

1 Code §2515
2 CHARLES R. KOZAK, ESQ. (SBN 11179)
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7 3100 Mill Street, Suite 115
8 Reno, Nevada 89502
9 (775) 322-1239; Fax (775) 800-1767
10 *Attorney for Plaintiffs*

Electronically Filed
Apr 24 2017 02:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

11 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
12
13 **IN AND FOR THE COUNTY OF WASHOE**

14 ANGELA DeCHAMBEAU and
15 JEAN-PAUL DeCHAMBEAU, both
16 Individually and as SPECIAL
17 ADMINISTRATORS of the ESTATE
18 of NEIL DECHAMBEAU,

Case No. CV12-00571

Dept. No. 7

19 Appellant,

20 vs.

21 STEPHEN C. BALKENBUSH, ESQ.,
22 THORNDAL, ARMSTRONG, DELK,
23 BALKENBUSH and EISINGER,
24 A Nevada Professional Corporation,
25 & DOES I through X, inclusive,

26 Respondent.
27
28

NOTICE OF APPEAL

29 ANGELA DeCHAMBEAU and JEAN-PAUL DeCHAMBEAU, both Individually and as
30 SPECIAL ADMINISTRATORS of the ESTATE of NEIL DECHAMBEAU, hereby appeals, to the
31 Supreme Court of Nevada, the Judgment on Jury Verdict entered on, the abuse of discretion of the Court in re-
32 opening discovery on February 1, 2016, approximately three years after close of discovery, February 17, 2013, the

1 Amended Judgment on Jury Verdict awarding attorney's fees entered on February 13, 2017, the Order on
2 Plaintiffs Motion for a New Trial entered on March 31, 2017.

3 **Affidavit: Pursuant to NRS 1239B.030 the undersigned certifies no Social Security numbers are**
4 **contained in this document.**

5
6 Dated this 17th day of April 2017.

7 /s/ Charles R. Kozak, Esq.
8 CHARLES R. KOZAK, ESQ. (SBN #11179)
9 chuck@kozaklusianilaw.com
10 R. CRAIG LUSIANI, ESQ. (SBN# 552)
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16 *Attorney for the Appellant*
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CERTIFICATE OF SERVICE

Pursuant to NRCp Rule 5(b), I hereby certify I am an employee of Kozak Lusiani Law, LLC and that on April 17, 2017, I electronically filed the **PLAINTIFFS' ANGELA DeCHAMBEAU and JEAN-PAUL DeCHAMBEAU, both individually and as SPECIAL ADMINISTRATORS of the ESTATE of NEIL DeCHAMBEAU NOTICE OF APPEAL** with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

Dominique Pollara, Esq.
Pollara Law Group
3600 American River Dr., #160
Sacramento, CA 95864

Kim Mandelbaum, Esq.
Mandelbaum Ellerton & McBride
2012 Hamilton Lane
Las Vegas, Nevada 89106

DATED April 17, 2017.

/s/ Dedra L. Sonne
Dedra L. Sonne
Employee of Kozak Lusiani Law, LLC

Code 1310
CHARLES R. KOZAK, ESQ. (SBN 11179)
chuck@kozaklusianilaw.com
R. CRAIG LUSIANI, ESQ. (SBN 552)
craig@kozaklusianilaw.com
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Reno, Nevada 89502
(775) 322-1239; Fax (775) 800-1767
Attorney for Plaintiffs

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

ANGELA DeCHAMBEAU and
JEAN-PAUL DeCHAMBEAU, both
Individually and as SPECIAL
ADMINISTRATORS of the ESTATE
of NEIL DECHAMBEAU,

Case No. CV12-00571

Dept. No. 7

Appellant,

vs.

STEPHEN C. BALKENBUSH, ESQ.,
THORNDAL, ARMSTRONG, DELK,
BALKENBUSH and EISINGER,
A Nevada Professional Corporation,
& DOES I through X, inclusive,

Respondent.

CASE APPEAL STATEMENT

1). The Appellant filing this Case Appeal Statement is ANGELA DeCHAMBEAU and
JEAN-PAUL DeCHAMBEAU, both Individually and as SPECIAL ADMINISTRATORS of the
ESTATE of NEIL DECHAMBEAU herein after Appellants.

1 2). Second Judicial District Court Judge Patrick Flanagan is the Judge who issued the Order
2 from which Appellants appeal.

3 3). The Appellants involved in this Appeal are represented on Appeal by Charles R. Kozak,
4 Esq. of Kozak Lusiani Law, LLC located at 3100 Mill Street, Suite 115, Reno, Nevada 89502.

5 4). The Respondents to this Appeal are STEPHEN C. BALKENBUSH, ESQ., THORNDAL,
6 ARMSTRONG, DELK, BALKENBUSH and EISINGER, A Nevada Professional Corporation, &
7 DOES I through X, inclusive. Respondents were represented at trial by Dominique Pollara, Esq.,
8 Pollara Law Group, 3600 American River Dr., #160, Sacramento, CA 95864 and Kim Mandelbaum,
9 Esq., Mandelbaum Ellerton & McBride, 2012 Hamilton Lane, Las Vegas, Nevada 89106. Appellant
10 assumes, but has no actual knowledge, that Respondent's trial counsel will be Appellate counsel for
11 Respondent.
12

13 5). Appellant's counsel and Respondent's trial counsel, all identified in paragraphs 3 and 4
14 above, are licensed to practice law in the State of Nevada.
15

16 6). Appellants were represented at the District Court level by Charles R. Kozak, Esq. and R.
17 Craig Lusiani, Esq. of Kozak Lusiani Law, LLC, 3100 Mill Street, Suite 115, Reno, Nevada 89502.
18

19 7). Appellants are represented on Appeal by retained counsel Charles R. Kozak, Esq. and R.
20 Craig Lusiani of Kozak Lusiani Law, LLC.
21

22 8). As of this time, Appellants have not been granted leave to proceed in forma pauperis.

23 9). The initial Complaint was filed in the District Court by Appellants on March 6, 2012.

24 10). On March 6, 2012, Appellants filed the Complaint in this matter for legal malpractice. On
25 or about September 5, 2007, Defendants filed a medical malpractice lawsuit on behalf of Appellants,
26 alleging that DAVID SMITH, M.D. caused the wrongful death of Neil DeChambeau on September 8,
27 2006 through medical professional negligence. The trial of the above described medical malpractice suit
28

1 was eventually set for July 12, 2010. In June 2010, Plaintiffs were informed by Respondents that their
2 case had been dismissed. Respondents had stipulated to a dismissal with prejudice of their Complaint
3 on May 5, 2010 without ever informing Appellants they were doing this and without ever obtaining their
4 permission or authority to do so.
5

6 11). This case has been the subject of other appeals and writ proceedings in the Supreme Court
7 of Nevada.

8 **a.)** Angela DeCHAMBEAU and Jean Paul DeCHAMBEAU, Supreme Court No. 64463
9 both individually and as special administrators of the Dist. Court Case No.CV1200571
10 Estate of Neil DeChambeau,

Appellants,

11 vs.

12 Stephen C. Balkenbush, Esq.; and Thorndal Armstrong
13 Delk Balkenbush & Eisinger, a Nevada Professional
Corporation,

Respondents.

14
15 **b.)** Angela DeCHAMBEAU and Jean Paul DeCHAMBEAU, Supreme Court No. 72004
16 both individually and as special administrators of the Dist. Court Case No.CV1200571
17 Estate of Neil DeChambeau,

Appellants,

18 vs.

19 Stephen C. Balkenbush, Esq.; and Thorndal Armstrong
20 Delk Balkenbush & Eisinger, a Nevada Professional
Corporation,

Respondents.

21 12). This appeal does not involve child custody or visitation.

22 13). There is not a possibility of settlement of this civil case.
23

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1 Pursuant to NRS 239B.030, the undersigned certifies that no Social Security numbers are
2 contained in this document.

3 Dated this 17th day of April 2017.
4
5

6 /s/ Charles R. Kozak, Esq.
7 CHARLES R. KOZAK, ESQ. (SBN #11179)
8 chuck@kozaklusianilaw.com
9 R. CRAIG LUSIANI, ESQ. (SBN #552)
10 craig@kozaklusianilaw.com
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15 *Attorney for the Appellants*
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CERTIFICATE OF SERVICE

Pursuant to NRCp Rule 5(b), I hereby certify I am an employee of Kozak Lusiani Law, LLC and that on April 17, 2017, I electronically filed the **PLAINTIFFS' ANGELA DeCHAMBEAU and JEAN-PAUL DeCHAMBEAU, both individually and as SPECIAL ADMINISTRATORS of the ESTATE of NEIL DeCHAMBEAU CASE APPEAL STATEMENT** with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

Dominique Pollara, Esq.
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3600 American River Dr., #160
Sacramento, CA 95864

Kim Mandelbaum, Esq.
Mandelbaum Ellerton & McBride
2012 Hamilton Lane
Las Vegas, Nevada 89106

DATED April 17, 2017.

/s/ Dedra L. Sonne
Dedra L. Sonne
Employee of Kozak Lusiani Law, LLC

SECOND JUDICIAL DISTRICT COURT**STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV12-00571****Case Description: A.DECHAMBEAU ETAL. VS. STEPHEN BALKENBUSH ETAL.(D7****Case Number: CV12-00571 Case Type: OTHER TORT - Initially Filed On: 3/6/2012****Parties**

| <u>Party Type & Name</u> | <u>Party Status</u> |
|---|-------------------------------------|
| PLTF - ESTATE OF NEIL DECHAMBEAU - @1129937 | Active |
| PLTF - ANGELA DECHAMBEAU - @1115166 | Active |
| PLTF - JEAN-PAUL DECHAMBEAU - @1129938 | Active |
| DEFT - THORNDAL, ARMSTRONG, DELK, - @30723 | Active |
| DEFT - STEPHEN C BALKENBUSH - @1219742 | Active |
| ATTY - R. Craig Lusiani, Esq - 552 | Active |
| ATTY - Dominique A. Pollara, Esq. - 5742 | Active |
| ATTY - Charles R. Kozak, Esq. - 11179 | Active |
| ATTY - Mark J. Lenz, Esq. - 4672 | Party ended on: 7/8/2016 12:00:00AM |
| ATTY - Margo Piscevich, Esq. - 917 | Party ended on: 7/8/2016 12:00:00AM |

Disposed Hearings

- 1 Department: D7 -- Event: MAND PRETRIAL STATUS CONF -- Scheduled Date & Time: 8/14/2012 at 13:15:00
Extra Event Text: Legal Malpractice
Event Disposition: D843 - 8/13/2012
- 2 Department: D7 -- Event: MAND PRETRIAL STATUS CONF -- Scheduled Date & Time: 9/11/2012 at 13:15:00
Extra Event Text: Legal Malpractice
Event Disposition: D435 - 9/11/2012
- 3 Department: D7 -- Event: STATUS HEARING -- Scheduled Date & Time: 2/28/2013 at 13:30:00

Event Disposition: D845 - 2/28/2013
- 4 Department: DISC -- Event: Request for Submission -- Scheduled Date & Time: 4/24/2013 at 09:30:00
Extra Event Text: MTN TO VACATE DEPO AND FOR PROTECTIVE ORDER
Event Disposition: S200 - 5/10/2013
- 5 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 4/24/2013 at 09:30:00
Extra Event Text: MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER
Event Disposition: S200 - 4/25/2013
- 6 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 4/24/2013 at 10:34:00
Extra Event Text: MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER
Event Disposition: S200 - 4/25/2013
- 7 Department: D7 -- Event: CONFERENCE CALL -- Scheduled Date & Time: 6/3/2013 at 10:30:00

Event Disposition: D845 - 6/3/2013
- 8 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 7/10/2013 at 14:01:00
Extra Event Text: DEFENDANT'S MOTION TO BIFURCATE
Event Disposition: S200 - 8/27/2013

Report Does Not Contain Sealed Cases or Confidential Information

- 9 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 9/6/2013 at 12:33:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT
Event Disposition: S200 - 9/20/2013
- 10 Department: D7 -- Event: ORAL ARGUMENTS -- Scheduled Date & Time: 9/24/2013 at 14:00:00
Extra Event Text: ORAL ARGMT RE DEFENDANTS' MSJ
Event Disposition: D425 - 9/24/2013
- 11 Department: D7 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 9/26/2013 at 13:15:00
Extra Event Text: Legal Malpractice
Event Disposition: D845 - 9/24/2013
- 12 Department: D7 -- Event: TRIAL - JURY -- Scheduled Date & Time: 10/14/2013 at 09:30:00
Extra Event Text: Legal Malpractice
Event Disposition: D845 - 9/24/2013
- 13 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 10/29/2013 at 15:54:00
Extra Event Text: DEFENDANT'S MEMO RE COSTS
Event Disposition: S200 - 11/26/2013
- 14 Department: D7 -- Event: STATUS HEARING -- Scheduled Date & Time: 1/28/2016 at 09:00:00

Event Disposition: D260 - 1/28/2016
- 15 Department: D9 -- Event: SETTLEMENT CONFERENCE -- Scheduled Date & Time: 8/25/2016 at 13:30:00
Extra Event Text: MOVED TO ACCOMODATE TRIAL SCHEDULE - RESCHEDULED USING E-MAIL CORRESPONDENCE
Event Disposition: D480 - 8/25/2016
- 16 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 12/6/2016 at 15:43:00
Extra Event Text: PLAINTIFF'S MOTION TO STRIKE
Event Disposition: S200 - 12/21/2016
- 17 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 12/20/2016 at 10:00:00
Extra Event Text: PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTIONS IN LIMINE
Event Disposition: S200 - 1/10/2017
- 18 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 12/30/2016 at 15:25:00
Extra Event Text: MOTIONS IN LIMINE
Event Disposition: S200 - 1/10/2017
- 19 Department: D7 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 1/5/2017 at 14:00:00
Extra Event Text: PTC - 01.05.17 - 2:00 p.m
Event Disposition: D843 - 1/5/2017
- 20 Department: D7 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 1/6/2017 at 11:30:00
Extra Event Text: PTC RESET FROM 01.05.17 TO 01.06.17 AT 11:30 A.M. - ALL PARTIES IN AGREEMENT TO NEW DATE AND TIME - ks
Event Disposition: D844 - 1/5/2017
- 21 Department: D7 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 1/10/2017 at 14:00:00

Event Disposition: D425 - 1/10/2017
- 22 Department: D7 -- Event: EXHIBITS TO BE MARKED W/CLERK -- Scheduled Date & Time: 1/12/2017 at 13:30:00

Event Disposition: D596 - 1/12/2017

- 23 Department: D7 -- Event: TRIAL - JURY -- Scheduled Date & Time: 1/17/2017 at 09:30:00
Extra Event Text: PTC - 01.05.17 - 2:00 p.m
Event Disposition: D832 - 1/17/2017
- 24 Department: D7 -- Event: TRIAL ONGOING -- Scheduled Date & Time: 1/18/2017 at 09:00:00
Extra Event Text: DAY TWO
Event Disposition: D832 - 1/18/2017
- 25 Department: D7 -- Event: TRIAL ONGOING -- Scheduled Date & Time: 1/19/2017 at 09:00:00
Extra Event Text: DAY THREE
Event Disposition: D832 - 1/19/2017
- 26 Department: D7 -- Event: TRIAL ONGOING -- Scheduled Date & Time: 1/19/2017 at 09:00:00
Extra Event Text: DAY THREE
Event Disposition: D844 - 1/18/2017
- 27 Department: D7 -- Event: TRIAL ONGOING -- Scheduled Date & Time: 1/20/2017 at 09:00:00
Extra Event Text: DAY FOUR
Event Disposition: D580 - 1/20/2017
- 28 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 2/17/2017 at 16:55:00
Extra Event Text: DEFT'S STEPHEN C BALKENBUSH ESQ AND THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER OPPOSITION TO PLAINTIFF'S M
Event Disposition: S200 - 2/24/2017
- 29 Department: D7 -- Event: Request for Submission -- Scheduled Date & Time: 3/7/2017 at 13:09:00
Extra Event Text: MOTION FOR NEW TRIAL
Event Disposition: S200 - 3/31/2017

Actions

- | | <u>Filing Date</u> | <u>-</u> | <u>Docket Code & Description</u> |
|---|--------------------|----------|---|
| 1 | 3/6/2012 | - | \$PLTF - \$Addl Plaintiff/Complaint Additional Text: ESTATE OF NEIL DECHAMBEAU - Transaction 2805996 - Approved By: MCHOLICO : 03-06-2012:10:50:58 |
| 2 | 3/6/2012 | - | \$PLTF - \$Addl Plaintiff/Complaint Additional Text: JEAN-PAUL DECHAMBEAU - Transaction 2805996 - Approved By: MCHOLICO : 03-06-2012:10:50:58 |
| 3 | 3/6/2012 | - | \$1425 - \$Complaint - Civil Additional Text: (ANGELA DECHAMBEAU) - Transaction 2805996 - Approved By: MCHOLICO : 03-06-2012:10:50:58 |
| 4 | 3/6/2012 | - | PAYRC - **Payment Receipted Additional Text: A Payment of \$320.00 was made on receipt DCDC350677. |
| 5 | 3/6/2012 | - | 1580 - Demand for Jury Additional Text: PLAINTIFF'S DEMAND FOR A JURY TRIAL |
| 6 | 3/6/2012 | - | 4090 - ** Summons Issued Additional Text: X2 |
| 7 | 3/6/2012 | - | JF - **First Day Jury Fees Deposit <i>No additional text exists for this entry.</i> |
| 8 | 3/16/2012 | - | 4085 - Summons Filed Additional Text: AMY YARBOROUGH / LAW OFFICE OF STEPHEN C BALKENBUSH MARCH 12, 2012 @10:22 |

- 9 3/16/2012 - 4085 - Summons Filed
Additional Text: AMY YARBOROUGH/ LAW OFFICE OF THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISENGER MARCH 12, 2012 @ 10:15 AM
- 10 3/28/2012 - \$1560 - \$Def 1st Appearance - CV
Additional Text: STEPHEN C. BALKENBUSH
- 11 3/28/2012 - \$DEFT - \$Addl Def/Answer - Prty/Appear
Additional Text: THORNDAL, ARMSTRONG, DELK, BALKENBUSH and EISINGER
- 12 3/28/2012 - 1130 - Answer ...
Additional Text: DEFENDANTS' ANSWER TO COMPLAINT
- 13 3/28/2012 - PAYRC - **Payment Receipted
Additional Text: A Payment of -\$243.00 was made on receipt DCDC353704.
- 14 4/24/2012 - A120 - Exemption from Arbitration
Additional Text: Transaction 2909346 - Approved By: AZION : 04-24-2012:14:18:23
- 15 4/24/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 2909378 - Approved By: NOREVIEW : 04-24-2012:14:21:19
- 16 4/30/2012 - 3696 - Pre-Trial Order
Additional Text: Transaction 2920420 - Approved By: NOREVIEW : 04-30-2012:11:28:37
- 17 4/30/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 2920424 - Approved By: NOREVIEW : 04-30-2012:11:30:23
- 18 5/22/2012 - 2605 - Notice to Set
Additional Text: NOTICE TO SET HEARING, SETTLEMENT CONFERENCE AND/OR TRIAL DATE: 5/29/12 AT 9:30 - Transaction 2970387 - Approved By: YLLOYD : 05-22-2012:12:30:22
- 19 5/22/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 2970406 - Approved By: NOREVIEW : 05-22-2012:12:32:16
- 20 5/23/2012 - 1580 - Demand for Jury
Additional Text: DEFTS: STEPHEN C. BALKENBUSH, ESQ., THORNDAL, ARMSTRONG, DELK, BLAKENBUSH AND EISINGER
- 21 5/23/2012 - JF - **First Day Jury Fees Deposit
No additional text exists for this entry.
- 22 5/29/2012 - 1250E - Application for Setting eFile
Additional Text: Transaction 2982387 - Approved By: NOREVIEW : 05-29-2012:11:48:15
- 23 5/29/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 2982418 - Approved By: NOREVIEW : 05-29-2012:11:51:40
- 24 7/10/2012 - 1610 - Disclosure of Expert Witness
Additional Text: PLAINTIFF'S INITIAL NRCP 16.1 DISCLOSURE - Transaction 3070252 - Approved By: YLLOYD : 07-10-2012:13:39:25
- 25 7/10/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 3070295 - Approved By: NOREVIEW : 07-10-2012:13:44:23
- 26 8/17/2012 - 1835 - Joint Case Conference Report
Additional Text: Transaction 3155672 - Approved By: MFERNAND : 08-17-2012:11:49:58

- 27 8/17/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 3155749 - Approved By: NOREVIEW : 08-17-2012:11:51:27
- 28 9/12/2012 - MIN - ***Minutes
Additional Text: MANDATORY PRETRIAL STATUS CONF. - 09/11/12 - Transaction 3211354 - Approved By: NOREVIEW : 09-12-2012:10:54:28
- 29 9/12/2012 - NEF - Proof of Electronic Service
Additional Text: Transaction 3211360 - Approved By: NOREVIEW : 09-12-2012:10:56:13
- 30 1/14/2013 - 2610 - Notice ...
Additional Text: NOTICE OF TAKING DEPOSITION
- 31 1/25/2013 - 1067 - Affidavit of Service
No additional text exists for this entry.
- 32 4/16/2013 - 2165 - Mtn for Protective Ord
Additional Text: MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER - Transaction 3662480 - Approved By: APOMA : 04-16-2013:10:44:05
- 33 4/16/2013 - 2140 - Mtn Ord Shortening Time
Additional Text: Transaction 3662500 - Approved By: MCHOLICO : 04-16-2013:11:21:36
- 34 4/16/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3662937 - Approved By: NOREVIEW : 04-16-2013:10:48:28
- 35 4/16/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3663122 - Approved By: NOREVIEW : 04-16-2013:11:23:09
- 36 4/16/2013 - 3245 - Ord Shortening Time
Additional Text: Transaction 3663708 - Approved By: NOREVIEW : 04-16-2013:13:35:29
- 37 4/16/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3663736 - Approved By: NOREVIEW : 04-16-2013:13:40:03
- 38 4/22/2013 - 2645 - Opposition to Mtn ...
Additional Text: ATTACHMENT TO OPPOSITION TO DEFENDANTS' MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER
- 39 4/24/2013 - 3795 - Reply...
Additional Text: REPLY IN SUPPORT OF MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER - Transaction 3681857 - Approved By: MCHOLICO : 04-24-2013:10:27:58
- 40 4/24/2013 - 3860 - Request for Submission
Additional Text: MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER - Transaction 3681886 - Approved By: MCHOLICO : 04-24-2013:10:28:37
PARTY SUBMITTING: MARK LENZ, ESQ.
DATE SUBMITTED: 4/24/13
SUBMITTED BY: MCHOLICO
DATE RECEIVED JUDGE OFFICE:
- 41 4/24/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3682272 - Approved By: NOREVIEW : 04-24-2013:10:31:56
- 42 4/24/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3682276 - Approved By: NOREVIEW : 04-24-2013:10:32:50

- 43 4/25/2013 - S200 - Request for Submission Complet
Additional Text: [04.25.13 - MTN TO VACATE DEPO AND FOR PROTECTIVE ORDER PLACED ON DISCOVERY COMMISSIONER'S SUBMIT LIST - ks]
- 44 4/25/2013 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 45 4/25/2013 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION TO DEFENDANTS' MOTION TO VACATE DEPOSITION AND FOR PROTECTIVE ORDER (KOZAK'S OFFICE INADVERTENTLY FILED SUPP TO OPP. TO DEF. MOTION ON 4/22/13, NOT REALIZING THEY HADN'T FILED OPP.) - Transaction 3686111 - Approved By: VALLEN : 04-25-2013:13:56:14
- 46 4/25/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3686166 - Approved By: NOREVIEW : 04-25-2013:13:58:44
- 47 5/10/2013 - 1940 - Master's Findings/Recommend
Additional Text: RECOMMENDATION FOR ORDER - Transaction 3716928 - Approved By: NOREVIEW : 05-10-2013:10:16:04
- 48 5/10/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3716935 - Approved By: NOREVIEW : 05-10-2013:10:18:10
- 49 5/10/2013 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 50 5/24/2013 - 3370 - Order ...
Additional Text: [CONFIRMING, APPROVING AND ADOPTING THE DISCOVERY COMMISSIONER'S RECOMMENDATION FOR ORDER FILED 05.10.13 - ks]
- 51 5/24/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3747098 - Approved By: NOREVIEW : 05-24-2013:11:32:08
- 52 6/19/2013 - 2265 - Mtn to Bifurcate
Additional Text: DEFENDANTS - Transaction 3798236 - Approved By: YLLOYD : 06-19-2013:09:39:54
- 53 6/19/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3798379 - Approved By: NOREVIEW : 06-19-2013:09:43:08
- 54 7/2/2013 - 2645 - Opposition to Mtn ...
Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO BIFURCATE - Transaction 3830869 - Approved By: AEATON : 07-03-2013:08:17:59
- 55 7/3/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3831174 - Approved By: NOREVIEW : 07-03-2013:08:19:27
- 56 7/10/2013 - 3790 - Reply to/in Opposition
Additional Text: REPLY IN SUPPORT OF MOTION TO BIFURCATE - Transaction 3844249 - Approved By: AEATON : 07-10-2013:13:53:12
- 57 7/10/2013 - 3860 - Request for Submission
Additional Text: Transaction 3844249 - Approved By: AEATON : 07-10-2013:13:53:12
DOCUMENT TITLE: MOTION TO BIFURCATE
PARTY SUBMITTING: MARGO PISCEVICH, ESQ.
DATE SUBMITTED: 07/10/13
SUBMITTED BY: AEATON
DATE RECEIVED JUDGE OFFICE:
- 58 7/10/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3844316 - Approved By: NOREVIEW : 07-10-2013:13:55:51

- 59 7/11/2013 - 3980 - Stip and Order...
Additional Text: STIPULATION AND ORDER TO AMEND JOINT CASE CONFERENCE REPORT - Transaction 3847834 - Approved By: NOREVIEW : 07-11-2013:11:50:20
- 60 7/11/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3847841 - Approved By: NOREVIEW : 07-11-2013:11:52:01
- 61 8/14/2013 - \$2200 - \$Mtn for Summary Judgment
Additional Text: Transaction 3921386 - Approved By: DJARAMIL : 08-14-2013:12:26:13
- 62 8/14/2013 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC419599.
- 63 8/14/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3922500 - Approved By: NOREVIEW : 08-14-2013:12:37:18
- 64 8/27/2013 - 3370 - Order ...
Additional Text: [GRANTING DEFENDANT'S MTN TO BIFURCATE - ks]
- 65 8/27/2013 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 66 8/27/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3955779 - Approved By: NOREVIEW : 08-27-2013:16:21:57
- 67 8/27/2013 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 3955921 - Approved By: NOREVIEW : 08-27-2013:16:46:09
- 68 8/27/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3955956 - Approved By: NOREVIEW : 08-27-2013:16:51:06
- 69 9/3/2013 - 2645 - Opposition to Mtn ...
Additional Text: PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT
- 70 9/6/2013 - 3795 - Reply...
Additional Text: REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - Transaction 3977421 - Approved By: ACROGHAN : 09-06-2013:10:45:50
- 71 9/6/2013 - 3860 - Request for Submission
Additional Text: MOTION FOR SUMMARY JUDGMENT - Transaction 3977432 - Approved By: MCHOLICO : 09-06-2013:12:06:16
PARTY SUBMITTING: MARK LENZ, ESQ.
DATE SUBMITTED: 9/6/13
SUBMITTED BY: MCHOLICO
DATE RECEIVED JUDGE OFFICE:
- 72 9/6/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3977452 - Approved By: NOREVIEW : 09-06-2013:10:49:15
- 73 9/6/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3977924 - Approved By: NOREVIEW : 09-06-2013:12:07:32
- 74 9/9/2013 - 2245 - Mtn in Limine
Additional Text: DEFENDANTS' MOTION IN LIMINE - Transaction 3980965 - Approved By: MFERNAND : 09-09-2013:13:59:05
- 75 9/9/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 3981199 - Approved By: NOREVIEW : 09-09-2013:14:02:38

- 76 9/20/2013 - S200 - Request for Submission Complet
Additional Text: ORAL ARGMT SET FOR 09.24.13 - 2:00 - ALL COUNSEL NOTIFIED - ks
- 77 9/20/2013 - 2490 - Motion ...
Additional Text: DEFENDANTS' MOTION TO SUPPLEMENT 16.1 PRETRIAL DISCLOSURE - Transaction 4012546 - Approved By: MCHOLICO : 09-23-2013:08:52:22
- 78 9/23/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4012963 - Approved By: NOREVIEW : 09-23-2013:08:54:20
- 79 9/23/2013 - 2630 - Objection to ...
Additional Text: DEFENDANTS' OBJECTION TO PLAINTIFFS' PRETRIAL DISCLOSURES - Transaction 4013050 - Approved By: MFERNAND : 09-23-2013:10:12:57
- 80 9/23/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4013546 - Approved By: NOREVIEW : 09-23-2013:10:16:05
- 81 9/23/2013 - 2645 - Opposition to Mtn ...
Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTIONS IN LIMINE - Transaction 4015855 - Approved By: MCHOLICO : 09-24-2013:09:35:03
- 82 9/24/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4016364 - Approved By: NOREVIEW : 09-24-2013:09:37:31
- 83 9/24/2013 - MIN - ***Minutes
Additional Text: ORAL ARGUMENTS IN RE: DEFENDANTS' MOTION FOR SUMMARY JUDGMENT - Transaction 4019076 - Approved By: NOREVIEW : 09-24-2013:16:30:06
- 84 9/24/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4019081 - Approved By: NOREVIEW : 09-24-2013:16:33:26
- 85 9/27/2013 - 4190 - Transcript - Partial
Additional Text: MOTION FOR SUMMARY JUDGMENT - SEPTEMBER 24, 2013 - Transaction 4028638 - Approved By: NOREVIEW : 09-27-2013:14:59:54
- 86 9/27/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4028647 - Approved By: NOREVIEW : 09-27-2013:15:01:26
- 87 10/17/2013 - 3095 - Ord Grant Summary Judgment
Additional Text: Transaction 4075166 - Approved By: NOREVIEW : 10-17-2013:16:53:08
- 88 10/17/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4075175 - Approved By: NOREVIEW : 10-17-2013:16:55:15
- 89 10/17/2013 - F140 - Adj Summary Judgment
No additional text exists for this entry.
- 90 10/18/2013 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 4075801 - Approved By: NOREVIEW : 10-18-2013:09:36:12
- 91 10/18/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4075876 - Approved By: NOREVIEW : 10-18-2013:09:45:55
- 92 10/18/2013 - 1950 - Memorandum of Costs
Additional Text: DEFTS VERIFIED MEMO OF COSTS - Transaction 4076007 - Approved By: ACROGHAN : 10-18-2013:10:26:54
- 93 10/18/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4076140 - Approved By: NOREVIEW : 10-18-2013:10:28:47

- 94 10/24/2013 - 2430 - Mtn to Retax Costs
Additional Text: PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS
- 95 10/29/2013 - 2650 - Opposition to ...
Additional Text: OPPOSITION TO "PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS" - Transaction 4097907 - Approved By: MFERNAND : 10-29-2013:14:02:15
- 96 10/29/2013 - 3860 - Request for Submission
Additional Text: REQUEST FOR SUBMISSION RE: "PLAINTIFFS' MOTION TO RETAX AND SETTLE COSTS" (NO PAPER ORDER) - Transaction 4098445 - Approved By: MFERNAND : 10-29-2013:14:46:41
PARTY SUBMITTING: MARK J. LENZ, ESQ.
DATE SUBMITTED: 10/29/13
SUBMITTED BY: M. FERNANDEZ
DATE RECEIVED JUDGE OFFICE:
- 97 10/29/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4098574 - Approved By: NOREVIEW : 10-29-2013:14:06:32
- 98 10/29/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4099207 - Approved By: NOREVIEW : 10-29-2013:15:08:16
- 99 11/14/2013 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: APPELLANT: DECHAMBEAU, ANGELA & JEAN-PAUL
- 100 11/14/2013 - 1310 - Case Appeal Statement
No additional text exists for this entry.
- 101 11/14/2013 - PAYRC - **Payment Receipted
Additional Text: A Payment of -\$34.00 was made on receipt DCDC431251.
- 102 11/14/2013 - SAB - **Supreme Court Appeal Bond
No additional text exists for this entry.
- 103 11/20/2013 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 4146227 - Approved By: NOREVIEW : 11-20-2013:09:10:41
- 104 11/20/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4146236 - Approved By: NOREVIEW : 11-20-2013:09:13:28
- 105 11/26/2013 - 1188 - Supreme Court Receipt for Doc
Additional Text: SUPREME COURT CASE NO 64463/RECEIPT FOR DOCUMENTS - Transaction 4162046 - Approved By: NOREVIEW : 11-26-2013:10:59:18
- 106 11/26/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4162064 - Approved By: NOREVIEW : 11-26-2013:11:00:58
- 107 11/26/2013 - 3370 - Order ...
Additional Text: [DEFENDANT AWARDED \$50,895.40 IN COSTS - ks]
- 108 11/26/2013 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 109 11/26/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4163152 - Approved By: NOREVIEW : 11-26-2013:14:55:30

- 110 11/26/2013 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 4163290 - Approved By: NOREVIEW : 11-26-2013:15:25:20
- 111 11/26/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4163301 - Approved By: NOREVIEW : 11-26-2013:15:27:34
- 112 11/27/2013 - 1188 - Supreme Court Receipt for Doc
Additional Text: SUPREME COURT CASE NO 64463/RECEIPT FOR DOCUMENTS - Transaction 4166024 - Approved By: NOREVIEW : 11-27-2013:15:01:55
- 113 11/27/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4166033 - Approved By: NOREVIEW : 11-27-2013:15:04:03
- 114 12/6/2013 - 1880 - Judgment
Additional Text: [DEFENDANT AWARDED \$50,895.40 IN COSTS - ks]
- 115 12/6/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4182021 - Approved By: NOREVIEW : 12-06-2013:15:52:06
- 116 12/9/2013 - 2535 - Notice of Entry of Judgment
Additional Text: Transaction 4183118 - Approved By: NOREVIEW : 12-09-2013:09:38:08
- 117 12/9/2013 - NEF - Proof of Electronic Service
Additional Text: Transaction 4183146 - Approved By: NOREVIEW : 12-09-2013:09:42:09
- 118 2/13/2014 - 4185 - Transcript
Additional Text: MOTION FOR SUMMARY JUDGMENT - SEPTEMBER 24, 2013 - Transaction 4304152 - Approved By: NOREVIEW : 02-13-2014:10:49:42
- 119 2/13/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4304154 - Approved By: NOREVIEW : 02-13-2014:10:50:51
- 120 11/30/2015 - 4125 - Supreme Court Order...
Additional Text: SUPREME COURT NO. 64463 / ORDER OF REVERSAL AND REMAND - Transaction 5254561 - Approved By: NOREVIEW : 11-30-2015:09:51:30
- 121 11/30/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5254564 - Approved By: NOREVIEW : 11-30-2015:09:52:21
- 122 12/1/2015 - 3863 - **Submit regarding Appeals
Additional Text: DOCUMENT TITLE: SUPREME COURT NO. 64463 / ORDER OF REVERSAL AND REMAND
PARTY SUBMITTING:
DATE SUBMITTED: 11/30/15
SUBMITTED BY: ASMITH
DATE RECEIVED JUDGE OFFICE:
- 123 12/23/2015 - 3370 - Order ...
Additional Text: [SET HEARING RE REMAND FROM NSC - ks] - Transaction 5292881 - Approved By: NOREVIEW : 12-23-2015:16:00:25
- 124 12/23/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5292882 - Approved By: NOREVIEW : 12-23-2015:16:02:40
- 125 12/24/2015 - 4140 - Supreme Court Ord Reversing
Additional Text: SUPREME COURT NO. 64463 / ORDER OF REVERSAL AND REMAND - Transaction 5294172 - Approved By: NOREVIEW : 12-24-2015:15:46:00
- 126 12/24/2015 - 4145 - Supreme Court Remittitur
Additional Text: SUPREME COURT NO. 64463 / REMITTITUR - Transaction 5294172 - Approved By: NOREVIEW : 12-24-2015:15:46:00

- 127 12/24/2015 - 4111 - Supreme Ct Clk's Cert & Judg
Additional Text: SUPREME COURT NO. 64463 / CLERK'S CERTIFICATE AND JUDGMENT - Transaction 5294172 - Approved By: NOREVIEW : 12-24-2015:15:46:00
- 128 12/24/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5294175 - Approved By: NOREVIEW : 12-24-2015:15:46:56
- 129 12/29/2015 - 3863 - **Submit regarding Appeals
Additional Text: DOCUMENT TITLE: SUPREME COURT NO. 64463 / ORDER OF REVERSAL AND REMAND
PARTY SUBMITTING:
DATE SUBMITTED: 12/24/15
SUBMITTED BY: ASMITH
DATE RECEIVED JUDGE OFFICE:
- 130 1/15/2016 - 2980 - Ord Return of Appeal Bond
Additional Text: Transaction 5323024 - Approved By: NOREVIEW : 01-15-2016:11:48:22
- 131 1/15/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5323031 - Approved By: NOREVIEW : 01-15-2016:11:49:25
- 132 1/19/2016 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$500.00 on Check Number 31452
- 133 1/21/2016 - 1325 - ** Case Reopened
No additional text exists for this entry.
- 134 1/28/2016 - MIN - ***Minutes
Additional Text: STATUS HEARING - Transaction 5343089 - Approved By: NOREVIEW : 01-28-2016:16:16:36
- 135 1/28/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5343094 - Approved By: NOREVIEW : 01-28-2016:16:17:27
- 136 2/1/2016 - 3915 - Scheduling Order
Additional Text: Transaction 5346484 - Approved By: NOREVIEW : 02-01-2016:13:47:56
- 137 2/1/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5346489 - Approved By: NOREVIEW : 02-01-2016:13:48:49
- 138 6/23/2016 - 3370 - Order ...
Additional Text: NOTICE OF AND ORDER REGARDING SETTLEMENT - Transaction 5575992 - Approved By: NOREVIEW : 06-23-2016:09:33:20
- 139 6/23/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5575997 - Approved By: NOREVIEW : 06-23-2016:09:34:21
- 140 7/11/2016 - 2520 - Notice of Appearance
Additional Text: DOMINIQUE A POLLARA OBO STEPHEN C BALKENBUSH - Transaction 5602764 - Approved By: RKWATKIN : 07-12-2016:09:31:29
- 141 7/12/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5603300 - Approved By: NOREVIEW : 07-12-2016:09:32:27
- 142 11/1/2016 - JF - **First Day Jury Fees Deposit
Additional Text: Transaction 5784881 - Approved By: CSULEZIC : 11-01-2016:15:22:29
- 143 11/1/2016 - 1580 - Demand for Jury
Additional Text: Transaction 5784881 - Approved By: CSULEZIC : 11-01-2016:15:22:29

- 144 11/1/2016 - PAYRC - **Payment Received
Additional Text: A Payment of \$320.00 was made on receipt DCDC557099.
- 145 11/1/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5785566 - Approved By: NOREVIEW : 11-01-2016:15:24:18
- 146 11/15/2016 - 2475 - Mtn to Strike...
Additional Text: PLIANTIFFS' - Transaction 5807912 - Approved By: PMSEWELL : 11-16-2016:10:00:39
- 147 11/16/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5808582 - Approved By: NOREVIEW : 11-16-2016:10:01:51
- 148 11/30/2016 - 2645 - Opposition to Mtn ...
Additional Text: Defendants Stephen C. Balkenbush, Esq. and Thordahl Armstrong Delk Balkenbush & Eisinger's Opposition to Plaintiffs' Motion to Strike - Transaction 5830361 - Approved By: PMSEWELL : 12-01-2016:09:30:02
- 149 12/1/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5830690 - Approved By: NOREVIEW : 12-01-2016:09:30:56
- 150 12/6/2016 - 3795 - Reply...
Additional Text: REPLY TO DEFENDANTS' OPPOSITION TO MOTION TO STRIKE - Transaction 5839105 - Approved By: TBRITTON : 12-06-2016:15:31:59
- 151 12/6/2016 - 3860 - Request for Submission
Additional Text: PLAINTIFF'S MOTION TO STRIKE (PAPER ORDER NOT PROVIDED) - Transaction 5839105 - Approved By: TBRITTON : 12-06-2016:15:31:59
PARTY SUBMITTING: R. CRAIG LUSIANI, ESQ.
DATE SUBMITTED: DECEMBER 6, 2016
SUBMITTED BY: TBRITTON
DATE RECEIVED JUDGE OFFICE:
- 152 12/6/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5839191 - Approved By: NOREVIEW : 12-06-2016:15:33:02
- 153 12/6/2016 - 2610 - Notice ...
Additional Text: of Errata - Transaction 5839573 - Approved By: PMSEWELL : 12-06-2016:16:57:20
- 154 12/6/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5839755 - Approved By: NOREVIEW : 12-06-2016:16:58:29
- 155 12/8/2016 - 2245 - Mtn in Limine
Additional Text: Defendants' Motions in Limine - Transaction 5843148 - Approved By: CSULEZIC : 12-08-2016:13:24:39
- 156 12/8/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5843281 - Approved By: NOREVIEW : 12-08-2016:13:25:35
- 157 12/9/2016 - 2491 - NRCP 16.1 Doc/Designation
Additional Text: Defendants' 16.1 Pretrial Disclosures - Transaction 5846391 - Approved By: PMSEWELL : 12-09-2016:14:50:56
- 158 12/9/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5846466 - Approved By: NOREVIEW : 12-09-2016:14:52:05
- 159 12/19/2016 - 2491 - NRCP 16.1 Doc/Designation
Additional Text: Transaction 5862397 - Approved By: PMSEWELL : 12-20-2016:09:44:35
- 160 12/19/2016 - 2475 - Mtn to Strike...

Additional Text: PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' 16.1 PRETRIAL DISCLOSURES - Transaction 5862398 - Approved By: PMSEWELL : 12-20-2016:09:45:45

161 12/19/2016 - 3860 - Request for Submission

Additional Text: - Transaction 5862408 - Approved By: PMSEWELL : 12-20-2016:09:58:25
DOCUMENT TITLE: PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTIONS IN LIMINE (NO ORDER PROVIDED)
PARTY SUBMITTING: CHARLES KOZAK, ESQ.
DATE SUBMITTED: DECEMBER 19, 2016
SUBMITTED BY: PMSEWELL
DATE RECEIVED JUDGE OFFICE:

162 12/19/2016 - 2475 - Mtn to Strike...

Additional Text: DFX: EXHIBITS PRESENTED INCORRECTLY - DID NOT ATTACH EXHIBITS - Plaintiffs' Motion to Strike Defendants' Motion in Limine - Transaction 5862409 - Approved By: PMSEWELL : 12-20-2016:09:59:43

163 12/19/2016 - 2645 - Opposition to Mtn ...

Additional Text: PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTIONS IN LIMINE - Transaction 5862412 - Approved By: PMSEWELL : 12-20-2016:10:03:01

164 12/20/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5862827 - Approved By: NOREVIEW : 12-20-2016:09:45:52

165 12/20/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5862832 - Approved By: NOREVIEW : 12-20-2016:09:48:03

166 12/20/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5862888 - Approved By: NOREVIEW : 12-20-2016:09:59:36

167 12/20/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5862895 - Approved By: NOREVIEW : 12-20-2016:10:00:42

168 12/20/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5862902 - Approved By: NOREVIEW : 12-20-2016:10:03:50

169 12/20/2016 - 2610 - Notice ...

Additional Text: NOTICE OF ERRATA - Transaction 5864581 - Approved By: TBRITTON : 12-21-2016:08:53:55

170 12/21/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5864998 - Approved By: NOREVIEW : 12-21-2016:08:54:57

171 12/21/2016 - 3370 - Order ...

Additional Text: [PLAINTIFF'S MTN TO STRIKE IS DENIED - ks] - Transaction 5866053 - Approved By: NOREVIEW : 12-21-2016:12:44:16

172 12/21/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5866057 - Approved By: NOREVIEW : 12-21-2016:12:45:15

173 12/21/2016 - S200 - Request for Submission Complet

No additional text exists for this entry.

174 12/22/2016 - 2650 - Opposition to ...

Additional Text: DEFENDANTS STEPHEN C. BALKENBUSH, ESQ. AND THORDAHL ARMSTRONG DELK BALKENBUSH & EISINGER'S OPPOSITION TO PLAINTIFFS' REQUEST FOR SUBMISSION - Transaction 5868309 - Approved By: CSULEZIC : 12-22-2016:13:01:33

175 12/22/2016 - NEF - Proof of Electronic Service

Additional Text: Transaction 5868490 - Approved By: NOREVIEW : 12-22-2016:13:02:35

176 12/27/2016 - 2610 - Notice ...

Additional Text: NOTICE OF FILING OF NRAP 21(a)(6) EMERGENCY PETITION FOR WRIT OF MANDAMUS AND REQUEST FOR STAY OF TRIAL - Transaction 5873540 - Approved By: YVILORIA : 12-28-2016:08:34:02

- 177 12/28/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5873602 - Approved By: NOREVIEW : 12-28-2016:08:35:00
- 178 12/28/2016 - 2645 - Opposition to Mtn ...
Additional Text: Defendants' Opposition to Plaintiffs' Motion to Strike Defendants' 16.1 Pretrial Disclosures - Transaction 5875248 - Approved By: CSULEZIC : 12-28-2016:15:37:10
- 179 12/28/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5875280 - Approved By: NOREVIEW : 12-28-2016:15:39:25
- 180 12/29/2016 - 2630 - Objection to ...
Additional Text: DEFENDANTS' OBJECTIONS TO PLAINTIFFS' PRETRIAL DISCLOSURES - Transaction 5876669 - Approved By: TBRITTON : 12-29-2016:13:28:53
- 181 12/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5876718 - Approved By: NOREVIEW : 12-29-2016:13:29:38
- 182 12/29/2016 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF THOMAS VALLAS, ESQ. - Transaction 5877675 - Approved By: CSULEZIC : 12-29-2016:16:41:40
- 183 12/29/2016 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF DR. ANIL BHANDARI - Transaction 5877675 - Approved By: CSULEZIC : 12-29-2016:16:41:40
- 184 12/29/2016 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF DR. HUGH G. CALKINS - Transaction 5877675 - Approved By: CSULEZIC : 12-29-2016:16:41:40
- 185 12/29/2016 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO EXCLUDE THE TESTIMONY OF DR. RAHUL DOSHI - Transaction 5877675 - Approved By: CSULEZIC : 12-29-2016:16:41:40
- 186 12/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5877684 - Approved By: NOREVIEW : 12-29-2016:16:42:37
- 187 12/30/2016 - 1188 - Supreme Court Receipt for Doc
Additional Text: SUPREME COURT NO. 72004 / RECEIPT FOR DOCUMENTS - Transaction 5878184 - Approved By: NOREVIEW : 12-30-2016:09:45:36
- 188 12/30/2016 - 4133 - Supreme Court Notice
Additional Text: SUPREME COURT NO. 72004 / NOTICE OF TRANSFER TO COURT OF APPEALS - Transaction 5878184 - Approved By: NOREVIEW : 12-30-2016:09:45:36
- 189 12/30/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5878186 - Approved By: NOREVIEW : 12-30-2016:09:46:35
- 190 12/30/2016 - 3790 - Reply to/in Opposition
Additional Text: Defendants' Reply to Plaintiffs' Opposition to Defendants' Motions in Limine - Transaction 5879788 - Approved By: PMSEWELL : 12-30-2016:15:24:22
- 191 12/30/2016 - 3860 - Request for Submission
Additional Text: - Transaction 5879788 - Approved By: PMSEWELL : 12-30-2016:15:24:22
DOCUMENT TITLE: MOTIONS IN LIMINE (NO ORDER PROVIDED)
PARTY SUBMITTING: DOMINIQUE POLLARA, ESQ.
DATE SUBMITTED: DECEMBER 30, 2016
SUBMITTED BY: PMSEWELL
DATE RECEIVED JUDGE OFFICE:
- 192 12/30/2016 - 2491 - NRCP 16.1 Doc/Designation
Additional Text: Defendants' 16.1 Supplemental Pretrial Disclosures - Transaction 5879793 - Approved By: PMSEWELL : 12-30-2016:15:24:59

- 193 12/30/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5879809 - Approved By: NOREVIEW : 12-30-2016:15:25:16
- 194 12/30/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5879812 - Approved By: NOREVIEW : 12-30-2016:15:25:56
- 195 1/6/2017 - 4128 - Supreme Court Order Denying
Additional Text: SUPREME COURT NO. 72004 / ORDER DENYING PETITION FOR WRIT OF MANDAMUS - Transaction 5888815 -
Approved By: NOREVIEW : 01-06-2017:16:33:10
- 196 1/6/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5888822 - Approved By: NOREVIEW : 01-06-2017:16:34:09
- 197 1/9/2017 - 2650 - Opposition to ...
Additional Text: OPPOSITON TO DEFENDANTS' OBJECTIONS TO PLAINTIFFS' PRETRIAL DISCLOSURES - Transaction 5889077 -
Approved By: TBRIITON : 01-10-2017:10:04:39
- 198 1/9/2017 - 2592 - Notice of Witnesses
Additional Text: Defendants' Stephen C. Balkenbush, Esq. and Thorndal Armstrong Delk Balkenbush & Eisinger's Notice of Witnesses -
Transaction 5889194 - Approved By: YVILORIA : 01-10-2017:11:51:30
- 199 1/9/2017 - 4210 - Trial Statement - Defendant
Additional Text: Defendants' Trial Statement - Transaction 5889194 - Approved By: YVILORIA : 01-10-2017:11:51:30
- 200 1/9/2017 - 4105 - Supplemental ...
Additional Text: PLAINTIFF'S SUPPLEMENTAL 16.1 DISCLOSURES - Transaction 5889196 - Approved By: YVILORIA : 01-10-2017:11:53:47
- 201 1/10/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5889555 - Approved By: NOREVIEW : 01-10-2017:10:05:39
- 202 1/10/2017 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS STEPHEN C. BALKENBUSH, ESQ. AND THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER'S
OPPOSITION TO PLAINTIFFS' IMPROPERLY FILED AND SERVED MOTION TO STRIKE DEFENDANTS' MOTION IN LIMINE - Transaction
5889768 - Approved By: TBRIITON : 01-10-2017:13:59:53
- 203 1/10/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5890041 - Approved By: NOREVIEW : 01-10-2017:11:52:29
- 204 1/10/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5890052 - Approved By: NOREVIEW : 01-10-2017:11:54:59
- 205 1/10/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5890549 - Approved By: NOREVIEW : 01-10-2017:14:01:10
- 206 1/10/2017 - S200 - Request for Submission Complet
Additional Text: 01.10.17 - JUDGE FLANAGAN RULED FROM BENCH DURING PTC RE MTNS IN LIMINE - DEFENDANT'S COUNSEL TO
PREP ORDER - ks
- 207 1/10/2017 - S200 - Request for Submission Complet
Additional Text: 01.10.17 - JUDGE FLANAGAN RULED FROM BENCH DURING PTC RE MTNS IN LIMINE - DEFENDANT'S COUNSEL TO
PREP ORDER - ks
- 208 1/10/2017 - 1770 - General Notice
Additional Text: Defendants' Stephen C. Balkenbush, Esq. and Thorndal Armstrong Delk Balkenbush & Eisinger's List of Exhibits -
Transaction 5891340 - Approved By: PMSEWELL : 01-11-2017:08:43:58
- 209 1/10/2017 - 4220 - Trial Statement - Plaintiff
Additional Text: Transaction 5891661 - Approved By: PMSEWELL : 01-11-2017:10:19:50

- 210 1/11/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5891859 - Approved By: NOREVIEW : 01-11-2017:08:45:00
- 211 1/11/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5892195 - Approved By: NOREVIEW : 01-11-2017:10:20:45
- 212 1/11/2017 - 1770 - General Notice
Additional Text: Defendants Stephen C. Balkenbush, Esq. and Thorndal Armstrong Delk Balkenbush & Eisinger's Amended List of Exhibits - Transaction 5892794 - Approved By: YVILORIA : 01-11-2017:12:04:41
- 213 1/11/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5892809 - Approved By: NOREVIEW : 01-11-2017:12:07:44
- 214 1/11/2017 - 2610 - Notice ...
Additional Text: List of Exhibits - Transaction 5893077 - Approved By: YVILORIA : 01-11-2017:13:44:27
- 215 1/11/2017 - 4205 - Trial Statement...
Additional Text: AMENDED PLAINTIFFS' TRIAL STATEMENT - Transaction 5893077 - Approved By: YVILORIA : 01-11-2017:13:44:27
- 216 1/11/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5893126 - Approved By: NOREVIEW : 01-11-2017:13:45:12
- 217 1/11/2017 - 3370 - Order ...
Additional Text: REGARDING DEFENDANTS' MOTIONS IN LIMINE - Transaction 5894136 - Approved By: NOREVIEW : 01-11-2017:17:16:13
- 218 1/11/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5894137 - Approved By: NOREVIEW : 01-11-2017:17:17:13
- 219 1/12/2017 - 2175 - Mtn for Reconsideration
Additional Text: of Order on Defendants' Motions In Limine Numbers 7 and 19 - Transaction 5895378 - Approved By: PMSEWELL : 01-12-2017:14:43:59
- 220 1/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5895578 - Approved By: NOREVIEW : 01-12-2017:14:44:54
- 221 1/12/2017 - 1770 - General Notice
Additional Text: Defendants Stephen C. Balkenbush, Esq. and Thorndal Armstrong Delk Balkenbush & Eisinger's Second Amended List of Exhibits - Transaction 5895818 - Approved By: YVILORIA : 01-12-2017:15:52:35
- 222 1/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5896008 - Approved By: NOREVIEW : 01-12-2017:15:53:20
- 223 1/13/2017 - 3880 - Response...
Additional Text: Response to Opposition to Defendants' Objections to Plaintiffs' Pretrial Disclosures - Transaction 5898168 - Approved By: PMSEWELL : 01-13-2017:16:51:18
- 224 1/13/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5898325 - Approved By: NOREVIEW : 01-13-2017:16:52:06
- 225 1/17/2017 - MIN - ***Minutes
Additional Text: PRE-TRIAL CONFERENCE - 01-10-17 - Transaction 5898725 - Approved By: NOREVIEW : 01-17-2017:08:33:18
- 226 1/17/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5898728 - Approved By: NOREVIEW : 01-17-2017:08:34:16
- 227 1/19/2017 - 4190 - Transcript - Partial

Additional Text: TRIAL TESTIMONY OF DAVID SMITH - JANUARY 19, 2017 - Transaction 5906989 - Approved By: NOREVIEW : 01-19-2017:17:11:01

228 1/19/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5906991 - Approved By: NOREVIEW : 01-19-2017:17:11:51

229 1/20/2017 - 1695 - ** Exhibit(s) ...

Additional Text: JURY TRIAL EXHIBITS 1 - 33; 40 - 47; 55 - 70

230 1/24/2017 - 3760 - Refused Instructions-Pltf

Additional Text: TWO (2) - Transaction 5912573 - Approved By: NOREVIEW : 01-24-2017:09:59:53

231 1/24/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5912575 - Approved By: NOREVIEW : 01-24-2017:10:02:29

232 1/24/2017 - 1885 - Jury Instructions

Additional Text: ONE (1) - THIRTY (30) - Transaction 5912582 - Approved By: NOREVIEW : 01-24-2017:10:02:45

233 1/24/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5912590 - Approved By: NOREVIEW : 01-24-2017:10:03:44

234 1/24/2017 - 3950 - Special Verdict ...

Additional Text: VERDICT IN FAVOR OF DEFENDANTS AND AGAINST PLAINTIFFS - Transaction 5912593 - Approved By: NOREVIEW : 01-24-2017:10:05:02

235 1/24/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5912596 - Approved By: NOREVIEW : 01-24-2017:10:06:02

236 1/24/2017 - COC - Evidence Chain of Custody Form

No additional text exists for this entry.

237 1/25/2017 - 1865 - Judgment on Verdict

Additional Text: Transaction 5916448 - Approved By: NOREVIEW : 01-25-2017:14:49:57

238 1/25/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5916463 - Approved By: NOREVIEW : 01-25-2017:14:51:25

239 1/25/2017 - F153 - Verdict Reached

No additional text exists for this entry.

240 1/27/2017 - 2535 - Notice of Entry of Judgment

Additional Text: Notice of Entry of Judgment on Jury Verdict - Transaction 5922074 - Approved By: NOREVIEW : 01-27-2017:16:12:56

241 1/27/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5922079 - Approved By: NOREVIEW : 01-27-2017:16:13:55

242 1/27/2017 - 1950 - Memorandum of Costs

Additional Text: Defendants' Verified Memorandum of Costs - Transaction 5922101 - Approved By: CSULEZIC : 01-30-2017:08:20:00

243 1/30/2017 - 4190 - Transcript - Partial

Additional Text: TRIAL TESTIMONY OF HUGH CALKINS - JANUARY 20, 2017 - Transaction 5922345 - Approved By: NOREVIEW : 01-30-2017:07:20:26

244 1/30/2017 - NEF - Proof of Electronic Service

Additional Text: Transaction 5922347 - Approved By: NOREVIEW : 01-30-2017:07:21:22

- 245 1/30/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5922394 - Approved By: NOREVIEW : 01-30-2017:08:20:57
- 246 1/30/2017 - MIN - ***Minutes
Additional Text: JURY TRIAL - JAN. 17, 2017 - JAN. 20, 2017 - Transaction 5922418 - Approved By: NOREVIEW : 01-30-2017:08:26:18
- 247 1/30/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5922420 - Approved By: NOREVIEW : 01-30-2017:08:27:19
- 248 2/1/2017 - 4131 - Supreme Ct Not/Lieu/Remittitur
Additional Text: SUPREME COURT NO. 72004 / NOTICE IN LIEU OF REMITTITUR - Transaction 5928750 - Approved By: NOREVIEW : 02-01-2017:14:15:09
- 249 2/1/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5928758 - Approved By: NOREVIEW : 02-01-2017:14:16:07
- 250 2/8/2017 - 2120 - Mtn for New Trial or JNOV
Additional Text: PLAINTIFF'S MOTION FOR NEW TRIAL - Transaction 5941839 - Approved By: YVILORIA : 02-08-2017:15:43:20
- 251 2/8/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5941892 - Approved By: NOREVIEW : 02-08-2017:15:45:33
- 252 2/10/2017 - JPAY - **Jury Fees for Payroll
Additional Text: Bond ID: JPAY-17-00002; Total Bond Amount: \$480.00.

Bond Code, YJPY, Receipted for: Kozak, Esq., Charles R., on 10-FEB-2017 in the amount of \$480.00 on case ID CV12-00571.
- 253 2/13/2017 - 1105 - Amended Ord and/or Judgment
Additional Text: AMENDED JUDGMENT ON JURY VERDICT [DEFENDANT SHALL RECOVER COSTS OF SUIT OF \$75,886.49 - ks] - Transaction 5948595 - Approved By: NOREVIEW : 02-13-2017:14:56:11
- 254 2/13/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5948610 - Approved By: NOREVIEW : 02-13-2017:15:00:18
- 255 2/14/2017 - 2535 - Notice of Entry of Judgment
Additional Text: Amended Judgment on Jury Verdict - Transaction 5951473 - Approved By: NOREVIEW : 02-14-2017:16:53:09
- 256 2/14/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5951481 - Approved By: NOREVIEW : 02-14-2017:16:54:02
- 257 2/16/2017 - 4190 - Transcript - Partial
Additional Text: TRIAL TESTIMONY OF MARK SEIFERT - JANUARY 18, 2017 - Transaction 5954992 - Approved By: NOREVIEW : 02-16-2017:14:17:16
- 258 2/16/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5955001 - Approved By: NOREVIEW : 02-16-2017:14:18:12
- 259 2/17/2017 - 2645 - Opposition to Mtn ...
Additional Text: Defendants' Opposition to Plaintiffs' Motion for New Trial - Transaction 5957510 - Approved By: YVILORIA : 02-17-2017:16:52:08
- 260 2/17/2017 - 3860 - Request for Submission
Additional Text: Transaction 5957510 - Approved By: YVILORIA : 02-17-2017:16:52:08
DOCUMENT TITLE: DEFT'S STEPHEN C BALKENBUSH ESQ AND THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER
OPPOSITION TO PLAINTIFF'S MOTION FOR NEW TRIAL
PARTY SUBMITTING: DOMINIQUE A POLLARA ESQ
DATE SUBMITTED: FEB 17, 2017
SUBMITTED BY: YVILORIA
DATE RECEIVED JUDGE OFFICE:

261 2/17/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5957698 - Approved By: NOREVIEW : 02-17-2017:16:54:04

262 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32758

263 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32773

264 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32772

265 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32770

266 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32769

267 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32766

268 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32765

269 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32764

270 2/22/2017 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$160.00 on Check Number 32761

271 2/23/2017 - 2610 - Notice ...
Additional Text: Notice of Withdrawal of Defendants' Request for Submission Filed on February 17, 2017 - Transaction 5964761 - Approved By: CSULEZIC : 02-23-2017:16:33:36

272 2/23/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5965009 - Approved By: NOREVIEW : 02-23-2017:16:37:18

273 2/24/2017 - S200 - Request for Submission Complet
Additional Text: 02.23.17 - NOTICE OF WITHDRAWAL OF SUBMISSION OF MTN FILED - ks

274 2/27/2017 - 3795 - Reply...
Additional Text: REPLY BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR NEW TRIAL - Transaction 5968987 - Approved By: PMSEWELL : 02-27-2017:13:59:15

275 2/27/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5969121 - Approved By: NOREVIEW : 02-27-2017:14:00:34

276 3/7/2017 - 3860 - Request for Submission
Additional Text: MOTION FOR NEW TRIAL FILED 2/08/17 - Transaction 5983745 - Approved By: CSULEZIC : 03-07-2017:12:40:49
PARTY SUBMITTING: CHARLES KOZAK, ESQ
DATE SUBMITTED: 3/07/17
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:

277 3/7/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5983907 - Approved By: NOREVIEW : 03-07-2017:12:41:59

- 278 3/31/2017 - 3370 - Order ...
Additional Text: [PLAINTIFFS' MTN FOR A NEW TRIAL IS DENIED - ks] - Transaction 6027552 - Approved By: NOREVIEW : 03-31-2017:12:55:54
- 279 3/31/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6027555 - Approved By: NOREVIEW : 03-31-2017:12:56:56
- 280 3/31/2017 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 281 3/31/2017 - 2540 - Notice of Entry of Ord
Additional Text: Notice of Entry of Order Denying Plaintiffs' Motion for New Trial - Transaction 6028448 - Approved By: NOREVIEW : 03-31-2017:17:33:56
- 282 3/31/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6028449 - Approved By: NOREVIEW : 03-31-2017:17:34:56
- 283 4/17/2017 - 1310 - Case Appeal Statement
Additional Text: Transaction 6055342 - Approved By: YVILORIA : 04-17-2017:16:06:16
- 284 4/17/2017 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: Transaction 6055342 - Approved By: YVILORIA : 04-17-2017:16:06:16
- 285 4/17/2017 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$34.00 was made on receipt DCDC572617.
- 286 4/17/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6055474 - Approved By: NOREVIEW : 04-17-2017:16:07:46
- 287 4/20/2017 - SAB - **Supreme Court Appeal Bond
Additional Text: Bond ID: SAB-17-00022; Total Bond Amount: \$500.00.

Bond Code, SAB, Receipted for: SITE DEFINED TRUST DEPOSIT, on 20-APR-2017 in the amount of \$500.00 on case ID CV12-00571.
- 288 4/20/2017 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 6062162 - Approved By: NOREVIEW : 04-20-2017:13:44:54

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANGELA DECHAMBEAU, et al.,

Case No.: CV12-00571

Plaintiffs,

Dept. No.: 7

vs.

STEPHEN C. BALKENBUSH, ESQ.,
et al.,

Defendants.

SCHEDULING ORDER

Nature of Action: Legal Malpractice

Date of Filing Joint Case Conference Report(s): Nothing filed

Time Required for Trial: (2) weeks; Jury Demand Filed: Yes

Charles Kozak, Esq. for Angela Dechambeau; and

Pollara Law Group for Stephen Balkenbush, et al.

Counsel representing all parties have been heard and after consideration by
the Court,

IT IS HEREBY ORDERED:

1. Complete all discovery by December 2, 2016 (45 days prior to trial).
2. File motions to amend pleadings or add parties on or before September 3, 2016 (at least 90 days prior to close of discovery).

1 3. Make initial expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or
2 before September 3, 2016 (at least 90 days prior to close of discovery; and 30 days
3 thereafter for rebuttal).

4 4. Make rebuttal expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or
5 before October 3, 2016.

6 a. Written reports of experts waived: Yes _____ No _____

7 5. Dispositive motions submitted on or before December 17, 2016 (30 days
8 prior to trial pursuant to Pretrial Order).

9 6. Motions in Limine to be submitted on or before January 1, 2016 (15
10 days prior to trial pursuant to Pretrial Order).

11 In the absence of extraordinary circumstances and except as otherwise
12 provided in subdivision (2), all required pretrial disclosures pursuant to NRCP
13 16.1(a)(2) shall be made at least 90 days before the discovery cutoff date. Unless
14 otherwise directed by the Court, all pretrial disclosures pursuant to NRCP
15 16.1(a)(3) must be made at least thirty (30) days before trial.

16 Motions for extensions of discovery shall be made to the Discovery
17 Commissioner prior to the expiration of the discovery deadline above. Any
18 modification of discovery deadlines **must** be in writing, signed by the parties or their
19 attorneys (or authorized representatives) and the Discovery Commissioner. A
20 **continuance of the trial date does not modify, alter, change or continue the**
21 **discovery schedule unless specifically agreed to by the parties, in writing, and**
22 **ordered by the Court.**

23 Unless other ordered, all discovery disputes (except disputes presented at a
24 pretrial conference or at trial) must be first heard by the Discovery Commissioner.

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If this matter is a bench trial, findings of fact are to be submitted, not filed, to the Court with the trial statement, but not in lieu of the trial statement.

DATED this 1st day of February, 2016.


DISTRICT JUDGE

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Charles Kozak, Esq. for Angela Dechambeau; and

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

I deposited in the Washoe County mailing system for postage and mailing the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Pollara Law Group
3600 American River Dr., #160
Sacramento, CA 95864

Karyn Lima
Judicial Assistant

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 ANGELA DeCHAMBEAU and JEAN-
10 PAUL DeCHAMBEAU, both individually
and as Special Administrators of the Estate
11 of NEIL DeCHAMBEAU,

12 Plaintiffs,

13 vs.

14 STEPHEN C. BALKENBUSH, ESQ.; and
THORNDAL ARMSTRONG DELK
15 BALKENBUSH & EISINGER, a Nevada
Professional Corporation,

16 Defendants.
17

Case No. CV 12-00571
Dept. 7

18 AMENDED JUDGMENT ON JURY VERDICT
19

20 WHEREAS, pursuant to the Court Order dated August 27, 2013 granting
21 Defendants' Motion to Bifurcate the underlying medical malpractice matter from the legal
22 malpractice matter, trial as to the medical malpractice matter commenced January 17, 2017,
23 Honorable Patrick Flanagan, District Court Judge Presiding, at the completion of which,
24 after due deliberation, the jury rendered a verdict finding "No Negligence" by David
25 Smith, M.D. in the underlying medical malpractice matter, and as a verdict of "Negligence"
26 by David Smith, M.D., as a matter of law, is a necessary element of the legal malpractice
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1 claim asserted against Defendants STEPHEN C. BALKENBUSH, ESQ. and THORNDAL
2 ARMSTRONG DELK BALKENBUSH & EISINGER, the Court rules, finds, and orders as
3 follows:
4

5 IT IS ORDERED, ADJUDGED AND DECREED that judgment is entered on the
6 Plaintiffs' complaint in favor of Defendants STEPHEN C. BALKENBUSH, ESQ. and
7 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER and the action will be
8 dismissed with prejudice, and Defendants STEPHEN C. BALKENBUSH, ESQ. and
9 THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER shall recover their costs
10 of suit in the amount of Seventy-Five Thousand, Eight Hundred Eighty-Six Dollars and
11 Forty-Nine Cents (\$75,886.49).
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14 Dated: *FEBRUARY 13, 2017.*
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16 *Patrick Flanagan*
17 HONORABLE PATRICK FLANAGAN
18 DISTRICT JUDGE
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1 records provided to him, Dr. Morady opined that Dr. Smith's conduct fell below the
2 standard of care. However, after review of the "Prucka" recording, also called the
3 "EPS data," Dr. Morady changed his opinion and no longer believed that Dr. Smith's
4 conduct fell below the standard of care. Dr. Smith was represented by Edward
5 Lemons, Esq., who disclosed in March 2010 Hugh Calkins, M.D. as his standard of
6 care expert in the underlying malpractice action. Mr. Lemons proffered a declaration
7 signed by Dr. Calkins setting forth his opinions that Dr. Smith complied with the
8 standard of care. After Dr. Morady's change of opinion, the medical malpractice action
9 was voluntarily dismissed and subsequently, the legal malpractice action against the
10 Defendants was commenced.

11 In their legal malpractice lawsuit, Plaintiffs asserted that Defendants had
12 breach their duty to Plaintiffs by mismanaging the medical malpractice case and
13 voluntarily dismissing the action without obtaining necessary discovery to move the
14 case to trial. The district court entered an *Order* granting Defendants' *Motion for*
15 *Summary Judgment*, finding that the Plaintiffs failed to demonstrate the causation
16 element of their cause of action, that is, whether Defendants' failure to engage in
17 written discovery and move the case to trial caused any damages. On November 30,
18 2015, the Nevada Supreme Court issued *Order of Reversal and Remand*, finding that
19 there was a triable issue of material fact and directing the district court to conduct
20 proceedings consistent with the Court's *Order*.

21 The primary issues in which Plaintiffs' *Motion for a New Trial* arises is
22 whether the disclosure of Hugh Calkins M.D. was improper and whether the district
23 court erred in precluding Plaintiffs' proffered rebuttal witness. The Court finds that
24 it was not an improper expert witness disclosure and the preclusion of the rebuttal
25 witness was appropriate.

26 Standard of Review

27 A new trial may be granted where an aggrieved party's substantial rights have
28 been materially affected by an: (1) irregularity in the proceedings...or abuse of

1 discretion by which either party was prevented from having a fair trial; or (7) an error
2 in law occurring at the trial and objected to by the party making the motion.¹ A new
3 trial should be granted if the jury verdict resulted in manifest injustice.² A trial court
4 is obliged to use “great caution” in exercising its power to set aside a jury verdict.³
5 The decision to grant or deny a motion for a new trial rests within the sound
6 discretion of the trial court, and this court will not disturb that decision absent
7 palpable abuse.⁴

8 Discussion

9 Plaintiffs argue that they are entitled to a new trial due this Court’s abuse of
10 discretion when issuing its February 2, 2016 *Scheduling Order* and reopening of
11 discovery, and for permitting Dr. Calkins to testify as to what Plaintiffs’ believe was
12 a new theory of the case. Furthermore, it was improper for the Court to preclude a
13 rebuttal witness after the testimony of Dr. Calkins. By permitting such disclosure of
14 Dr. Calkins and permitting him to testify, Plaintiffs assert that they were precluded
15 from having a fair trial under NRCP 59. Essentially, Plaintiffs assert that
16 Defendants’ expert disclosures are bound by the August 17, 2012, *Joint Case*
17 *Conference Report*, requiring the disclosure of expert witness be 120 days prior to
18 June 17, 2013. Therefore, Plaintiff argues that Defendants’ expert disclosure of Hugh
19 Calkins, M.D., on September 2, 2016 is untimely and should be stricken.

20 Plaintiffs rely on *Douglas v. Burley*, wherein the Mississippi Supreme Court
21 held that an order reversing a district court’s ruling and remanding it back consistent
22 with the order did not eliminate the trial court’s prior scheduling order and discovery
23 deadlines, so as to permit plaintiffs to designate new accident reconstruction expert
24 on remand.⁵ Therefore, because Defendants did not file a motion to extend the
25 deadline for expert disclosures, they were bound by the deadline set forth in the *Joint*

26 ¹ NRCP 59(a); *Edwards Indus. v. DTE/BTE, Inc.*, 112 Nev. 1025, 1035, 923 P.2d 569, 576 (1996).

27 ² *Frances v. Plaza Pac. Equities*, 109 Nev. 91, 847 P.2d 722 (1993).

28 ³ *Fox v. Cusick*, 91 Nev. 218, 220, 533 P.2d 466 (1975).

⁴ *Edwards Indus., Inc. v. DTE/BTE, Inc.*, 112 Nev. 1025, 1036, 923 P.2d 569, 576 (1996).

⁵ 134 So. 3d 692 (Miss. 2012).

1 *Case Conference Report*. The Court does not agree. The present case is
2 distinguishable in that the court in *Douglas v. Burley* did not issue a new scheduling
3 order, therefore their designation of an expert witness was bound by the initial
4 scheduling order. In the present case, this Court did issue a new *Scheduling Order*,
5 under its discretion to do so, and the Defendants timely disclosed Dr. Calkins as an
6 expert witness. Pointedly, that very same court clearly stated that the decision to
7 “reopen discovery and other pretrial matters in a case is left squarely within the
8 sound discretion of the trial court.”⁶ The finds that it was within its discretion to issue
9 a new scheduling order.

10 By entering its *Order* granting *Defendants’ Motion for Summary Judgment*,
11 this Court dismissed Plaintiff’s claims set forth in their *Complaint*. Thus, the Court
12 does not find that the parties should not have been bound by the August 17, 2012
13 *Joint Case Conference Report* discovery deadline. Therefore, the Court finds that the
14 February 2, 2016, *Scheduling Order* is appropriate and properly sets forth the
15 discovery deadlines in this matter and the disclosure of Dr. Calkins was timely and
16 appropriate.

17 Plaintiffs’ next argument is that Dr. Calkins’ testimony was not proper expert
18 testimony because his testimony exceeded the scope of disclosure and that Dr.
19 Calkins did not base his opinions on the medical records. The Court finds there is no
20 evidence to support either contention. Looking at the expert disclosure of Dr. Calkins
21 on September 2, 2016, Defendants indicated that: “Dr. Calkins is anticipated to
22 testify regarding the underlying standard of care as to the medical care and
23 treatment of decedent Neil DeChambeau, causation, and the standard of care as to
24 Defendant David Smith M.D.”⁷ After reviewing the testimony, the Court finds that
25 Dr. Calkins’ testimony was proper and within the scope of the disclosure. Plaintiffs
26 cannot point to any testimony that deviates from the disclosed nature of Dr. Calkins

27 ⁶ *Id.* at 697.

28 ⁷ Pl.s *Motion*, Ex. 6.

1 testimony and it appears to this Court that his testimony was in line with the NRCPL
2 16.1 disclosure.

3 As to Plaintiffs' contention that Dr. Calkins did not base his opinion on the
4 medical records but rather the testimony of Dr. Smith, the Court finds this argument
5 is without merit. From Dr. Calkins' testimony, it appears to this Court that his
6 opinion was based on the records of Washoe Medical Center, Dr. Smith's office, and
7 the office of Mr. DeChambeau's primary care doctor. The Court does not find any
8 evidence that Dr. Calkins' testimony was based on anything other the medical records
9 of Neil DeChambeau and the facts adduced at trial. In conjunction with the special
10 knowledge, skill, experience, training, and education of Dr. Calkins, the Court finds
11 that Dr. Calkins expert opinion on the present case was proper.

12 Plaintiffs' next argument is that Dr. Calkins' testimony against Dr. Morady's
13 August 29, 2007 *Affidavit* essentially raised a new theory of liability. After due
14 consideration, the Court does not find any merit in Plaintiffs' argument. As stated
15 above, Dr. Morady had changed his opinion as to causation and liability after he was
16 given the opportunity to review the "Prucka" or EPS data. Therefore it would be
17 inconsistent, to say the least, for Plaintiffs' to rely on an *Affidavit* of an expert of
18 whom subsequently changed his opinion to one different than the one stated in the
19 *Affidavit*. As such, the crux of Plaintiffs' argument seems to be bellied by the
20 subsequent opinion of very doctor to which the Plaintiffs rely. Therefore, the Court
21 does not find that Dr. Calkins' testimony raised a new theory of liability.
22 Furthermore, the fact that Plaintiffs' counsel had the opportunity to depose Dr.
23 Calkins prior to trial but chose not to, supports the finding there is no evidence of a
24 manifest injustice as a result of Dr. Calkins' testimony that would warrant an order
25 for a new trial.

26 Plaintiffs' next argument rests on the Court's refusal to allow Plaintiffs to
27 recall Mark Seifert, M.D. Plaintiffs assert that they should have been permitted to
28 recall Dr. Seifert after Dr. Calkins allegedly raised a new theory of causation and

1 liability based on "unsupported speculation." As to the Court's refusal to allow
2 Plaintiffs to recall Dr. Seifert, the Nevada Supreme Court has held that the trial court
3 possesses the inherent power to "control the disposition of the causes on its docket
4 with economy of time and effort for itself, for counsel, and for litigants."⁸
5 Furthermore, this Court is obligated to "secure fairness in administration, [and
6 ensure] elimination of unjustifiable expense and delay, and promotion of growth and
7 development of the law of evidence to the end that the truth may be ascertained and
8 proceedings justly determined."⁹ The Court made its determination to refuse recalling
9 Dr. Seifert based on the fact that Dr. Seifert was no longer in the state and thus the
10 proceedings would have had to be extended unnecessarily, causing undue delay and
11 expenses. Based on judicial economy, the nature of Dr. Seifert's testimony, and the
12 fact that Plaintiffs could have deposed Dr. Calkins prior and thereafter question Dr.
13 Seifert regarding on such deposition testimony, the Court finds that it did not abuse
14 its discretion in refusing Plaintiffs' request to recall Dr. Seifert.

15 After due consideration of all the evidence submitted herein, the Court does
16 not find that Plaintiffs have met their burden in establishing that a new trial is
17 warranted. Accordingly, and good cause permitting, Plaintiffs Motion for a New Trial
18 is DENIED.

19 IT IS SO ORDERED.

20 DATED this 31st day of March, 2017.

21 
22 PATRICK FLANAGAN
23 District Judge
24
25
26

27 ⁸ See *Maheu v. Eighth Judicial Dist. Court in and For Clark County, Dept. No. 6*, 89 Nev. 214, 216,
28 510 P.2d 627, 629.

⁹ NRS 47.030.

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Charles R. Kozak, Esq., attorney for Plaintiff; and
Dominique A. Pollara, Esq., attorney for Defendants.

7

[2540]
DOMINIQUE A. POLLARA, Nevada SBN 5742
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Attorneys for Defendants STEPHEN C. BALKENBUSH, ESQ.
and THORNDAL ARMSTRONG DELK BALKENBUSH &
EISINGER

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ANGELA DeCHAMBEAU and JEAN-
PAUL DeCHAMBEAU, both individually
and as Special Administrator of the Estate
of NEIL DeCHAMBEAU,

Plaintiffs,

vs.

STEPHEN C. BALKENBUSH, ESQ.; and
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER, a Nevada
Professional Corporation,

Defendants.

CASE NO. CV-12-00571

DEPT. 7

Trial Date: January 17, 2017

**NOTICE OF ENTRY OF ORDER DENYING
PLAINTIFFS' MOTION FOR NEW TRIAL**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

NOTICE OF HEREBY GIVEN that on March 31, 2017, the Court entered an
Order Denying Plaintiffs' Motion for New Trial. A copy of the Order is attached hereto

1 and incorporated herein by reference as if set forth in full as Exhibit 1.

2 **AFFIRMATION**

3 The undersigned does affirm, pursuant to NRS 239B.030, that the foregoing
4 document does not contain the social security number of any person.

5 Dated: March 31, 2017

6 **POLLARA LAW GROUP**

7
8 By 

DOMINIQUE A. POLLARA
Nevada Bar No. 5742
3600 American River Drive, Suite 160
Sacramento, CA 95864
(916) 550-5880
Attorneys for Defendants STEPHEN C.
BALKENBUSH, ESQ. and THORNDAL
ARMSTRONG DELK BALKENBUSH &
EISINGER

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CERTIFICATE OF SERVICE BY SERVICE

Pursuant to NRCP 5(b), I hereby certify I am an employee of Reno Carson Messenger and that on 31ST day of March, 2017, I caused the foregoing NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS' MOTION FOR NEW TRIAL to be served on all parties in this action by:

- ☐ placing an original or true copy thereof in a sealed envelope, postage prepaid, in the United States mail at Reno, Nevada.
- ☒ personal delivery.
- ☐ facsimile (courtesy copy).
- ☐ electronically served by the Court upon filing of document(s).
- ☐ email (courtesy copy).
- ☐ UPS/Federal Express or other overnight delivery.

☉fully addressed as follows:

| Attorney | Representing | Phone/Fax/E-Mail |
|---|--------------|--|
| Charles R. Kozak, Esq. 3100 Mill Street, Suite 115 Reno, NV 89502 | Plaintiff | (775) 322-1239 chuck@kozaklawfirm.com |



An employee of RENO CARSON
MESSENGER

EXHIBIT 1

EXHIBIT 1

| | | |
|---|------------|------------|
| ANGELA DECHAMBEAU, et al., | Case No.: | CV12-00571 |
| Plaintiff, | Dept. No.: | 7 |
| vs. | | |
| STEPHEN C. BALKENBUSH, ESQ., et al., | | |
| Defendants. | | |

Currently before the Court is Plaintiffs ANGELA DECHAMBEAU ET AL.'s (hereinafter "Plaintiffs") *Motion for a New Trial*, filed on February 8, 2017. On February 17, 2017, Defendants STEPHEN C. BALKENBUSH ET AL. (hereinafter "Defendants") filed *Opposition to Plaintiffs' Motion for New Trial*. On February 27, 2017, Plaintiffs filed *Reply Brief In Support of Plaintiffs' Motion for New Trial*. On March 7, 2017, this matter was submitted to the Court for decision.

The legal malpractice lawsuit arose from a medical malpractice lawsuit filed in Washoe County by Defendants on behalf of Plaintiffs. On September 7, 2006, the decedent Neil DeChambeau died after an atrial fibrillation ablation procedure performed by David Smith, M.D. failed. The underlying malpractice suit was filed in September 2007 by Defendants. Attached to the underlying *Complaint* was the *Affidavit* of Dr. Fred Morady, dated August 29, 2007. Based on review of the medical

1 records provided to him, Dr. Morady opined that Dr. Smith's conduct fell below the
2 standard of care. However, after review of the "Prucka" recording, also called the
3 "EPS data," Dr. Morady changed his opinion and no longer believed that Dr. Smith's
4 conduct fell below the standard of care. Dr. Smith was represented by Edward
5 Lemons, Esq., who disclosed in March 2010 Hugh Calkins, M.D. as his standard of
6 care expert in the underlying malpractice action. Mr. Lemons proffered a declaration
7 signed by Dr. Calkins setting forth his opinions that Dr. Smith complied with the
8 standard of care. After Dr. Morady's change of opinion, the medical malpractice action
9 was voluntarily dismissed and subsequently, the legal malpractice action against the
10 Defendants was commenced.

11 In their legal malpractice lawsuit, Plaintiffs asserted that Defendants had
12 breach their duty to Plaintiffs by mismanaging the medical malpractice case and
13 voluntarily dismissing the action without obtaining necessary discovery to move the
14 case to trial. The district court entered an *Order* granting Defendants' *Motion for*
15 *Summary Judgment*, finding that the Plaintiffs failed to demonstrate the causation
16 element of their cause of action, that is, whether Defendants' failure to engage in
17 written discovery and move the case to trial caused any damages. On November 30,
18 2015, the Nevada Supreme Court issued *Order of Reversal and Remand*, finding that
19 there was a triable issue of material fact and directing the district court to conduct
20 proceedings consistent with the Court's *Order*.

21 The primary issues in which Plaintiffs' *Motion for a New Trial* arises is
22 whether the disclosure of Hugh Calkins M.D. was improper and whether the district
23 court erred in precluding Plaintiffs' proffered rebuttal witness. The Court finds that
24 it was not an improper expert witness disclosure and the preclusion of the rebuttal
25 witness was appropriate.

26 Standard of Review

27 A new trial may be granted where an aggrieved party's substantial rights have
28 been materially affected by an: (1) irregularity in the proceedings...or abuse of

1 discretion by which either party was prevented from having a fair trial; or (7) an error
2 in law occurring at the trial and objected to by the party making the motion.¹ A new
3 trial should be granted if the jury verdict resulted in manifest injustice.² A trial court
4 is obliged to use "great caution" in exercising its power to set aside a jury verdict.³
5 The decision to grant or deny a motion for a new trial rests within the sound
6 discretion of the trial court, and this court will not disturb that decision absent
7 palpable abuse.⁴

8 Discussion

9 Plaintiffs argue that they are entitled to a new trial due this Court's abuse of
10 discretion when issuing its February 2, 2016 *Scheduling Order* and reopening of
11 discovery, and for permitting Dr. Calkins to testify as to what Plaintiffs' believe was
12 a new theory of the case. Furthermore, it was improper for the Court to preclude a
13 rebuttal witness after the testimony of Dr. Calkins. By permitting such disclosure of
14 Dr. Calkins and permitting him to testify, Plaintiffs assert that they were precluded
15 from having a fair trial under NRCP 59. Essentially, Plaintiffs assert that
16 Defendants' expert disclosures are bound by the August 17, 2012, *Joint Case*
17 *Conference Report*, requiring the disclosure of expert witness be 120 days prior to
18 June 17, 2013. Therefore, Plaintiff argues that Defendants' expert disclosure of Hugh
19 Calkins, M.D., on September 2, 2016 is untimely and should be stricken.

20 Plaintiffs rely on *Douglas v. Burley*, wherein the Mississippi Supreme Court
21 held that an order reversing a district court's ruling and remanding it back consistent
22 with the order did not eliminate the trial court's prior scheduling order and discovery
23 deadlines, so as to permit plaintiffs to designate new accident reconstruction expert
24 on remand.⁵ Therefore, because Defendants did not file a motion to extend the
25 deadline for expert disclosures, they were bound by the deadline set forth in the *Joint*

26 ¹ NRCP 59(a); *Edwards Indus. v. DTE/BTE, Inc.*, 112 Nev. 1025, 1035, 923 P.2d 569, 576 (1996).

27 ² *Frances v. Plaza Pac. Equities*, 109 Nev. 91, 847 P.2d 722 (1993).

28 ³ *Fox v. Cusick*, 91 Nev. 218, 220, 533 P.2d 466 (1975).

⁴ *Edwards Indus., Inc. v. DTE/BTE, Inc.*, 112 Nev. 1025, 1036, 923 P.2d 569, 576 (1996).

⁵ 134 So. 3d 692 (Miss. 2012).

1 *Case Conference Report*. The Court does not agree. The present case is
2 distinguishable in that the court in *Douglas v. Burley* did not issue a new scheduling
3 order, therefore their designation of an expert witness was bound by the initial
4 scheduling order. In the present case, this Court did issue a new *Scheduling Order*,
5 under its discretion to do so, and the Defendants timely disclosed Dr. Calkins as an
6 expert witness. Pointedly, that very same court clearly stated that the decision to
7 "reopen discovery and other pretrial matters in a case is left squarely within the
8 sound discretion of the trial court."⁶ The finds that it was within its discretion to issue
9 a new scheduling order.

10 By entering its *Order granting Defendants' Motion for Summary Judgment*,
11 this Court dismissed Plaintiff's claims set forth in their *Complaint*. Thus, the Court
12 does not find that the parties should not have been bound by the August 17, 2012
13 *Joint Case Conference Report* discovery deadline. Therefore, the Court finds that the
14 February 2, 2016, *Scheduling Order* is appropriate and properly sets forth the
15 discovery deadlines in this matter and the disclosure of Dr. Calkins was timely and
16 appropriate.

17 Plaintiffs' next argument is that Dr. Calkins' testimony was not proper expert
18 testimony because his testimony exceeded the scope of disclosure and that Dr.
19 Calkins did not base his opinions on the medical records. The Court finds there is no
20 evidence to support either contention. Looking at the expert disclosure of Dr. Calkins
21 on September 2, 2016, Defendants indicated that: "Dr. Calkins is anticipated to
22 testify regarding the underlying standard of care as to the medical care and
23 treatment of decedent Neil DeChambeau, causation, and the standard of care as to
24 Defendant David Smith M.D."⁷ After reviewing the testimony, the Court finds that
25 Dr. Calkins' testimony was proper and within the scope of the disclosure. Plaintiffs
26 cannot point to any testimony that deviates from the disclosed nature of Dr. Calkins

27 ⁶ *Id.* at 697.

28 ⁷ Pl.s *Motion*, Ex. 6.

1 testimony and it appears to this Court that his testimony was in line with the NRCP
2 16.1 disclosure.

3 As to Plaintiffs' contention that Dr. Calkins did not base his opinion on the
4 medical records but rather the testimony of Dr. Smith, the Court finds this argument
5 is without merit. From Dr. Calkins' testimony, it appears to this Court that his
6 opinion was based on the records of Washoe Medical Center, Dr. Smith's office, and
7 the office of Mr. DeChambeau's primary care doctor. The Court does not find any
8 evidence that Dr. Calkins' testimony was based on anything other the medical records
9 of Neil DeChambeau and the facts adduced at trial. In conjunction with the special
10 knowledge, skill, experience, training, and education of Dr. Calkins, the Court finds
11 that Dr. Calkins expert opinion on the present case was proper.

12 Plaintiffs' next argument is that Dr. Calkins' testimony against Dr. Morady's
13 August 29, 2007 *Affidavit* essentially raised a new theory of liability. After due
14 consideration, the Court does not find any merit in Plaintiffs' argument. As stated
15 above, Dr. Morady had changed his opinion as to causation and liability after he was
16 given the opportunity to review the "Prucka" or EPS data. Therefore it would be
17 inconsistent, to say the least, for Plaintiffs' to rely on an *Affidavit* of an expert of
18 whom subsequently changed his opinion to one different than the one stated in the
19 *Affidavit*. As such, the crux of Plaintiffs' argument seems to be bellied by the
20 subsequent opinion of very doctor to which the Plaintiffs rely. Therefore, the Court
21 does not find that Dr. Calkins' testimony raised a new theory of liability.
22 Furthermore, the fact that Plaintiffs' counsel had the opportunity to depose Dr.
23 Calkins prior to trial but chose not to, supports the finding there is no evidence of a
24 manifest injustice as a result of Dr. Calkins' testimony that would warrant an order
25 for a new trial.

26 Plaintiffs' next argument rests on the Court's refusal to allow Plaintiffs to
27 recall Mark Seifert, M.D. Plaintiffs assert that they should have been permitted to
28 recall Dr. Seifert after Dr. Calkins allegedly raised a new theory of causation and

1 liability based on "unsupported speculation." As to the Court's refusal to allow
2 Plaintiffs to recall Dr. Seifert, the Nevada Supreme Court has held that the trial court
3 possesses the inherent power to "control the disposition of the causes on its docket
4 with economy of time and effort for itself, for counsel, and for litigants."⁸
5 Furthermore, this Court is obligated to "secure fairness in administration, [and
6 ensure] elimination of unjustifiable expense and delay, and promotion of growth and
7 development of the law of evidence to the end that the truth may be ascertained and
8 proceedings justly determined."⁹ The Court made its determination to refuse recalling
9 Dr. Seifert based on the fact that Dr. Seifert was no longer in the state and thus the
10 proceedings would have had to be extended unnecessarily, causing undue delay and
11 expenses. Based on judicial economy, the nature of Dr. Seifert's testimony, and the
12 fact that Plaintiffs could have deposed Dr. Calkins prior and thereafter question Dr.
13 Seifert regarding on such deposition testimony, the Court finds that it did not abuse
14 its discretion in refusing Plaintiffs' request to recall Dr. Seifert.

15 After due consideration of all the evidence submitted herein, the Court does
16 not find that Plaintiffs have met their burden in establishing that a new trial is
17 warranted. Accordingly, and good cause permitting, Plaintiffs Motion for a New Trial
18 is DENIED.

19 IT IS SO ORDERED.

20 DATED this 31st day of March, 2017.

21 
22 PATRICK FLANAGAN
23 District Judge
24
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27 ⁸ See *Maheu v. Eighth Judicial Dist. Court in and For Clark County*, Dept. No. 6, 89 Nev. 214, 216,
28 510 P.2d 627, 629.

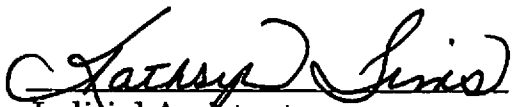
⁹ NRS 47.030.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 3rd day of March, 2017, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Charles R. Kozak, Esq., attorney for Plaintiff; and
Dominique A. Pollara, Esq., attorney for Defendants.


Judicial Assistant

CASE NO. CV12-00571

A. DECHAMBEAU ET AL. vs. STEPHEN BALKENBUSH et al.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

9/11/12
HONORABLE
PATRICK
FLANAGAN
DEPT. NO. 7
K. Oates
(Clerk)
S. Koetting
(Reporter)

MANDATORY PRETRIAL STATUS CONFERENCE

Charles Kozak, Esq., was present in Court on behalf of the Plaintiffs, who were not present.

Margo Piscevich, Esq., was present in Court on behalf Defendants, who were not present.

1:18 p.m. – Court convened with Court and counsel present.

Counsel for the Plaintiffs addressed and advised the Court that discovery is progressing and discovery deadlines have been set.

Counsel for the Defendants addressed the Court and responded that written discovery has been prepared, Plaintiffs' counsel is obtaining medical records, and the parties are working toward setting depositions.

COURT ORDERED: Status Hearing set for February 28, 2013 at 1:30 p.m. at which time a Settlement Conference may be set.

1:22 p.m. – Court stood in recess.

CASE NO. CV12-00571

A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/24/13
HONORABLE
PATRICK
FLANAGAN
DEPT. NO. 7
K. Oates
(Clerk)
S. Koetting
(Reporter)

ORAL ARGUMENTS IN RE: DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

Charles Kozak, Esq., was present in Court on behalf of the Plaintiffs,
who were not present.

Margo Piscevich, Esq., was present in Court on behalf of the
Defendants, with Defendant Stephen Balkenbush being present.

1:54 p.m. – Court convened with Court, counsel and Defendant
Balkenbush present.

The Court provided a procedural history of this case, further advising
counsel that he would like them to begin with argument as to the
medical malpractice action. Further, the Court found that the
Plaintiffs' opposition does not state a claim for punitive damages, and
therefore, that claim is forfeited and dismissed.

Counsel for the Defendants addressed the Court and argued in
support of granting Defendants' Motion for Summary Judgment.

Counsel for the Plaintiffs addressed the Court and argued in support
of the Court denying the Defendants' Motion for Summary Judgment.

Counsel for the Defendants further argued in support of granting
Defendants' Motion for Summary Judgment.

Respective counsel presented additional argument.

COURT ORDERED: Defendants' Motion for Summary Judgment is
GRANTED. It is further ordered that counsel for the Defendants will
prepare the proposed order.

3:11 p.m. – Court stood in recess.

CASE NO. CV12-00571

A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

01/28/16

HONORABLE

PATRICK

FLANAGAN

DEPT. NO. 7

K. Oates

(Clerk)

S. Koetting

(Reporter)

STATUS HEARING

Charles Kozak, Esq., was present in Court on behalf of the Plaintiff, who was not present.

Dominique Pollara, Esq., was present in Court via Court Call on behalf of the Defendant, who was not present.

9:05 a.m. – Court convened with Court and counsel present.

Counsel Kozak addressed the Court and advised he prepared to set and proceed with trial.

Counsel for the Defendant responded and concurred.

COURT ORDERED: Jury Trial set for January 17, 2017 at 9:30 a.m. for two weeks, and the Pretrial Conference is set for January 5, 2017 at 2:00 p.m.

9:18 a.m. – Court stood in recess.

CASE NO. CV12-00571

A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

01/10/17

PRE-TRIAL CONFERENCE

HONORABLE

Charles Kozak, Esq., and Craig Lusiani, Esq., were present in Court on behalf of the Plaintiff, who was not present.

PATRICK

Dominique Pollara, Esq., was present in Court via Court Call on behalf of the Defendants, who were not present.

FLANAGAN

DEPT. NO. 7

2:08 p.m. – Court convened with Court and counsel present.

K. Oates

(Clerk)

The Court addressed counsel and advised the Plaintiff's Motion to Strike would be revisited after argument as to the Motions in Limine and the attendance at trial of defense witness Fred Morady, M.D.

S. Koetting

(Reporter)

Counsel Kozak, on behalf of the Plaintiff, addressed the Court and advised that a key defense witness, Fred Morady, M.D., is unable to attend the trial in person, and further, counsel argued that it would be his preference that the witness appear in person when testifying.

Counsel for the Defendants addressed the Court and argued that

she does not want to lose the current trial date, and the witness

could testify by either video means or deposition transcript.

Counsel Kozak responded and further argued in support of the witness appearing in person, however, he does not need the witness to testify in his case-in-chief.

COURT ORDERED: Witness Fred Morady, M.D., is excused from testifying in person and his deposition transcript and affidavit can be used in lieu of live testimony.

Counsel Kozak responded that he does not need any special accommodations of his witnesses, however, Mr. Seifert will be drawing a diagram.

Counsel Pollara replied there may be some downtime on Thursday of the first week of trial and working on Jury Instructions during that time may be appropriate.

The Court and counsel discussed the trial schedule, to include the medical malpractice and legal malpractice cases.

Counsel Pollara responded and argued that Plaintiff's counsel must prove negligence, causation and the nature and extent of damages, and need to "put on" their entire case.

The Court next addressed Motions in Limine, and argument was presented by both sides.

CASE NO. CV12-00571

A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

Page Two

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

01/10/17
HONORABLE
PATRICK
FLANAGAN
DEPT. NO. 7
K. Oates
(Clerk)
S. Koetting
(Reporter)

PRE-TRIAL CONFERENCE

Counsel Pollara argued as to untimely Motions filed by counsel Kozak.

The Court took a brief recess to review the recently filed Defendants' Reply to Plaintiff's Opposition to Defendants' Motions in Limine.

2:25 p.m. – Recess.

2:48 p.m. – Court reconvened with Court and counsel present.

The Court ruled as to Defendants' Motions in Limine.

COURT ORDERED:

Motion in Limine No. 1, 2, 3, 4, 5, 6, 7, and 8 – GRANTED; Motion in Limine No. 5 will be granted to include modification as ordered by the Court; Motion in Limine No. 9 – DENIED; Motion in Limine 10 – GRANTED IN PART; Motion in Limine No. 10 will be granted to include modification as ordered by the Court; No. 11 – GRANTED/STIPULATED; Motion in Limine No.12 – GRANTED; Motion in Limine No. 13 – GRANTED; Motion in Limine No. 13 will be granted to include modification as ordered by the Court; Motion in Limine No. 14, 15, 16, 17, 18, and 19 GRANTED; After argument presented by counsel, Motion in Limine No. 20 – DENIED; and Motion in Limine No. 21 – GRANTED.

The Court next revisited Plaintiff's Motion to Strike to include the Court's reversal, in that, Motion to Strike would now be GRANTED as the disclosure of defense witness Hugh Calkin, M.D., was untimely. Counsel Pollara argued in support of the Court remaining with its original decision and allow Dr. Calkin to testify, as she has relied on that decision when preparing for trial.

Counsel Kozak responded and argued that Dr. Calkin is a witness in the legal malpractice case and can't testify in the medical malpractice case.

Counsel Pollara responded and presented additional argument to include that expert witness reports were waived in this case, and she disagrees with counsel Kozak's position.

Counsel Kozak replied and further argued.

Counsel Pollara responded and further argued in support of allowing Dr. Calkin to testify in the medical malpractice case.

CASE NO. CV12-00571

A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

Page Three

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

01/10/17
HONORABLE
PATRICK
FLANAGAN
DEPT. NO. 7
K. Oates
(Clerk)
S. Koetting
(Reporter)

PRE-TRIAL CONFERENCE

COURT ORDERED: The Court's will stand on its previous order and
Hugh Calkin, M.D., can testify at trial.

The Court and counsel discussed Department Seven's jury trial
process.

COURT ORDERED: Counsel Pollara will prepare and submit the
proposed order to the Court.

3:36 p.m. – Court stood in recess.

CASE NO. CV12-00571

A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

01/17/17

HONORABLE

PATRICK

FLANAGAN

DEPT. NO. 7

K. Oates

(Clerk)

S. Koetting

(Reporter)

JURY TRIAL – Day One

Charles Kozak, Esq., and Craig Lusiani, Esq. were present in Court, representing Plaintiffs Angela DeChambeau, and Jean Paul DeChambeau, both of whom were present.

Dominique Pollara, Esq., was present in Court, representing the Defendants, with Defendant Stephen Balkenbush present.

9:43 a.m. – Court convened with Court, counsel, prospective jury panel, and respective parties present.

Prior to the commencement of Court, Plaintiffs' Exhibits 1 – 33, and Defendant's Exhibits 40 – 47 and 55 - 70 were marked for identification, with Exhibits 2, 4 – 11, 23 – 25, 26 – 32 and 40 - 45 being stipulated to by counsel as to their admissibility.

Proposed Jury Instructions, including Special Verdict form, were provided to the Court by both counsel.

The Court addressed the prospective jurors.

Introduction of Court staff, respective counsel and parties were made to the prospective jurors.

Roll taken. All prospective Forty-One (41) jurors were present.

All prospective jurors were sworn to answer questions touching upon their qualifications to serve as trial jurors in this case.

The Court read to the prospective jury panel a statement of the case, prepared and stipulated to by counsel.

The Court ordered that Twenty (20) names be drawn, consisting of Eight (8) jurors and Two (2) alternates, who were called and seated in the jury box.

At the direction of the Court, the Twenty (20) prospective jurors introduced themselves.

The Court conducted general and specific voir dire examination of the potential jurors in the box.

Potential Juror Sweet was Court excused and replaced with potential juror Davidson.

Potential Juror Dees was Court excused and replaced with potential juror Schumacher.

Potential Juror Stander was Court excused and replaced with potential juror Wilson.

Potential Juror Eisert was Court excused and replaced with potential juror Krupa.

Potential Juror Krupa was Court excused and replaced with potential juror Polan.

DATE, JUDGE
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HONORABLE
PATRICK

FLANAGAN

DEPT. NO. 7

K. Oates

(Clerk)

S. Koetting

(Reporter)

JURY TRIAL – Day One

The Court continued with general and specific voir dire examination of the potential jurors in the box.

The Court inquired if any of the potential jurors knew counsel or himself.

Bailiff Garrett Bird read the list of witnesses expected to be called in this case.

The Court continued with general and specific voir dire examination of the potential jurors in the box.

Potential Juror Bravo was Court excused and replaced with potential juror Dohr.

11:18 a.m. – Morning Recess.

11:48 a.m. – Court reconvened with Court, counsel, prospective jury panel and respective parties present.

Counsel Kozak, on behalf of the Plaintiffs, conducted general and specific voir dire examination of the potential jurors in the box.

Potential Juror Smalley was excused for cause and replaced with potential juror Nelson.

Potential Juror Nelson was excused for cause and replaced with potential juror Becerra.

11:58 a.m. – Counsel Pollara, on behalf of the Defendants, conducted general and specific voir dire examination.

Potential Juror Becerra was excused for cause and replaced with potential juror Jester.

Potential Juror Schumacher was excused for cause and replaced with potential juror Padilla.

Potential Juror Padilla was excused for cause and replaced with potential juror Canale.

Potential Juror Knight was excused for cause and replaced with potential juror Puatu.

The Court admonished the Jury, which was presented prior to every recess.

12:38 p.m. – Recess to conduct challenges.

12:43 p.m. – Court reconvened in chambers where preemptory challenges were exercised, Four (4) per side plus One (1) alternate.

Respective counsel passed the prospective panel for cause, and the following jury panel was selected and stipulated, to include one alternate:

Ramonette Puatu; Carla Blanks; Billy Dohr; Albert Brayton; Randy Bussa; Janet Griffin; Richard Jester; Matthew Gomez; and Alternate Galin Brooks.

12:58 p.m. – Recess.

1:02 p.m. – Court reconvened with Court, counsel, prospective jurors and Defendant present.

The selected and stipulated jurors were seated in the jury box and sworn. The Court

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A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

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S. Koetting
(Reporter)

JURY TRIAL – Day One

thanked and excused the unreachd and unselected prospective jurors.
The Court admonished the Jury, released them for the lunch, and ordered them to return at 2:00 p.m.

Outside the presence of the Jury, counsel Kosak deferred to counsel Lusiani as to Plaintiffs' Motion for Reconsideration as to rulings pertaining to Defendants' Motions in Limine 7 and 19.

Counsel Lusiani argued in support of Plaintiffs' Motion for Reconsideration to include statements made by Dr. Smith should be included at trial.

Counsel Pollara responded and argued that the Court's previous ruling was accurate and added nothing further.

COURT ORDERED: Dr. Smith's first statement as to "I killed someone" is more prejudicial than probative and is precluded.

Counsel Pollara advised she has no opinion and will defer to the Court as to the second statement by Dr. Smith as to apologizing.

COURT ORDERED: The second statement by Dr. Smith as to apologizing will be permitted at trial.

Counsel Lusiani argued that the communications between Defendant Balkenbush and the Plaintiffs should be included at trial to show what the communications were and were not.

Counsel Pollara argued in support of the Court denying the Motion for Reconsideration, to include that Dr. Gillock should be bound by his deposition testimony.

COURT ORDERED: The Motion for Reconsideration is DENIED, however, if Dr. Gillock intends to change his testimony, the Court will conduct a Hearing outside the presence of the Jury. It is further ordered that the Plaintiffs can testify, but not to falling below the standard of care.

1:25 p.m. – Noon recess.

2:14 p.m. – Court convened with Court, counsel and respective parties present.

Outside the presence of the Jury, respective counsel stipulated to the admission of Exhibits.

COURT ORDERED: By stipulation of counsel, **Exhibits 2, and 4 – 11 are ADMITTED.**

Counsel Kozak, on behalf of the Plaintiffs, presented Opening Statement.

Counsel Pollara, on behalf of the Defendants, presented Opening Statement.

Jury admonished and excused for the evening to return on Wednesday, January 18, 2017 at 9:00 a.m.

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JURY TRIAL – Day One

Outside the presence of the Jury, the trial schedule was discussed between the Court and counsel.

Court to reconvene on Wednesday, January 18, 2017 at 9:00 a.m.

3:05 p.m. - Recess.

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(Clerk)
S. Koetting
(Reporter)

JURY TRIAL – Day Two

Charles Kozak, Esq., and Craig Lusiani, Esq. were present in Court, representing Plaintiffs Angela DeChambeau, and Jean Paul DeChambeau, both of whom were present.

Dominique Pollara, Esq., was present in Court, representing the Defendants, with Defendant Stephen Balkenbush present.

9:23 a.m. – Court convened with Court, counsel, Jury, and respective parties present.

Counsel stipulated to the presence of the Jury.

Counsel Kozak, on behalf of the Plaintiffs, called **Mark Seifert**, who was sworn and direct examined.

10:18 a.m. – Sidebar conducted, Court and counsel, as to Exhibit 12, Dr. Morady Affidavit.

Jury Admonished and escorted into the Jury Room.

10:37 a.m. - Recess.

11:10 a.m. – Court reconvened with Court, counsel, Jury and respective parties present. Counsel stipulated to the presence of the Jury.

Mark Seifert resumed the stand, heretofore sworn and cross-examination conducted; re-direct examined conducted.

11:41 a.m. – Sidebar conducted, Court and counsel, as to counsel Kozak requesting a statement/hearsay document be admitted to which the Court responded not proper through witness Seifert.

Re-cross examination conducted; further re-direct examination conducted; further re-cross examination conducted; witness excused.

Jury admonished and released for the noon recess to return at 1:30 p.m.

Outside the presence of the Jury, counsel for the Defendants addressed exhibits.

COURT ORDERED: By stipulation of counsel **Exhibits 23, 24, 25, 26 – 32 and 40 – 45 are ADMITTED.**

Counsel Lusiani responded that the parties have agreed to admit a modified Exhibit 25.

COURT ORDERED: The modified Exhibit 25 will be remarked as **Exhibit 25(b) and ADMITTED.**

11:51 a.m. – Noon Recess.

1:40 p.m. – Court reconvened with Court, counsel, Jury and respective parties present. Counsel stipulated to the presence of the Jury.

Counsel Lusiani, on behalf of the Plaintiffs, called **Jean-Paul DeChambeau**, who was sworn and direct examined.

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JURY TRIAL – Day Two

Cross-examination waived; witness excused.

Counsel Lusiani, on behalf of the Plaintiffs called **Angela DeChambeau**, who was sworn and direct examined; cross-examination conducted; re-direct examination waived; witness excused.

Jury Admonished and escorted into the Jury Room.

2:37 p.m. – Afternoon Recess.

3:08 p.m. – Court reconvened with Court, counsel, Jury and respective parties present. Counsel stipulated to the presence of the Jury.

Prior to resuming Court, counsel advised Court Clerk Kim Oates that they would be rescinding their request to mark Exhibit 25(b), and admit the same. Further, they stipulated to continue with the Court's previous admission of Exhibit 25. Per the Court, this notation is to be included in the Court's minutes, to include **Exhibit 25 being RE-ADMITTED.**

Counsel Lusiani, on behalf of the Plaintiffs called **Richard Teichner**, who was sworn and direct examined; cross-examination conducted; re-direct examination waived; witness excused.

Jury Admonished and released for the evening, to return on Thursday, January 19, 2017 at 9:00 a.m.

3:48 p.m. – Court stood in recess.

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A. DECHAMBEAU et al. vs. STEPHEN BALKENBUSH et al.

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K. Oates
(Clerk)
S. Koetting
(Reporter)

JURY TRIAL – Day Three

Charles Kozak, Esq., and Craig Lusiani, Esq. were present in Court, representing Plaintiffs Angela DeChambeau, and Jean Paul DeChambeau, both of whom were present.

Dominique Pollara, Esq., was present in Court, representing the Defendants, with Defendant Stephen Balkenbush present.

9:01 a.m. – Court convened with Court, counsel, Jury, and respective parties present. Respective counsel stipulated to the presence of the Jury.

Counsel Pollara, on behalf of the Defendants, called **David Smith**, who was sworn and direct examined; cross examined conducted by counsel Kozak; re-direct examination conducted; re-cross examination conducted; further re-direct examination; witness excused.

Jury Admonished and released for the day to return on Friday, January 20, 2017 at 9:00 a.m.

10:40 a.m. – Morning Recess.

11:04 a.m. – Court reconvened with Court, counsel and Defendant Balkenbush present. Outside the presence of the Jury, Jury Instructions were informally and formally settled, with counsel stipulating to Jury Instructions One through Thirty (1 – 30) and One (1) Special Verdict Form on the record. Plaintiffs' Offered and Rejected Jury Instructions One (1) and Two (2) were lodged with the Court Clerk, and respective counsel stated applicable objections and had no additional Jury Instructions to proffer.

Trial to reconvene on Friday, January 20, 2017 at 9:00 a.m.

12:00 p.m. – Court stood in recess.

DATE, JUDGE
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01/20/17

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FLANAGAN

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K. Oates

(Clerk)

S. Koetting

(Reporter)

JURY TRIAL – Day Four

Charles Kozak, Esq., and Craig Lusiani, Esq. were present in Court, representing Plaintiffs Angela DeChambeau, and Jean Paul DeChambeau, both of whom were present.

Dominique Pollara, Esq., was present in Court, representing the Defendants, with Defendant Stephen Balkenbush present.

9:08 a.m. – Court convened with Court, counsel, Jury, and respective parties present.

Counsel stipulated to the presence of the Jury.

Counsel Pollara, on behalf of the Defendants, called **Hugh Calkins**, who was sworn and direct examined; cross-examination conducted by counsel Kozak.

Exhibit 16 offered; no objection; **ADMITTED**.

Exhibit 12 offered; objection; objection sustained.

Re-direct examination conducted; re-cross examination conducted; witness excused.

Jury Admonished and escorted into the Jury Room.

Outside the presence of the Jury, counsel Pollara, on behalf of the Defendants rested the Defendant's case as to the medical malpractice portion.

Counsel Kozak again moved for the admission of Dr. Morady's affidavit.

Counsel Pollara argued in opposition.

COURT ORDERED: Motion to Admit the Affidavit of Dr. Morady **DENIED**.

The Court addressed admitted exhibits with counsel.

Court Clerk Kim Oates responded she met with counsel prior to Court today and confirmed all admitted exhibits, with counsel having no changes.

Court to reconvene at 11:45 a.m. per the Court.

10:51 a.m. – Recess.

11:57 a.m. – Court reconvened with Court, counsel, Jury and respective parties present.

Counsel stipulated to the presence of the Jury.

Counsel Kozak advised he would like to bring an oral Motion before the Court.

11:58 a.m. – Jury Admonished and escorted into the Jury Room.

Outside the presence of the Jury, counsel Kozak argued in support of calling Mark Seifert, M.D., in rebuttal.

Counsel Pollara argued in opposition to counsel Kozak's Motion, to include calling Dr. Seifert would be improper rebuttal testimony.

Counsel Kozak added nothing further other than Dr. Seifert could testify by video means on Monday.

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T. Travers

(Clerk)

S. Koetting

(Reporter)

JURY TRIAL – Day Four

Counsel Pollara further argued in opposition, to include Plaintiffs' counsel had the opportunity to Dr. Calkins.

COURT ORDERED: Plaintiffs' Motion to Present Evidence, to include the testimony of Mark Seifert, M.D. is DENIED.

12:05 p.m. – The Jury was escorted into the Courtroom.

Respective counsel stipulated to the presence of the Jury.

The Court instructed the Jury with Jury Instructions 1 – 30, and one Verdict form.

Counsel Kozak, on behalf of the Plaintiffs, conducted Closing Argument.

Counsel Pollara, on behalf of the Defendants, conducted Closing Argument.

Counsel Kozak, on behalf of the Plaintiffs, conducted final Closing Argument.

Bailiff Garrett Bird and Law Clerk Luke Molleck were sworn and charged with the Jury.

1:25 p.m. - Jury escorted to the Jury Room. Deliberations commenced.

Alternate Galin Brooks was thanked by Court, admonished, and asked to provide his contact information to Court Clerk Kim Oates.

Respective counsel were asked to provide their contact information to Court Clerk Kim Oates.

1:30 p.m. – Court stood in recess.

2:25 p.m. – Deputy Bird was advised by the Jury that a Verdict was reached; Court Clerk Teresa Travers notified respective counsel (Teresa Travers now clerking trial in place of Court Clerk Kim Oates).

2:51 p.m. – Court reconvened in the presence of respective counsel, Plaintiff, Defendant and the Jury.

All the direction of the Court, roll of the Jury was called, with all jurors being present.

2:53 p.m. – Upon direction of the Court, Court Clerk Teresa Travers, read the Verdict into the record.

SPECIAL VERDICT FORM

We, the jury in the above-entitled action, find the following Special Verdict on the Questions submitted to us:

Question No. 1: Was Davis Smith, M.D. negligent in his care and treatment of the decedent, Neil DeChambeau?

ANSWER: Yes _____

No X _____

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JURY TRIAL – Day Four

HONORABLE

Respective counsel responded to the Court's question and stated that they did not want the Jury be polled.

PATRICK

3:00 p.m. – The Jury was thanked by the Court and released.

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Outside the presence of the Jury, counsel Pollara urged the Court to dismiss with prejudice, the Legal Malpractice case.

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K. Oates

The Court directed counsel Pollara to prepare a proposed order and provide a copy to the counsel Kozak.

T. Travers

(Clerk)

3:05 p.m. – Court stood in recess.

S. Koetting

(Reporter)

Jury Trial Exhibits

PLTF: ANGELA DECHAMBEAU et al. PATY: Charles Kozak, Esq. and Craig Lusiani, Esq.
 DEFT: STEPHEN BALKENBUSH et al. DATY: Dominique Pollara, Esq.

Case No: CV12-00571 Dept. No: 7 Clerk: Kim Oates Date: January 17, 2017

| Exhibit No. | Party | Description | Marked | Offered | Admitted |
|-------------|-----------|---|----------|-------------------------|----------|
| 1 | Plaintiff | CV of Mark Seifert, M.D. | 01-12-17 | --- | --- |
| 2 | Plaintiff | History and Physical | 01-12-17 | Stipulated | 01-17-17 |
| 3 | Plaintiff | Stat Echo Disc | 01-17-17 | --- | --- |
| 4 | Plaintiff | Washoe Medical Center Event Summary | 01-12-17 | Stipulated | 01-17-17 |
| 5 | Plaintiff | Anesthesia Record | 01-12-17 | Stipulated | 01-17-17 |
| 6 | Plaintiff | Code Blue Record | 01-12-17 | Stipulated | 01-17-17 |
| 7 | Plaintiff | Neurology Consultation | 01-12-17 | Stipulated | 01-17-17 |
| 8 | Plaintiff | Discharge Summary | 01-12-17 | Stipulated | 01-17-17 |
| 9 | Plaintiff | Transesophageal Echocardiographic Report | 01-12-17 | Stipulated | 01-17-17 |
| 10 | Plaintiff | Pulmonary Medicine Consultation | 01-12-17 | Stipulated | 01-17-17 |
| 11 | Plaintiff | Procedure Report | 01-12-17 | Stipulated | 01-17-17 |
| 12 | Plaintiff | Affidavit Fred Morady, M.D. | 01-12-17 | Objection; Sustained | --- |
| 13 | Plaintiff | Affidavit William Mazzei, M.D. | 01-12-17 | --- | --- |
| 14 | Plaintiff | Expert Witness Report Rahul N. Doshi, M.D. | 01-12-17 | --- | --- |
| 15 | Plaintiff | Expert Witness Report Ronald Pearl, M.D. | 01-12-17 | --- | --- |
| 16 | Plaintiff | Declaration of Hugh G. Calkins, M.D. | 01-12-17 | No Objection | 01-20-17 |
| 17 | Plaintiff | Declaration of Anil K. Bhandari, M.D. | 01-12-17 | --- | --- |
| 18 | Plaintiff | CV of Gerald Gillock, Esq. | 01-12-17 | --- | --- |
| 19 | Plaintiff | Letter to Steve Balkenbush from Edward J. Lemons, Esq. dated February 7, 2010 | 01-12-17 | --- | --- |

Jury Trial Exhibits

PLTF: **ANGELA DECHAMBEAU et al.** PATY: **Charles Kozak, Esq. and Craig Lusiani, Esq.**
 DEFT: **STEPHEN BALKENBUSH et al.** DATY: **Dominique Pollara, Esq.**

Case No: **CV12-00571** Dept. No: **7** Clerk: **Kim Oates** Date: **January 17, 2017**

| Exhibit No. | Party | Description | Marked | Offered | Admitted |
|-------------|-----------|--|----------|------------|----------|
| 20 | Plaintiff | Letter to Steve Balkenbush from Michael Navratil dated April 21, 2010 | 01-12-17 | --- | --- |
| 21 | Plaintiff | Letter to Steven Balkenbush from Michael Navratil dated October 29, 2012 | 01-12-17 | --- | --- |
| 22 | Plaintiff | CV of Richard Tiechner, CPA | 01-12-17 | --- | --- |
| 23 | Plaintiff | Death Certificate | 01-12-17 | Stipulated | 01-18-17 |
| 24 | Plaintiff | Last Will and Testament of Neil W. DeChambeau | 01-12-17 | Stipulated | 01-18-17 |
| 25 | Plaintiff | Calculation of Economic Damages Due to Lost Earnings – PAGE ONE ONLY | 01-12-17 | Stipulated | 01-18-17 |
| 25(a) | Plaintiff | Calculation of Economic Damages Due to Lost Earnings – MINUS PAGE ONE | 01-12-17 | --- | --- |
| 26 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2000 | 01-12-17 | Stipulated | 01-18-17 |
| 27 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2001 | 01-12-17 | Stipulated | 01-18-17 |
| 28 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2002 | 01-12-17 | Stipulated | 01-18-17 |
| 29 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2003 | 01-12-17 | Stipulated | 01-18-17 |

Jury Trial Exhibits

PLTF: ANGELA DECHAMBEAU et al. PATY: Charles Kozak, Esq. and Craig Lusiani, Esq.
 DEFT: STEPHEN BALKENBUSH et al. DATY: Dominique Pollara, Esq.

Case No: CV12-00571 Dept. No: 7 Clerk: Kim Oates Date: January 17, 2017

| Exhibit No. | Party | Description | Marked | Offered | Admitted |
|-------------|------------|--|----------|------------|----------|
| 30 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2004 | 01-12-17 | Stipulated | 01-18-17 |
| 31 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2005 | 01-12-17 | Stipulated | 01-18-17 |
| 32 | Plaintiff | Neil and Angela DeChambeau's Tax Returns 2006 | 01-12-17 | Stipulated | 01-18-17 |
| 33 | Plaintiff | Life and Worklife Expectancies 2 nd Edition | 01-12-17 | --- | --- |
| 34 | Plaintiff | | | | |
| 35 | Plaintiff | | | | |
| 36 | Plaintiff | | | | |
| 37 | Plaintiff | | | | |
| 38 | Plaintiff | | | | |
| 39 | Plaintiff | | | | |
| 40 | Defendants | Records of Family Medicine Associates, Limited | 01-12-17 | Stipulated | 01-18-17 |
| 41 | Defendants | Records of Reno Heart Physicians | 01-12-17 | Stipulated | 01-18-17 |
| 42 | Defendants | Anesthesia Consent form signed by decedent | 01-12-17 | Stipulated | 01-18-17 |
| 43 | Defendants | Surgical Consent form signed by decedent | 01-12-17 | Stipulated | 01-18-17 |
| 44 | Defendants | Pre-Op Nursing/Patient form | 01-12-17 | Stipulated | 01-18-17 |
| 45 | Defendants | EKG printouts | 01-12-17 | Stipulated | 01-18-17 |
| 46 | Defendants | Dr. David E. Smith's CV | 01-17-17 | --- | --- |
| 47 | Defendants | Dr. Hugh Calkins CV | 01-17-17 | --- | --- |
| 48 | Defendants | | | | |

Jury Trial Exhibits

PLTF: ANGELA DECHAMBEAU et al. PATY: Charles Kozak, Esq. and Craig Lusiani, Esq.
 DEFT: STEPHEN BALKENBUSH et al. DATY: Dominique Pollara, Esq.

Case No: CV12-00571 Dept. No: 7 Clerk: Kim Oates Date: January 17, 2017

| Exhibit No. | Party | Description | Marked | Offered | Admitted |
|-------------|------------|---|----------|---------|----------|
| 49 | Defendants | | | | |
| 50 | Defendants | | | | |
| 51 | Defendants | | | | |
| 52 | Defendants | | | | |
| 53 | Defendants | | | | |
| 54 | Defendants | | | | |
| 55 | Defendants | Contingency Fee Agreements between Angela and Jean-Paul DeChambeau and defendants | 01-12-17 | --- | --- |
| 56 | Defendants | Attorney correspondence | 01-12-17 | --- | --- |
| 57 | Defendants | Attorney Notes | 01-12-17 | --- | --- |
| 58 | Defendants | Memorandum dated December 6, 2007 | 01-12-17 | --- | --- |
| 59 | Defendants | Email communications | 01-12-17 | --- | --- |
| 60 | Defendants | Medical Malpractice Complaint entitled <i>DeChambeau v. Smith, et al.</i> filed September 5, 2007 | 01-12-17 | --- | --- |
| 61 | Defendants | Medical malpractice Answer by defendant David Smith, M.D. filed September 24, 2007 | 01-12-17 | --- | --- |
| 62 | Defendants | Medical malpractice Answer by defendant David Kang, M.D. filed September 28, 2007 | 01-12-17 | --- | --- |
| 63 | Defendants | Billing Records generated by defendants | 01-12-17 | --- | --- |
| 64 | Defendants | Stipulation and Order of Dismissal | 01-12-17 | --- | --- |

Jury Trial Exhibits

PLTF: **ANGELA DECHAMBEAU et al.** PATY: **Charles Kozak, Esq. and Craig Lusiani, Esq.**
 DEFT: **STEPHEN BALKENBUSH et al.** DATY: **Dominique Pollara, Esq.**

Case No: **CV12-00571** Dept. No: **7** Clerk: **Kim Oates** Date: **January 17, 2017**

| Exhibit No. | Party | Description | Marked | Offered | Admitted |
|-------------|------------|--|----------|---------|----------|
| 65 | Defendants | Curriculum Vitae of Peter Durney, Esq. | 01-12-17 | --- | --- |
| 66 | Defendants | Discovery Index | 01-12-17 | --- | --- |
| 67 | Defendants | Plaintiffs' NRCP 16.1 Request for Production of Documents | 01-12-17 | --- | --- |
| 68 | Defendants | Deposition Transcript of Fred Morady, M.D. taken June 12, 2013 | 01-12-17 | --- | --- |
| 69 | Defendants | Plaintiffs' Expert Witness Disclosure | 01-12-17 | --- | --- |
| 70 | Defendants | Defendant Dr. Smith's Expert Witness Disclosure | 01-12-17 | --- | --- |
| | | | | | |
| | | | | | |
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1 **Code 1350**

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3
4 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
5 **IN AND FOR THE COUNTY OF WASHOE**

6 **ANGELA DeCHAMBEAU and JEAN-PAUL**
7 **DeCHAMBEAU, both individually and as Special**
8 **Administrators of the Estate of NEIL DeCHAMBEAU,**

Case No. CV12-00571

Dept. No. 7

9 **Plaintiffs,**

10 **vs.**

11 **STEPHEN C. BALKENBUSH, ESQ.; and THORNDAL**
12 **ARMSTRONG DELK BALKENBUSH & EISINGER, a**
13 **Nevada Professional Corporation,**

14 **Defendants.**

15 _____/

16 **CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

17 I certify that I am an employee of the Second Judicial District Court of the State of Nevada,
18 County of Washoe; that on the 20th day of April, 2017, I electronically filed the Notice of Appeal in
19 the above entitled matter to the Nevada Supreme Court.

20 I further certify that the transmitted record is a true and correct copy of the original
21 pleadings on file with the Second Judicial District Court.

22 Dated this 20th day of April, 2017

23 Jacqueline Bryant
24 Clerk of the Court

25 By /s/ Yvonne Vilorio
26 Yvonne Vilorio
27 Deputy Clerk
28

KOZAK LUSIANI LAW LLC3100 MILL ST STE 115
RENO, NV 89502

94-169/1212

1428

DATE

4/20/17

PAY TO THE
ORDER OF

Nevada Supreme Court

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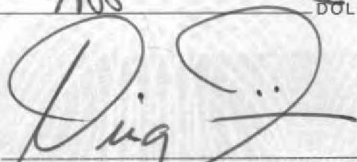
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DeChambeau Appeal

CV12-00571

MEMO



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