzeo regarding the order incorrectly identifying which parties were served with discovery, it being notice of depositions being served not deposition subpoenas, relief being inconsistent with ruling, and the award of sanctions against the parties that served the subpoena. Mr. Strassburg stated although he did deserve to be sanctioned the amount of \$2,500.00 is unreasonable. Mr. Strassburg requested amount of sanctions be lowered to \$500.00. Mr. Smith agreed the order should be corrected regarding the who served which discovery. Arguments by Mr. Smith regarding service of subpoenas being a violation of orders, discovery having already been closed, and sanctions awarded by Commissioner Bulla. Further arguments by counsel. COURT ORDERED, objection to discovery commissioner's report GRANTED IN PART, objection granted to correct factual errors and granted to reduce sanctions from \$2,500.00 to \$2,000.00. Mr. Mazzeo to prepare the order and submit it to opposing counsel for approval as to form and content. Colloquy regarding upcoming court dates, availability for trial setting, and motions set on both May 7th and May 14th.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****April 30, 2014**

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

April 30, 2014	9:30 AM	Motion to Strike	Pltf's Motion to Strike Defts' Untimely Expert Tami Rockholt and Request for Monetary Sanctions on OST
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HEARD BY: Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Richard Kangas**REPORTER:****PARTIES**

PRESENT:	Mazzeo, Peter	Attorney
	Rodriguez, Darren T.	Attorney
	Smith, Adam D.	Attorney
	Strassburg, Roger	Attorney

JOURNAL ENTRIES

- Judge Allf reduced Commissioner's sanction to \$2,000 per Mr. Strassberg; argument by counsel. No further sanctions will issue, but Mr. Strassberg's disclosures are very late. 2011 case; 5/19/14 Trial date. Colloquy re: witnesses are not allowed to testify at Trial; if testimony is allowed, Commissioner Recommends moving the Trial date. MATTER TRAILED for counsel to appear before Judge Allf. COMMISSIONER RECOMMENDED, Motion CONTINUED unless counsel return to Discovery before 12:00 noon.

Counsel did not return to Discovery.

5/7/14 9:30 a.m.

Pltf's Motion to Strike Defts' Untimely Expert Tami Rockholt and Request for Monetary Sanctions on
OST

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 30, 2014

A-11-637772-C Emilia Garcia, Plaintiff(s)
vs.
Jared Awerbach, Defendant(s)

April 30, 2014 10:30 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Mazzeo, Peter Attorney
Rodriguez, Darren T. Attorney
Smith, Adam D. Attorney
Strassburg, Roger Attorney

JOURNAL ENTRIES

- Arguments by Mr. Mazzeo regarding whether failure to conduct discovery was a result of excusable neglect, circumstances in the case, certain discovery not being done in a timely fashion, past medical costs, conflict of interest for prior defense counsel, and other merits of the objection. Colloquy between Court, Mr. Mazzeo, and Mr. Strassburg regarding specific relief requested. Arguments by Mr. Strassburg regarding request to reopen discovery, there being little prejudice to Plaintiff, and continuance of trial. Upon inquiry by Court, Mr. Mazzeo and Mr. Strassburg advised they would be open to a settlement conference. Mr. Smith stated a settlement conference would be a waste of time. Arguments by Mr. Smith regarding prior continuance of trial, no change in the case when the medical bills occurred, damages in the case, there being no excuse for the discovery not being done, conflict of interest issue. Further arguments by counsel.

COURT ORDERED, objection SUSTAINED in a limited fashion, trial VACATED and RESET to the stack beginning June 26, status check SET on May 7th to set a trial date certain, parties are to co-operate to determine dates available, the discovery allowed will be limited to what has been requested orally or in the papers today, any new witnesses may testify at the time of trial subject to

motions in limine, all of the expense of the additional discovery will be borne by the Defense, to be allocated to defendants 50/50 subject to a later allocation based on a jury verdict, motions in limine set May 5th VACATED as they may change with the new discovery and evidentiary issues will be determined prior to trial.

5/7/2014 10:30 AM STATUS CHECK: DISCUSS PROCEDURE OF THE CASE