

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Teresa Renita Burrell,  
Appellant

VS:

Nevada Orthopedic And Spine Center LLP,  
And; Arthur Taylor, M.D

No. Supreme Court - 76958

DOCKETING STATEMENT  
CIVIL APPEALS

**FILED**

OCT 12 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
*[Signature]*  
DEPUTY CLERK

GENERAL INFORMATION

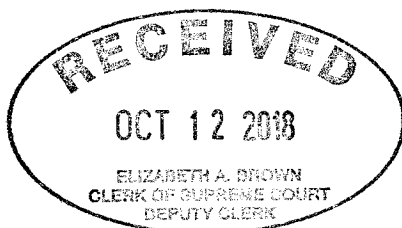
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



18-40189

Revised December 2015

1. Judicial District Court Department RJC Court room 14C  
County Clark Judge Adrianna Escobar  
District Ct. Case No. A-18-770532-C

**2. Attorney filing this docketing statement:**

Attorney NK- in proper person Telephone \_\_\_\_\_  
Firm Carroll, Kelly, Trotter, Franzen, McKenna and Peabody / Heather Hall, Robert McBride  
Address 8329 W Sunset Blvd #260  
Las Vegas, NV 89113

Client(s) ~~Nevada Orthopedic And Spine Center, LLP and Arthur Taylor, M.D. TRB~~

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Robert McBride Telephone (702) 792-5855  
Firm Carroll, Kelly, Trotter, Franzen, McBride and Peabody  
Address \_\_\_\_\_

Client(s) Nevada Orthopedic And Spine Center, LLP - And Arthur Taylor, M.D

Attorney Robert McBride Telephone (702) 792-5855  
Firm Carroll, Kelly, Trotter, Franzen, McBride and Peabody / Heather Hall, Robert McBride  
Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input checked="" type="checkbox"/> Dismissal:  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction   |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim   |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute   |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input checked="" type="checkbox"/> Other (specify): judge combined 2 viable claims into 1. Lack of medical affidavit and libel slander/defamation dismissed as one erroneously |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:  |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification   |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): Appellant's Motion For Summary Judgment vacated erroneously.   |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

N/A

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Due to defendant's malice, false representation of medical facts, libel, and perjurying himself by stating he released the appellant back to work, which was false, the appellant lost her job and workers compensation medical and financial benefits. And a PPP rating was denied.

The following cases are relative to this matter on appeal:

1. Workers Compensation on going Appeal -
2. Petition For Judicial Review - denied due to failure of appellant to include party -
3. Wrongful Termination, Discrimination disability and other claims - Federal Court -
4. Professional Negligence And libel - District Court -

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

As stated above, but I will outline any ways.

1. Clark County District Court - Case No - A-18-770532-C
2. State of Nevada Dept of Administration Hearings Division - Claim Number - 2010261687  
Hearing Number - 1816821-CL
3. Petition for Judicial Review - Clark County District court  
Case Number - A-18-770534-J
4. Wrongful Termination - United States District Court - Case Number - 2:18-cv-00880-GMN-NJK
5. Professional Negligence - libel - District Court - A-18-770532-C

As a result of the respondents actions, and by writing false and defaming other reports, the appellant was fired and terminated from workers compensation benefits after discharging from her care.

8. **Nature of the action.** Briefly describe the nature of the action and the result below:

Claim-1 - Professional negligence. Not merely that the respondent "misdiagnosed" the appellant, but rather his willingness to falsify medical records, construct a malicious orthopedic report which was both defamatory and within the rebel laws of Nevada. He failed to provide the appellant reasonable and due medical care by participating in this mischaracterization of the appellant and her actions during their last visit on January 6, 2016. The respondent did lie under oath at his office and by signing a written statement with mistruths about the care he gave and how the appellant reacted, all while she video recorded the visit.

Claim 2 The respondent in turn after telling the appellant she had more complaints than a gun shot victim and stating he would not treat her anymore and provided a progress report with no full-duty release. Instead he lied on the appellant turning the matter on her and stating lie after lie to cover his tracks.

9. **Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary): Professional Negligence per NRS 41A.015 states - failure of a provider of healthcare, in rendering services, to use reasonable care, skill, or knowledge ordinarily used in similar circumstances by similarly trained and experienced providers of health care.

2. Upon filing the complaint and seeking a fee waiver, the first judge whom had a conflict of interest didn't recuse himself immediately and sat on the fee waiver request for almost a month causing a delay in the objections of the case and that being one of the issues for dismissal, when there are two different file stamps on the Application to Proceed in Forme Pauperis and Complaint.

(Please see attached for continued issue on Appeal)

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

N/A Discount Court case Dismissed

because the appellant didn't provide a medical affidavit, but in this case, the claim wasn't presented for an actual case of the respondent "misdiagnosing" the appellant, but rather his actions while performing under the provisions and laws of a "professional"

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ ~~N/A~~

☐ Yes

☐ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues? **NG**

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance: The matter would be assigned to the Court of Appeals upon assignment by the Supreme Court based upon the fact that this appeal is derived from a judgment that does not involve a conviction for any offenses that are category A or B felonies. As to the standard, if the Supreme Court deems that the Court of Appeals is not or is the appropriate route to have this case placed and overruled, the appellant respectfully agrees to what is decided and sees fit.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? None

Was it a bench or jury trial? None

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

Judge Douglas from initial contact should've recused himself when I presented the application to proceed in forma pauperis. However delay was the reason the "limitations" became an issue regarding the file stamp and receive date, hindering my ability to make any necessary supplements or amendments. He recused himself way in June instead of February when he originally got the case, so this has been resolved now.

## TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from District Court on August 7, 2018

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served August 7, 2018

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing N/A

☐ NRCP 52(b) Date of filing /

☐ NRCP 59 Date of filing /

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion N/A

(c) Date written notice of entry of order resolving tolling motion was served N/A

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed September 07, 2018 - Teresa R. Burwell - one party filing

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

### SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☒ NRS 703.376

☐ Other (specify)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The st NRAP 3A(b)(1) specifies that a party has the right to an appeal from a final judgment entered in an action or proceeding commenced in the court for which the judgment is or was rendered.

NRS 703.376 - Specifies that any party to an action, within 60 days after the service of a copy of the order or judgment of the district court, may appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court per the Section 4 of Article 6 of the Nevada Constitution as in other civil cases. These two provide the appellant the foundational basis required and needed in order for her to pursue her right to appeal when aggrieved by a judgment.



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties: Teresa Renita Brunell - plaintiff/appellant  
Arthur Taylor, M.D. - defendant, respondent  
Nevada Orthopedic And Spine Center - defendant, respondent

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

N/A all parties are apart of this appeal

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

1. Professional misconduct/negligence - respondent failed to provide the same quality of care he gives to others while treating the appellant.
2. Defendant/respondent - failed to provide any diagnostic testing other than x rays, but made fun of the appellant and lied.

3. Libel - the respondent falsified medical records and wrote a defamatory report, bringing mischaracterization to the appellant's name and reputation.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

N/A

(b) Specify the parties remaining below:

N/A

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☒ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☒ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Teresa R Brunell  
Name of appellant

In proper person  
Name of counsel of record

October 8, 2018  
Date

\_\_\_\_\_  
Signature of counsel of record

Nv and Clark  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 9<sup>th</sup> day of October, 2018, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dated this October 11<sup>th</sup> day of October, 2018

Teresa R Brunell  
Signature

## Issues on Appeal #9

#1 - The plaintiff/appellant filed a timely complaint, outlining the claims for professional negligence and libel.

Not only did the original judge Douglas Smith delay in approving the fee waiver, but delayed reassigning himself as well. Judge Smith should've immediately upon receiving the complaint and application to proceed in forma pauperis recused himself due to his knowledge regarding conflict of interest. Instead he prolonged the proceedings and eventually recused himself after having a phone conversation with the appellant.

A. Issue - My ability to have the complaint submitted and filed timely was obstructed and delayed by the reassignment.

B. When it relates to the defendant's motion to dismiss regarding limitations. The appellant was injured on 9/11/15 and sustained three stitches in between her ring and pinky finger. After her care was transferred to the defendant, she continued to voice her concerns and complaints.

The defendant can be seen on video exhibit mocking the appellant and telling her that he wasn't going to treat her further. Instead of the defendant properly documenting the events on January 6, 2016, he falsified the things that were said and done. The appellant didn't have knowledge to the maliciousness that the defendant infatuated until she received an actual email from her employer regarding the full duty release Dr Taylor done behind the appellant's back.

C. - Regarding timeliness - The defendant never properly released the appellant back to work during their January 6, 2016 visit, neither did he verbally release her or provide that information on the progress report.

D. The fact that the defendant/ respondent has been allowed to use his position to commit fraud, and falsify medical reports and records is disheartening.

E. For the district court judge to dismiss such weighty claims and ignore the facts only confirms the inequality in this system. Dr Taylor both perjured himself and contradicted himself with his lies and games due to his not liking the

appellant. Dr. Taylor gave a progress report that plainly says: No changes, no full duty release, and turned around and wrote an orthopedic report that attacks the appellant's weight, character, and true person. He has been allowed to get away with such offenses when he should be prosecuted for fraud, falsifying medical reports, and libel. Because of his actions, the appellant lost her job, her workers compensation case was closed, and the fact that indeed her right hand injury was more serious than they made it to be has been lost in the shuffle to cover tracks, rather than the wrongs being made right.

F. The appellant sought continuous medical care and treatment. She was diagnosed with a tear in the ulnar nerve, carpal tunnel, cubital carpal tunnel syndrome by 4 doctors.

G. The appellant has since had surgery on September 3, 2018.

H. The defendant/insurgent set to sabotage the appellant in getting a PPD rating. He has refused further evaluation where needed in order for the appellant to properly seek re-opening of her industrial claim.  
Jesse B. Bruce

MSJ

Teresa R Burwell  
1015 Timberline Court  
Henderson, NV 89015  
(702)628-4927

FILED

2018 AUG -6 P 2:41

7

DISTRICT COURT  
CLARK COUNTY, NEVADA

*[Signature]*  
CLERK OF THE COURT

Teresa R Burwell,

Plaintiff,

vs.

Nevada Orthopedic and Spine Center, Dr.

Arthur Taylor, M.D. and Tina M. Wells,

Defendant(s),

) Case No.: A18770532-C

) Dept No: XXIV

*of exhibits  
and motion*

**MOTION FOR SUMMARY JUDGMENT**

COMES NOW, plaintiff in and by her own counsel, does hereby file  
pursuant to FRAP and NRCP 56 this motion for summary judgement to  
demonstrate to this Honorable Court, that the defendant(s) haven't presented any  
authentic or genuine material facts that would warrant a decision in favor of their  
defense; and that the plaintiff is entitled to summary judgment as a matter of law.

A-18-770532-C  
MSJD  
Motion for Summary Judgment  
4768723



RECEIVED  
AUG 06 2018

CLERK OF THE COURT

1 This motion is based upon and supported by the following Memorandum of  
2 Points and Authorities, the pleadings and papers on file, the affidavits and exhibits  
3 attached hereto, and any argument that the Court may allow at the time of hearing.  
4

5 Dated this 2<sup>nd</sup> day of August, 2018

6 Respectfully submitted by: \_\_\_\_\_

7 NOTICE OF MOTION

8 YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the  
9 undersigned will bring the foregoing MOTION FOR SUMMARY  
10 JUDGMENT on for hearing before the above-entitled Court on the

11 \_\_\_\_\_ day of SEP 06 2018, 2018. @ 9:30 AM  
12  
13

14 Respectfully submitted by:

15 Teresa R Burwell  
16

17 Teresa R Burwell/Plaintiff  
18  
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23  
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26  
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1 **NOTC**

2 ROBERT C. McBRIDE, ESQ.

3 Nevada Bar No. 7082

4 HEATHER S. HALL, ESQ.

5 Nevada Bar No. 10608

6 CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY

7 8329 W. Sunset Road, Suite 260

8 Las Vegas, Nevada 89113

9 Telephone No. (702) 792-5855

Facsimile No. (702) 796-5855

E-mail: [rcmcbride@cktfmlaw.com](mailto:rcmcbride@cktfmlaw.com)

E-mail: [hshall@cktfmlaw.com](mailto:hshall@cktfmlaw.com)

Attorneys for Defendants,

*Nevada Orthopedic & Spine Center, LLP*

*and Arthur Taylor, M.D.*

DISTRICT COURT

CLARK COUNTY, NEVADA

TERESA R. BURWELL,

Plaintiff,

v.

NEVADA ORTHOPEDIC AND SPINE  
CENTER LLP, ARTHUR TAYLOR, MD,  
TINA WELLS, ESQ

Defendants.

**CASE NO.: A-18-770532-C**

**DEPT: 14**

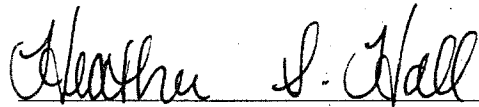
**NOTICE OF MOTION HEARING AND  
NOTICE OF DEPARTMENT  
REASSIGNMENT**

PLEASE TAKE NOTICE that on the 4<sup>th</sup> day of April, 2018, Defendants NEVADA ORTHOPEDIC & SPINE CENTER, LLP AND ARTHUR TAYLOR, M.D., filed with the Court a Motion to Dismiss Plaintiff's Complaint For Failure To Comply With NRS 41A.097 and NRS 41A.071, This Motion was scheduled to be heard on June 5, 2018 by Department 8. At that time, Department 8 recused itself and this case was reassigned to Department 14, before the Honorable Judge Adriana Escobar. As a result, the hearing on the Motion to Dismiss Plaintiff's Complaint For Failure To Comply With NRS 41A.097 and NRS 41A.071 is now set for the 7<sup>th</sup>

1 day of August, 2018 at 9:30 a.m., Regional Justice Center, 200 Lewis Avenue, Courtroom 14C,  
2 Las Vegas, Nevada 89155.

3  
4 DATED this 25<sup>th</sup> day of June, 2018.

CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY

6  
7 

8 ROBERT C. McBRIDE, ESQ.

Nevada Bar No.: 7082

9 HEATHER S. HALL, ESQ.

Nevada Bar No.: 10608

10 8329 W. Sunset Road, Suite 260

11 Las Vegas, Nevada 89113

Attorneys for Defendants,

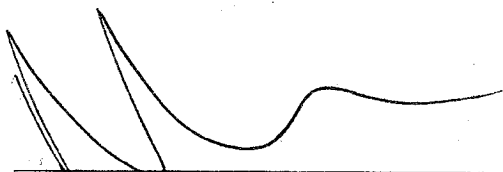
12 *Nevada Orthopedic & Spine Center, LLP*  
13 *and Arthur Taylor, M.D.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 25 day of June, 2018, I served a true and correct copy of the foregoing **NOTICE OF MOTION HEARING AND NOTICE OF DEPARTMENT REASSIGNMENT** addressed to the following counsel of record at the following address(es):

- ☒ **VIA ELECTRONIC SERVICE:** By mandatory electronic service (e-service), proof of e-service attached to any copy filed with the Court; or
- ☒ **VIA U.S. MAIL:** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on the service list below in the United States mail at Las Vegas, Nevada
- ☐ **VIA FACSIMILE:** By causing a true copy thereof to be telecopied to the number indicated on the service list below.

Teresa R. Burwell  
1015 Timberline Court  
Henderson, Nevada 89015  
wecleanup17@gmail.com  
*Plaintiff in Pro Per*



An Employee of CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY

1. COMP

2. TERESA R. BURWELL  
3. 1015 TIMBERLINE COURT  
4. HENDERSON, NV 89015  
5. (7020628-4927

6. PLAINTIFF/ IN PROPER PERSON

FILED

MAR 06 2018

*[Signature]*  
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

A-18-770632-C  
COMP  
Complaint  
4726789



8. Teresa R. Burwell,

9. Plaintiff(s),

10. -vs-

11. Nevada Orthopedic and Spine Center LLP,

12. Arthur Taylor, MD, Tina Wells, ESQ

13. Defendant(s).

CASE NO. **A18-770532-C**  
DEPT. NO. **VIII**

15. COMPLAINT  
16. HEARING DATE:  
17. HEARING TIME:

18. Plaintiff, TERESA R. BURWELL, in proper person, complains against,  
19. Defendants, ARTHUR TAYLOR, MD; NEVADA ORTHOPEDIC AND SPINE CENTER  
20. LLP; DOES I through X, inclusive; and ROE BUSINESS ENTITIES I through X,  
21. inclusive, as follows:

22. I. PARTIES

23. 1. Plaintiff, TERESA R. BURWELL, is an individual who is currently and was at  
24. all relevant times herein, a resident of the State of Nevada, County of Clark, City of Las  
25. Vegas

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FEB 09 2018

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FEB 02 2018

CLERK OF THE COURT

CLERK OF THE COURT

1 2. Defendant, ARTHUR TAYLOR, MD; is an individual who is currently, and was  
2 at all relevant times herein, a resident of the State of Nevada, County of Clark, City of  
3 Las Vegas.

4 3. Defendant, NEVADA ORTHOPEDIC AND SPINE CENTER,LLP, is a limited  
5 liability corporation organized and existing by virtue of the laws of the State of Nevada,  
6 and may be served with process upon its registered agent, TINA M WALLS, ESQ, 8861  
7 W Sahara Avenue, Suite 220, Las Vegas, Nevada 89117.

8 4. All of the acts and/or failures to act alleged herein were duly performed and/or  
9 attributable to defendants, individually or acting by and through their agents and  
10 employees. Said acts and/or failures to act were within the scope of any agency or  
11 employment, or were ratified by defendants.

12 5. The names and capacities, whether individual, corporate, associate, or  
13 otherwise of defendants and/or their alter egos sued herein DOES I through X, AND  
14 ROE BUSINESS ENTITIES I through X, inclusive, are presently unknown, and Plaintiff  
15 will amend this complaint to insert the name(s) and further causes of action when  
16 ascertained.  
17  
18

## 19 II. FACTS

20 6. Plaintiff, Teresa R. Burwell, was employed at the Cosmopolitan of Las Vegas,  
21 DBA, Nevada Property One, as a room stylist on or around August 3, 2015.

22 7. Plaintiff's wages were \$14.06 per hour on an on-call basis, having from the  
23 time of her employment until her separation worked a minimum of 40 (forty) hours per  
24 week, being paid bi-weekly.

25 8. Plaintiff, Teresa R. Burwell, while engaged in her course of employment and  
26 shift, from 8:30 a.m. to 4:30 p.m. on September 11, 2015, was injured while exiting the  
27 guest room.  
28

1 9. Plaintiff, Teresa R. Burwell, had her right hand crushed between the door,  
2 collector(which is the cart for linens and supplies) and threshold of the door, having her  
3 hand cut between the pinky and ring when the rubber door stopper came from under the  
4 door, which was placed properly under the door; however, this room in particular had a  
5 tile entryway.

6 10. Plaintiff, Teresa R. Burwell, was transported and treated at Concentra, where  
7 x-rays were done upon completion of the C-4 form and report required at the security  
8 office of The Cosmopolitan, dba, Nevada Property One.

9 11. On September 11, 2015, Plaintiff, Teresa R. Burwell, was released to light  
10 duty work assignment with restrictions.

11 12. Plaintiff, Teresa R. Burwell had a workers compensation claim that was  
12 opened and accepted on or around October 4, 2015.

13 13. On October 20, 2015, Plaintiff, Teresa R. Burwell was placed on full medical  
14 workers compensation leave.

15 14. On or about November 10, 2015, Plaintiff, Teresa R. Burwell was seen by the  
16 defendant's colleague, Dr. Young for a follow-up where he blatantly disagreed with the  
17 plaintiff about her injuries and was dismissive to her symptoms and complaints. She  
18 even attempted to provide a report from another doctor, where tests were ran and viable  
19 determination could be made that at one time her right hand was the strongest of the  
20 two; however, since the hand crush injury and laceration, the right hand was weaker  
21 due to the injury.

22 15. Plaintiff, Teresa R. Burwell's care was transferred to the defendant, Dr. Arthur  
23 Taylor, MD on or about December 12, 2015, at his place of business Nevada  
24 Orthopedic and Spine Center, at 7455 W. Washington Avenue Suite 160, Las Vegas,  
25 Nevada, 89128.  
26  
27  
28

1 16. During the December 12, 2015 visit, defendant, Dr. Arthur Taylor made  
2 accusatory statements and under-handed comments about the plaintiff's previous  
3 surgery she underwent, for a separate issue and whole separate case, which was  
4 irrelevant to her reason for seeing him.

5 17. Plaintiff, Teresa R. Burwell, was booked for a follow appointment and given a  
6 report, which listed restrictions, progress, and/or any full duty release information; which  
7 in this case, no return to work was given.

8 18. Plaintiff, Teresa R. Burwell, returned to see the defendant. Dr. Arthur Taylor,  
9 at his place of business, Nevada Orthopedic and Spine Center, on January 6, 2016,  
10 where she voiced her concerns and explained to him after her toy drive, her right hand  
11 still had no feeling, with only the third digit on her right hand being swollen, stiff, and the  
12 only place she felt pain.

13 19. Defendant, Dr. Taylor, did say the plaintiff had more complaints than gun shot  
14 victims he has treated and continued to be dismissive of her complaints and  
15 symptomology.

16 20. Defendant, Dr. Arthur Taylor, never performed any testing for causation or to  
17 rule out the plaintiff's complaints, but instead was dismissive, defensive, and rude when  
18 asked about the "arthritis" diagnosis he had given.

19 21. Plaintiff, Teresa R Burwell, did complete a previous order for physical  
20 therapy, at Kelly Hawkins Physical Therapy, located at 375 N. Stephanie Street, suite  
21 #1111, Henderson Nevada 89014, on or around October –November 2015.

22 22. Defendant, Dr. Arthur Taylor, did on or about January 29, 2016 did falsify an  
23 orthopedic report and evaluation; and did constitute such actions as to cause harm to  
24 the plaintiff's reputation, character, welfare, medical treatment, employment, and  
25 workers compensation case/claim.  
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1 23. Defendant, Dr. Arthur Taylor, did, in violation of the defamation/slander/libel  
2 laws pursuant to NRS 200.510, NRS 630.080, AND the provisions set forth in the laws  
3 and statutes for such matters.

4 24. Defendant, Dr Arthur Taylor, did in the course of his profession, conduct  
5 himself capriciously, and with ill-will towards the plaintiff, by refusing to document the  
6 truths as they were. He, upon his own oath and admission alleged the plaintiff to have  
7 been aware of his malicious acts, and became belligerent in his office after been told he  
8 would be returning her to full duty on January 6, 2016, which is a blatant lie and  
9 fabrication.

10 25. Defendant, Dr. Arthur Taylor, knowingly allowed the plaintiff to drive herself  
11 from his office with a blood pressure reading of 183/143, and though he stated that  
12 counseling was given, that too is a fabrication and means to be deceptive as if he was a  
13 caring and professional doctor towards the plaintiff.

14 26. Defendant, Dr. Arthur Taylor, did in the course of his profession fail to use  
15 reasonable care, while mistreating the plaintiff and mismanaging her medical treatment,  
16 thereby committing professional negligence, pursuant to NRS 41A.015, and provide the  
17 plaintiff with care she was due and needed beyond his own speculation and  
18 assumption.

19 27. On February 7, 2016 the plaintiff, Teresa R. Burwell was made aware via  
20 email from her ex-employer, The Cosmopolitan of Las Vegas, dba, Nevada Property  
21 One, that she was released back to full duty work and needed to come in to discuss her  
22 concerns further.

23 28. On February 22, 2016, the plaintiff, Teresa R. Burwell attended a meeting  
24 where she was wrongfully terminated and treated accordingly, per the defendant's Dr.  
25 Arthur Taylor arbitrary statements of her being belligerent, and was humiliated by the  
26 treatment she received.  
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1 Plaintiff, Teresa R. Burwell, as a result of the defendant's actions, did suffer  
2 actual and punitive damages, and prays relief from this Honorable Court in the amount  
3 of \$350,000.

### 4 III. CLAIMS FOR RELIEF

5 29. Defendant had a legal, moral, and professional obligation to render the best  
6 and probable medical care to the plaintiff, despite his prejudice, bias, or opinion.

7 30. Plaintiff, Teresa R. Burwell, was consistent with her appointments and  
8 maintained open and honest communication about her symptoms and concerns, and  
9 should have had them addressed.

10 31. Defendant, Dr. Arthur Taylor had a duty to report the facts, truthfully, with out  
11 being self-serving, arrogant, and deceptive. He instead wrote a report 3 (three) weeks  
12 after seeing the plaintiff, and released her back to work unbeknownst her, causing her  
13 to lose her employment, be terminated from workers compensation, and denied a PPD  
14 rating.

15 32. Plaintiff, on or about May 5, 2017 seen Dr. Matthew Enna, an orthopedic  
16 doctor and surgeon after her symptoms persisted and worsened.

17 33. Dr. Enna referred the plaintiff to Dr. Paresa where he conducted a nerve  
18 study conduction with a gel added

19 34. Plaintiff, Teresa R. Burwell, was diagnosed by both Dr. Enna and Dr. Paresa  
20 with cubital carpel tunnel, carpel tunell, a tear in the ulnar nerve, and trigger figure,  
21 stemming from her September 11, 2015 injury.

22 35. On or about February 17, 2017, plaintiff, Teresa R. Burwell seen Dr. Scott  
23 Forbes for a causation report and was given the same diagnosis and causation report,  
24 stemming from her September 11, 2015 hand c rush injury.

25 36. Plaintiff was referred to an orthopedic surgeon and will be seen on February  
26 27, 2018 for further assessment and treatment.

1 37. Pursuant to the defamation laws stated, as a result of the defendant's  
2 slanderous report, and failure to provide reasonable medical care, the plaintiff sustained  
3 damages in the amount of \$350,000, in actual and punitive damages.

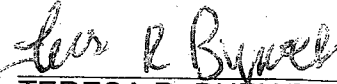
4 38. Plaintiff reserves the right to amend this complaint to allege additional causes  
5 of action, exhibits, reports, and further causes of relief.

6 **WHEREFORE**, Plaintiff prays for the following relief:

7 1. For compensatory damages for the loss of employment, medical costs and  
8 expenses, for past, present, and future in excess of \$350,000.

9 2. For general damages for past, present, and future pain and suffering, and  
10 other damages in excess of \$350,000

11 3. For such other and further relief as this court deems just and equitable.  
12

13   
14 TERESA R. BURWELL  
15 1015 TIMBERLINE COURT  
16 HENDERSON, NV 89015  
17 (702) 628-4927  
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1 COMP

2 TERESA R. BURWELL  
3 1015 TIMBERLINE COURT  
4 HENDERSON, NV 89015  
5 (7020628-4927  
6 PLAINTIFF/ IN PROPER PERSON

FILED

MAR 06 2018

*John J. Blum*  
CLERK OF COURT

7  
8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

A-18-770532-C  
COMP  
Complaint  
4726789



8 Teresa R. Burwell,

9 Plaintiff(s),

10 -vs-

11 Nevada Orthopedic and Spine Center LLP,

12 Arthur Taylor, MD, Tina Wells, ESQ

13 Defendant(s).

CASE NO. **A18-770532-C**  
DEPT. NO. **VIII**

14  
15 COMPLAINT  
16 HEARING DATE:  
17 HEARING TIME:

18 Plaintiff, TERESA R. BURWELL, in proper person, complains against,

19 Defendants, ARTHUR TAYLOR, MD; NEVADA ORTHOPEDIC AND SPINE CENTER

20 LP; DOES I through X, inclusive; and ROE BUSINESS ENTITIES I through X,

21 inclusive, as follows:

22 I. PARTIES

23 1. Plaintiff, TERESA R. BURWELL, is an individual who is currently and was at  
24 all relevant times herein, a resident of the State of Nevada, County of Clark, City of Las  
25 Vegas,

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CLERK OF THE COURT

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1. 2. Defendant, ARTHUR TAYLOR, MD; is an individual who is currently, and was  
2 at all relevant times herein, a resident of the State of Nevada, County of Clark, City of  
3 Las Vegas.

4 3. Defendant, NEVADA ORTHOPEDIC AND SPINE CENTER,LLP, is a limited  
5 liability corporation organized and existing by virtue of the laws of the State of Nevada,  
6 and may be served with process upon its registered agent, TINA M WALLS, ESQ, 8861  
7 W Sahara Avenue, Suite 220, Las Vegas, Nevada 89117.

8 4. All of the acts and/or failures to act alleged herein were duly performed and/or  
9 attributable to defendants, individually or acting by and through their agents and  
10 employees. Said acts and/or failures to act were within the scope of any agency or  
11 employment, or were ratified by defendants.

12 5. The names and capacities, whether individual, corporate, associate, or  
13 otherwise of defendants and/or their alter egos sued herein DOES I through X, AND  
14 ROE BUSINESS ENTITIES I through X, inclusive, are presently unknown, and Plaintiff  
15 will amend this complaint to insert the name(s) and further causes of action when  
16 ascertained.  
17  
18

## 19 II. FACTS

20 6. Plaintiff, Teresa R. Burwell, was employed at the Cosmopolitan of Las Vegas,  
21 DBA, Nevada Property One, as a room stylist on or around August 3, 2015.

22 7. Plaintiff's wages were \$14.06 per hour on an on-call basis, having from the  
23 time of her employment until her separation worked a minimum of 40 (forty) hours per  
24 week, being paid bi-weekly.

25 8. Plaintiff, Teresa R. Burwell, while engaged in her course of employment and  
26 shift, from 8:30 a.m. to 4:30 p.m. on September 11, 2015, was injured while exiting the  
27 guest room.  
28

1 9. Plaintiff, Teresa R. Burwell, had her right hand crushed between the door,  
2 collector(which is the cart for linens and supplies) and threshold of the door, having her  
3 hand cut between the pinky and ring when the rubber door stopper came from under the  
4 door, which was placed properly under the door; however, this room in particular had a  
5 tile entryway.

6 10. Plaintiff, Teresa R. Burwell, was transported and treated at Concentra, where  
7 x-rays were done upon completion of the C-4 form and report required at the security  
8 office of The Cosmopolitan, dba, Nevada Property One.

9 11. On September 11, 2015, Plaintiff, Teresa R. Burwell, was released to light  
10 duty work assignment with restrictions.

11 12. Plaintiff, Teresa R. Burwell had a workers compensation claim that was  
12 opened and accepted on or around October 4, 2015.

13 13. On October 20, 2015, Plaintiff, Teresa R. Burwell was placed on full medical  
14 workers compensation leave.

15 14. On or about November 10, 2015, Plaintiff, Teresa R. Burwell was seen by the  
16 defendant's colleague, Dr. Young for a follow-up where he blatantly disagreed with the  
17 plaintiff about her injuries and was dismissive to her symptoms and complaints. She  
18 even attempted to provide a report from another doctor, where tests were ran and viable  
19 determination could be made that at one time her right hand was the strongest of the  
20 two; however, since the hand crush injury and laceration, the right hand was weaker  
21 due to the injury.

22 15. Plaintiff, Teresa R. Burwell's care was transferred to the defendant, Dr. Arthur  
23 Taylor, MD on or about December 12, 2015, at his place of business Nevada  
24 Orthopedic and Spine Center, at 7455 W. Washington Avenue Suite 160, Las Vegas,  
25 Nevada, 89128.

1. 16. During the December 12, 2015 visit, defendant, Dr. Arthur Taylor made  
2. accusatory statements and under-handed comments about the plaintiff's previous  
3. surgery she underwent, for a separate issue and whole separate case, which was  
4. irrelevant to her reason for seeing him.

5. 17. Plaintiff, Teresa R. Burwell, was booked for a follow appointment and given a  
6. report, which listed restrictions, progress, and/or any full duty release information; which  
7. in this case, no return to work was given.

8. 18. Plaintiff, Teresa R. Burwell, returned to see the defendant. Dr. Arthur Taylor,  
9. at his place of business, Nevada Orthopedic and Spine Center, on January 6, 2016,  
10. where she voiced her concerns and explained to him after her toy drive, her right hand  
11. still had no feeling, with only the third digit on her right hand being swollen, stiff, and the  
12. only place she felt pain.

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15. symptomology.

16. 20. Defendant, Dr. Arthur Taylor, never performed any testing for causation or to  
17. rule out the plaintiff's complaints, but instead was dismissive, defensive, and rude when  
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24. the plaintiff's reputation, character, welfare, medical treatment, employment, and  
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24. Defendant, Dr Arthur Taylor, did in the course of his profession, conduct himself capriciously, and with ill-will towards the plaintiff, by refusing to document the truths as they were. He, upon his own oath and admission alleged the plaintiff to have been aware of his malicious acts, and became belligerent in his office after been told he would be returning her to full duty on January 6, 2016, which is a blatant lie and fabrication.

25. Defendant, Dr. Arthur Taylor, knowingly allowed the plaintiff to drive herself from his office with a blood pressure reading of 183/143, and though he stated that counseling was given, that too is a fabrication and means to be deceptive as if he was a caring and professional doctor towards the plaintiff.

26. Defendant, Dr. Arthur Taylor, did in the course of his profession fail to use reasonable care, while mistreating the plaintiff and mismanaging her medical treatment, thereby committing professional negligence, pursuant to NRS 41A.015, and provide the plaintiff with care she was due and needed beyond his own speculation and assumption.

27. On February 7, 2016 the plaintiff, Teresa R. Burwell was made aware via email from her ex-employer, The Cosmopolitan of Las Vegas, dba, Nevada Property One, that she was released back to full duty work and needed to come in to discuss her concerns further.

28. On February 22, 2016, the plaintiff, Teresa R. Burwell attended a meeting where she was wrongfully terminated and treated accordingly, per the defendant's Dr. Arthur Taylor arbitrary statements of her being belligerent, and was humiliated by the treatment she received.

1 Plaintiff, Teresa R. Burwell, as a result of the defendant's actions, did suffer  
2 actual and punitive damages, and prays relief from this Honorable Court in the amount  
3 of \$350,000.

### 4 III. CLAIMS FOR RELIEF

5 29. Defendant had a legal, moral, and professional obligation to render the best  
6 and probable medical care to the plaintiff, despite his prejudice, bias, or opinion.

7 30. Plaintiff, Teresa R. Burwell, was consistent with her appointments and  
8 maintained open and honest communication about her symptoms and concerns, and  
9 should have had them addressed.

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11 being self-serving, arrogant, and deceptive. He instead wrote a report 3 (three) weeks  
12 after seeing the plaintiff, and released her back to work unbeknownst her, causing her  
13 to lose her employment, be terminated from workers compensation, and denied a PPD  
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21 stemming from her September 11, 2015 injury.

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38. Plaintiff reserves the right to amend this complaint to allege additional causes  
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**WHEREFORE**, Plaintiff prays for the following relief:

1. For compensatory damages for the loss of employment, medical costs and  
expenses, for past, present, and future in excess of \$350,000.

2. For general damages for past, present, and future pain and suffering, and  
other damages in excess of \$350,000

3. For such other and further relief as this court deems just and equitable.

  
TERESA R. BURWELL  
1015 TIMBERLINE COURT  
HENDERSON, NV 89015  
(702) 628-4927

1 **SUMM**

2 Teresa R. Burwell  
3 1015 Timberline Court  
4 Henderson, NV 89015  
5 (702) 628-4927  
6 Plaintiff in Proper Person

7  
8  
9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11  
12 Teresa R. Burwell

13  
14 Plaintiff(s),

15 -vs-

16 Nevada Orthopedic and Spine Center, Dr.  
17 Arthur Taylor, M.D, and Tina M. Walls,  
18 ESQ

19 Defendant(s).

CASE NO.

A-18-770532-6

DEPT. NO.

XVIII

20 **SUMMONS - CIVIL**

21 **NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
22 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.**  
23 **READ THE INFORMATION BELOW.**

24 **TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against  
25 you for the relief set forth in the Complaint.

26 1. If you intend to defend this lawsuit, within 20 days after this Summons is  
27 served on you, exclusive of the day of service, you must do the following:

28 (a) File with the Clerk of this Court, whose address is shown below, a  
formal written response to the Complaint in accordance with the rules  
of the Court, with the appropriate filing fee.

SUMM Civil/2/9/2018

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CLERK OF THE COURT

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(b) Serve a copy of your response upon the attorney whose name and address is shown below.

- 1 2. Unless you respond, your default will be entered upon application of the  
2 Plaintiff(s) and failure to so respond will result in a judgment of default  
3 against you for the relief demanded in the Complaint, which could result in  
4 the taking of money or property or other relief requested in the Complaint.  
5 3. If you intend to seek the advice of an attorney in this matter, you should do  
6 so promptly so that your response may be filed on time.  
7 4. The State of Nevada, its political subdivisions, agencies, officers,  
8 employees, board members, commission members and legislators each  
9 have 45 days after service of this Summons within which to file an Answer  
10 or other responsive pleading to the Complaint.  
11

12 Submitted by:

13 *Levi D. Bruner*

14 STEVEN D. GRIERSON  
15 CLERK OF COURT

16 By: *Theresa Alvarez*

17 Deputy Clerk

18 Date

19 Regional Justice Center  
20 200 Lewis Avenue  
21 Las Vegas, NV 89155

22 MAR 07 2018

23 **NOTE: When service is by publication, add a brief statement of the object of the**  
24 **action. See Nevada Rules of Civil Procedure 4(b).**  
25  
26  
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**AFFIDAVIT OF SERVICE**

STATE OF )  
COUNTY OF ) ss:

\_\_\_\_\_, being duly sworn, says: That at all times herein affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received \_\_\_\_\_ copy(ies) of the Summons and Complaint, \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and served the same on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by:

**(Affiant must complete the appropriate paragraph)**

1. Delivering and leaving a copy with the Defendant \_\_\_\_\_ at (state address) \_\_\_\_\_
2. Serving the Defendant \_\_\_\_\_ by personally delivering and leaving a copy with \_\_\_\_\_, a person of suitable age and discretion residing at the Defendant's usual place of abode located at (state address) \_\_\_\_\_

**[Use paragraph 3 for service upon agent, completing (a) or (b)]**

3. Serving the Defendant \_\_\_\_\_ by personally delivering and leaving a copy at (state address) \_\_\_\_\_
  - (a) With \_\_\_\_\_ as \_\_\_\_\_, an agent lawfully designated by statute to accept service of process;
  - (b) With \_\_\_\_\_, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.
4. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- ☐ Ordinary mail  
☐ Certified mail, return receipt requested  
☐ Registered mail, return receipt requested

1 addressed to the Defendant \_\_\_\_\_ at Defendant's last known address which is  
2 (state address) \_\_\_\_\_  
3

4 I declare under penalty of perjury under the law of the State of Nevada that the  
5 foregoing is true and correct.

6 EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
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10 Signature of person making service  
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**REGISTER OF ACTIONS**

CASE NO. A-18-770532-C

Teresa Burwell, Plaintiff(s) vs. Nevada Orthopedic And Spine Center LLP, §  
 Defendant(s) §  
 §  
 §  
 §  
 §  
 §

Case Type: **Other Civil Matters**  
 Date Filed: **03/06/2018**  
 Location: **Department 14**  
 Cross-Reference Case Number: **A770532**  
 Supreme Court No.: **76958**

**PARTY INFORMATION**

**Defendant** Nevada Orthopedic And Spine Center LLP

**Lead Attorneys**  
**Robert C. McBride**  
*Retained*  
 702-792-5855(W)

**Plaintiff** Burwell, Teresa R

**Pro Se**

**EVENTS & ORDERS OF THE COURT****DISPOSITIONS**

09/10/2018 **Order of Dismissal** (Judicial Officer: Escobar, Adriana)  
 Debtors: Teresa R Burwell (Plaintiff)  
 Creditors: Nevada Orthopedic And Spine Center LLP (Defendant), Arthur Taylor, MD. (Defendant), Tina Wells, ESQ. (Defendant)  
 Judgment: 09/10/2018, Docketed: 09/11/2018

**OTHER EVENTS AND HEARINGS**

02/09/2018 **Application to Proceed in Forma Pauperis**  
*Application to Proceed in Forma Pauperis*

03/06/2018 **Order to Proceed In Forma Pauperis**  
*Order to Proceed In Forma Pauperis*

03/06/2018 **Complaint**  
*Complaint*

04/25/2018 **Affidavit of Service**  
*Affidavit of Service*

04/30/2018 **Initial Appearance Fee Disclosure**  
*Initial Appearance Fee Disclosure*

04/30/2018 **Motion to Dismiss**  
*Defendants Nevada Orthopedic & Spine Center, LLP and Arthur Taylor, M.D.'s Motion to Dismiss Plaintiff's Complaint Plaintiff's Complaint for Failure to Comply with NRS 41A.097 and NRS 41A.071*

05/25/2018 **Opposition**  
*Plaintiff's Opposition to Defendants' Motion to Dismiss Complaint for Failure to Comply with NRS 41A.097 and NRS 41A.071*

05/29/2018 **Reply**  
*Defendants Nevada Orthopedic and Spine Center and Arthur Taylor, M.D.'s Reply in Support of Motion to Dismiss Pursuant to NRS 41A.097 and NRS 41A.071*

06/05/2018 **Motion to Dismiss** (8:00 AM) (Judicial Officer Smith, Douglas E.)  
*Defendants Nevada Orthopedic & Spine Center, LLP and Arthur Taylor, M.D.'s Motion to Dismiss Plaintiff's Complaint for Failure to Comply with NRS 41A.097 and NRS 41A.071*  
Parties Present  
Minutes  
 Result: Recused

06/14/2018 **Notice of Department Reassignment**  
*Notice of Department Reassignment*

06/25/2018 **Notice of Motion**  
*Notice of Motion Hearing and Notice of Department Reassignment*

08/06/2018 **Motion for Summary Judgment**

08/07/2018 **Motion to Dismiss** (9:30 AM) (Judicial Officer Escobar, Adriana)  
*Defendants Nevada Orthopedic & Spine Center, LLP and Arthur Taylor, M.D.'s Motion to Dismiss Plaintiff's Complaint for Failure to Comply with NRS 41A.097 and NRS 41A.071*  
Parties Present  
Minutes  
 Result: Granted

09/06/2018 **CANCELED Motion for Summary Judgment** (9:30 AM) (Judicial Officer Escobar, Adriana)  
*Vacated*

09/10/2018	<b>Notice of Appeal</b> <i>Notice of Appeal</i>
09/10/2018	<b>Order Granting</b> <i>Order Granting Defendants Nevada Orthopedic &amp; Spine Center, LLP And Arthur Taylor, M.D. S Motion To Dismiss Plaintiff s Complaint For Failure To Comply With NRS 41A.097 And NRS 41A.071</i>
09/11/2018	<b>Notice of Entry</b> <i>Notice Of Entry Of Order Granting Defendants Nevada Orthopedic &amp; Spine Center, Lip And Arthur Taylor, M.D. S Motion To Dismiss Plaintiff s Complaint For Failure To Comply With Nrs 41a.097 And Nrs 41a.071</i>
09/12/2018	<b>Case Appeal Statement</b> <i>Case Appeal Statement</i>

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**FINANCIAL INFORMATION**

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<b>Defendant Nevada Orthopedic And Spine Center LLP</b>		
	Total Financial Assessment	253.00
	Total Payments and Credits	253.00
	<b>Balance Due as of 10/06/2018</b>	<b>0.00</b>
05/01/2018	Transaction Assessment	253.00
05/01/2018	Efile Payment	(253.00)
	Receipt # 2018-29535-CCCLK	Nevada Orthopedic And Spine Center LLP



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 07, 2018

A-18-770532-C      Teresa Burwell, Plaintiff(s)  
vs.  
Nevada Orthopedic And Spine Center LLP, Defendant(s)

August 07, 2018      9:30 AM      Motion to Dismiss

HEARD BY: Escobar, Adriana

COURTROOM: RJC Courtroom 14C

COURT CLERK: Denise Husted

RECORDER: Sandra Anderson

REPORTER:

**PARTIES**

**PRESENT:**      Burwell, Teresa R      Plaintiff  
Plumadore, Dustin J.      Attorney

*ORIGINAL  
one copy*

**JOURNAL ENTRIES**

- Defendants motion to dismiss came on for a hearing before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on August 7, 2018.

After considering the pleadings and argument of the parties, the Court GRANTS Defendants motion. The Court finds that the entirety of Plaintiff s complaint sounds in professional negligence of a medical professional, as all acts of the Defendants were alleged to be committed in the process of rendering medical services and involve medical diagnosis, treatment, and judgment. NRS 41A.015. While not all allegations of unlawful conduct are necessarily professional negligence merely because they are committed by a healthcare provider, Plaintiff does not allege any wrongdoing by Defendants that occurred during performance of nonmedical services, and thus this complaint sounds in professional negligence. See Szymborski v. Spring Mountain Treatment Ctr., 403 P.3d 1280, 1284 85 (Nev. 2017).

Because the complaint alleges only professional negligence under NRS Chapter 41A, the requirements of NRS 41A.071 and NRS 41A.097 apply to the entire complaint. NRS 41A.097(2) states that an action for professional negligence must be filed no more than three years after the date of

PRINT DATE: 08/07/2018

Page 1 of 2

Minutes Date: August 07, 2018

*200.510*

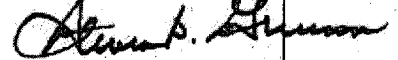
injury or one year after the Plaintiff discovers the injury, whichever occurs first. Plaintiff admits in her complaint, and reiterated at the hearing, that she was aware of the injury caused by the alleged negligence of Dr. Taylor on or about February 2016. Thus, under NRS 41A.097(2), the one-year limitations period is applicable because it would expire before the three-year limitations period, in February 2017. For statute of limitations purposes, the complaint is considered filed upon receipt by the court, which was on February 9, 2018, with Plaintiff's application to proceed in forma pauperis. Because February 9, 2018 was more than one year after Plaintiff discovered the injury, the claim is time-barred under NRS 41A.097(2), and thus must be dismissed with prejudice.

Additionally, because NRS 41A.071 applies, the complaint was void ab initio for lack of a concurrently filed medical expert affidavit, and the complaint must be automatically dismissed. *Washoe Med. Ctr. v. Second Judicial Dist. Ct.*, 122 Nev. 1298, 1304 (2006).

Counsel for Defendant is directed to prepare a proposed order including detailed findings of fact and conclusions of law, which is to be submitted to chambers in Microsoft word format, by email to dept14lc@clarkcountycourts.us.

CLERK'S NOTE: Parties notified as follows:

Teresa R. Burwell, via USPS to: 1015 Timberline Court, Henderson, Nevada 89015  
Robert C. McBride, Esq. @ rcmcbride@cktfmlaw.com  
Heather S. Hall, Esq. @ hshall@cktfmlaw.com



DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

Teresa Burwell, Plaintiff(s)

vs.

Nevada Orthopedic And Spine Center LLP,  
Defendant(s)

Case No.: A-18-770532-C

Department 14

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly reassigned to Judge Adriana Escobar.

☒ This reassignment is due to the recusal of Judge Douglas Smith. See minutes in file.

Any Trial Date and Associated Trial Hearings Stand But May Be Reset By the New Department.

Please Include The New Department Number On All Future Filings.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Joshua Raak

Joshua Raak, Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that this 14th day of June, 2018

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number A-18-770532-C.

☒ I mailed, via first-class, postage fully prepaid, the foregoing Clerk of the Court, Notice of Department Reassignment to:

~~cTeresa R Burwell~~  
1015 Timberline CT  
Henderson NV 89015

/s/ Joshua Raak

Joshua Raak, Deputy Clerk of the Court