

# IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown  
Clerk of Supreme Court

TERESA RENITA BURWELL,  
Appellant(s),

vs.

NEVADA ORTHOPEDIC AND SPINE  
CENTER LLP; AND ARTHUR TAYLOR,  
M.D.,  
Respondent(s),

Case No: A-18-770532-C

Docket No: 76958

# RECORD ON APPEAL VOLUME 1

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A-18-770532-C

TERESA BURWELL vs. NEVADA ORTHOPEDIC AND SPINE  
CENTER LLP

**I N D E X**

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**A-18-770532-C**

**Teresa Burwell, Plaintiff(s)**

**vs.**

**Nevada Orthopedic And Spine Center LLP,  
Defendant(s)**

**I N D E X**

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*Ch. J. H.*  
CLERK OF COURT

1 COMP

2 TERESA R. BURWELL  
3 1015 TIMBERLINE COURT  
4 HENDERSON, NV 89015  
5 (702)628-4927

6 PLAINTIFF/ IN PROPER PERSON

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

A-18-770532-C  
COMP  
Complaint  
4726789



9 Teresa R. Burwell,

10 Plaintiff(s),

11 -vs-

12 Nevada Orthopedic and Spine Center LLP,

13 Arthur Taylor, MD, Tina Wells, ESQ

14 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 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 at relevant times herein, a resident of the State of Nevada, County of Clark, City of Las

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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.

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.  
26  
27  
28

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.

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

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

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

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

23 35. On or about February 17, 2017, plaintiff, Teresa R. Burwell seen Dr. Scott  
24 Forbes for a causation report and was given the same diagnosis and causation report,  
25 stemming from her September 11, 2015 hand c rush injury.  
26

27 36. Plaintiff was referred to an orthopedic surgeon and will be seen on February  
28 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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CLERK OF COURT

OFFICE OF THE SHERIFF  
CLARK COUNTY DETENTION  
CIVIL PROCESS SECTION

TERESA R BURWELL )

PLAINTIFF )

Vs )

NEVADA ORTHOPEDIC & SPINE CENTER )

DEFENDANT )

CASE No. A-18-770532-C  
SHERIFF CIVIL NO.: 18002463

AFFIDAVIT OF SERVICE

STATE OF NEVADA )  
 ) ss:  
COUNTY OF CLARK )

BRIAN THOMAS, being first duly sworn, deposes and says: That he is, and was at all times hereinafter mentioned, a duly appointed, qualified and acting Deputy Sheriff in and for the County of Clark, State of Nevada, a citizen of the United States, over the age of twenty-one years and not a party to, nor interested in, the above entitled action; that on 4/6/2018, at the hour of 10:50 AM, affiant as such Deputy sub Sheriff served a copy of SUMMONS AND COMPLAINT issued in the above entitled action upon the defendant NEVADA ORTHOPEDIC & SPINE CENTER named therein, by delivering to and leaving with c/o TINA M WALLS, ESQ. 8861 W SAHARA AVENUE SUITE 220 LAS VEGAS, NV 89117 within the County of Clark, State of Nevada, said copy/copies of SUMMONS AND COMPLAINT.

I, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE ON NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.

DATED April 9, 2018.

Joseph M. Lombardo, Sheriff

By: [Signature] 9573  
BRIAN THOMAS  
Deputy Sheriff

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APR 25 2018

CLERK OF THE COURT

A-18-770532-C  
AOS  
Affidavit of Service  
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301 E. Clark Ave. #100 Las Vegas NV 89101 (702) 455-5400



**IAFD**

ROBERT C. McBRIDE, ESQ.  
Nevada Bar No. 7082

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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: VIII**

**DEFENDANTS, NEVADA ORTHOPEDIC  
& SPINE CENTER, LLP AND ARTHUR  
TAYLOR, M.D.'S INITIAL  
APPEARANCE FEE DISCLOSURE**

Pursuant to N.R.S. Chapter 19, as amended by Senate Bill 106, filing fees are submitted  
for the parties appearing in the above-entitled action as indicated below:

///

///

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///

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1 NEVADA ORTHOPEDIC & SPINE CENTER, LLP \$223.00  
2 ARTHUR TAYLOR, M.D. \$30.00  
3 **TOTAL REMITTED \$253.00**  
4

5 DATED this \_30th\_ day of \_April\_, 2018.

CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY

/s/ Robert C. McBride

ROBERT C. McBRIDE, ESQ.  
Nevada Bar No.: 7082  
HEATHER S. HALL, ESQ.  
Nevada Bar No.: 10608  
8329 W. Sunset Road, Suite 260  
Las Vegas, Nevada 89113  
Attorneys for Defendants,  
*Nevada Orthopedic & Spine Center, LLP*  
*and Arthur Taylor, M.D.*



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 30<sup>th</sup> day of April, 2018, I served a true and correct copy  
3 of the foregoing **DEFENDANTS, NEVADA ORTHOPEDIC & SPINE CENTER, LLP AND**  
4 **ARTHUR TAYLOR, M.D.'S INITIAL APPEARANCE FEE DISCLOSURE** addressed to  
5 the following counsel of record at the following address(es):  
6

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

14 Teresa R. Burwell  
15 1015 Timberline Court  
16 Henderson, Nevada 89015  
*Plaintiff in Pro Per*

17  
18  
19 /s/ Heather S. Hall  
20 An Employee of CARROLL, KELLY, TROTTER,  
21 FRANZEN, McBRIDE & PEABODY  
22  
23  
24  
25  
26  
27  
28



**MTD**

ROBERT C. McBRIDE, ESQ.  
Nevada Bar No. 7082  
HEATHER S. HALL, ESQ.  
Nevada Bar No. 10608  
CARROLL, KELLY, TROTTER,  
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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: VIII**

**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**

**DATE OF HEARING:**

**TIME OF HEARING:**

COME NOW, Defendants, NEVADA ORTHOPEDIC & SPINE CENTER, LLP and  
ARTHUR TAYLOR, M.D., by and through their counsel of record, ROBERT C. McBRIDE,  
ESQ. and HEATHER S. HALL ESQ. of the law firm of CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY, and hereby file their Motion to Dismiss Plaintiff's  
Complaint Plaintiff's Complaint for Failure to Comply with NRS 41A.097 and NRS 41A.071.

This Motion is made and based upon the Points and Authorities attached hereto, the

1 papers and pleadings on file herein, and such oral arguments as may be entertained by the Court  
2 at the time and place of the hearing of this Motion.

3 DATED this \_30th\_ day of \_April\_, 2018.

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

5  
6 /s/ Robert C. McBride

7 \_\_\_\_\_  
ROBERT C. McBRIDE, ESQ.  
Nevada Bar No.: 7082  
8 HEATHER S. HALL, ESQ.  
Nevada Bar No.: 10608  
9 8329 W. Sunset Road, Suite 260  
10 Las Vegas, Nevada 89113  
Attorneys for Defendants,  
11 *Nevada Orthopedic & Spine Center, LLP*  
12 *and Arthur Taylor, M.D.*

13 **NOTICE OF MOTION**

14 YOU AND EACH OF YOU PLEASE TAKE NOTICE that these Defendants will bring  
15 the foregoing motion on for Hearing on the 05 day of JUNE, 2018, in  
16 Department VIII of the above-entitled Court at the hour of 8:00A a.m./p.m., or as soon  
17 thereafter as counsel may be heard.

18 DATED this \_30th\_ day of \_April\_, 2018.

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

20  
21 /s/ Robert C. McBride

22 \_\_\_\_\_  
ROBERT C. McBRIDE, ESQ.  
Nevada Bar No.: 7082  
23 HEATHER S. HALL, ESQ.  
Nevada Bar No.: 10608  
24 8329 W. Sunset Road, Suite 260  
25 Las Vegas, Nevada 89113  
Attorneys for Defendants,  
26 *Nevada Orthopedic & Spine Center, LLP*  
27 *and Arthur Taylor, M.D.*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION & STATEMENT OF FACTS**

4 On March 6, 2018, Plaintiff filed her Complaint against Nevada Orthopedic and Spine  
5 Center and Arthur Taylor, M.D. *See Plf's Comp.* Plaintiff's claims arise out of allegations of  
6 medical malpractice related to care and treatment provided from December 2015 to January  
7 2016. *Id.*, para. 15 - 26. More specifically, Plaintiff actually cites to Nevada's Medical  
8 Malpractice laws and Defendant Arthur Taylor, M.D.'s alleged "fail[ure] to use reasonable care,  
9 while mistreating the plaintiff and mismanaging her medical treatment, thereby committing  
10 professional negligence, pursuant to NRS 41A.015[.]" *Id.*, para. 26. Although Plaintiff claims  
11 Defendant Arthur Taylor, M.D.'s actions in diagnosing Plaintiff as able to return to work violate  
12 "defamation/slander/libel laws" and cites NRS 200.510 and NRS 630.080 as relevant authority,  
13 the conduct in question is clearly a medical diagnosis that falls under Nevada's medical  
14 malpractice legal framework. *Id.*, para. 22 - 24, and 37.

15 Within her own Complaint, Plaintiff states that Defendant's treatment of her ceased on  
16 January 6, 2016, and that Dr. Taylor's last act as her physician occurred at the time of his  
17 January 29, 2016 written evaluation of her condition. *Id.*, para. 18 - 22. Plaintiff knew or should  
18 have known, through the use of reasonable diligence, of her claims more than one year prior to  
19 filing this Complaint. At the very latest, Plaintiff had until January 2017 to file her medical  
20 malpractice claims. Instead, she waited until nearly 15 months after the statute of limitations ran  
21 to file the present action. Because this Complaint is untimely, it should be dismissed.

22 In addition to this Complaint being untimely, Plaintiff also fails to comply with NRS  
23 41A.071. Despite the fact that this case is clearly one involving allegations of medical  
24 malpractice, Plaintiff failed to attach an affidavit of a medical expert to her Complaint, as is  
25 required by NRS 41A.071. These failures are fatal to this action. Pursuant to NRS 41A.071 and  
26 NRS 41A.097, dismissal is mandatory.

27 ///

28 ///

1 II.

2 **LEGAL ARGUMENT**

3 **A. PLAINTIFF FAILED TO SATISFY THE REQUIREMENTS SET FORTH IN**  
4 **NRS 41A.071, MANDATING DISMISSAL OF HER COMPLAINT.**

5 Plaintiff's claims are based on allegations of medical malpractice and, therefore, subject  
6 to the requirements NRS 41A.071. NRS 41A.071 provides:

7 "If an action for medical malpractice or dental malpractice is filed in the  
8 district court, the district court **shall dismiss the action, without prejudice, if**  
9 **the action is filed without an affidavit**, supporting the allegations contained  
10 in the action, submitted by a medical expert who practices or has practiced in  
11 an area that is substantially similar to the type of practice engaged in at the  
12 time of the alleged malpractice."

13 [Emphasis added].

14 NRS 41A.071 establishes that claims of medical malpractice may not be maintained  
15 unless those claims are supported by an affidavit from a medical expert. A Complaint **must** be  
16 dismissed if an expert's affidavit does not address the breaches of the standard of care as to each  
17 and every defendant named in the case. *See Washoe Med. Ctr. v. Second Judicial District Court*,  
18 122 Nev. 1298, 148 P.3d 790 (2006).

19 The whole purpose behind the affidavit requirement was to ensure that medical  
20 malpractice actions were meritorious and supported by competent expert opinion. *Washoe*,  
21 *supra.*; *Borger v. Eighth Judicial District Court*, 120 Nev. 1021, 1029 (2004). To satisfy these  
22 requirements, the expert affidavit must state that, to a reasonable degree of medical probability,  
23 the defendant fell below the standard of care, must substantively identify the manner in which  
24 the defendant fell below the standard of care, and must further state that the departure from the  
25 standard of care caused damage. *Orcutt v. Miller*, 95 Nev. 408, 411, 595 P.2d 1191, 1193  
26 (1979), (citing *Lockart v. Maclean*, 77 Nev. 210, 361 P.2d 670 (1961)). NRS 41A.071 and the  
27 cases interpreting that statute have made it abundantly clear that dismissal of the action is  
28 mandatory if a supporting affidavit of a medical expert is not submitted with the Complaint to  
support the allegations of negligence by the medical provider. *See Borger v. Eighth Judicial*  
*Dist. Ct.*, 120 Nev. 1021, 102 P.2d 600 (2004); *See also Washoe Med. Ctr. v. Second Judicial*  
*District Court*, 122 Nev. 1298, 148 P.3d 790 (2006). Additionally, the *Washoe* decision

specifically held that medical malpractice and professional negligence claims that are void ab initio, because a proper expert affidavit is not attached, may not be cured by amendment of the complaint, regardless of whether other claims in the complaint survive.

Here, Plaintiff's claims arise out of allegations of medical malpractice related to care and treatment provided from December 2015 to January 2016. *See Plf's Comp.*, para. 15 - 26. More specifically, Plaintiff actually cites to Nevada's Medical Malpractice laws and Defendant Arthur Taylor, M.D.'s alleged "fail[ure] to use reasonable care, while mistreating the plaintiff and mismanaging her medical treatment, thereby committing professional negligence, pursuant to NRS 41A.015[.]" *Id.*, para. 26. Without question, the Complaint states claims for medical malpractice arising out of Dr. Taylor's decision to allow her to return to work and questions Dr. Taylor's medical diagnosis. *Id.*, para. 22 - 24, and 37. Allegations of this nature sound in medical malpractice and fall under the purview of NRS 41A. Therefore, according to the Nevada Supreme Court's guidance under *Washoe*, Defendants are entitled to a complete dismissal of the present action as it is void ab initio and may not be cured by any amendment of the Complaint.

**B. PLAINTIFF'S CLAIMS AGAINST THESE DEFENDANTS ARE BARRED BY THE STATUTE OF LIMITATIONS.**

Plaintiff's claims against Defendants are time-barred under NRS 41A.097, which provides:

Except as otherwise provided in subsection 3, an action for injury or death against a provider of health care may not be commenced more than 3 years after the date of injury or 1 year after the **plaintiff discovers or through the use of reasonable diligence should have discovered the injury**, whichever occurs first, for:

- (a) Injury to or the wrongful death of a person [...] based upon alleged professional negligence of the provider of health care;  
[...]
- (c) Injury to or the wrongful death of a person [...] from error or omission in practice by the provider of health care.

[Intentionally omitted] [emphasis added]. NRS 41A.097(2)(a), (c).

The appropriate accrual date for the statute of limitations is a question of law when the facts are uncontroverted. *Day v. Zubei*, 112 Nev. 972, 922 P.2d 536 (1996), citing *Nevada Power Co. v. Monstanto Co.*, 955 F.2d 1304, 1307 (9th Cir.1992). The Nevada Supreme Court has

1 clarified the discovery rule set forth in NRS 41A.097. Specifically, the Court held that “the  
2 statute of limitations begins to run when the patient has before him facts which would put a  
3 reasonable person on inquiry notice of his possible causes of action, whether or not it has  
4 occurred to the particular patient to seek further medical advice.” *Massey v. Litton*, 99 Nev. 723,  
5 727-28, 669 P.2d 248, 251-52 (1983). The focus is on the patient’s knowledge or access to facts  
6 rather than on his discovery of legal theories. *Id.* at 728, 252; *See also Jolly v. Eli Lilly & Co.*, 44  
7 Cal. 3d 1103, 1111, 751 P.2d 923, 928, 245 Cal. Rptr. 658, 662 (1988) (“It is the discovery of  
8 facts, not their legal significance, that starts the statute”). Thus, once the patient has “inquiry  
9 notice” of her cause of action, the statute of limitations begins to run. *Id.*

10 Actual notice of a definite cause of action is not required to trigger NRS 41A.097’s one  
11 year statute of limitations. *Massey*, 99 Nev. at 728, 669 P.2d at 252. The Nevada Supreme Court  
12 has further explained that “a patient **discovers** his *legal injury* **when** he knows or, through the  
13 use of reasonable diligence, **should have known of facts that would put a reasonable person**  
14 **on inquiry notice** of his cause of action.” *Id.*

15 Here, by Plaintiff’s own admission she was aware of Defendant Dr. Arthur Taylor’s  
16 diagnosis that she was physically able to return to work at her January 6, 2016 appointment as  
17 well as through her employer on February 7, 2016. *See Plf’s Comp.*, para. 24 - 27. Additionally,  
18 Plaintiff states that she was terminated on February 22, 2016 as a result of Defendant’s  
19 diagnosis. *Id.*, para. 27 and 31. Plaintiff’s immediate disagreement with Defendant’s diagnosis,  
20 as well as the events that allegedly occurred thereafter, clearly demonstrate that she knew of the  
21 facts that would put a reasonable person on inquiry notice of the possible causes of action for  
22 which she seeks relief. Therefore, the statute of limitations under NRS 41A.097 began to run at  
23 some point during that January to February 2016 timeframe, which makes the present action  
24 untimely and ripe for dismissal on those grounds, as well.

### 25 III.

### 26 CONCLUSION

27 Based on all of the foregoing, Defendants Nevada Orthopedic and Spine Center and  
28 Arthur Taylor M.D. respectfully request that this Court grant this Motion to Dismiss Plaintiff’s

1 Complaint for Failure to Comply with NRS 41A.071 and NRS 41A.097 and dismiss all claims  
2 against them. Defendants also ask for any other relief this Honorable Court deems just and  
3 appropriate.

4 DATED this \_30th\_ day of \_April\_, 2018.

CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY

/s/ Robert C. McBride

---

ROBERT C. McBRIDE, ESQ.  
Nevada Bar No.: 7082  
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8329 W. Sunset Road, Suite 260  
Las Vegas, Nevada 89113  
Attorneys for Defendants,  
*Nevada Orthopedic & Spine Center, LLP*  
*and Arthur Taylor, M.D.*



1 **CERTIFICATE OF SERVICE**

2  
3 I HEREBY CERTIFY that on the 30<sup>th</sup> day of April, 2018, I served a true and correct copy  
4 of the foregoing **DEFENDANTS NEVADA ORTHOPEDIC & SPINE CENTER, LLP AND**  
5 **ARTHUR TAYLOR, M.D.'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT FOR**  
6 **FAILURE TO COMPLY WITH NRS 41A.097 AND NRS 41A.071** addressed to the  
7 following counsel of record at the following address(es):  
8

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

16 Teresa R. Burwell  
17 1015 Timberline Court  
18 Henderson, Nevada 89015  
19 *Plaintiff in Pro Per*  
20

21 /s/ Heather S. Hall  
22 An Employee of CARROLL, KELLY, TROTTER,  
23 FRANZEN, McBRIDE & PEABODY  
24  
25  
26  
27  
28

*Heather S. Lumin*  
CLERK OF THE COURT

OPP

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

PLAINTIFF IN PROPER PERSON

DISTRICT COURT  
CLARK COUNTY, NEVADA

Teresa R Burwell,

Plaintiff(s),

-vs-

Nevada Orthopedic and Spine Center LLP,

Arthur Taylor, MD, Tina Wells, ESQ,

Defendant(s).

CASE NO. A-18-770532-C

DEPT. NO. VII - 8

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

HEARING DATE:

HEARING TIME:

Comes now, Teresa R. Burwell, by and through her own counsel, does hereby  
files this pleading and opposes the defendants' Motion to Dismiss Complaint for Failure  
to Comply with NRS 41A.097 and NRS 41A.071, filed by the defendants on April  
30, 2018.

This opposition is based upon the pleadings filed herein, and all relevant facts to  
this case. This opposition is supported by the following Memorandum of Points and  
Authorities, the pleadings and papers on file with the Court, the attached declaration  
and exhibits, and any argument the Court may allow at the time of hearing.

RECEIVED

MAY 25 2018

CLERK OF THE COURT

## MEMORANDUM OF POINTS AND AUTHORITIES

### **A. Plaintiff's statement of defense to Statutory Limitations-NRS 41A.097**

The plaintiff opposes the motion to dismiss on file with the Court for the following reasons and based upon the facts, law, and legal authorities stated in this pleading.

1. Defendants legal standard used pursuant to NRS 41A.097- in the defendants pleading the mention of NRS 41.097.- In regard to this statute and the limitations that have been stated to apply in this case, the plaintiff would like to point out the dates in particular in regard to the cause of action brought forth in this case. The defendant's actions derived from the January 6, 2016 visit the plaintiff last had with him in his office. The defendant at a later date of about 3 weeks did release the plaintiff unbeknownst to her to full duty and obstructed the facts in an orthopedic evaluation and report that he maliciously constructed in an attempt to bring harm to the plaintiff and her ongoing workers compensation case. This report was submitted to the plaintiff via email and received on February 9, 2016. **(Exhibit 1)**
2. NRS 41.097-3 years or 1 year- the plaintiff's complaint has been filed in a timely manner and not barred by the statute because the plaintiff was not made aware of the defendant's actions until February 9, 2016, which is within the 3 years the statute allows. Also, the newly discovered medical information in regard to the plaintiff's industrial injury on September 11, 2015, which was prompted not by "new" symptoms, but continued symptomology that which the defendant was dismissive to; initiated the plaintiff's need to seek further medical treatment by use of her own private insurance. The end result of the plaintiff's further need for medical attention and answers resulted in her travelling to Los Angeles, California on or about June 8, 2016, seeing a Dr. Enna and having been referred on the day of her visit for further testing. The

1 plaintiff was referred to Dr. Paresa, which gave her the truthful facts of her  
2 ongoing complaints to Dr. Taylor; who refused to put his personal feelings  
3 aside and render the care and treatment that the plaintiff was due. (Exhibit 2)  
4 The plaintiff not only complained of her discomfort to the defendant, but also  
5 wrote a full and descriptive statement in an attempt to have her workers  
6 compensation case reopened which was closed because of the defendant's  
7 false allegations and purposeful sabotage.

- 8 3. Therefore, the time allowed per statute is accurate. The plaintiff has exercised  
9 the 3-year statute for her claim, which the original date of injury was  
10 September 11, 2015, and the complaint was filed timely.
- 11 4. The use of the statute, NRS 41 A.097 has been misapplied by the  
12 defendants. The emphasis has been put on 3 years after the date of injury or  
13 1 year after the plaintiff discovers or through the use of reasonable diligence  
14 should have discovered the injury. -This has no bearing on the plaintiff's  
15 claims and complaint because the facts are obvious. The plaintiff's right hand  
16 was crushed and cut on September 11, 2015, which has already been  
17 established. The error involved is not the initial "discovery" of the injury but  
18 the failure on the defendant's part to render proper and due care while  
19 treating the plaintiff and refusing to adhere to her complaints during those  
20 visits.
- 21 5. The plaintiff did not have the burden as the patient to prove her symptoms  
22 were viable. It was the defendant's responsibility to render such analysis,  
23 treatment, and care which wouldn't be self-serving to himself and/or his  
24 affiliates. The plaintiff did not have the means or authorization to order further  
25 testing for such orders only come from the treating physician. The defendants  
26 attempt to place blame and burden on the plaintiff is moot.
- 27  
28

1 6. There was not a "new discover" in regard to the plaintiff's injury, but rather  
2 concrete clarification that the symptomology she described was worthy of  
3 further testing and evaluation, which the defendant failed to do. In this case,  
4 the plaintiff is well within the statutes moving forward and the defendants  
5 motion in regard to NRS 41A.097 should be denied.

6 **B. FOUNDATIONAL AND LEGAL ARGUMENT**

7 **Plaintiff's statement of defense to defendants raising NRS 41 A.071 as a**  
8 **means to dismiss her complaint**

9 1. **NRS 41A.071** requires a medical affidavit to accompany the complaint as  
10 the defendants have outlined. However, the plaintiff would like to exercise  
11 the rebuttable presumption, pursuant to **NRS 41A.100 (1)(D)-Liability for**  
12 **personal injury or death is not imposed upon any provider of health**  
13 **care based on alleged negligence in the performance of that care**  
14 **unless evidence consisting of expert medical testimony, material**  
15 **from recognized medical texts or treatises or the regulations of the**  
16 **licensed medical facility wherein the alleged negligence occurred is**  
17 **presented to demonstrate the alleged deviation from the accepted**  
18 **standard of care in the specific circumstances of he case and to**  
19 **prove causation of the alleged personal injury or death, except that**  
20 **such evidence is not required and a rebuttable presumption that the**  
21 **personal injury or death was caused by negligence arises where**  
22 **evidence is presented that the provider of health care caused the**  
23 **personal injury or death occurred in any one or more of the following**  
24 **circumstances: (D) An injury was suffered during the course of**  
25 **treatment to a part of the body not directly involved in the treatment**  
26 **or proximate thereto;**  
27  
28

- 1           2. The plaintiff submits **(Exhibit 3)**, the Court will find 3(three) reports  
2           conducted by 3(three) independent doctors, whom have no interest in the  
3           ongoing case and have benefitted nothing from conducting the  
4           assessments and tests they rendered appropriate to conclude the  
5           diagnosis that was given.
- 6           3. The plaintiff, in using the **rebuttal presumption pursuant to NRS**  
7           **41A.100 (1) (D)** states that the body part(s) affected indirectly from the  
8           defendants failure to provide and render due care, and of omissions of his  
9           own are: **(A.)** the plaintiff's blood pressure, (which caused an offset of  
10          stroke symptoms and resulted in the plaintiff having to get to the hospital  
11          immediately) **(B)** third finger on right hand, **(C)**elbow/ulnar nerve-due to  
12          the plaintiff's right crush injury and laceration between her pinky and  
13          4<sup>th</sup>(fourth) finger there has been an onset of carpal tunnel and cubital  
14          carpal tunnel, which has the nerves to jump in the plaintiff's right elbow,  
15          extension of the arm causes spasms, cramping and discomfort, and the  
16          need for surgery. While the plaintiff has recently been treated for the same  
17          injuries listed, she has not had surgery scheduled yet due to her previous  
18          ongoing orthopedic treatment on her spine and an arising need to have  
19          outpatient surgery recently and in the future. The plaintiff can deal with  
20          only one health emergency at a time; and **(D)** plaintiff's overall health in  
21          general was jeopardized when the defendants as he omitted triaged her  
22          and allowed her to drive herself to the hospital, where she was admitted.  
23          **(Exhibit 4)**
- 24                4. On January 6, 2018 after being triaged by the defendants nursing staff  
25                was 183/143, which was elevated and high for the plaintiff. The patient's  
26                blood pressure spiked due to unusual and extreme pain that was out of  
27                28

1 the ordinary to her normal pain she was experiencing from previous injury  
2 and surgery and triggered by the September 11, 2015 injury she sustained  
3 at the Cosmopolitan of Las Vegas, while engaged in her normal course of  
4 work.

- 5 5. This offset of additional pain was triggered from her right hand being  
6 crushed and lacerated on September 11, 2015, and as she continuously  
7 reported the pain was excruciating in only one limb and that was her third  
8 finger on her right hand. Not only was the plaintiff's third finger on her right  
9 hand stiff and swollen, but according to the examination performed by Dr.  
10 Enna, the plaintiff's third finger on her right hand had trigger finger and  
11 required an injection. **(See reports submitted as Exhibit 3).**
- 12 6. The defendant stated in his orthopedic report that he gave materials and  
13 counseling to the plaintiff regarding her blood pressure and even though it  
14 triaged that high, the defendant was completely confident in his  
15 "counseling" that he allowed the plaintiff to drive herself from his office with  
16 no regard to her welfare or safety, as to where she would end up; since  
17 after all as he claims was his top priority. **(Exhibit 5)**
- 18 7. The plaintiff's complaint outlines the allegations supporting her claims in  
19 that the defendant, Dr. Taylor failed to provide due care and order the  
20 testing necessary that would provide concrete reasoning for his  
21 dismissiveness to the plaintiff's ongoing complaints and symptomology.
- 22 8. The defendant erred in providing the care the plaintiff was due and  
23 allowed not only with his complete lack of judgment, but his failure to even  
24 physically examine the plaintiff's right hand.
- 25 9. The defendant's prejudices, personal and ill feelings towards the plaintiff  
26 was displayed along with his ignorance when he during the January 6,  
27  
28

2016 visit told the plaintiff she had more complaints than a gun shot victim he was treating. As previously stated the plaintiff is prepared to submit a video recording as evidence.

10. There is no affidavit in the plaintiff's opinion that could properly align with the defendant's blatant disregard to adhere to the patient's concerns and order further testing to rule out any possibilities of underlying and undiscovered medical issues as has been the case with the plaintiff's complaint, claims, and causes of action. To "hear" your patient, one would have to be connected and in tune with that person's well-being and general health. Which would warrant a conscience and good judgement. One can't avert from the illogical decisions that the defendant made to both disregard the plaintiff's medical well-being and falsify reports in such a self-serving manner. While doing so, the defendant caused harm to the plaintiff's reputation and name by writing defamatory and slanderous things which were not true or factual, therefore, violating the slander and libel laws.

### **C. COMMON KNOWLEDGE DOCTRINE**

1. **Mora V. U.S. Dept of Homeland Sec Immigration and Customs Enforcement, No.11-3321, 2013 WL 5180041, at \*1,\*7(D.N.J Sept. 13, 2013)**, the court applied the common knowledge doctrine where a person held in ICE custody complained that, after having been assaulted while in custody and sustaining "serious injuries" throughout his entire body." **2013 WL 5180041 at\*1**, " he was never treated or given basic medical care for his injuries." Finding relevant and analogous a precedent holding that "a physician's failure to diagnose a plaintiff's injuries...falls within the common knowledge exception." **2013 WL 5180041 at \*7 (citing Bullock**



(D.N.J Aug 18, 2011)

2. The defendant was futile with his care and diagnosis, and producing not a "misdiagnosis", but not rendering one at all beside the mention of "some arthritis." Here again, having the means, ability, and power to order any type of diagnostic testing which would be amicable in providing the plaintiff her right to due care and proper treatment. Instead the defendant reneged on his original mention of "some arthritis" instructing the plaintiff to forget what he had previously mentioned before suggesting that she would never be satisfied with what he had to say and would be transferring her care. Despite what the defendant produced on paper in the form of the usual progress report he gave at the end of each visit, the defendant clearly did not release the plaintiff back to work via written communication, (**Exhibit 6**) or verbal communication.
3. While the plaintiff awaited her transfer of care, per the defendant's request and initiation, she was instead ambushed with a full duty release, which was not provided by the defendant, but the plaintiff's ex employer. (**Exhibit 7**).
4. Though the defendant alleges the plaintiff requested a transfer of care, it is obvious by the abrupt nature of his releasing the plaintiff back to full duty unbeknownst to her and 3(three) weeks after their initial last visit that his intent was to bring harm to the plaintiff by his actions, because he by right since it had been documented that a transfer of care was requested, was to allow that process to take it's course pursuant to NRS 616C.090

1 **D. RES IPSA LOQUITUR (THE THING SPEAKS FOR ITSELF)**

2 Nev. Rev Stat 41A.100 codified the common law res ipsa loquitur doctrine-  
3 Woosley V. State Farm Ins. Co, 117 Nev. 182, 18 P3d 317 (2001)

4 In regard to the complaint filed against the defendants, the plaintiff had no  
5 bearing or control over how the defendants failed to render the care that was  
6 due. The plaintiff was compliant with the requirements for her accepted  
7 workers compensation case. She kept scheduled appointments with the  
8 defendant even though he voiced bias and prejudice against her for having a  
9 prior carpel tunnel surgery even though the tests were negative. It was from  
10 the defendant's remarks about her ongoing personal injury case, which had  
11 nothing to do with the defendant, which prompted her to video record the next  
12 and last visit she had with him.

13  
14 The defendant's dislike and/or self righteousness caused him to act negligent  
15 in his profession, failing to render the care he would have otherwise used with  
16 any other patient he "approved" of. The defendant set out in collusion to  
17 cause the plaintiff harm to both her industrial claim and her employment; in  
18 addition to shedding an unpleasant light upon her character with his false  
19 accusations of her becoming belligerent after he released her back to work,  
20 which never occurred, and the evidence will prove such.

21 The defendant released the plaintiff back to full duty 3(three) weeks after  
22 having originally seeing her and rendering the plaintiff with no aid, medication,  
23 resolve, comfort, proper treatment, or follow up exam and care. In fact, the  
24 defendant sent a divorce of care after receiving a follow up letter of demand  
25 from the plaintiff. **(Exhibit 8)**

26  
27 In an attempt to cover his tracks, the defendant turned the tables on the  
28 plaintiff by attacking her character and true medical condition. The defendant

1 then very cunningly attempted to portray himself as the good Samaritan  
2 doctor full of care and love for the plaintiff on paper, all while spewing insults  
3 at her behind closed doors, while refusing to even properly examine her hand.  
4 The defendant ordered "aggressive" therapy even though the plaintiff had  
5 already completed a series of visits with a physical therapist and had no relief  
6 from doing so. (Exhibit 9)  
7  
8  
9

#### 10 **E. PHYSICIAN'S DUTY OF CARE OWED**

- 11 1. Eugene Moore, v. Western Carolina Treatment Center, Inc No. 2:212-CV-  
12 394, February 17, 2016- Regarding this particular case the treatment  
13 center had a duty to warn opiate-addicted persons of potential side effects  
14 of methadone on his ability to safely operate and drive an automobile  
15 safely. There was a duty owed to warn and to care; to inform of potential  
16 side effects etc. as a measure of good faith. The result was the plaintiff in  
17 this case was involved in an automobile accident which resulted in injuries  
18 to him.
- 19 2. As an act of good faith a physician, treatment center, or any care giver  
20 that has the licensing, power, and knowledge to render information to his  
21 or her patients that have sought out care, has a duty to make decisions  
22 and determinations that would evade any and all foreseeable probabilities  
23 of harm or injury to occur. In the above cited case, the treatment center  
24 had a duty to warn the plaintiff of potential side effects of methadone and  
25 his ability to safely drive an automobile. The findings were significant,  
26 weighing in favor of finding that the treatment center had the duty to warn  
27  
28

1 of all side effects of medications and the impairments that could be  
2 caused.

3 **3. Pursuant to NRS 41A.015-Professional negligence defined:**

4 **"Professional Negligence" means the failure of a provider of health**  
5 **care, in rendering services, to use the reasonable care, skill or**  
6 **knowledge ordinarily used under similar circumstances by similarly**  
7 **trained and experienced providers of health care.**

8 4. The defendant failed pursuant to the provisions of NRS 630.020-"Practice  
9 of Medicine"-1. To diagnose, treat, correct, prevent or prescribe for any  
10 human disease, ailment, injury, infirmity, deformity or other condition,  
11 physical or mental, by any means or instrumentality, including, but not  
12 limited to, the performance of an autopsy. 2. To apply principles or  
13 techniques of medical science in the diagnosis or the prevention of any  
14 such conditions. 3. To perform any of the acts described in subsections 1  
15 and 2 by using equipment that transfers information concerning the  
16 medical condition of the patient electronically, telephonically or by fiber  
17 optics, including, without limitation, through telehealth, from within or  
18 outside this State of the United States. 4. To offer, undertake, attempt to  
19 do or hold oneself out as able to do any of the acts described in  
20 subsections 1 and 2.

21 5. Because of the defendants obvious dislike and personal indifference  
22 towards the plaintiff, or out of plain obstructed judgement, the defendant  
23 failed to use his medical expertise and clear duty to use proper discretion  
24 in properly caring for the plaintiff and her injury-symptomology.

25 6. In doing so, the defendant refused to render any testing other than an x-  
26 ray of the plaintiff's right hand. Even after her completion of one round of  
27  
28

1 ordered physical therapy and having returned for a follow-up on January  
2 6, 2016, with the same complaints she expressed since the date of injury,  
3 the defendant was callously dismissive and outright refused to order  
4 further diagnostic testing against the plaintiff's requests.

5 7. The defendant under a duty to warn and act allowed the plaintiff to leave  
6 his office though her blood pressure was 184/143 with no questions of  
7 concern or regards to her safety knowing per his statement that she drives  
8 herself and could have very well in the course of her taking sick had an  
9 accident. By the grace of God the plaintiff did manage to make her way to  
10 Southern Hills Hospital after she made a stop at a local Wal-Mart and felt  
11 more faint.

12 8. Upon arrival at the emergency room the plaintiff was questioned as to why  
13 the doctor's office she had just left allowed her to drive herself rather than  
14 call the paramedics. While the defendant has attested and affirmed he  
15 gave instructions or information regarding her blood pressure, this is false  
16 and can be proven with the video recording she administered during her  
17 visit with the defendant on January 6, 2016.

18 9. Pursuant to NRS 200.690: To record an in-person conversation, one of  
19 the following two conditions must be met: (1) at least one party to the  
20 conversation must give consent to its recording. In Lane Vs Allstate the  
21 legislature deemed the act of recording wire communications in  
22 emergency situations, consent of one party was enough authorization.  
23 Upon recognition of NRS 200.650 the court gave explicit allowance for  
24 surreptitious recording of in-person, private conversations where there is  
25 "authorization" to do so by one of the persons engaging in the  
26 conversation as allowable.  
27  
28

1 10. The plaintiff did not have time to recover a court order or warrant in order  
2 to video record her visit with the defendant and done so for her safety and  
3 protection based upon her previous visit with the defendant and the  
4 manner in which he talked to her and brought up her personal injury case  
5 that had nothing to do with him and antagonized her over having had her  
6 left hand carpel tunnel surgery done even though the test was negative,  
7 as if she had the power to force the treating physician to do so.

8 11. NRS 162A.060 "Good faith" defined-"Good faith" means honesty in fact.

9 The defendant not only falsified his medical report by affirming he gave  
10 counseling regarding the plaintiff's blood pressure, but he also went as far  
11 as to falsify the orthopedic report in regards to events that occurred and  
12 how.

13 12. The defendant not only defamed the plaintiff's character thus committing  
14 libel by putting in writing that she became belligerent and out of character  
15 after having been told he was releasing to her work, when he never told  
16 her he was releasing her to full duty. But rather in the middle of her trying  
17 to reason with him and giving him a demonstration which can be heard in  
18 the video, he became agitated by her. He insisted as stated before she  
19 would never be happy with his treatment and to forget what he previously  
20 told her about the "mild arthritis" he documented.

21 13. Even though the defendant gave the plaintiff a progress report stating that  
22 her conditions were the same as they were on her visit on December 12<sup>th</sup>  
23 or 14<sup>th</sup>, recording no full duty release nor rendering a verbal one. As  
24 provided in the exhibits the defendant per the progress report which is  
25 given as prodical listed the same restrictions which is contradicting if he  
26 released her to full-duty because the progress itself, dated January 6,  
27  
28

1 2016 with his signature on his business letterhead specifically does not  
2 state any such release. In fact, the plaintiff per the defendant's lies  
3 requested a transfer of care, when in fact it was his idea under his own  
4 initiation.

5 14. Instead of the defendant providing the plaintiff the care and treatment that  
6 was due, the defendant in an attempt to cover up the comrady and  
7 collusion between himself, the workers compensation company, and the  
8 ex-employer, Cosmopolitan of Las Vegas, dba Nevada Property One he  
9 callously constructed reports that were false, defaming and hurtful to the  
10 plaintiff's reputation; which in turn caused her to be wrongfully terminated,  
11 cut off workers compensation, and denied a PPD rating even though her  
12 symptoms and injury was not better. But because of his personal  
13 indifference according to him and by his personal standard and not  
14 professional one, the plaintiff's injuries and symptoms just magically  
15 disappeared because he said so, which was the furthest from the truth.

16  
17 15. In the course of his mischaracterizing the plaintiff, the defendant caused  
18 an over shadowing which followed the plaintiff to a meeting that was  
19 scheduled by the ex-employer, where she was terminated for "being  
20 disrespectful to management" and taking an unauthorized medical leave.  
21 Which resulted in the plaintiff having to file for unemployment that were  
22 denied for the reasons stated, **(Exhibit 10)**.

23  
24 16. While the matter has been adjudicated on in District Court, Case Number  
25 A-16-740534-J, and in filing a petition for judicial review, the plaintiff was  
26 successful and granted her request. The judge was able to discern the lies  
27 that all parties involved couldn't prove the defenses they attested to in the  
28 petition that characterized the plaintiff as rude and failing to report to work,

1 when in fact she was rightfully on workers compensation medical leave,  
2 under the care of the defendant, Dr. Arthur Taylor. Had it not been for his  
3 lies and false report, the plaintiff would not have ever been put in the  
4 position she was forced into having to fight for over a year to get what was  
5 rightfully due her regarding the unemployment issue. An issue that was a  
6 catalyst from the defendants reports which were defaming, slanderous,  
7 false, and a total mischaracterization of the plaintiff; which was a dominoe  
8 effect from his actions.

9 17. The defendant caused further harm to the plaintiff's workers compensation  
10 claim by having her abruptly terminated and her right pursuant to NRS  
11 616C.490 NRS 616C.490 Permanent partial disability: Compensation.

12 1. Except as otherwise provided in NRS 616C.175, every employee, in the  
13 employ of an employer within the provisions of chapters 616A to 616D,  
14 inclusive, of NRS, who is injured by an accident arising out of and in the  
15 course of employment is entitled to receive the compensation provided for  
16 permanent partial disability. As used in this section, "disability" and  
17 "impairment of the whole person" are equivalent terms.

18 2. Within 30 days after receiving from a physician or chiropractor a report  
19 indicating that the injured employee may have suffered a permanent  
20 disability and is stable and ratable, the insurer shall schedule an  
21 appointment with the rating physician or chiropractor selected pursuant to  
22 this subsection to determine the extent of the employee's disability. Unless  
23 the insurer and the injured employee otherwise agree to a rating physician  
24 or chiropractor: (a) The insurer shall select the rating physician or  
25 chiropractor from the list of qualified rating physicians and chiropractors  
26 designated by the Administrator, to determine the percentage of disability  
27  
28



1 in accordance with the American Medical Association's Guides to the  
2 Evaluation of Permanent Impairment as adopted and supplemented by the  
3 Division pursuant to NRS 616C.110.(b) Rating physicians and  
4 chiropractors must be selected in rotation from the list of qualified  
5 physicians and chiropractors designated by the Administrator, according  
6 to their area of specialization and the order in which their names appear  
7 on the list unless the next physician or chiropractor is currently an  
8 employee of the insurer making the selection, in which case the insurer  
9 must select the physician or chiropractor who is next on the list and who is  
10 not currently an employee of the insurer.3. If an insurer contacts the  
11 treating physician or chiropractor to determine whether an injured  
12 employee has suffered a permanent disability, the insurer shall deliver to  
13 the treating physician or chiropractor that portion or a summary of that  
14 portion of the American Medical Association's Guides to the Evaluation of  
15 Permanent Impairment as adopted by the Division pursuant to NRS  
16 616C.110 that is relevant to the type of injury incurred by the employee.  
17  
18 4. At the request of the insurer, the injured employee shall, before an  
19 evaluation by a rating physician or chiropractor is performed, notify the  
20 insurer of: (a) Any previous evaluations performed to determine the extent  
21 of any of the employee's disabilities; and (b) Any previous injury, disease  
22 or condition sustained by the employee which is relevant to the evaluation  
23 performed pursuant to this section .The notice must be on a form  
24 approved by the Administrator and provided to the injured employee by  
25 the insurer at the time of the insurer's request. 5. Unless the regulations  
26 adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation  
27 must include an evaluation of the loss of motion, sensation and strength of  
28

1 an injured employee if the injury is of a type that might have caused such  
2 a loss. Except in the case of claims accepted pursuant to NRS 616C.180,  
3 no factors other than the degree of physical impairment of the whole  
4 person may be considered in calculating the entitlement to compensation  
5 for a permanent partial disability. 6. The rating physician or chiropractor  
6 shall provide the insurer with his or her evaluation of the injured employee.  
7 After receiving the evaluation, the insurer shall, within 14 days, provide the  
8 employee with a copy of the evaluation and notify the employee: (a) Of the  
9 compensation to which the employee is entitled pursuant to this section; of  
10 18. (b) That the employee is not entitled to benefits for permanent partial  
11 disability. 7. Each 1 percent of impairment of the whole person must be  
12 compensated by a monthly payment: (a) Of 0.5 percent of the claimant's  
13 average monthly wage for injuries sustained before July 1, 1981; (b) Of  
14 0.6 percent of the claimant's average monthly wage for injuries sustained  
15 on or after July 1, 1981, and before June 18, 1993; (c) Of 0.54 percent of  
16 the claimant's average monthly wage for injuries sustained on or after  
17 June 18, 1993, and before January 1, 2000; and (d) Of 0.6 percent of the  
18 claimant's average monthly wage for injuries sustained on or after January  
19 1, 2000. Compensation must commence on the date of the injury or the  
20 day following the termination of temporary disability compensation, if any,  
21 whichever is later, and must continue on a monthly basis for 5 years or  
22 until the claimant is 70 years of age, whichever is later. 8. Compensation  
23 benefits may be paid annually to claimants who will be receiving less than  
24 \$100 a month. 9. Where there is a previous disability, as the loss of one  
25 eye, one hand, one foot, or any other previous permanent disability, the  
26 percentage of disability for a subsequent injury must be determined by  
27  
28

1 computing the percentage of the entire disability and deducting therefrom  
2 the percentage of the previous disability as it existed at the time of the  
3 subsequent injury.10. The Division may adopt schedules for rating  
4 permanent disabilities resulting from injuries sustained before July 1,  
5 1973, and reasonable regulations to carry out the provisions of this  
6 section.11. The increase in compensation and benefits effected by the  
7 amendment of this section is not retroactive for accidents which occurred  
8 before July 1, 1973.12. This section does not entitle any person to double  
9 payments for the death of an employee and a continuation of payments for  
10 a permanent partial disability, or to a greater sum in the aggregate than if  
11 the injury had been fatal.

12  
13 19. (Exhibit 11) shows how the defendants reports, while contradicting to his  
14 progress report issued weeks before, was the leading cause in the  
15 decision made by Zurich to terminate the plaintiff's workers compensation  
16 benefits and flat out deny a PPD rating, and the untimely discharge of care  
17 that was done not because he exhausted all medical remedy, but by his  
18 own personal indifference and judgment to do so caused actual and  
19 punitive damages. The defendant's false reports were also the benefitting  
20 factor in the plaintiff being wrongfully discharged.

21 20. The defendant clearly failed to use reasonable diligence in his care and  
22 treatment towards the plaintiff and this was not only hurtful, but deeming to  
23 her character, causing a great deal of stress and duress. He refused to  
24 render a proper diagnosis based upon not just his "opinion" but  
25 diagnostics which would conclude precisely the definitive answers  
26 necessary to make a concrete decision and diagnosis. He obviously was  
27 acting in the interest of himself, the insurance company, and employer.  
28

1  
2 21. While the defendant so nobly stated the plaintiff could return to his care, he  
3 Issued a divorce of care after receiving a letter from the plaintiff in an attempt to  
4 Resolve the matter amicably. (Exhibit 12).  
5

6 **CONCLUSION**  
7

8 The defendant's claims in reports have been both confusing and contradicting.  
9 He has insisted that somehow the plaintiff hold the responsibility of both being  
10 the injured employee at the time and having the power to render herself with  
11 imaginary symptoms just because he viewed a recording which was requested  
12 allegedly by Zurich as claimed by the ex-employer's staff. However, the request  
13 for monitoring was initiated by the employer themselves because of their on  
14 going issues with the plaintiff and the complaints she initiated against manage-  
15 ment before her injury.

16 The defendant assumed that because the plaintiff was able to open her SUV  
17 door, use her cell phone and right hand to drive that somehow her complaints  
18 and symptomology reported weren't viable, which is completely judgmental and  
19 callous. The plaintiff's use of her right hand, especially being her dominant one  
20 is not uncommon. The plaintiff never attested to not being able to use her hand  
21 at all, but in fact at the time of injury the weeks and months thereafter, she  
22 expressed the same concerns with her experiencing a loss of feeling pain in the  
23 third finger, and swelling which meant nothing to the defendant as the physician  
24 in charge of her care. In the months after trying to appeal the closure of her  
25 claim, the plaintiff's Symptoms were the same, but because of the lack of treatment, an  
26 offset of  
27  
28

1 numbness and tingling began to radiate from her right elbow down through her  
2 wrist. While the loss of feeling was present, the feeling sensation of the tingling  
3 And numbness was present and reported.  
4

5 Due to the precarious nature of how the plaintiff was treated and the fact that the  
6 defendant took a situation where the plaintiff attempted to seek a second opinion  
7 here locally in Nevada and fabricated the facts of that visit. He insisted the  
8 doctor agreed with him, and there the plaintiff was irate as well; which is a total  
9 fabrication and lie. The plaintiff in fact wasn't seen by any doctor, but was only  
10 triaged and after they realized the case wasn't closed upon the plaintiff  
11 explaining the reason for her visit to the nurse, she was informed the case had  
12 to be closed in order for her to pursue treatment for the "alleged arthritis" and  
13 other concerns.  
14

15 The plaintiff left in a orderly fashion and no documentation has been provided by  
16 the defendant from the office the plaintiff visited to support his fabrications and lies. In  
17 fact, the office scheduled an appointment once the plaintiff's workers compensation  
18 case was closed but the plaintiff was reluctant and doubted her ability to receive the  
19 best care being that most doctors and professionals stick to some sort of code of honor  
20 and can tend to look the other way for fear of appearing to go against their constituents  
21

22 The plaintiff instead saw a physician in Los Angeles through her private insurance,  
23 which reports have been provided in the exhibits from this doctor. Dr. Enna in turn  
24 referred the plaintiff to Dr. Paresa, where nerve studies were performed and diagnosis  
25 for carpel tunnel, cubital carpel tunnel, and a tear in the ulnar nerve was documented.

26 On February 17, 2017 the plaintiff paid and obtained a causation in her final attempt to  
27 have definitive and concrete evidence of her diagnosis. This causation  
28 report has been attached in the exhibits. After undergoing exercises, manual

1 tests on her right hand, the plaintiff was given the same diagnosis as the other two  
2 doctors. With the motions that counsel has presented on the defendant's behalf, there  
3 is a lack of information that has been provided to the timeline and statute of limitations.  
4 The plaintiff is well within her limitations because the original knowledge of the  
5 defendant's libel, slander, and defamation wasn't discovered until she received an email  
6 from the ex-employer on February 9, 2016, leaving the two years allowed pursuant to  
7 **NRS 11.190(4) (c )**. There has been no evidence to support the defendant's claims both  
8 in the face of the complaint and lack of any timeline has been provided by him or  
9 counsel, which supports his claims of the plaintiff failing to comply with the statute of  
10 limitations.

11 Furthermore, if your Honor sees fit to dismiss the complaint without prejudice  
12 and not consider the facts, foundational and legal argument presented in this  
13 Opposition and dismisses the complaint pursuant to 41A.071, while presumed  
14 rebuttal has been argued with voids the need for a medical affidavit; the  
15 plaintiff still has foreseeable grounds to pursue litigation; and a dismissal would  
16 only be a miscarriage and delay of justice; with all due respect.

17 For the reasons stated above, the Honorable Court should deny the pending motions.

18 DATED THIS 25<sup>TH</sup> day of May 2018.

19  
20 I declare under penalty of perjury under the law of the  
21 State of Nevada that the foregoing is true and correct.

22   
23

24 Teresa R Burwell, Plaintiff in Proper Person

25 **PLEASE EXCUSE THE MARGINAL ERRORS I PREPARED THIS AFTER SURGERY**  
26 **AND DUE TO THE LACK OF TIMING AND BEING SICK FOR WEEKS DID MY BEST.**  
27  
28

1  
2  
3  
4 **CERTIFICATE OF SERVICE**

5 I HEREBY CERTIFY, that on May 26<sup>th</sup>, 2018, I served the Plaintiff's Opposition  
6 to the Defendant's Motions to Dismiss the Complaint for Failure to Comply with the  
7 Provisions of NRS 41A.097 and NRS 41A.071, pursuant to NRCP 5(b) by depositing a  
8 Copy of the same in the United States Mail in Las Vegas, Nevada, postage prepaid, to  
9 The address listed below:

10 **ROBERT MCBRIDE, ESQ**  
11 **CARROLL, KELLY, TROTTER, FRANZE, MCBRIDE & PEABODY**  
12 **8329 W. SUNSET ROAD, SUITE 260**  
**LAS VEGAS, NEVADA 89113**

13 DATED this 25<sup>th</sup> day of May 2018.

14 I declare under penalty of perjury under the law of the State  
15 Of Nevada that the foregoing is true and correct.

16 *Teresa R Burwell*  
17 Teresa R Burwell, Plaintiff in Proper Person  
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Declarant, *(insert your name)* Teresa R. Burwell swears and affirms under penalty of perjury that the following assertions are true and correct:

2. Declarant is competent to be a witness to the matters stated in this Declaration and could and would testify to those matters in a court of law, under oath, subject to the penalty of perjury.

4. Based upon Declarant's personal knowledge, Declarant states as follows: From pages 1-21 of the Plaintiff's Opposition, with the 12 Exhibits attached hereto, and the foundational and legal arguments, she has the basis to state these claims and declaration

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, per NRS 53.045.

(Signature)

(Print name)



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## EXHIBIT 1

Fax Server S1N3B2 3/29/2016 12:43:57 PM PAGE 12/014 Fax Server

**Leslie Hernandez**

**From:** Karen Madsen  
**Sent:** Wednesday, February 10, 2016 10:39 AM  
**To:** Adriana Kasunic; Randy Conner  
**Cc:** Nona Johnson; Leslie Hernandez; Christy Wheeler; Lynne Motoyama; Christy Dunn; Holly Nye; Felicia Koerner  
**Subject:** RE: UPDATE: Teresa Burwell #22345 - Released to Full Duty  
**Attachments:** RE: UPDATE: Teresa Burwell #22345 - Released to Full Duty

Good Morning,

I just received a very discourteous and confrontational call from Teresa Burwell. I typed out as she was speaking ...

She stated she just got off of the phone with Adriana and was calling me to confront and demand why I told Adriana she was on an unauthorized leave.

She stated that was not the conversation her and I had originally and that she has witnesses because I was on speaker phone with other people surrounding her.

The conversation her and I originally had on 2/2 was to notify her to return to full duty of which she was also discourteous.

She stated, "It's a yes or no question Karen, did you tell Adriana that? I don't appreciate people getting their stories out of line and going behind my back, I think it's funny.

I'm not on an unauthorized leave, it's funny you people tell me I'm returned to full duty the day I leave town. (which doesn't support her story originally that she was already out of town-attached).

It's funny how you people tell me I'm being recorded and watched but that's a different story I'll talk to PEOPLE about on the 19<sup>th</sup>."

I did not answer her questions directly, I simply reiterated that she had been advised to return to full duty and since she stated she was in Mississippi a meeting was scheduled for her to meet with people on 2/19.

She began to talk about the problems with her doctors/health related and I had to interrupt her that I am not the appropriate party to discuss her personal and medical information with and to please leave that confidential with the appropriate parties in PEOPLE, I am simply the department representative to notify her return to full duty. She then snapped at me and said "Oh, I know you don't know so you know what Karen I'll see you on the 19<sup>th</sup>!"

She then hung up on me with great force.

Thank you

Karen Madsen  
 Office Manager, Housekeeping  
 T 702.698.6314  
 F 702.698.6606

The Cosmopolitan of Las Vegas  
 3708 Las Vegas Boulevard South  
 Las Vegas, NV 89109

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EXHIBIT 2 And  
Exhibits 3 are connected

**MATTHEW ENNA, M.D.**

**08/29/201**

**Patient:** Burwell, Teresa R (Female)  
6803 FRANCES CEJIA AVE  
LAS VEGAS, NV 89122  
(702)219-5553\*  
HISGRACEMYFAVOR@YAHOO.COM

**DOB:** 04/28/1974 (42)  
**Race:** Patient Declined  
**Language:** English  
**Ethnicity:** Patient Declined

**Encounter ID:** 062916-33101478  
**Primary Ins:** Medicare Part B  
Southern California \*

**Location:** GOLDEN STATE BONE AND JOINT  
9033 WILSHIRE BLVD SUITE 403  
Beverly Hills, CA 90211-1847  
(310)858-3880 Ext:0

**Provider:** DR. MATTHEW J ENNA, MD

**Referring:**

## Subjective

### Chief Complaint:

The patient is here today for review of her EMG and NCV studies and for cortisone injections. She has persistent numbness in her hand in all five fingers.

### Medication History:

The patient has no known medications.

### Allergies:

The patient has no known allergies.

### Review of Systems:

## Objective

### Vital Signs:

### Physical Exam:

Tinel's, Phalen's and compression tests are positive at the carpal tunnel. Tinel's is positive at the cubital tunnel. No evidence of ulnar nerve subluxation. No evidence of intrinsic wasting. Diminished light touch in the median nerve distribution in the right hand. The patient is tender at the right middle finger A1 pulley. No triggering. Palpable nodule in the flexor tendon.

## Assessment

### Diagnosis:

Description	Code	Problem	Comment
Carpal Tunnel Syndrome, Right Upper Limb	G5601	Acute	
Lesion Of Ulnar Nerve, Right Upper Limb	G5821	Acute	

## Plan

### Procedure Coding:

Description	Code	Units	Modifiers	Comments
Office/outpatient Visit Est	99213	1 UN	25	
Ther Injection Carp Tunnel	20526	1 UN	RT	
Inj Tendon Sheath/Ligament	20550	1 UN	RT,59	
Triamcinolone Acet Inj Nos	J3301	8 UN		

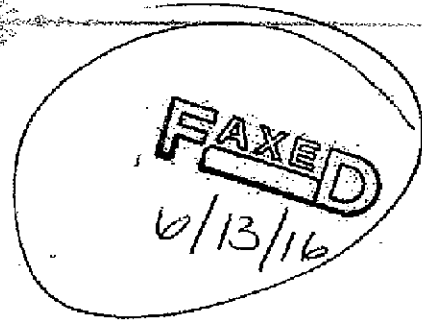
**Care Plan:**

42-year-old woman with right carpal tunnel syndrome and cubital tunnel syndrome. I encouraged her to avoid excessive elbow flexion as that will aggravate the cubital tunnel syndrome. I offered her cortisone injection for her right middle finger trigger finger and for her right carpal tunnel syndrome. Prior to the injections, I reviewed the potential risks of cortisone with the patient including but not limited to hypopigmentation and fat atrophy. She provided verbal consent. I injected 1 cc of cortisone into her right middle finger A1 pulley region and 1 cc of cortisone into her right carpal tunnel region. I gave her a splint for her carpal tunnel syndrome. I will see her back in two weeks for a checkup. If she is not better at that time, we will discuss further the option of a right carpal tunnel release and right subcutaneous ulnar nerve transposition.

**Problem List:**

Description	Diagnosis	Onset Date	Resolution	Provider	Type	Status
CT - Carpal Tunnel	264448006	06/12/2016		Enna, Mathew	Acute	Active
Cubital Tunnel	59591000	06/12/2016		Enna, Mathew	Acute	Active
CT - Carpal Tunnel	264448006	06/29/2016		Enna, Mathew	Acute	Active
Cubital Tunnel	59591000	06/29/2016		Enna, Mathew	Acute	Active

Kenith K. Paresa, MD  
Electrodiagnostic Medicine / Musculoskeletal Pain Management



# Fax

To: Dr. Matthew Enna Fax: (888) 589 62 41  
From: Dr. Paresa - (Ana) Date: 6-13-2016  
Re: Teresa Burwell Pages: 5  
EMG Report

☐ Urgent    ☒ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

1964 Westwood Blvd. #435, Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402

**Kenith K. Paresa, M.D.**  
**Physical Medicine & Rehabilitation**  
*Electrodiagnostic Medicine*  
*Musculoskeletal Medicine*  
*Musculoskeletal Pain Management*

---

Date: June 10, 2016

RE: Teresa Burwell-EMG and NCS Results

Dear Dr. Enna:

Enclosed are the EMG and nerve conduction study results for Ms. Teresa Burwell.

**Impression/Interpretation of Findings:**

- 1) **Abnormal NCS to the right upper extremity. There are electrodiagnostic findings most consistent with:**
  - a. **Moderate right carpal tunnel syndrome.**
  - b. **Moderate right cubital tunnel syndrome.**
  - c. **No clear evidence of a right-sided brachial plexopathy, anomalous innervation (ex. Martin Gruber Anastomosis) or neurogenic thoracic outlet by electrodiagnostic criteria.**
- 2) **Mildly abnormal EMG to the right upper extremity. There were additional EMG findings most consistent with:**
  - a. **A chronic right C7 radiculopathy possibly extending to the C6 level.**
  - b. **There is no clear evidence of ongoing, active denervation involving the right upper extremity and no clear active (acute or subacute) cervical radiculopathy by electrodiagnostic criteria.**

**Clinical correlation is recommended.**

Thank you, Dr. Enna, for this electrodiagnostic referral. Please call with any questions at (310) 856-9488.

Sincerely,

Kenith K. Paresa, M.D.  
Diplomate, ABPM&R  
FAAPM&R

1964 Westwood Blvd., #435  
Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402

RE: Teresa Burwell  
Date: June 10, 2016

**EMG/NCS Study Report**

**Patient Name:** Teresa Burwell  
**Weight:** 200 lbs.  
**Height:** 54 inches  
**Date of Study:** June 10, 2016  
**Gender:** Female  
**Referring MD:** Matthew Enna, MD

**Reason for Study:** *Ms. Burwell is a pleasant 42 year-old RHD female with a history of several cervical and lumbar surgeries over the years. She has developed constant right upper extremity numbness and tingling, most notable to the distal ends of all digits with pain extending to the forefinger and middle finger. She reports frequent neck pain with hand weakness, "dropping things" with a burning sensation. She denies comparable symptoms to the left side.*

*Evaluate with electrodiagnostic studies as indicated to identify a focal mononeuropathy vs. brachial plexus lesion vs. cervical radiculopathy vs. other.*

**Consent:** Informed consent was obtained prior to the study. Skin temperature was maintained between 29-33 deg C. Disposable surface reference, temperature, and ground electrodes were used for the NCS portion of the study. A disposable monopolar 28-gauge needle electrode was used for the EMG portion of the study.

**Muscles Sampled:** Right lateral deltoids, biceps brachii, triceps brachii, extensor digitorum communis (EDC), flexor carpi radialis (FCR), abductor pollicis brevis (APB), and first dorsal interosseous (FDI) and cervical paraspinal muscles were sampled.

**Motor Nerves Sampled:** Right median and ulnar motor nerves were tested. F-waves were included in CMAP studies. Inching techniques were added if indicated.

**Sensory Nerves Sampled:** Right median, radial, and ulnar nerves were sampled. Sensory studies were performed antidromically. If indicated, special studies including co-stimulation tests were added.

MUAP's=Motor Unit Action Potentials  
NCS=Nerve Conduction Study  
EMG=Electromyography  
CMAP=Compound Muscle Action Potential (CMAP)  
SNAP=Sensory Nerve Action Potential (SNAP)  
FIBS=Fibrillation Potentials  
SHARPS=Positive Sharp Waves  
POLYS=Polyphasic Potentials  
DL=Distal Latency  
PL=Peak Latency  
CV=Conduction Velocity

1964 Westwood Blvd., #435  
Los Angeles, CA 90025  
Ph:(310) 856-9488 Fax: (310) 817-6402



RE: Teresa Burwell

Date: June 10, 2016

**Summary of Findings:**

**Motor:** *The right median CMAP DL was delayed (normal median CMAP DL < 3.8 msec for age, height, and gender < right median CMAP DL = 5.2 msec). All other CMAP DL's were normal. The right ulnar CMAP CV was slowed across the elbow (normal ulnar CMAP CV > 49.0 m/sec; right ulnar CMAP CV below the elbow = 54.6 m/sec; right ulnar CMAP CV above elbow = 45.6 m/sec). All other CMAP CV's, amplitudes, waveform configurations and F-waves were otherwise normal in all dimensions.*

**Sensory:** *The right median SNAP PL was delayed (normal median SNAP PL < 3.2 msec; right median SNAP PL = 4.2 msec). All other SNAP PL's, amplitudes, and waveform configurations were otherwise normal.*

**EMG:** *There was no increased insertional activity and there was no abnormal spontaneous activity noted. On minimal recruitment, moderately large MUAP's (6-8 mV range with increased MUAP duration and decreased MUAP recruitment frequency) were noted to the right EDB, PT, and triceps, though not found in the right FCR. All other MUAP's were of normal size, shape, and waveform configuration. There was no evidence of POLY's, satellite potentials, or myopathic MUAP's noted. On maximal recruitment, an otherwise fairly full interference pattern was observed all muscles tested. Due to previous cervical surgeries, sampling of the right cervical paraspinals was done.*

**Impression/Interpretation of Findings:**

- 1) **Abnormal NCS to the right upper extremity.** *There are electrodiagnostic findings most consistent with:*
  - a. **Moderate right carpal tunnel syndrome.**
  - b. **Moderate right cubital tunnel syndrome.**
  - c. *No clear evidence of a right-sided brachial plexopathy, anomalous innervation (ex. Martin Gruber Anastomosis) or neurogenic thoracic outlet by electrodiagnostic criteria.*
- 2) **Mildly abnormal EMG to the right upper extremity.** *There were additional EMG findings most consistent with:*
  - a. **A chronic right C7 radiculopathy possibly extending to the C6 level.**
  - b. *There is no clear evidence of ongoing, active denervation involving the right upper extremity and no clear active (acute or subacute) cervical radiculopathy by electrodiagnostic criteria.*

**Clinical correlation is recommended.**

1964 Westwood Blvd., #433  
Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402

RE: Teresa Burwell  
Date: June 10, 2016

Thank you, Dr. Enna, for this electrodiagnostic referral. Please call with any questions at (310) 856-9488.

Sincerely,

Kenith K. Paresa, MD  
Diplomate, ABPM&R  
FAAPM&R

Cc:

1964 Westwood Blvd., #435  
Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402



Dr. Scott Forbes, D.C., J.D., MCS-P  
Chiropractic Physician  
Designated Impairment Rating Physician

1420 South Jones Blvd.  
Las Vegas, Nevada 89146  
(702) 877-0707  
Fax (702) 877-5611

February 16, 2017

Nevada Attorney for Injured Workers  
2200 South Rancho Drive, Suite 230  
Las Vegas, Nevada 89102-4413  
Attn.: Tara-Lynn Adams, Esq.

RE: Teresa Burwell  
SSN: 435-39-2408  
D.O.B: 9/11/15  
Employer: Nevada Property 1 LLC  
Date of Exam: 2/16/17

Dear Attorney Adams:

The following is an evaluation on the above captioned claimant.

#### **HISTORY OF INJURY AND PERTINENT RECORDS REVIEW**

Ms. Teresa Burwell is a 42-year-old guest room attendant who incurred injuries to her right hand and wrist. On 9/11/15, the claimant was injured after her right hand got smashed between a guestroom door and the metal plate as she was leaving a guest room.

On 9/11/15, the claimant was seen at Concentra. Hand radiographs were reportedly unremarkable. Impression was right hand contusion/laceration. Her hand was sutured and splinted. The injured worker went to St. Rose ER the following day and was diagnosed with right hand contusion. The claimant then followed up with Concentra on 9/13/15 and 9/20/15 with diagnosis of right hand contusion/laceration. She was slightly improved on 9/20/15. The claimant was referred for physical therapy.

The claimant was seen in multiple follow-ups at Concentra. The claimant attended physical therapy. On 10/20/15, the claimant saw Colby Young, M.D. in hand orthopedics. The claimant had limited range of motion limited secondary to stiffness and some mild swelling. Impression was crush injury, right hand with laceration. He recommended continued physical therapy. The claimant also reported constant numbness in the hand.

The claimant attended physical therapy for about four weeks. She returned to Dr. Young on 11/17/15. Recommendation was physiatry/pain management due to a suboptimal doctor-patient relationship. Diagnosis remained the same.

On 12/14/15, the claimant saw Art Taylor, M.D. There was an near full active range of motion of the fingers except for right long finger flexion. Impression was healed right hand contusion injury. Recommendation was physical therapy including additional exercises. Impression was healed right hand contusion injury. Physical therapy was resumed. On 1/6/16, Dr. Taylor recommended referral to another hand surgeon due to patient discontent.

The claimant saw Matthew Enna, M.D. in California. Recommendation was electrodiagnostic studies. No notes were available for that date. On 6/10/16, the claimant had electrodiagnostic studies with Kenith Parcsa, M.D. in California. There were electrodiagnostic findings most consistent with moderate right carpal tunnel and moderate right cubital tunnel syndrome. There were additional findings of mildly abnormal EMG to the right upper extremity. There was chronic right C7 radiculopathy extending to C6. Clinical correlation was recommended.

On 6/29/16, the claimant returned to Dr. Enna. Physical exam findings correlated with the electrodiagnostics. Impression was right carpal tunnel and right cubital tunnel syndrome. The claimant received injections in the right middle finger and right carpal tunnel region.

She was also given a wrist brace from a Dr. Dowd. Apparently the claimant had difficulty with continued trips to California.

## PERSONAL DATA

The claimant gave a date of birth of 2-7-58. The claimant was identified by a Nevada driver's license. She stated she is single with four children. She stated she has a high school diploma.

## PAST MEDICAL HISTORY

The claimant any previous injuries or diseases affecting the body parts being examined. He had a cervical fusion, lumbar fusion, and left carpal tunnel release. She denied use of tobacco.

## CURRENT SYMPTOMS

The claimant complained of intermittent, sharp right forearm and hand pain with numbness and tingling in the right forearm and hand. Medial palm and the index and middle fingers bilaterally. On a pain scale of 0-10, 10 being the worst, she stated her pain and numbness is about an 8. She stated her symptoms worsen with grasping, squeezing, typing, or use of the hand/wrist. She stated her condition has not improved with treatment. The claimant also reported difficulty sleeping due to right forearm and hand pain and numbness.

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EXHIBIT 4

Run Date/Time: 01/08/16 1245		Southern Hills Medical Center DISCHARGE - PATIENT MEDICATION LIST		Printed By: HNURDK1	
Height: 165.10 cm (65 inches)		BURWELL, TERESA R		Acct# H89674699629 MR# H000151829	
ALLERGIES: Catfish, morphine, codeine ADRS: *** No ADR's Entered ***					
***FINALIZED***		Discharge Medications		***FINALIZED***	
GENERIC NAME (TRADE NAME) DOSE	ROUTE	FREQUENCY	QTY/DAYS	LAST DOSE DATE/TIME	
Updated Home Medication List					
AZITHROMYCIN (TRADE NAME: ZITHROMAX) 500 MG Prescription Printed		ORAL	DAILY	5 days	
DULOXETINE (TRADE NAME: CYMBALTA) 60 MG		ORAL	DAILY	01/08/16-10:04am	
GEMFIBROZIL (TRADE NAME: LOPID) 600 MG		ORAL	TWICE DAILY		
HYDROCODONE/ACETAMINOPHEN 10/325 MG 1 TAB		ORAL	(TRADE NAME: NORCO 10/325 MG) EVERY SIX HOURS	01/08/16-10:03am	
MECLIZINE (TRADE NAME: ANTIVERT) 12.5 MG INDICATION: vertigo Prescription Printed		ORAL	FOUR TIMES DAILY AS NEEDED #30		
METHOCARBAMOL (TRADE NAME: ROBAXIN) 500 MG		ORAL	FOUR TIMES DAILY AS NEEDED	01/07/16-0:15am	

\*\*\* This medication list includes medications you should continue taking and \*\*\*  
 \*\*\* new medications you should start taking. Do NOT use any old drug lists. \*\*\*  
 \*\*\* Give this new list to your doctors or other healthcare providers. \*\*\*  
 \*\*\* Contact the prescribing physician with any specific questions. \*\*\*

BURWELL, TERESA R      Acct# H89674699629      DOB: 04/28/74      Age: 41      Sex: F      LOC: H, 44D A  
 MR# H000151829      Adm/Svc: 01/07/16      Attend MD: Schenk, Jeffrey      DO: 1/02/304-2144

Patient/Representative Signature

Date/Time



MEDR

## STROKE INFORMATION-PREVENTION

Southern Hills Hospital and Medical

Based on your medical history it was identified you have risk factors that may lead to a stroke. Following is information to alert you to these risk factors and steps you can take.

### RISK FACTORS

1. Blood Pressure over 140/90
2. Prior Stroke/TIA
3. Family history of Stroke
4. Cigarette Smoking
5. Heart Disease
6. Diabetes
7. Cholesterol/LDL over 240/100
8. Age over 45 for Men/ 55 for Women
9. African American
10. BMI over 25
11. Sickle Cell Anemia

### WHAT IS A STROKE?

A Stroke is caused when the blood supply to the brain is either blocked or interrupted because of a broken blood vessel.

### WHAT IS A TIA?

A TIA or Transient Ischemic Attact is a 'mini-stroke' and occurs when blood flow to the brain is temporally interrupted. This is a often warning sign of a future stroke.

### PREVENTION

Following are things you can do to reduce your risk of having a Stroke  
Changing your habits is the single most important thing you can do.

1. Identify which risk factors apply to you and take steps to eliminate or reduce them
2. If you smoke, stop smoking
3. Talk about an exercise plan with your physician
4. Improve your eating habits-learn to read food labels for fat and cholesterol content
5. Keep your LDL level less than 100
6. Do not add salt to your food
7. Take your medication as prescribed
8. Get adequate sleep

### ADDITIONAL RESOURCES:

Stroke Information

<http://www.nhlbi.nih.gov/guidelines/cholesterol/index.htm>

<http://www.strokeassociation.org>

Stop Smoking

Call NEVADA TOBACCO USERS HELPLINE 1-888-866-6642 OR 702-877-0684

CONTACT YOUR PHYSICIAN WITH ANY QUESTIONS OR CONCERNS  
CALL 911 IMMEDIATELY IF YOU HAVE SIGNS OR SYMPTOMS OF A STROKE

Name: BURWELL, TERESA R  
H89674699629 01/07/16 H.440  
Schenk, Jeffrey DO  
04/28/74 41 F H000151829

Run Date/Time: 01/08/16 1244		Southern Hills Medical Center DISCHARGE - PATIENT MEDICATION LIST		Printed By: HNURDK1	
Height: 165.10 cm (65 inches)		BURWELL, TERESA R		Acct# H89674699529 MR# H000151829	
ALLERGIES: Catfish, morphine, codeine ADRS: *** No ADR's Entered ***					
***FINALIZED***		Discharge Medications		***FINALIZED***	
GENERIC NAME (TRADE NAME) DOSE	ROUTE	FREQUENCY	QTY/DAYS	LAST DOSE DATE/TIME	
Updated Home Medication List					
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BURWELL, TERESA R      Acct# H89674699529      DOB: 04/28/74      Age: 41      Sex: F      LOC: H-440-A  
 MR# H000151829      Adm/Svc: 01/07/16      Attend MD: Schenk, Jeffrey DO      (702)304-2144

Patient/Representative Signature

Date/Time



MEDR



RUN DATE: 01/08/16 Southern Hills - Admissions \*LIVE\* PAGE 1  
RUN TIME: 1246 Discharge Instructions  
RUN USER: HNURDK1  
RPT NAME: ADM.PAT.zcus.fwd.dgc.discharge.instructions REV DATE: NOV 17 2015

Discharge Date: 01/08/16 Time: 1240 Discharged To: home  
Reason for Admission: CVA  
Discharge Instructions and Discharge Patient Medication List given to Patient: Y

Activity / Exercise / Special Limitations:  
as tolerated

Diet: regular

Immunizations / Vaccines =====  
Influenza vaccination status: Pt or caregiver's refusal

Equipment: Ordered by:

Signs / Symptoms to Notify Doctor =====  
- Fever Greater Than: 101.5 - Redness or Irritation at IV Site  
- Consistent Wt. Gain (2.2 lbs in 2 days) - Persistent Nausea or Vomiting  
- Unusual Drainage or Bleeding from Wound - Redness, Swelling of Wound  
- Shortness of Breath and / or Chest Pain - Persistent Chills  
- Severe Pain NOT Relieved by Medication - Unable to Empty Bladder  
- Burning, Frequency of Blood in Urine - Persistent Diarrhea  
- Increased Swelling in Legs / Ankles - Constipation

Discharge Medications =====  
Please refer to the discharge medication list provided by the nurse at the time  
of discharge. Please be sure to take this list with you to your next physician  
office visit.

Do NOT Drive or Drink Alcoholic Beverages while taking Pain Meds !

Follow-Up Appointments / Referrals =====  
Physician:  
Follow Up With: Primary Care Physician Phone:  
Reason:  
Address:  
City: Zip:  
Follow up: 1-2 weeks Date: Time:

### HEALTHY LIVING INFORMATION

We provide the following information to all patients to raise awareness, help  
you recognize signs and symptoms of these conditions and help you to act quickly.

BURWELL, TERESA R  
DOB: 04/28/74 Age/Sex: 41/F  
Attending Dr: Schenk, Jeffrey DO

Medical Record #: H000151829  
Account #: H89674699629  
Admit Date: 01/07/16  
H.4DPOD H.440-A

PINS



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## EXHIBIT 5



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Pkwy Suite 330  
Henderson, Nevada 89074

**TERESA R BURWELL**

**MRN#: 394901**

**DOB: 04/28/1974, 41 years**

**Date: 01/25/2016**

## **Orthopedic Evaluation**

### **History of Present Illness**

#### **History**

No History Data Available

#### **Vitals**

No Vital Data Available

#### **Review of Systems**

No Review of Systems Data Available

### **Physical Exam**

This patient was last seen in my office on January 6 year 2016 and at that time I evaluated her right hand and wrist where this patient complained of severe pain dating back to a contusional injury to her wrist September 11, 2015 which did not cause or produce any lacerations or fractures or any evidence of deep structural involvement. She had been noncompliant with my recommendations for therapy and when I discussed with her that I felt it would be safe to release her to full use of her hands bilaterally for the work as well as activities of daily living she became very belligerent and voiced discontent with my opinion.

I learned subsequently that she was seen by another hand surgeon in Las Vegas after my last appointment with this patient basically concurred with my opinion and felt that therapy would be helpful if she chose to be compliant with that recommendation. Evidently she acted out in a belligerent fashion in his office as well and is now showing a pattern of noncompliance and lack of cooperation with multiple hand surgical providers.

I then have been presented with a videotape of this patient monitored on December 14, 2015 which included an appointment made at my office on the same date and on all of her appointments she showed significant deficits of motion and grip and complained of pain with any types of gripping and lifting and stated to me that she was unable to carry out her normal work duties due to that problem. It's clear on the videotape that she uses her right and left hands without any guarding or difficulties with normal ranges of motion handling of the cell phone opening and closing of the car doors as well as fairly forcefully turning the steering wheel in her car with turning and twisting motions. I feel that this video gives enough objective evidence to show that she has normal functions of right hand and wrist motions and grip that is inconsistent with her claim of disability of the right hand and wrist usage.

At this point I feel it would be appropriate for her to be released back to full work duties and I don't see any further interventions on a hand surgical level that are indicated based upon the review of this recently reviewed videotape.

### **Assessment and Plan**

Confusion of right hand, subsequent encounter (V58.89 | S60.221D)

*The encounter was completed by ARTHUR J TAYLOR MD.*

EXHIBIT 6

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### PHYSICIAN'S PROGRESS REPORT

Date of Exam: 12/14/2015

Patient's Employer: COSMOPOLITAN RESORT & CAS

Name: TERESA R BURWELL Provider: ARTHUR J TAYLOR

Insurance:

Claim #:

Injured Area:

Acct#: 394901

ZURICH NORTH AMERICA W/C

2010261681

DOI:

09/11/2015

Adjustor/NCM Information: ADJ CHRISTINA COSBY PH 408-3843 FX 415-538-7150

Patient's Job Description/Occupation:

GRA

Related to Industrial Injury ☒ Y ☐ N

Previous injuries/diseases/surgeries contributing to the condition? ☒ Y ☐ N If yes, explain: \_\_\_\_\_

#### Physical Examination/Diagnostic Results:

① Hand caught contusions  
w/ no symptoms tingling down arm & hand  
Pain along elbow -

#### Diagnosis/Treatment Plan:

PE - near full ROM (-) swelling - weak grip  
X-rays: ① Rx's (-) distal forearm & S  
mild OA NP5 level

#### Medication Prescribed:

none

DETAILS: ☐ Case Management ☐ Consultation ☐ Medication may be used while working

☐ Further diagnostic studies ordered ☐ May have suffered a permanent disability

PT: ☐ No change in therapy ☒ PT/OT prescribed ☐ PT/OT continued ☐ PT/OT discontinued

#### DISABILITY STATUS:

GENERALLY: STABLE ☒ Y ☐ N RATABLY ☒ Y ☐ N CONDITION: IMPROVED SAME WORSENER

#### RESTRICTIONS:

RELEASED TO FULL DUTY/NO RESTRICTIONS ON \_\_\_\_\_ (Date) ESTIMATED MMT \_\_\_\_\_ (Date)  
CERTIFIED TOTALLY TEMPORARILY DISABLED, FROM \_\_\_\_\_ TO \_\_\_\_\_ (Dates)  
RESTRICTED/MODIFIED DUTY ON 12/14/15 (Date) RESTRICTIONS: PERMANENT ☐ TEMPORARY ☒  
SEDENTARY ONLY

#### NO:

PULLING ☐ PROLONGED STANDING ☐ CONSTANT BENDING AT WAIST ☐ PUSHING ☐ DRIVING ☐  
CARRYING ☐ PROLONGED WALKING ☐ CONSTANT/FREQUENT TWISTING ☐ SLOPING ☐  
CLIMBING ☐ PROLONGED SITTING ☐ FREQUENT BENDING AT WAIST ☐ LIFTING ☐  
KNEELING ☐ SQUATTING ☐ CONSTANT REACHING ABOVE SHOULDERS ☐  
WALKING ON UNEVEN SURFACES ☐ LIFTING RESTRICTED TO 15 LBS ☒ ①

RETURN VISIT: 1/6/16 @ 2:30pm

Provider Signature:

Art Taylor

Date: 12/14/2015

Ball  
Left



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Henderson, Nevada 89074

**TERESA R BURWELL**

MRN#: 394901

DOB: 04/28/1974, 41 years

Date: 12/14/2015

## Orthopedic Evaluation

### History of Present Illness

The patient is a 41 year old female who presents with a work related injury. Date of injury. 9/11/2015  
rt hand

### History

#### Allergies

Iodine \*ANTISEPTICS & DISINFECTANTS\* (Drug allergy): Headache, Vomiting, Itching  
Morphine Sulfate (PF) \*ANALGESICS - OPIOID\* (Drug allergy): Headache, Itching, Vomiting

#### Medications

Hydrocodone-Acetaminophen (10-325MG Tablet, Oral daily) Active.  
Methocarbamol (500MG Tablet, Oral daily) Active.  
Cymbalta ( Oral daily) Specific dose unknown - Active.

#### Past Surgical

Cervical surgery  
Hand Surgery  
Hernia Repair  
Hysterectomy  
Knee surgery  
Lumbar surgery  
Plates  
Sinus Surgery

#### Social

Alcohol use: Occasional alcohol use 12/14/2015  
Current Drug Rehab: No Current Drug Rehab 12/14/2015  
Current work status: Not Currently Employed 12/14/2015  
Disabled: Disabled 12/14/2015  
Exercise: Monthly 12/14/2015  
Exercise Tolerance Status: 5+ Flights 12/14/2015  
Home assistance available: Home Assistance Available 12/14/2015  
Illicit drug use: No Illicit Drug Use 12/14/2015  
Pain Contract: No Active Pain Contract 12/14/2015  
Past Drug Rehab: No Past Drug Rehab 12/14/2015  
Right or Left Handed: Right Handed 12/14/2015  
Tobacco use: Never smoker 12/14/2015

#### Family

Hypertension: Mother

#### Other Medical History

Alcohol Abuse: No Current Alcohol Problem 12/14/2015  
Anemia  
Arthritis  
Back Injury  
Drug Dependence: No Drug Dependence 12/14/2015  
Fracture Treatment yes  
Migraine Headache  
Muscle Pain  
Neck Injury/Pain  
Osteoarthritis  
Sciatica  
Therapy

### Vitals

12/14/2015 02:06 PM

Weight: 173 lb Height: 64 in

Body Mass Index: 29.7 kg/m<sup>2</sup>

Pain level: Pulse: (Regular)

BP: 152/111 Electronic (Sitting, Right Arm, Standard)

Abnormal vital signs have been discussed with the patient. Patient has been advised to see PCP ASAP. Patient aware of elevated risk for heart attack and/or stroke. Patient given clinical summary for today's visit.

**Review of Systems**

General Present- Weight Gain and Weight Loss. Not Present- Chills and Fever.

Skin Not Present- Brittle Nails, Changes in Nails Skin, New Lesions and Skin Color Changes.

Respiratory Not Present- Cough, Difficulty Breathing and Dyspnea.

Cardiovascular Not Present- Chest Pain.

Musculoskeletal Present- Decreased Range of Motion, Joint Pain, Joint Stiffness, Joint Swelling, Muscle Weakness and Swelling of Extremities. Not Present- Atrophy and Joint Redness.

Neurological Present- Focal Problems, Numbness, Swelling and Tingling. Not Present- Burning, Seizures and Stroke.

No

**Physical Exam**

This patient comes to my office with a history of a crush contusional injury to the right hand at the level of the metacarpals and the injury occurred September 11 of this year and she was initially seen in an occupational medical clinic and then subsequently had one visit to a hand surgeon who recommended hand therapy and she had requested transfer of care and now comes to my office with recurrent symptoms consisting of weakness of grip and most of her pain is centered over the dorsum of the right long digit up to the level of the PIP joint and she has tingling on the dorsum of the right hand. In the past she underwent left carpal tunnel release in the face of normal nerve studies and feels as though the carpal tunnel release helped her and this was an unrelated problem and injury that predates her current complaints of right hand contusional crush injury. She has not been able to return to regular work duties since this injury and currently is on full work leave due to lack of ability for light duty to be provided at this time.

On physical exam she has a fairly normal-appearing right hand there is no erythema or signs of swelling or infection and she has near full total active motion with a lack of full flexion of approximately 5-10° at the MCP joint of the right long digit and no gross neuromotor function remains intact aside from complaints of tingling along the dorsum of the metacarpal region and her skin is intact and she has no visible deformities.

X-rays right hand: No posttraumatic changes are noted and mild PIP joint osteoarthritis is noted in long and ring digits

With careful review of the patient's past medical records and physical findings today which from an objective standpoint are normal on left with the patient to have this complaints of pain and weakness of the right hand but no objective abnormal physical findings to support abnormality in the right hand in relationship to a contusional injury that occurred 3 months ago.

I explained to the patient that I agree actually with the first hand surgeon's opinion that hand therapy would be the best approach towards rehabilitating the use of her right hand and that at home she should work on more aggressive range of motion and grip strengthening exercises as well.

Diagnosis: Healed right hand contusional injury

**Plan:**

I feel it is important to encourage this patient to normalize the use of her hand both at home and with work duties as I don't see any objective findings to indicate needs for any surgical interventions other than recommending therapy for rehabilitation of grip strength of the right hand.



**Assessment and Plan**

Contusion (Initial), Hand - RT ( 923.20 | S50.221A)  
Overweight ( 278.02 | E66.3)

**Orders**

Eval & Treat: OT CHT

**Additional Instructions**

How to access health information online  
Follow up in 3 weeks

**Referrals**

Select, PT (Physical Therapy)

**Patient Education**

Handout - BMI >25: Losing Weight

**Orders**

BMI Above Normal W/ FU

Diet Education

Hypertension Education

Hypertensive Reading

**Patient Education**

Handout - Hypertension

*The encounter was completed by ARTHUR J TAYLOR MD.*



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Insurance:

ZURICH NORTH AMERICA W/C

Adjustor/NCM Information: ADJ CHRISTINA COSBY PH 408-3843 FX 415-538-7150

Name: TERESA R BURWELL Provider: ARTHUR J TAYLOR

Injured Area:

Acct#: 394901

Claim #:

2010261681

DOI:

09/11/2015

Patient's Job Description/Occupation:

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Related to industrial injury? ☒ Y ☐ N

Previous injuries/diseases/surgeries contributing to the condition? ☐ Y ☒ N If yes, explain: \_\_\_\_\_

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② Hand caught/contusions  
w/ numbness tingling down both hands  
pain along digits -

Diagnosis/Treatment Plan:

PE - near full ROM (-) swelling - weak grip  
X-rays: (-) fx's (-) post-trauma - S  
mild OA PIP5 level

Medication Prescribed:

none

DETAILS: ☐ Case Management ☐ Consultation ☐ Medication may be used while working

☐ Further diagnostic studies ordered ☐ May have suffered a permanent disability

PT: ☐ No change in therapy ☒ PT/OT prescribed ☐ PT/OT continued ☐ PT/OT discontinued

DISABILITY STATUS:

GENERALLY: STABLE Y ☒ (N) RATABLY Y ☒ (N)

CONDITION: IMPROVED SAME WORSENER

RESTRICTIONS:

☐ RELEASED TO FULL DUTY/NO RESTRICTIONS ON \_\_\_\_\_ (Date) ESTIMATED MMI \_\_\_\_\_ (Date)

☐ CERTIFIED TOTALLY TEMPORARILY DISABLED, FROM \_\_\_\_\_ TO \_\_\_\_\_ (Dates)

☒ RESTRICTED/MODIFIED DUTY ON 12/14/15 (Date) RESTRICTIONS: ☐ PERMANENT ☒ TEMPORARY

☐ SEDENTARY ONLY

NO:

☐ PULLING ☐ PROLONGED STANDING ☐ CONSTANT BENDING AT WAIST ☐ PUSHING ☐ DRIVING  
☐ CARRYING ☐ PROLONGED WALKING ☐ CONSTANT/FREQUENT TWISTING ☐ STOOPING  
☐ CLIMBING ☐ PROLONGED SITTING ☐ FREQUENT BENDING AT WAIST ☐ LIFTING  
☐ KNEELING ☐ SQUATTING ☐ CONSTANT REACHING ABOVE SHOULDERS  
☐ WALKING ON UNEVEN SURFACES ☒ LIFTING RESTRICTED TO 15 LBS

RETURN VISIT: 1/6/16 @ 2:30pm

Provider Signature:

art Taylor

Date: 12/14/2015

Ball  
up  
left



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**TERESA R. BURWELL**

MRN#: 394901

DOB: 04/28/1974, 41 years

Date: 01/06/2016

## Orthopedic Evaluation

### History of Present Illness

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RIGHT HAND

### History

#### Allergies

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Morphine Sulfate (PF) \*ANALGESICS - OPIOID\* [Drug allergy]: Headache, Itching, Vomiting

#### Medications

Hydrocodone-Acetaminophen (10-325MG Tablet, Oral daily) Active.  
Methocarbamol (500MG Tablet, Oral daily) Active.  
Cymbalta ( Oral daily) Specific dose unknown - Active.  
Medications Reconciled.

#### Past Surgical

Cervical surgery  
Hand Surgery  
Hernia Repair  
Hysterectomy  
Knee surgery  
Lumbar surgery  
Plates  
Sinus Surgery

#### Social

Tobacco use: Never smoker 12/14/2015

#### Family

Hypertension: Mother

#### Problem List

Contusion of right hand, subsequent encounter

### Vitals

01/06/2016 02:12 PM

Weight: 173 lb Height: 64 in

Body Mass Index: 29.7 kg/m<sup>2</sup>

Pain level: Pulse: (Regular)

BP: 184/110 Electronic (Sitting, Left Arm, Standard)

Abnormal vital signs have been discussed with the patient. Patient has been advised to see PCP ASAP. Patient aware of high risk for heart attack and/or stroke. Patient given clinical summary for today's visit.

### Review of Systems

**Physical Exam**

This patient comes to my office after undergoing an initial examination for complaints of pain and reduced range of motion of her right hand after a contusional injury and upon entering the room this patient for proximally 10 min. stated to me why she had disagreements with my diagnosis and plan of treatment and she voiced basically a lack of desire to continue with my care. She had questions of my review of the x-ray and I did go back over the review of the x-ray of her right hand which I felt showed minimal abnormalities and at the PIP level of the long and ring digits I felt that there was a mild presentation of arthritic changes but not of great significance. I also asked the patient whether she had attended hand therapy and she stated she only went for 1 visit of hand therapy and so she was clearly noncompliant with my recommendations and treatment.

I discussed with this patient that it would be best at this point for her to seek care with a different hand specialist given that she has some much disagreement and noncompliance with my diagnosis and treatment recommendations and that I would facilitate this transfer of care through her nurse case manager at the Worker's Compensation Insurance OFFICE.

On physical exam I find very little objective evidence to support the significant complaints of pain and lack of motion and complaints of numbness in relationship to what I have seen visually and palpated on this patient through her examinations in my office as well as the description of the original injury.

An final because of her belligerence and discontent as a patient in my office today I feel it's best for her to have a transfer of care and I will do whatever is possible we needed to facilitate that transfer such as alerting her nurse case manager and making phone calls to facilitate that transfer.

Diagnosis: Right hand contusion with a multitude of symptomatic complaints not well supported by objective evidence from either physical exam or x-rays

**Plan:**

Patient is welcome to followup in my office during the process of transferring care if there is any emergent needs for further evaluation and treatment

**Assessment and Plan**

Contusion of right hand, subsequent encounter ( V58.89 | S60.221D)

**Orders**

Hypertension Education  
Hypertensive Reading

**Referrals**

Referral to: (Undefined)

**Patient Education**

Handout - Hypertension

*Arthur J Taylor*

ARTHUR J TAYLOR MD



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Parkway Suite 330  
Henderson, Nevada 89074

### PHYSICIAN'S PROGRESS REPORT

Date of Exam: \_\_\_\_\_ Name: TERESA R BURWELL Provider: ARTHUR J TAYLOR  
Patient's Employer: COSMOPOLITAN RESORT & CAS Injured Area: \_\_\_\_\_ Acct#: 394901  
Insurance: \_\_\_\_\_ Claim #: 2010261681  
ZURICH NORTH AMERICA W/C 2010261681  
Adjustor/NCM Information: ADJ CHRISTINA COSBY PH 408-3843 FX 415-538-7150 DOI: 09/11/2015

Patient's Job Description/Occupation: GAA Related to Industrial Injury? Y / N

Previous injuries/diseases/surgeries contributing to the condition? Y / N If yes, explain: \_\_\_\_\_

#### Physical Examination/Diagnostic Results:

Pt. returns + voice disagreement with my recommendations of treatment and requests for a different doctor to assume care.

#### Diagnosis/Treatment Plan:

She was noncompliant with my recommendations for HT.  
Will contact insurance company to direct in transfer of care.

#### Medication Prescribed:

DETAILS: ☐ Case Management ☐ Consultation ☐ Medication may be used while working  
☐ Further diagnostic studies ordered ☐ May have suffered a permanent disability  
PT: ☐ No change in therapy ☐ PT/OT prescribed ☐ PT/OT continued ☐ PT/OT discontinued

#### DISABILITY STATUS:

GENERALLY: STABLE Y ☒ RATABLY Y ☒ CONDITION: IMPROVED ☒ SAME ☐ WORSENER

#### RESTRICTIONS:

☐ RELEASED TO FULL DUTY/NO RESTRICTIONS ON \_\_\_\_\_ (Date) ESTIMATED MMI \_\_\_\_\_ (Date)  
☐ CERTIFIED TOTALLY TEMPORARILY DISABLED FROM \_\_\_\_\_ TO \_\_\_\_\_ (Date)  
☒ RESTRICTED/MODIFIED DUTY ON 1/6/16 (Date) RESTRICTIONS: ☐ PERMANENT ☒ TEMPORARY  
☐ SEDENTARY ONLY

#### NO:

☐ PULLING ☐ PROLONGED STANDING ☐ CONSTANT BENDING AT WAIST ☐ PUSHING ☐ DRIVING  
☐ CARRYING ☐ PROLONGED WALKING ☐ CONSTANT/FREQUENT TWISTING ☐ STOOPING ☐ LIFTING  
☐ CLIMBING ☐ PROLONGED SITTING ☐ FREQUENT BENDING AT WAIST  
☐ KNEELING ☐ SQUATTING ☐ CONSTANT REACHING ABOVE SHOULDERS  
☐ WALKING ON UNEVEN SURFACES ☐ LIFTING RESTRICTED TO \_\_\_\_\_ LBS.

#### RETURN VISIT:

Provider Signature: a Taylor

Date: 01/06/2016 (A)

Bill Taylor

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EXHIBIT 7

Please refer to Exhibit 1

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## EXHIBIT 8



August 30, 2017

**EDWARD S. ASHMAN, M.D.**  
Sports Medicine • Shoulder and Knee Surgery

**BRADLEY S. BAKER, M.D.**  
Knee, Shoulder and Sports Medicine Surgeon

**MICHAEL S. BRADFORD, M.D.**  
Adult Reconstructive Surgery • Revision of Hip and Knee  
Arthroplasty • Total Joint Replacement

**HOLMAN CHAN, M.D.**  
Foot and Ankle Surgery • Orthopedic Trauma

**RONALD W. HILLOCK, M.D.**  
Musculoskeletal Oncology • Adult Reconstructive Surgery

**JOHN J. KASTRUP, M.D.**  
Knee, Hip and Shoulder Specialist • Total Joint  
Replacement • Sports Medicine

**THOMAS C. KIM, M.D.**  
Pediatric and Adult Sports Medicine

**PATRICK S. MCNULTY, M.D.**  
Surgery of Spinal Disorders and Deformity

**GARY D. MORRIS, M.D.**  
Lower Extremity Specialist • Total Joint Replacement •  
Hindfoot and Ankle Reconstructive Surgery

**RUSSELL T. NEVINS, M.D.**  
Total Joint Replacement • Revision of Hip and Knee  
Arthroplasty

**REYNOLD L. RIMOLDI, M.D.**  
Surgery of the Spine • Sports Medicine  
General Orthopedics • Trauma

**KEVIN R. SHARIF, M.D.**  
Adult and Pediatric Spine Surgery

**WALTER J. SONG, M.D.**  
Hand, Wrist, Elbow and Shoulder Specialist

**ARTHUR J. TAYLOR, M.D.**  
Surgery of the Wrist and Hand • Hand and Elbow  
Disorders, Microvascular Surgery

**MICHAEL D. THOMAS, M.D.**  
Pediatric Orthopedics • Scoliosis and Spine Deformities  
in Children and Adolescents

**THOMAS L. VATER, D.O.**  
Orthopedic Trauma and Spine Surgery

**CONRAD O. YU, M.D.**  
Hand, Wrist, Elbow and Shoulder Specialist

Christine Apel, APRN  
Ingrid Armand, PA-C  
Amanda Bradford, PA-C  
Benjamin Hochhalter, PA-C  
Denna Reelitzig, APRN  
Jay Zurfluh, PA-C

**NORTHWEST LAS VEGAS**  
7455 W. Washington Avenue, Suite 160  
Las Vegas, Nevada 89128

**HENDERSON**  
1505 Wigwam Parkway, Suite 330  
Henderson, Nevada 89074

nevadanthropedic.com

702.878.0393

Teresa R. Burwell  
6803 Frances Celia Avenue  
Las Vegas, NV 89122

Dear Ms. Burwell,

The purpose of this letter is to inform you that I will no longer be responsible for your orthopedic care and the doctor / patient relationship you had with me is being terminated.

For thirty (30) days after receipt of this notice, I, will be available to see you, but only for clinical emergencies. I will not approve any refills of any medications. After thirty days, you will need to seek your orthopedic care (both emergency and non-emergency) from other providers.

Your medical records will be available for delivery to any physician of your choice outside of the Nevada Orthopedic & Spine Center group. Should you need assistance with the selection of a new physician, I recommend you contact your primary care physician. You are solely responsible to provide us with your selection of a new orthopedic surgeon. I, nor Nevada Orthopedic & Spine Center accept any liability.

Sincerely,

Arthur J. Taylor, M.D.



NEVADA  
ORTHOPEDIC & SPINE CENTER

7455 W. Washington Ave., Suite 160 Las Vegas, NV 89128



6902 2712 0000 0000 2702

Teresa R. Burwell  
6803 Frances Celia Avenue  
Las Vegas, NV

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[illegible]

02/02/2015

RETURNED TO SENDER  
ATTEMPTED - NOT RECORDED  
UNABLE TO FORWARD

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**Figure 1**

Diagram illustrating the experimental setup for measuring the effect of temperature on the rate of reaction between hydrogen peroxide and potassium iodide.

The diagram shows a test tube containing a mixture of hydrogen peroxide ( $H_2O_2$ ) and potassium iodide ( $KI$ ). The test tube is placed in a water bath at a specific temperature. A gas syringe is connected to the test tube to measure the volume of oxygen gas ( $O_2$ ) produced over time. The reaction is represented by the equation:

$$H_2O_2 \rightarrow H_2O + O_2$$

The diagram also indicates the measurement of the initial concentration of hydrogen peroxide ( $[H_2O_2]_0$ ) and the initial concentration of potassium iodide ( $[KI]_0$ ).

THE POSTAGE WILL BE PAID BY ADDRESSEE

ZIP 99128 \$006  
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<b>U.S. Postal Service</b>	<b>CERTIFIED MAIL® RECEIPT</b>	<b>Domestic Mail Only</b>
<b>FOR THE ADDITIONAL POSTAGE AND FEES TO BE PAID BY ADDRESSEE:</b>		
<b>0363A</b>		
<b>AUG 30 2017</b>		
<b>Postmark Here</b>		
<b>POSTAGE WILL BE PAID BY ADDRESSEE</b>		
<b>Sent to: Teresa Brownell</b>		
<b>Street and Apt. No., or PO Box No.</b>		
<b>City, State, ZIP+4®</b>		
<b>PSN</b>		
<b>Postage</b>		
<b>\$ Total Postage and Fees</b>		
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<b>Extra Services &amp; Fees (check box, add fee as appropriate)</b>		
<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
<b>Postage</b>		
<b>\$ Total Postage and Fees</b>		
<b>\$</b>		

My copy

# TERESA R BURWELL

1015 Timberline Court, Henderson, NV 89015 | 702-628-4927 |

Hisgracemyfavor@yahoo.com

August 18, 2017

Dr. Taylor  
7455 W Washington Avenue #160  
Las Vegas, NV 89128

Dear Dr. Taylor:

As you are aware, there was an orthopedic evaluation that was completed by you from an office visit I had with you on January 6, 2016. At which time, you failed to explain why there was no longer any feeling my right hand; except for the 3<sup>rd</sup> finger; which was injured on September 9, 2016 from being crushed in a guest room door while I was employed at the Cosmopolitan. As I attempted to explain my ongoing symptoms and complaints regarding this injury, with the loss of feeling, numbness, and swelling in the 3<sup>rd</sup> finger I was experiencing, you were dismissive. Instead you proceeding to say I had more complaints than a gun shot victim, and after I tried to show you by reenacting the incident and show you just in fact how my hand was not only cur, but smashed in the door, you were dismissive to this as well. As I further questioned the diagnosis of "arthritis", explaining to you that in fact there is such a thing as post traumatic arthritis, you in fact cut me off and stated it would be best to transfer care. You put on the progress report that I requested it and also that you counseled me on my hypertension. I have proof that proves the report you wrote on or around January 25, 2016 was fictitious, defaming, self-serving, and illegal.

Instead of you providing factual and truthful details in your orthopedic report, you chose to fabricate the truth, defame my character, and committed a slanderous act when you proceeding to forward such lies to Zürich and in turn it went to the Cosmopolitan. On top of your fabrications, you had a professional duty as a physician to report the truth and give me the best care. Instead you made this an issue of judgement and my character.

Due to your negligence and lies, my treatment was terminated and my condition was gone untreated. I have since been diagnosed with a tear in my ulnar nerve, carpal tunnel and cubital carpal tunnel. In addition I was terminated from my position as a room stylist at the Cosmopolitan, was denied employment, which I have since won, and I have been placed under great scrutiny because of this, both in regards to work ethics, and as a patient needing medical care. For this I have

suffered irreparable damage and undergone from January 6, 2016 to present, a great deal of emotional and physical stress.

I am prepared to seek actual and punitive damages in the amount of \$300,000 under the provisions of NRS 41A.009, NRS 630.3062, NRS 630.293, NRS 200.510, NRS 630.304 ADA discrimination, and discrimination under the color of law. You will have 10 days from the day you receive this letter to resolve this matter. If I don't hear from you within this time frame, I will proceed with civil litigation vigorously.

Dated this 18<sup>th</sup> day of August, 2017

*Mated or 8/25/17*

Sincerely,

*Teresa R Burwell*

Teresa R. Burwell

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## EXHIBIT 9

Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Cory Higbee  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435592408

Visit Date: Nov 10, 2015  
Phys Phone:  
SSN: XXX-XX-XXXX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 6  
Cxl/Ns: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Re-Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

Patient continues to report numb feeling in her right hand with tension through her 3rd digit.

### Objective Examination

	Oct 14, 2015		Nov 10, 2015	
Muscle Testing: Upper Extremity MMT:	Left	Right	Left	Right
• Gross Assessment	4/5		4/5	
• Forearm Pronation		4/5		4/5
• Forearm Supination		4/5		4/5
• Wrist Extension		4/5		4/5
• Wrist Flexion		4/5		4/5
Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:	Left		Right	
Measures:				
• Trial 1	25.0 Pounds		10.0 Pounds	
Observations:				
• Swelling: Mild swelling in dorsal surface of right hand.				
Range of Motion:				
• Right Hand: Mild 3rd digit difficulty remains.				
<h2>Treatments</h2>				
Exercise Activities: Isometrics:				
• Gripping		Time Elapsed: 3 Minutes, Technique: Gripper		
Exercise Activities: Range of Motion:				
• Finger Flexion		Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small		
Exercise Activities: Flexibility:				
• Wrist Extensor Musculature		Time Elapsed: 2 Minutes, Technique: Active-Assistive		
• Wrist Flexor Musculature		Time Elapsed: 2 Minutes, Type: Active-Assisted		
Exercise Activities: Aerobic Conditioning:				
• Upper Body Ergometer		Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120		
Exercise Activities: Isotonics:				
• Supination/Pronation		Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2		

Patient: Teresa Burwell  
Acct #: 233492

Visit Date: Nov 10, 2015

- Wrist Extension.

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3

- Wrist Flexion.

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds

**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 1

Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green

**Manual Interventions: Soft Tissue:**

- Extensor Group

Time Elapsed: 3 Minutes, Description: Moderate Depth

- Flexor Group

Time Elapsed: 3 Minutes, Description: Moderate Depth

**Manual Interventions: Range of Motion:**

- Manual ROM 1

Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand

**Modalities:**

- Paraffin

Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre-Activity

## Assessment

Patient ROM has improved, she demonstrates improved grip. She continues to have some numbness through her hand.

## Problems & Goals

**Problem #1 Range of Motion: Right Hand: Mild 3rd digit difficulty remains.**

*STG Achieve by Nov 17, 2015. Progress: Excellent progress.*

**Range of Motion Improvements to:**

- Patient able to make a full active fist grip with right hand.

**Problem #2 Observations: Swelling: Mild swelling in dorsal surface of right hand.**

*STG Achieve by Nov 17, 2015. Progress: Good progress.*

**Girth/Volume Normalization:**

- Decreasing Swelling/Effusion to: Trace Levels.

**Problem #3 Muscle Testing: Upper Extremity MMT.**

*STG Achieve by Nov 24, 2015. Progress: Some progress.*

**Musculoskeletal Improvements In: Upper**

**Extremity Strength to:**

Right

- Gross Assessment(wrist, forearm, fingers)

+4/5

**Problem #4 Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended: Measures.**

*Goal Achieved Nov 10, 2015.*

**Musculoskeletal Improvements In: Grip/Pinch**

**Strength to: Dynamometer II Elbow Extended:**

Right

**Measures:**

- Average.

10.0 Pounds

## Plan

**Daily Plan:**

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890),MSPT  
Signed on Nov 10, 2015 08:35:04

Status: Signed off (secure electronic signature)

Page 2 of 2

Document ID: 0010D302.013  
Cory Higbee,PT(NV Lic: PT 1890),MSPT

Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

Patient: Tercsa Hurwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Melanie Ake  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435592408

Note Date: Nov 10, 2015  
Phys Phone:  
SSN: XXX-XX-XXXX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 5  
Cxl/Ns: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Progress Note

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

#### Daily Comments:

- No New Complaints. Overall Condition is: A little better. Compliance with: Home Exercise Program: Performing Infrequently.

### Objective Examination

	Oct 14, 2015		Nov 10, 2015	
Muscle Testing: Upper Extremity MMT:	Left	Right	Left	Right
Gross Assessment	4/5		4/5	
• Forearm Pronation		-4/5		-4/5
• Forearm Supination		-4/5		-4/5
• Wrist Extension		-4/5		-4/5
• Wrist Flexion		-4/5		-4/5
Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:	Left		Right	
Measures:				
Average	25.0 Pounds		5.0 Pounds	
• Trial 1.			10.0 Pounds	
• Trial 2.			8.0 Pounds	
• Trial 3.			10.0 Pounds	

#### Observations:

- Swelling: Generalized swelling present in all 5 digits right compared to left.

#### Range of Motion:

- Right Hand: AROM is slightly limited in PIP and DIP flexion throughout digits 2-5. PROM is full. Patient is unable to form a full fist actively, but is able to passively.

### Assessment

The client tolerated today's treatment/therapeutic activity with mild complaints of pain and difficulty.

Pt has demonstrated improved AROM during treatment, and is no longer having pain with AROM however she continues to complain of numbness through her R hand. She had no difficulties recognizing light touch through the R hand but reports a fuzzy numb feeling with each treatment.

#### Treatment Emphasis to focus on:

- Neurovascular Improvements. Sensation Normalization. Range of Motion/Mobility Improvements.

### Plan

Await further orders from MD.



Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Cory Higbee  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435392408

Visit Date: Nov 10, 2015  
Phys Phone:  
SSN: XXX-XX-XXXX  
Inj. Date: Sep 11, 2015  
Surge Date:  
Visits: 5  
Cxl/Ng: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Re-Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

Patient continues to report numb feeling in her right hand with tension through her 3rd digit.

### Objective Examination

	Oct 14, 2015		Nov 10, 2015	
	Left	Right	Left	Right
Muscle Testing: Upper Extremity MMT:				
• Gross Assessment	4/5	4/5	4/5	4/5
• Forearm Pronation	4/5	4/5	4/5	4/5
• Forearm Supination	4/5	4/5	4/5	4/5
• Wrist Extension	4/5	4/5	4/5	4/5
• Wrist Flexion	4/5	4/5	4/5	4/5
Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:	Left	Right		
Measures:				
• Grip L.	250 Pounds	100 Pounds		
Observations:				
• Swelling: Mild swelling in dorsal surface of right hand.				
Range of Motion:				
• Right Hand: Mild 3rd digit difficulty remains.				

### Treatments

#### Exercise Activities: Isometrics

• Gripping Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion

• Finger Flexion Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index, Small

#### Exercise Activities: Flexibility

• Wrist Extensor Musculature Time Elapsed: 2 Minutes, Technique: Active-Assistive

• Wrist Flexor Musculature Time Elapsed: 2 Minutes, Type: Active-Assisted

#### Exercise Activities: Aerobic Conditioning

• Upper Body Ergometer Time Elapsed: 5 Minutes, Direction: forward & backward, Speed (rpm): 120

#### Exercise Activities: Isotonics

• Supination/Pronation Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2



Patient: Teresa Burwell  
Acct #: 233492

Visit Date: Nov 10, 2015

• Wrist Extension. Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3  
• Wrist Flexion. Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds  
Exercise Activities: Tubing/Bands:  
• Tubing/Bands: Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green  
Manual Interventions: Soft Tissue:  
• Extensor Group Time Elapsed: 3 Minutes, Description: Moderate Depth  
• Flexor Group Time Elapsed: 3 Minutes, Description: Moderate Depth  
Manual Interventions: Range of Motion:  
• Manual ROM Time Elapsed: 3 Minutes, Description: PROM in all directions to R hand  
Modalities:  
• Paraffin Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

## Assessment

Patient ROM has improved, she demonstrates improved grip. She continues to have some numbness through her hand.

## Problems & Goals

**Problem #1** Range of Motion: Right Hand: Mild 3rd digit difficulty remains.  
SIG Achieve by Nov 17, 2015. Progress: Excellent progress.

Range of Motion Improvements to:

- Patient able to make a full active fist grip with right hand.

**Problem #2** Observations: Swelling: Mild swelling in dorsal surface of right hand.  
SIG Achieve by Nov 17, 2015. Progress: Good progress.

Girth/Volume Normalization:

- Decreasing Swelling/Effusion to: Trace Levels.

**Problem #3** Muscle Testing: Upper Extremity MMT.  
SIG Achieve by Nov 24, 2015. Progress: Some progress.

Musculoskeletal Improvements In: Upper  
Extremity Strength to:

Right

- Cross Assessment (wrist, forearm, fingers)

**Problem #4** Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended: Measures.  
Goal Achieved Nov 10, 2015.

Musculoskeletal Improvements In: Grip/Pinch  
Strength to: Dynamometer II Elbow Extended:  
Measures:

Right

- Average: 10.0 Pounds

## Plan

Daily Plan:

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890).MSPT  
Signed on Nov 10, 2015 08:35:04

Document ID: 0010D302.013  
Cory Higbee, PT(NV Lic: PT 1890).MSPT

Status: Signed off (secure electronic signature)

Page 2 of 2



Chynoweth, Hill & Leavitt, LLC  
175 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Cory Higbee  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pd/Claim#: 435592408

Visit Date: Nov 12  
Pty's Phone:  
SSN: XXX-XX  
Inj. Date: Sep 11, 2011  
Surg. Date:  
Visits: 8  
Cxl/Vis: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Daily Note

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

#### Daily Comments:

- No New Complaints. Overall Condition is: Unchanged.

### Objective Examination

Objective Measurements: Not Reassessed Today.

Muscle Testing: Upper Extremity MMT:

- Gross Assessment
- Forearm Pronation
- Forearm Supination
- Wrist Extension
- Wrist Flexion

Left  
4/5

Right

-4/5  
-4/5  
-4/5  
-4/5

#### Observations:

- Swelling: Mild swelling in dorsal surface of right hand.

#### Range of Motion:

- Right Hand: Mild 3rd digit difficulty remains.

### Treatments

#### Exercise Activities: Isometrics:

- Crippling

Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion:

- Finger Flexion

Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small

#### Exercise Activities: Flexibility:

- Wrist Extensor Musculature
- Wrist Flexor Musculature

Time Elapsed: 2 Minutes, Technique: Active-Assistive  
Time Elapsed: 2 Minutes, Type: Active-Assisted

#### Exercise Activities: Aerobic Conditioning:

- Upper Body Ergometer

Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120

#### Exercise Activities: Isotonics:

- Supination/Pronation

Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2

- Wrist Extension

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3

- Wrist Flexion

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds

Document ID: 0010D302.016

Status: Signed off (secure electronic signature)  
Melanie Ake, PTA (NV Lic: PTA A 0711); Cory Higbee, PT (NV Lic: PT 1890), MSPT

Page 1 of 2

Patient: Teresa Burwell  
Acct #: 233492

Visit Date: Nov 12, 2015

**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 1

Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green

**Manual Interventions: Soft Tissue:**

- Extensor Group
- Flexor Group

Time Elapsed: 3 Minutes, Description: Moderate Depth

Time Elapsed: 3 Minutes, Description: Moderate Depth

**Manual Interventions: Range of Motion:**

- Manual ROM 1

Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand

**Modalities:**

- Paraffin

Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

**Therapy Session Time**

- Total Therapy Session Time 58 Minutes

**Assessment**

The client tolerated today's treatment/therapeutic activity without complaints of pain or difficulty.

Treatment Emphasis to focus on:

- Pain relief, Range of Motion/Mobility Improvements, Muscle Function Improvements.

**Plan**

**Daily Plan:**

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Melanie Ake, PTA(NV Lic: PTA A 0711)

Signed on Nov 13, 2015 07:40:07

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890),MSPT

Signed on Nov 13, 2015 08:35:37



Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0033

Patient: Teresa Burwell  
Acct #: 213492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Cory Higbee  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 415392408

Visit Date: Nov 11, 1  
Phys Phone:  
SSN: XXX-XX  
Inj. Date: Sep 11, 2013  
Surg. Date:  
Visits: 7  
Ct/Us: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Daily Note

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/13.

### Subjective Examination

#### Daily Comments:

- No New Complaints. Overall Condition is: Unchanged. Compliance with: Home Exercise Program: Performing Infrequently.

### Objective Examination

Range of motion has been performed and is within functional limits.

#### Muscle Testing: Upper Extremity MMT:

	Left	Right
• Gross Assessment	4/5	
• Forearm Pronation		4/5
• Forearm Supination		4/5
• Wrist Extension		4/5
• Wrist Flexion		4/5

#### Observations:

- Swelling: Mild swelling in dorsal surface of right hand.

#### Range of Motion:

- Right Hand: Mild 3rd digit difficulty remains.

### Treatments

#### Exercise Activities: Isometrics:

- Gripping

Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion:

- Finger Flexion

Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small

#### Exercise Activities: Flexibility:

- Wrist Extensor Musculature
- Wrist Flexor Musculature

Time Elapsed: 2 Minutes, Technique: Active-Assistive

Time Elapsed: 2 Minutes, Type: Active-Assisted

#### Exercise Activities: Aerobic Conditioning:

- Upper Body Ergometer

Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120

#### Exercise Activities: Isotonics:

- Supination/Pronation

Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds,

Repetitions: 10, Sets: 2

- Wrist Extension

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3

- Wrist Flexion

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds

Document ID: 0010D302.015

Status: Signed off (secure electronic signature)

Page 1 of 2

Melanie Ake,PTA(NV Lic: PTA A 0711); Cory Higbee,PT(NV Lic: PT 1890).MSPT

Patient: Teresa Barwell  
Acct #: 213492

Visit Date: Nov 11, 2015

**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 1

Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green

**Manual Interventions: Soft Tissue:**

- Extensor Group
- Flexor Group

Time Elapsed: 3 Minutes, Description: Moderate Depth

Time Elapsed: 3 Minutes, Description: Moderate Depth

**Manual Interventions: Range of Motion:**

- Manual ROM 1

Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand

**Modalities:**

- Paraffin

Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

**Therapy Session Time**

- Total Therapy Session Time 53 Minutes

**Assessment**

The client tolerated today's treatment/therapeutic activity without complaints of pain or difficulty.

Treatment Emphasis to focus on:

- Pain relief, Range of Motion/Mobility Improvements, Muscle Function Improvements.

**Plan**

**Daily Plan:**

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Melanie Ake, PTA(NV Lic: PTA A 0711)  
Signed on Nov 12, 2015 07:17:57

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890),MSPT  
Signed on Nov 12, 2015 07:26:34

Mon 12:45  
Wed - Thurs

Total 4

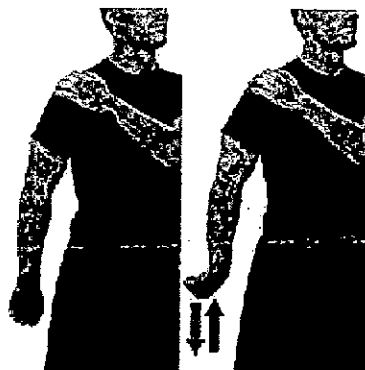


**ULNAR NERVE GLIDE - A**

Repeat 10 Times

Start with your arm up and out to the side with a bend elbow as shown. Your palm should be facing towards the side. Next, bend your wrist away and towards you as shown.

Your other hand should be checking to make sure that your shoulder stays down and drawn back the entire time.



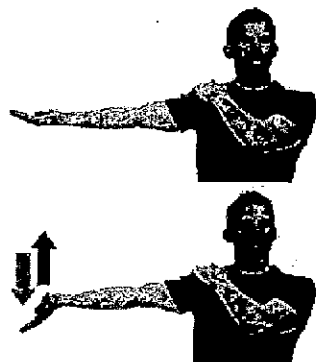
**RADIAL NERVE GLIDE - A**

Repeat 10 Times

Start with your arm hanging down at your side with your elbows straight and palm facing back. Next, bend your wrist forward and back.

Your other hand should be checking to make sure that your shoulder stays down and drawn back the entire time.

\* More for wrist/forearm



**MEDIAN NERVE GLIDE - A**

Repeat 10 Times

Start with your arm out to the side with your elbows straight and palm facing upward. Next, bend your wrist up and down.

Your other hand should be checking to make sure that your shoulder stays down and drawn back the entire time.

1



Keep palm of hand flat.

Keep large knuckles straight and bend middle and end joints.

Repeat 10 Times  
 Hold 10 Seconds  
 Complete 1 Set  
 Perform 6 Time(s) a Day

2



**TOWEL GRIP**

Place a rolled up towel in your hand and squeeze.

Repeat 30 Times  
 Hold 1 Second  
 Complete 3 Sets  
 Perform 2 Time(s) a Day

3



**WRIST FLEXOR STRETCH**

Use your unaffected hand to bend the affected wrist up as shown.

Keep the elbow straight on the affected side the entire time.

Repeat 3 Times  
 Hold 20 Seconds  
 Complete 1 Set  
 Perform 2 Time(s) a Day

4



**FINGER OPPOSITION COMBO**

Start with an open palm and fingers extended.

Next, touch the tips of the first and second fingers. Then return to open palm.

Next, touch the tips of the first and third fingers, etc until all fingers have performed as shown.

Repeat 20 Times  
 Hold 1 Second  
 Complete 1 Set  
 Perform 2 Time(s) a Day



Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

**Observations: Swelling: Girth:**

- Middle Finger Middle Phalanx
- Middle PIP Joint
- Middle Proximal Phalanx

	Left	Right
	5.3 cm.	5.3 cm.
	6.1 cm.	7.1 cm.
	5.9 cm.	6.1 cm.

**Range of Motion: Right Hand: Pre-Treatment: Fingers / Thumb (Active):**

MCP (deg)	PIP (deg)	DIP/IP (deg)	Total Motion (deg)	Dist from DPC (cm)
Ext   Flex	Ext   Flex	Ext   Flex		
	88	104	70	

Middle

**Reflex/Sensory Integrity:**

- sharp/ dull intact R hand

**Treatments**

**Documented Procedural Code Summary:**

Description	Code	Units	Minutes
• Hot or Cold Packs	97010	1	n/a
• Manual Therapy Techniques	97140	1	5
• Occupational Therapy Evaluation	97003	1	n/a
• Therapeutic Activities	97530	1	13
• Therapeutic Procedure	97110	2	23

**Exercise Activities: Aerobic Conditioning:**

- Upper Body Ergometer

Time Elapsed: 8 Minutes, Direction: forward & backward, Speed (rpm): level 2, Charge As: Therapeutic Activities

**Exercise Activities: Dynamic Training: Coordination/Dexterity:**

- Rubber Band Board

Time Elapsed: 5 Minutes, Resistance: 2 Rubber Bands red, Activity 1: Grip, Charge As: Therapeutic Activities

**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 2

Time Elapsed: 5 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: FA sup / pro with therapy flex bar, Charge As: Therapeutic Exercise

**Exercise Activities: Isotonics:**

- Wrist Extension,
- Wrist Flexion,
- Isotonic Activity 2
- Isotonic Activity 3
- Isotonic Activity 4

Time Elapsed: 3 Minutes, Weight - Pounds: 3 Pounds, Charge As: Therapeutic Exercise  
Time Elapsed: 3 Minutes, Weight - Pounds: 3 Pounds, Charge As: Therapeutic Exercise  
Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: biceps curls, Charge As: Therapeutic Exercise  
Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: triceps ext, Charge As: Therapeutic Exercise  
Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: pull ups, Charge As: Therapeutic Exercise

**Exercise Activities: Machines/Weights:**

- Seated-Rowing

Time Elapsed: 3 Minutes, Weight - Pounds: 25 Pounds, Charge As: Therapeutic Exercise

**Functional/ADL Activities: Functional Task Training:**

**Manual Interventions: Soft Tissue:**

- Soft Tissue Mobilization 2

Time Elapsed: 5 Minutes, Tx Depth: Moderate, Technique: Lymph Drainage, Description: R hand, Charge As: Soft tissue Mobilization

**Modalities:**

- Moist Hot Pack

Time Elapsed: 10 Minutes, Location: Anterior/Posterior, Clinical Use: Pre Activity, Charge As: Hot or Cold Packs

**Sensory Re-education:**

**Assessment**

The patient requires skilled occupational therapy to address the problems identified, and to achieve the individualized patient goals as outlined in the problems and goals section of this evaluation. Overall rehabilitation potential is good. The expected length of this episode of skilled therapy services required to address the patient's condition is estimated to be 21 days. The patient was educated regarding their diagnosis, prognosis, related pathology & plan of care. The patient demonstrates a good understanding of the risks, benefits, precautions/contraindications, & prognosis of their skilled rehabilitation program.

Document ID: 2B203EE0.001  
Pia Dubois, OT,OT(NV Lic: 027),CHT,CHT

Status: Signed off (secure electronic signature)

Page 2 of 3





Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

**Presentation:**

- Pt is 3 mos s/p hand contusion. Pt's main c/o is of ongoing tingling and pain along the MF. She presents with full AROM of the fingers of the R hand but has diminished grip strength. Pt will be seen for skilled therapy to address the issues above and facilitate return to FD

**Recommendations: Skilled Intervention: Required To:**

- Decrease Pain. Increase Strength. Increase Range of Motion. Return To Work.

**Problems & Goals**

**Problem #1 ADL / Functional Status: Current Status: Work status:** Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work

LTG Achieve by Jan 11, 2016.

**ADL Improvements In:**

- Pt will be able to return to FD work as a guest room attendant

**Problem #2 ADL / Functional Status: Current Status: Basic care:** Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.

LTG Achieve by Jan 11, 2016.

**ADL Improvements In:**

- Pt will be able to use the R hand with all ADLs through diminished pain and paresthesias

**Problem #3 Muscle Testing: Grip/Pinch.**

LTG Achieve by Jan 18, 2016.

**Musculoskeletal Improvements In: Grip/Pinch**

**Strength to: Tests Strength To:**

- Grip Dynamometer II

Right

60.0 Pounds

**Plan**

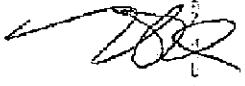
The goals and plan were discussed with the patient and/or family and they concur. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care. The patient and/or family were instructed to call therapist regarding problems or questions.

**Amount, Frequency and Duration:**

- Frequency and Duration: It is recommended that the patient attend rehabilitative therapy for 3 visits a week with an expected duration of 3 weeks. The outlined therapeutic procedures and services in the plan of care will address the problems and goals identified.

**Therapeutic Contents:**

- Active Assistive Range of Motion Activities. Active Range of Motion Activities. Aerobic Conditioning: Upper Body Ergometer. Client Education. Home Exercise Program. Manual Range of Motion Activities. Manual Therapy Techniques. Modalities: Moist Hot Pack. Orthotic Fitting and Training. Passive Range of Motion Activities. Soft Tissue Mobilization Techniques. Stretching/Flexibility Activities. Therapeutic Activities. Therapeutic Exercise.
- Resistive Activities:
  - Machines/Free Weights. Theraputty. Tubing/Bands.

  
Pia Dubois, OT, OT(NV Lic: 0227), CHT, CHT  
Signed on Dec 21, 2015 14:51:40

Document ID: 28203EE0.001  
Pia Dubois, OT, OT(NV Lic: 0227), CHT, CHT

Status: Signed off (secure electronic signature)

Page 3 of 3



Select Physical Therapy  
400 North Stephanie Street  
Suite 310, Building 1  
Henderson, NV USA 89014-6692  
Phone: (702) 454-1162  
Fax: (702) 454-8817

**Patient:** Theresa Burwell  
**Acct #:** 035R240199795  
**DOB:** Apr 28, 1974  
**Clinician:** Pia Dubois, OT  
**Prim Phy:** Arthur J. Taylor  
**Phy Phone:** (702) 258-3782  
**Phy Fax:** (702) 258-3783  
**Sec Phy:** Not Specified  
**Urg. Date:** 9/11/2015  
**Surg. Date:** Not Specified

**Visit Date:** Dec 21, 2015  
**FSC:** Workers Compensation  
**Payor:** ZURICH  
**Pol/Claim#:** Not Specified  
**Insured:** Burwell, Theresa  
**Employer:** Not Specified  
**Case Mgr:** Christina Crosby  
**Visits:** 1  
**Cxl/Ns:** 0

## Plan of Care

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.641 Pain in right hand

### Subjective Examination

The medical history questionnaire has been completed and signed by the patient, reviewed by the evaluating therapist, and is on file.

#### ADL / Functional Status

- Premorbid Status: Work status: Independent Without Difficulty. Occupational Activities: Requirements: will obtain a job description

#### Chief Complaint:

- Pt c/o pain along the dorsum of the hand and the MF. She also tingling along the MF. Pain: Severity: Current : 8/10.

#### Mechanism of Injury:

- See general info

#### Rehabilitation Expectations/Goals:

- Minimize: Numbness/Tingling.

#### ADL / Functional Status

- Current Status: Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work. Occupation: Pt is a room stylist ( guest room attendant) at the Cosmopolitan

### Assessment

The patient requires skilled occupational therapy to address the problems identified, and to achieve the individualized patient goals as outlined in the problems and goals section of this evaluation. Overall rehabilitation potential is good. The expected length of this episode of skilled therapy services required to address the patient's condition is estimated to be 21 days. The patient was educated regarding their diagnosis, prognosis, related pathology & plan of care. The patient demonstrates a good understanding of the risks, benefits, precautions/contraindications, & prognosis of their skilled rehabilitation program.

#### Presentation:

- Pt is 3 mos/s/p hand contusion. Pt's main c/o is of ongoing tingling and pain along the MF. She presents with full AROM of the fingers of the R hand but has diminished grip strength. Pt will be seen for skilled therapy to address the issues above and facilitate return to FD

#### Recommendations: Skilled Intervention; Required To:

- Decrease Pain. Increase Strength. Increase Range of Motion. Return To Work.

### Problems & Goals

**Problem #1 ADL / Functional Status: Current Status: Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work**

*LTG Achieve by Jan 11, 2016.*

#### ADL Improvements In:

- Pt will be able to return to FD work as a guest room attendant

**Problem #2 ADL / Functional Status: Current Status: Basic care: Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.**

*LTG Achieve by Jan 11, 2016.*

#### ADL Improvements In:

- Pt will be able to use the R hand with all ADLs through diminished pain and paresthesias

**Problem #3 Muscle Testing: Grip/Pinch.**

- Grip Dynamometer II

- Lateral Pinch

- Three Jaw Pinch

- Tip Pinch

*LTG Achieve by Jan 18, 2016.*

#### Musculoskeletal Improvements In: Grip/Pinch

**Strength to: Tests Strength To:**

- Grip Dynamometer II

Left	Right
66.0 Pounds	44.0 Pounds
16.5 Pounds	16.5 Pounds
15.5 Pounds	10.0 Pounds
13.5 Pounds	11.0 Pounds

**Right**  
60.0 Pounds



Patient: Theresa Burwell  
Acct #: 035R24019979S  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

### Plan

The goals and plan were discussed with the patient and/or family and they concur. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care. The patient and/or family were instructed to call therapist regarding problems or questions.

#### Amount, Frequency and Duration:

- Frequency and Duration: It is recommended that the patient attend rehabilitative therapy for 3 visits a week with an expected duration of 3 weeks. The outlined therapeutic procedures and services in the plan of care will address the problems and goals identified.

#### Therapeutic Contents:

- Active Assistive Range of Motion Activities. Active Range of Motion Activities. Aerobic Conditioning. Upper Body Ergometer. Client Education. Home Exercise Program. Manual Range of Motion Activities. Manual Therapy Techniques. Modalities: Moist Hot Pack. Orthotic Fitting and Training. Passive Range of Motion Activities. Soft Tissue Mobilization Techniques. Stretching/Flexibility Activities. Therapeutic Activities. Therapeutic Exercise.
- Resistive Activities:
  - Machines/Free Weights. Theraputty. Tubing/Bands.

Pia Dubois, OT, OT(NV Lic: 0227), CHT, CHT  
Signed on Dec 21, 2015 14:51:40

#### Please Sign and Return

I have reviewed the Plan of Care established for skilled therapy services and certify that the services are required and that they will be provided while the patient is under my care.

#### Comments/Revisions

Arthur J. Taylor

Date



Select Physical Therapy  
400 North Stephanie Street  
Suite 310, Building 1  
Henderson, NV USA 89014-6692  
Phone: (702) 454-1162  
Fax: (702) 454-8817

Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974  
Clinic: Pla Dubois, OT  
Prim Phys: Arthur J. Taylor  
Phy Phone: (702) 258-3782  
Phy Fax: (702) 258-3783  
Sec Phy: Not Specified  
Inj. Date: 9/11/2015  
Surg. Date: Not Specified

Visit Date: Dec 21, 2015  
FSC: Workers Compensation  
Payor: ZURICH  
Pol/Claim#: Not Specified  
Insured: Burwell, Theresa  
Employer: Not Specified  
Case Mgr: Christina Crosby  
Visits: 1  
CM/Ne: 0

## Initial Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.641 Pain in right hand

### General Information

#### Reason for Referral:

- Pt is a R-handed female who sustained a contusion of the R hand when it got caught in a door on 9/11/15. She is now being referred to therapy for aggressive A/P ROM and grip strengthening

### Subjective Examination

The medical history questionnaire has been completed and signed by the patient, reviewed by the evaluating therapist, and is on file. Pt reports that she has an attorney as she feels she is being discriminated for having personal claim injury back in 2008

#### ADL / Functional Status:

- Current Status:
  - Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work. Basic care: Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.
- Premorbid Status:
  - Work status: Independent Without Difficulty. Basic care: Independent Without Difficulty.
- Occupation: Pt is a room stylist (guest room attendant) at the Cosmopolitan. Occupational Activities: Requirements: will obtain a job description

#### Chief Complaint:

- Pt c/o pain along the dorsum of the hand and the MF. She also tingling along the MF. Pain: Severity: Current : 8/10.

#### History:

- Medical: Completely Unremarkable: by Family Interview.

#### Mechanism of Injury:

- see general info

#### Medical Management:

- Rehabilitative Therapy: pt had 7 sessions of therapy at Kelly Hawkins. Medications: Prescription: Pt is on pain meds for neck and back (Norco and Cymbalta, Lipid). Diagnostic Studies: x rays were remarkable to arthritis

#### Rehabilitation Expectations/Goals:

- Minimize: Numbness/tingling.

### Objective Examination

#### Functional Tests: Return to Participation: Occupational Tests: Non-Material Handling:

- Date: 12/21/2015
- Assessment: Initial
- Sitting: Able to Perform
- Standing: Able to Perform
- Walking: Able to Perform
- Fingering: Able to Perform
- Grasping: Able to Perform
- Writing/Typing: Able to Perform
- Supination / Pronation: Able to Perform
- Radial / Ulnar Deviation: Able to Perform
- Fine Motor: Able to Perform

#### Muscle Testing: Grip/Pinch:

- |                     | Left        | Right       |
|---------------------|-------------|-------------|
| Grip Dynamometer II | 66.0 Pounds | 44.0 Pounds |
| Lateral Pinch       | 16.5 Pounds | 16.5 Pounds |
| Three Jaw Pinch     | 15.5 Pounds | 10.0 Pounds |
| Tip Pinch           | 13.5 Pounds | 11.0 Pounds |

Dec. 28, 2015 5:21PM

Select Medical Group

No. 2607 P. 5



Patient: Therese Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

**Observations: Swelling: Girth:**

- Middle Finger Middle Phalanx
- Middle PIP Joint
- Middle Proximal Phalanx

**Left**

5.3 cm.  
6.1 cm.  
5.9 cm.

**Right**

5.3 cm.  
7.1 cm.  
6.1 cm.

**Range of Motion: Right Hand: Pre-Treatment: Fingers / Thumb (Active):**

	MCP (deg)		PIP (deg)		DIP/IP (deg)		Total Motion (deg)	Dist from DPC (cm)
	Ext	Flex	Ext	Flex	Ext	Flex		
Middle		86		104		70		

**Reflex/Sensory Integrity:**

- sharp/dull intact R hand

**Treatments****Documented Procedural Code Summary**

Description	Code	Units	Minutes
• Hot or Cold Packs	97010	1	n/a
• Manual Therapy Techniques	97140	1	5
• Occupational Therapy Evaluation	97003	1	n/a
• Therapeutic Activities	97530	1	13
• Therapeutic Procedure	97110	2	23

**Exercise Activities: Aerobic Conditioning:**

- Upper Body Ergometer

Time Elapsed: 8 Minutes, Direction: forward & backward, Speed (rpm): level 2, Charge As: Therapeutic Activities

**Exercise Activities: Dynamic Training: Coordination/Dexterity:**

- Rubber Band Board

Time Elapsed: 5 Minutes, Resistance: 2 Rubber Bands red, Activity 1: Grip, Charge As: Therapeutic Activities

**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 2

Time Elapsed: 5 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: FA sup / pro with therapy flex bar, Charge As: Therapeutic Exercise

**Exercise Activities: Isotonics:**

- Wrist Extension

Time Elapsed: 3 Minutes, Weight - Pounds: 3 Pounds, Charge As: Therapeutic Exercise

- Wrist Flexion

Time Elapsed: 3 Minutes, Weight - Pounds: 3 Pounds, Charge As: Therapeutic Exercise

- Isotonic Activity 2

Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: biceps curls, Charge As: Therapeutic Exercise

- Isotonic Activity 3

Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: triceps ext, Charge As: Therapeutic Exercise

- Isotonic Activity 4

Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: pull ups, Charge As: Therapeutic Exercise

**Exercise Activities: Machines/Weights:**

- Seated-Rowing

Time Elapsed: 3 Minutes, Weight - Pounds: 25 Pounds, Charge As: Therapeutic Exercise

**Functional/ADL Activities: Functional Task Training:****Manual Interventions: Soft Tissue:**

- Soft Tissue Mobilization 2

Time Elapsed: 5 Minutes, Tx Depth: Moderate, Technique: Lymph Drainage, Description: R hand, Charge As: Soft tissue Mobilization

**Modalities:**

- Moist Hot Pack

Time Elapsed: 10 Minutes, Location: Anterior/Posterior, Clinical Use: Pre-Activity, Charge As: Hot or Cold Packs

**Sensory Re-education:****Assessment:**

The patient requires skilled occupational therapy to address the problems identified, and to achieve the individualized patient goals as outlined in the problems and goals section of this evaluation. Overall rehabilitation potential is good. The expected length of this episode of skilled therapy services required to address the patient's condition is estimated to be 21 days. The patient was educated regarding their diagnosis, prognosis, related pathology & plan of care. The patient demonstrates a good understanding of the risks, benefits, precautions/contraindications, & prognosis of their skilled rehabilitation program.

Document ID: 28203EE0.001  
Pla Dubois, OT,OT(NV Lic.0227),CHT,CHT

Status: Signed off (secure electronic signature)

Page 2 of 3



Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

#### Presentation:

- Pt is 3 mos s/p hand contusion. Pt's main c/o is of ongoing tingling and pain along the MF. She presents with full AROM of the fingers of the R hand but has diminished grip strength. Pt will be seen for skilled therapy to address the issues above and facilitate return to FD

#### Recommendations: Skilled Intervention; Required To:

- Decrease Pain, Increase Strength, Increase Range of Motion, Return To Work

#### Problems & Goals

**Problem #1 ADL / Functional Status: Current Status: Work status:** Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work

LTG Achieve by Jan 11, 2016.

##### ADL Improvements In:

- Pt will be able to return to FD work as a guest room attendant

**Problem #2 ADL / Functional Status: Current Status: Basic care:** Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.

LTG Achieve by Jan 11, 2016.

##### ADL Improvements In:

- Pt will be able to use the R hand with all ADLs through diminished pain and paresthesias

**Problem #3 Muscle Testing: Grip/Pinch,**

LTG Achieve by Jan 18, 2016.

##### Musculoskeletal Improvements In: Grip/Pinch

##### Strength to: Tests Strength To:

- Grip Dynamometer II

Right

60.0 Pounds

#### Plan

The goals and plan were discussed with the patient and/or family and they concur. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care. The patient and/or family were instructed to call therapist regarding problems or questions.

#### Amount, Frequency and Duration:

- Frequency and Duration: It is recommended that the patient attend rehabilitative therapy for 3 visits a week with an expected duration of 3 weeks. The outlined therapeutic procedures and services in the plan of care will address the problems and goals identified.

#### Therapeutic Contents:

- Active Assistive Range of Motion Activities, Active Range of Motion Activities, Aerobic Conditioning: Upper Body Ergometer, Client Education, Home Exercise Program, Manual Range of Motion Activities, Manual Therapy Techniques, Modalities: Moist Hot Pack, Orthotic Fitting and Training, Passive Range of Motion Activities, Soft Tissue Mobilization Techniques, Stretching/Flexibility Activities, Therapeutic Activities, Therapeutic Exercise,
- Resistive Activities:
  - Machines/Free Weights, Theraputty, Tubing/Bands.

Ria Dubois, OT, OT(NY Lic: 0227), CHT, CHT  
Signed on Dec 21, 2015 14:51:40

EXHIBIT 10

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Employment Security Division  
Adjudication Center  
500 East Third Street  
Carson City, NV 89713-0035  
Tel (775) 684-0302 Fax (775) 684-0338  
Tel (702) 486-7999 Fax (702) 486-7987



3947482  
<http://www.nvdeetr.org>

Original

TERESA BURWELL  
6803 FRANCES CELIA AVE  
LAS VEGAS, NV 89122-8612

RE: NEVADA PROPERTY 1  
LLC  
Claimant ID: 4042172  
Issue ID: 3249766  
Week End Date: 03/05/2016  
Date Mailed: 03/30/2016  
Last Day to Appeal: 04/11/2016  
Decision Date: 03/29/2016

**\* See back of form for Appeal Rights  
and other important information.**

**\*Vea el reverso de la hoja para  
los derechos de apelación y otra  
información importante.**

#### DECISION

You are not entitled to benefits effective 02/28/2016 until you return to work in covered employment and earn at least \$153.00 in each of 10 weeks. (Proof of earnings must be furnished to end this disqualification period.)

As a result of your disqualification, you may have been overpaid Unemployment Insurance benefits. If you have been overpaid, you will be issued a separate determination that will show the amount overpaid.

#### REASON FOR DECISION

You were discharged for being disrespectful and combative towards management. Your employer has provided documentation to support their allegations. You deny the employers allegations.

Based on the information on file, misconduct in connection with the work has been established and benefits are denied.

#### Pertinent Section of Law:

**NRS 612.385:** A person is ineligible for benefits if he was discharged from his last or next-to-last employment for misconduct connected with the work, and remains ineligible until he works in covered employment and earns his weekly benefit amount in each week up to 16 weeks.

Restricted: NRS 612.255 limits the use of this material to unemployment compensation litigation except for specified exceptions.



Report suspected UI Fraud online at <https://uifraud.nvdeetr.org>

Docket #: V-16-A-02769  
Exhibit#: 10  
LET7712\_126.0.0

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EXHIBIT 11

Please Refer to exhibit 5 if necessary

01/06/2016 15:01 NV-NCP01

(FAX) 702 878 0393

P.002/003



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Pkwy Suite 330  
Henderson, Nevada 89074

**TERESA R BURWELL**

MRN#: 394901

DOB: 04/28/1974, 41 years

Date: 01/06/2016

## Orthopedic Evaluation

### History of Present Illness

The patient is a 41 year old female who presents with a work related injury. Date of injury. 9/11/2015  
RIGHT HAND

### History

#### Allergies

Iodine \*ANTISEPTICS & DISINFECTANTS\* (Drug allergy): Headache, Vomiting, Itching  
Morphine Sulfate (PF) \*ANALGESICS - OPIOID\* (Drug allergy): Headache, Itching, Vomiting

#### Medications

Hydrocodone-Acetaminophen (10-325MG Tablet, Oral daily) Active.  
Methocarbamol (500MG Tablet, Oral daily) Active.  
Cymbalta ( Oral daily) Specific dose unknown - Active.  
Medications Reconciled.

#### Past Surgical

Cervical surgery  
Hand Surgery  
Hernia Repair  
Hysterectomy  
Knee surgery  
Lumbar surgery  
Plates  
Sinus Surgery

#### Social

Tobacco use: Never smoker 12/14/2015

#### Family

Hypertension: Mother

#### Problem List

Contusion of right hand, subsequent encounter

### Vitals

01/06/2016 02:12 PM

Weight: 173 lb Height: 64 in

Body Mass Index: 29.7 kg/m<sup>2</sup>

Pain level: Pulse: (Regular)

BP: 184/110 Electronic (Sitting, Left Arm, Standard)

Abnormal vital signs have been discussed with the patient. Patient has been advised to see PCP ASAP. Patient aware of high risk for heart attack and/ or stroke. Patient given clinical summary for today's visit.

### Review of Systems

46

01/06/2016 15:01 NV-NCP01

(FAX) 7028780393

P.003/003

**Physical Exam**

This patient comes to my office after undergoing an initial examination for complaints of pain and reduced range of motion of her right hand after a contusional injury and upon entering the room this patient for proximally 10 min. stated to me why she had disagreements with my diagnosis and plan of treatment and she voiced basically a lack of desire to continue with my care. She had questions of my review of the x-ray and I did go back over the review of the x-ray of her right hand which I felt showed minimal abnormalities and at the PIP level of the long and ring digits I felt that there was a mild presentation of arthritic changes but not of great significance. I also asked the patient whether she had attended hand therapy and she stated she only went for 1 visit of hand therapy and so she was clearly noncompliant with my recommendations and treatment.

I discussed with this patient that it would be best at this point for her to seek care with a different hand specialist given that she has some much disagreement and noncompliance with my diagnosis and treatment recommendations and that I would facilitate this transfer of care through her nurse case manager at the Worker's Compensation Insurance Office.

On physical exam I find very little objective evidence to support the significant complaints of pain and lack of motion and complaints of numbness in relationship to what I have seen visually and palpated on this patient through her examinations in my office as well as the description of the original injury.

As final because of her belligerence and discontent as a patient in my office today I feel it's best for her to have a transfer of care and I will do whatever is possible we needed to facilitate that transfer such as alerting her nurse case manager and making phone calls to facilitate that transfer.

Diagnosis: Right hand contusion with a multitude of symptomatic complaints not well supported by objective evidence from either physical exam or x-rays

**Plan:**

Patient is welcome to followup in my office during the process of transferring care if there is any emergent needs for further evaluation and treatment

**Assessment and Plan**

Contusion of right hand, subsequent encounter ( V58.B9 | S60.221D)

**Orders**

Hypertension Education  
Hypertensive Reading

**Referrals**

Referral to: (Undefined)

**Patient Education**

Handout - Hypertension

*Arthur J Taylor*

ARTHUR J TAYLOR MD



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Pkwy Suite 330  
Henderson, Nevada 89074

**TERESA R BURWELL**

**MRN#: 394901**

**DOB: 04/28/1974, 41 years**

**Date: 01/25/2016**

## **Orthopedic Evaluation**

### **History of Present Illness**

#### **History**

No History Data Available

#### **Vitals**

No Vital Data Available

#### **Review of Systems**

No Review of Systems Data Available

### **Physical Exam**

This patient was last seen in my office on January 6 year 2016 and at that time I evaluated her right hand and wrist where this patient complained of severe pain dating back to a contusional injury to her wrist September 11, 2015 which did not cause or produce any lacerations or fractures or any evidence of deep structural involvement. She had been noncompliant with my recommendations for therapy and when I discussed with her that I felt it would be safe to release her to full use of her hands bilaterally for the work as well as activities of daily living she became very belligerent and voiced discontent with my opinion.

I learned subsequently that she was seen by another hand surgeon in Las Vegas after my last appointment with this patient basically concurred with my opinion and felt that therapy would be helpful if she chose to be compliant with that recommendation. Evidently she acted out in a belligerent fashion in his office as well and is now showing a pattern of noncompliance and lack of cooperation with multiple hand surgical providers.

I then have been presented with a videotape of this patient monitored on December 14, 2015 which included an appointment made at my office on the same date and on all of her appointments she showed significant deficits of motion and grip and complained of pain with any types of gripping and lifting and stated to me that she was unable to carry out her normal work duties due to that problem. It's clear me on the videotape that she uses her right and left hands without any guarding or difficulties with normal ranges of motion handling of the cell phone opening and closing of the car doors as well as fairly forcefully turning the steering wheel in her car with turning and twisting motions. I feel that this video gives enough objective evidence to show that she has normal functions of right hand and wrist motions and grip that is inconsistent with her claim of disability of the right hand and wrist usage.

At this point I feel it would be appropriate for her to be released back to full work duties and I don't see any further interventions on a hand surgical level that are indicated based upon the review of this recently reviewed videotape.

### **Assessment and Plan**

Contusion of right hand, subsequent encounter (V58.89 | S60.221D)

EXHIBIT 12

Please Refer to Exhibit 8  
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**RPLY**

ROBERT C. McBRIDE, ESQ.  
Nevada Bar No. 7082  
HEATHER S. HALL, ESQ.  
Nevada Bar No. 10608  
CARROLL, KELLY, TROTTER,  
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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: VIII**

**DEFENDANTS NEVADA ORTHOPEDIC  
& SPINE CENTER, LLP AND ARTHUR  
TAYLOR, M.D.'S REPLY IN SUPPORT  
OF DEFENDANTS' MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT  
FOR FAILURE TO COMPLY WITH NRS  
41A.097 AND NRS 41A.071**

**DATE OF HEARING: 6/5/2018**

**TIME OF HEARING: 8:00 AM**

COME NOW, Defendants, NEVADA ORTHOPEDIC & SPINE CENTER, LLP and  
ARTHUR TAYLOR, M.D., by and through their counsel of record, ROBERT C. McBRIDE,  
ESQ. and HEATHER S. HALL ESQ. of the law firm of CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY, and hereby file their Reply in Support of Defendants'  
Motion to Dismiss Plaintiff's Complaint Plaintiff's Complaint for Failure to Comply with NRS  
41A.097 and NRS 41A.071.

1 This Motion is made and based upon the Points and Authorities attached hereto, the  
2 papers and pleadings on file herein, and such oral arguments as may be entertained by the Court  
3 at the time and place of the hearing of this Motion.

4 DATED this 29th day of May, 2018.

CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY

7 /s/ Heather S. Hall

8 ROBERT C. McBRIDE, ESQ.  
9 Nevada Bar No.: 7082  
10 HEATHER S. HALL, ESQ.  
11 Nevada Bar No.: 10608  
12 8329 W. Sunset Road, Suite 260  
13 Las Vegas, Nevada 89113  
14 Attorneys for Defendants,  
15 *Nevada Orthopedic & Spine Center, LLP*  
16 *and Arthur Taylor, M.D.*

## 14 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 15 **I.**

#### 16 **INTRODUCTION & STATEMENT OF FACTS**

17 On March 6, 2018, Plaintiff filed her Complaint against Nevada Orthopedic and Spine  
18 Center and Arthur Taylor, M.D. *See Plf's Comp.* Plaintiff's claims arise out of allegations of  
19 medical malpractice related to care and treatment provided from December 2015 to January  
20 2016. *Id.*, para. 15 - 26. Despite this, no affidavit was attached to the Complaint, as required by  
21 NRS 41A.071. Further, the Complaint was filed more than one year after the subject medical  
22 care, in violation of NRS 41A.097. As a result, on April 30, 2018, Defendants Nevada  
23 Orthopedic and Spine Center, LLP and Arthur Taylor, M.D. filed their Motion to Dismiss  
24 Plaintiff's Complaint for Failure to Comply With NRS 41A.097 and NRS 41A.071.

25 On May 25, 2018, Plaintiff filed her Opposition to Defendants' Motion to Dismiss, but  
26 failed to serve it on these Defendants. In her Opposition, she acknowledges that she knew or  
27 should have known, through the use of reasonable diligence, of her claims against Defendants on  
28 February 9, 2016. *See Plf's Opp. To Motion to Dismiss*, para. 2. However, Plaintiff thereafter

1 misapplies the statute of limitations under NRS 41A.097 by incorrectly arguing that she actually  
2 had 3 years from the date of her original September 11, 2015 work injury to bring the subject  
3 action. *See Plf's Opp.*, para. 2 – 6. Using Plaintiff's alleged dates within her own opposition, at  
4 the very latest Plaintiff had until February 9, 2017 to file her medical malpractice claims. *Id.*,  
5 para. 2. Instead, she waited until nearly 13 months after the statute of limitations ran to file the  
6 present action. Because this Complaint is untimely, it should be dismissed.

7 In addition to this Complaint being untimely, Plaintiff also fails to comply with NRS  
8 41A.071. Despite the fact that this case is clearly one involving allegations of medical  
9 malpractice, Plaintiff failed to attach an affidavit of a medical expert to her Complaint, as is  
10 required by NRS 41A.071. These failures are fatal to this action. Pursuant to NRS 41A.071 and  
11 NRS 41A.097, dismissal is mandatory.

## 12 II.

### 13 LEGAL ARGUMENT

#### 14 **A. BY HER OWN ADMISSION, PLAINTIFF FAILED TO FILE HER COMPLAINT** 15 **WITHIN ONE YEAR FROM THE DATE SHE KNEW OF THE ALLEGED** 16 **MALPRACTICE, MANDATING DISMISSAL OF HER UNTIMELY ACTION** **UNDER NRS 41A.097.**

17 Plaintiff's claims against Defendants are time-barred under NRS 41A.097, which  
18 provides that "an action for injury or death against a provider of health care may not be  
19 commenced more than 3 years after the date of injury or 1 year after the **plaintiff discovers or**  
20 **through the use of reasonable diligence should have discovered the injury**, whichever occurs  
21 first." NRS 41A.097(2)(a), (c) [emphasis added]. The Nevada Supreme Court held that "the  
22 statute of limitations begins to run when the patient has before him facts which would put a  
23 reasonable person on inquiry notice of his possible causes of action, whether or not it has  
24 occurred to the particular patient to seek further medical advice." *Massey v. Litton*, 99 Nev. 723,  
25 727-28, 669 P.2d 248, 251-52 (1983). The focus is on the patient's knowledge or access to facts  
26 rather than on his discovery of legal theories. *Id.* at 728, 252; *See also Jolly v. Eli Lilly & Co.*, 44  
27 Cal. 3d 1103, 1111, 751 P.2d 923, 928, 245 Cal. Rptr. 658, 662 (1988) ("It is the discovery of  
28 facts, not their legal significance, that starts the statute"). Thus, once the patient has "inquiry



1 notice” of her cause of action, the statute of limitations begins to run. *Id.*

2 Plaintiff acknowledges that her claims arise out of allegations of medical malpractice  
3 related to care and treatment provided from December 2015 to January 2016. *See Plf's Opp. To*  
4 *Motion to Dismiss.*, para. 15 - 26. Furthermore, by Plaintiff's own admission she knew of her  
5 claims against Defendants on February 9, 2016. *See Plf's Opp.*, para. 2. Using Plaintiff's date,  
6 at the very latest Plaintiff had until February 9, 2017 to file her medical malpractice claims.  
7 Instead, Plaintiff misapplies the statute of limitations under NRS 41A.097 by incorrectly arguing  
8 that she actually had 3 years from the date of her original September 11, 2015 work injury to  
9 bring the subject action. *See Plf's Opp.*, para. 2 – 6. Unfortunately for Plaintiff, the statute of  
10 limitations under NRS 41A.097 actually expired in February 2017, which makes the present  
11 action untimely and ripe for dismissal.

12 **B. PLAINTIFF'S FAILURE TO MEET THE AFFIDAVIT REQUIREMENT**  
13 **MANDATES DISMISSAL OF HER COMPLAINT.**

14 NRS 41A.071 establishes that claims of medical malpractice may not be maintained  
15 unless those claims are supported by an affidavit from a medical expert. A Complaint must be  
16 dismissed if an expert's affidavit does not address the breaches of the standard of care as to each  
17 and every defendant named in the case. *See Washoe Med. Ctr. v. Second Judicial District Court*,  
18 122 Nev. 1298, 148 P.3d 790 (2006) [emphasis added].

19 In her Opposition, Plaintiff acknowledges and dismisses the absence of an expert  
20 affidavit in her Complaint stating that “there is no affidavit in the plaintiff's opinion that could  
21 properly align with the defendant's blatant disregard to adhere to the patient's concerns and order  
22 further testing to rule out any possibilities of underlying and undiscovered medical issues.” *See*  
23 *Plf's Opp.*, para. 10. However, Plaintiff fails to realize that this is exactly the sort of allegation  
24 that must be supported by an expert affidavit and the requirements of NRS 41A.071 are  
25 mandatory. Plaintiff's allegations regarding Dr. Taylor's treatment require the support of an  
26 expert affidavit, which did not accompany her original complaint on March 6, 2018. Therefore,  
27 according to the Nevada Supreme Court's guidance under *Washoe*, Defendants are entitled to a  
28 complete dismissal of the present action as it is void *ab initio* and may not be cured by any  
amendment of the Complaint.

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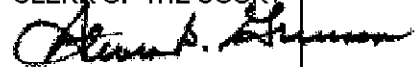
1 **CERTIFICATE OF SERVICE**

2  
3 I HEREBY CERTIFY that on the 29<sup>th</sup> day of May, 2018, I served a true and correct copy  
4 of the foregoing **DEFENDANTS NEVADA ORTHOPEDIC & SPINE CENTER, LLP AND**  
5 **ARTHUR TAYLOR, M.D.'S REPLY IN SUPPORT OF MOTION TO DISMISS**  
6 **PLAINTIFF'S COMPLAINT FOR FAILURE TO COMPLY WITH NRS 41A.097 AND**  
7 **NRS 41A.071** addressed to the following counsel of record at the following address(es):  
8

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

16 Teresa R. Burwell  
17 1015 Timberline Court  
18 Henderson, Nevada 89015  
19 *Plaintiff in Pro Per*  
20

21 /s/ Heather S. Hall  
22 An Employee of CARROLL, KELLY, TROTTER,  
23 FRANZEN, McBRIDE & PEABODY  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*\*

Teresa Burwell, Plaintiff(s)

Case No.: A-18-770532-C

vs.

Nevada Orthopedic And Spine Center LLP,  
Defendant(s)

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:

Teresa R Burwell  
1015 Timberline CT  
Henderson NV 89015

/s/ Joshua Raak

Joshua Raak, Deputy Clerk of the Court



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

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

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

Attorneys for Defendants,

*Nevada Orthopedic & Spine Center, LLP*

*and Arthur Taylor, M.D.*

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12  
13 TERESA R. BURWELL,

14 Plaintiff,

15 v.

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

18 Defendants.  
19

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

**DEPT: 14**

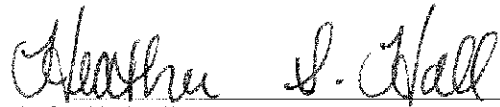
**NOTICE OF MOTION HEARING AND  
NOTICE OF DEPARTMENT  
REASSIGNMENT**

20  
21 PLEASE TAKE NOTICE that on the 4<sup>th</sup> day of April, 2018, Defendants NEVADA  
22 ORTHOPEDIC & SPINE CENTER, LLP AND ARTHUR TAYLOR, M.D., filed with the Court  
23 a Motion to Dismiss Plaintiff's Complaint For Failure To Comply With NRS 41A.097 and NRS  
24 41A.071, This Motion was scheduled to be heard on June 5, 2018 by Department 8. At that  
25 time, Department 8 recused itself and this case was reassigned to Department 14, before the  
26 Honorable Judge Adriana Escobar. As a result, the hearing on the Motion to Dismiss Plaintiff's  
27 Complaint For Failure To Comply With NRS 41A.097 and NRS 41A.071 is now set for the 7<sup>th</sup>  
28

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 MSJ

2 Teresa R Burwell  
3 1015 Timberline Court  
4 Henderson, NV 89015  
5 (702)628-4927

FILED

2018 AUG -6 P 2:41

6 DISTRICT COURT

CLERK OF THE COURT

CLARK COUNTY, NEVADA

8 Teresa R Burwell,

9 Plaintiff,

11 vs.

12 Nevada Orthopedic and Spine Center, Dr.

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

14 Defendant(s),

) Case No.: A18770532-C

) Dept No: XXIV

17 **MOTION FOR SUMMARY JUDGMENT**

18  
19 COMES NOW, plaintiff in and by her own counsel, does hereby file  
20 pursuant to FRAP and NRCP 56 this motion for summary judgement to  
21 demonstrate to this Honorable Court, that the defendant(s) haven't presented any  
22 authentic or genuine material facts that would warrant a decision in favor of their  
23 defense; and that the plaintiff is entitled to summary judgment as a matter of law.  
24  
25

26  
27 RECEIVED  
28 AUG 06 2018

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



[Defendant's Name] - 1



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  
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1                                    **MEMORANDUM OF POINTS AND AUTHORITIES**

2                                    **I.STATEMENT OF FACTS**

3  
4  
5        The following facts are not in dispute:

- 6        A. The plaintiff was employed as a room stylist at Nevada Property 1 LLC,  
7  
8                doing business as, the Cosmopolitan of Las Vegas, from August 3, 2015-  
9                February 22, 2016. Her earnings were \$14.60/per hour, on call, but had  
10               40 hours scheduled weekly.
- 11  
12        B. Plaintiff, was injured while performing her regular work- related duties  
13                on September 11, 2015; having her right hand crushed and lacerated in  
14                between the door, her work cart, and the door's threshold.
- 15  
16        C. Due to the blunt force and the lock being broken on the threshold, the  
17                plaintiff was seen and treated at Concentra. Her right hand received  
18                3(three) stitches in between the pinky and ring finger and was bandaged  
19                up. **(Exhibit 1)**
- 20  
21  
22        D. The plaintiff completed a C-4 form to initiate her claim, which was  
23                accepted. **(Exhibit 2)**
- 24  
25        E. The plaintiff was released to light duty effective September 11, 2015 and  
26                had follow-up appointments over a span of a few weeks; having been  
27                given an order for physical therapy. **(Exhibit 3)**
- 28

1 F. The plaintiff booked her therapy appointments and treated at Kelly  
2 Hawkins Physical Therapy, located at 375 N Stephanie St#1111,  
3 Henderson, NV 89014. **(Exhibit 4)**

4  
5 G. Plaintiff's care was transferred to specialty care, which is standard  
6 procedure. However, Dr. Young, the assigned physician became judge  
7 mental and accusatory once the plaintiff presented him with her medical  
8 records from a pre-existing injury she had to her left hand; only to show  
9 that her right hand at one point was stronger than the left. At the time and  
10 presently the plaintiff's right hand was and remains worse and weaker  
11 than her left hand.  
12  
13  
14

15 H. The plaintiff eventually had her care transferred to Dr. Taylor after  
16 requesting her care to be taken over by a Dr. Bronstein. Once Dr.  
17 Bronstein reviewed and denied the plaintiff an opportunity to be treated;  
18 she took the claim adjuster, Cristina Cosby at her word and went with Dr.  
19 Taylor.  
20  
21

22 I. From 9/11/2015-11/2015, the plaintiff had continuous care with  
23 Concentra, without any incidents and/or character assassinations made.  
24 She in fact was very compliant with everything she was told to do and  
25 ordered to do. **(Exhibit 5)**  
26  
27  
28

1 J. The plaintiff had no problems until she seen the specialists, whom were  
2 both colleagues and familiar, and because she voiced her concerns,  
3 symptoms, and expressed a desire to get further diagnostic testing done,  
4 she was deemed, non-compliant, belligerent, aggressive, and to say the  
5 least been called fat in a "nice" way as it reads overweight.  
6  
7

8 K. On December 14, 2015, the plaintiff had her first visit with Dr. Taylor,  
9 was arduous. Though he badgered her over the records she gave Dr.  
10 Young and expressed his opinion about her having carpel tunnel surgery  
11 on her left hand, despite the test results for the nerve conduction being  
12 negative; the plaintiff remained polite. She even asked the defendant  
13 what her previous injury had to do with her visit that day, and he stated,  
14 he was just going off what he read. He then insisted the plaintiff was  
15 babysitting her hand and needed to use it as much as possible, after the  
16 plaintiff explained that her right hand was still bothering her, her third  
17 finger was still stiff, and swollen, and the feeling was gone in her whole  
18 hand; with her third finger having the only pain.  
19  
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24 L. The defendant ordered no medications, no hand brace, nothing that would  
25 remedy and/or support her pain and injury. Though the defendant said the  
26 plaintiff had a mild case of arthritis, his remedy was to do nothing but  
27 order "aggressive" physical therapy. He didn't even prescribe or suggest  
28

1 anything for the plaintiff that would bring some comfort to her or assist  
2 her in getting the "arthritis" under control or relief thereto. **(Exhibit 6)**

3  
4 M. The plaintiff has been accused of being "non-compliant", however she  
5 was very ill and was seen at St Rose hospital emergency room after  
6 having her symptoms linger for almost two weeks. **(Exhibit 7)**

7  
8 N. Select therapy was the 2<sup>nd</sup>(second) physical therapist the plaintiff was  
9 referred to. **(Exhibit 8)**

10  
11 O. The plaintiff attended her first session on December 21, 2016 despite not  
12 feeling well and knowing that therapy was not going to help her injury. If  
13 the Court would please refer to page 1 under Medical Management, even  
14 the therapist notes that the plaintiff/patient had 7 sessions at Kelly  
15 Hawkins; however, counsel, the defendants, and ex-employer has insisted  
16 that the plaintiff refused physical therapy and has been non-compliant  
17 straight across the board.

18  
19 P. On January 6, 2016, the plaintiff seen the defendant, with her blood  
20 pressure being triaged at 183/100 something. As she sat waiting to be  
21 seen in the heat of the moment and not sure what kind of slick talk the  
22 defendant would do, the plaintiff pushed record on her phone and began a  
23 video recording.

1 Q. During this visit, the defendant can be heard telling the plaintiff that she  
2 has more complaints than gun shot victims he has treated after he allowed  
3 her to explain how her holiday went and after giving away her toys for  
4 Christmas how much pain she felt in only her third finger on her right  
5 hand. Instead of the defendant being professional when asked about the  
6 arthritis diagnosis and as the plaintiff explained there is such a thing as  
7 post-traumatic arthritis, the defendant went on fit himself and insisted he  
8 couldn't help her, though he had only performed x-rays. **(Exhibit 9)**

12 R. The defendant provided the plaintiff a progress report, which was  
13 identical to the one he gave in December, and clearly full-duty release  
14 was not checked, nor was it implied verbally. **(Exhibit 10)**

17 S. While the plaintiff awaited the transfer of care the defendant accused her  
18 of requesting, she notified her counsel at the time and went to Mississippi  
19 due to a personal hardship she encountered shortly after her visit, and  
20 was released back to full-duty, unbeknown to her on or around January  
21 25-29, 2016.

24 T. Because of the defendant's malicious actions, the plaintiff's workers  
25 compensation claim was closed, her benefits were suspended, and she did  
26 not receive a PPD rating, because she was abruptly cut off. **(Exhibit 11)**

1 U. Due to the defendant's maliciousness in releasing the plaintiff behind her  
2 back, sending a fabricated orthopedic report where he committed libel  
3 and slander, thus having her employment terminated too for  
4 "unauthorized medical leave"; which was not the case at all.  
5

6  
7 V. The plaintiff was discharged due to the defendant's misconduct and was  
8 denied employment benefits.  
9

10 W. However, the plaintiff prevailed in a Petition for Judicial Review because  
11 all parties involved were in collusion and couldn't get their lies straight.  
12

13 (Exhibit 12)

## 14 II STANDARD FOR SUMMARY JUDGEMENT

15 NRCP 56 (c) states in relevant part that "(t)he judgment sought shall be  
16 rendered forthwith if the pleadings, depositions, answers to  
17 interrogatories, and admissions on file, together with the affidavits, if  
18 any, **show that there is no genuine issue as to any material fact**, and  
19 that the moving party is entitled to a judgment as a matter of law.  
20

21 "Emphasis added.) Schmidt v. Washoe County, 159 P.3d 1099, 1103  
22 (Nev. 2007) (Summary judgment is only appropriate if the pleadings and  
23 other evidence on file, viewed in the light most favorable to the  
24 nonmoving party, demonstrate that no genuine issue of material fact  
25  
26  
27  
28

1 remains in dispute and the moving party is entitled to judgement as a  
2 matter of law.”)

### 3 4 III ARGUMENT

5 In the present case, there is no genuine issue of material fact, as discussed  
6 below, and Plaintiff is entitled to summary judgment as a matter of law  
7 because:  
8

9  
10 **A. Libel-NRS 200.510-A libel is a malicious defamation, expressed by**  
11 **printing, writing, signs, pictures or the like, tending to blacken the**  
12 **memory of the dead, or to impeach the honesty, integrity, virtue, or**  
13 **reputation, or to publish the natural defects of a living person or**  
14 **persons, or community of persons, or association of persona, and**  
15 **thereby to expose them to public hatred, contempt or ridicule.**  
16  
17

18 **B. Every person whether the writer or publisher, convicted of the**  
19 **offense is guilty of a gross misdemeanor.**  
20

21 **C. In all prosecutions for libel the truth may be given in evidence to the**  
22 **jury, and, if it shall appear to the jury that the matter charged as a**  
23 **libelous is true and was published for good motive and for justifiable**  
24 **ends, the party shall be acquitted, and the jury shall have the right to**  
25 **determine the law and the fact.**  
26  
27  
28



1           **Argument 1.** – The defendant willfully and maliciously produced an  
2           orthopedic report which has been attached as an exhibit, to the plaintiff's  
3           employer and their insured. Due to the report, that was construed on the  
4           foundation of mistruths, fabrications, defamatory statement, and claims  
5           he has yet to substantiate; the plaintiff was wrongfully discharged. After  
6           meeting with her ex-employer on February 22, 2018; because of the  
7           orthopedic report, where the plaintiff was labeled as "belligerent" a  
8           tarnished image was presented to all parties involved, and after the  
9           plaintiff left the meeting with her ex-employer, she was further  
10          humiliated by having two security guards standing at the door when she  
11          walked out; as if they were waiting for this "belligerent" person to show  
12          her colors. The plaintiff was followed to the elevators while the two said  
13          nothing. An explanation wasn't given as to why she was being followed  
14          and/or escorted. The plaintiff was eventually pushed by one of the guards  
15          with his back turned towards her. Though the plaintiff filed a report no  
16          charges were filed. **(Exhibit A)**

17           **Argument 2-** Due to the maliciousness of the plaintiff's actions in  
18          construing such a defamatory report, the plaintiff was wrongfully  
19          terminated from her employment and ultimately denied her employment  
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benefits because of “an unauthorized medical leave” and “being rude to her manager.” (Exhibit B)

**NRS 630.014-Physician defined- “Physician” means a person who has complied with all the requirements of this chapter for the practice of medicine. NRS 630.020 “Practice of Medicine” defined.**

**“Practice of Medicine” means: 1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy. 2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions. 3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically, or by fiber optics, including, without limitation, through telehealth, from within or outside of this State or the United States.**

**Argument 3-** The defendant had a duty to taken by oath of medicine to provide the plaintiff with the care she deserved and was entitled to. He had obligation to be nonjudgmental and accusatory in using anything records she shared with him for mere support of her injury and case and

1 render a proper medical regime that would benefit the plaintiff's overall  
2 health. Instead, the defendant insisted he counseled the plaintiff on her  
3 blood pressure and being overweight, which are two areas of medicine  
4 out of expertise. It should be found odd that the defendant has initiated  
5 such a claim as to care more about the plaintiff's being over weight than  
6 that the use of her hand and its primary injury at the time of him  
7 rendering his services. The defendant had a duty to go above and beyond  
8 in ordering any diagnostic tests which would aid him in better treating the  
9 plaintiff, rather than telling her she complained more than gun shot  
10 victims he treats. The defendant had a duty to prescribe other alternatives  
11 if not medicine, such as a hand brace, recommended supplements for the  
12 "arthritis" and/or a treatment plan for that. The plaintiff was due proper  
13 care and treatment, and the defendant failed to provide the same care he  
14 would to other patients.

15 **NRS 630.3062**-Failure to maintain proper medical records; altering  
16 medical records; making false report; failure to file or obstructing  
17 required report; failure to allow inspection and copying of medical  
18 records; failure to report other person in violation of chapter regulations.  
19 The following acts, among others, constitute grounds for initiating  
20 disciplinary action or denying licensure: 1. Failure to maintain timely,

1 legible, accurate and complete medial records relating to the diagnosis,  
2 treatment, and care of a patient. 2. Altering medical records of a patient.  
3  
4 **Argument 4-** The defendant had a duty to report and transcribe the facts  
5 thereof in any orthopedic report he instrumented regarding the plaintiff's  
6 primary work-related injury. He was not assigned to assess her weight,  
7 blood pressure, or her prior left-hand injury and make sarcastic and  
8 untrue statements about the plaintiff to deviate from the real matter. The  
9 defendant had an obligation to truthfully make dictations that were not  
10 for his own self-gain and were factual and relevant to the plaintiff's  
11 medical treatment she was entitled to and never received anything but  
12 therapy. Even if the defendant was skeptical without reasoning, he could  
13 have initiated further diagnostic testing and treatment, based upon his  
14 own information and source from Select Therapy, which is the 2<sup>nd</sup>  
15 (second) round of physical therapy he himself ordered; where the  
16 therapist clearly states on Page 2 of 3 Observation: swelling, generalized  
17 swelling present in all 5 digits compared to left. Range of Motion: Right  
18 hand: AROM is slightly limited in PIP and DIP flexion throughout digits  
19 2-5. PROM is full. Patient is unable to form a full fist actively but is able  
20 to passively. Wrist Complex: minimal soreness only. **(Exhibit C)**  
21  
22 Instead, the defendant chose to be dismissive and bias towards the  
23  
24  
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1 plaintiff and set out on a character assassinating witch hunt to bring her  
2 harm; which had her workers compensation case terminated abruptly,  
3 forcing her to use her private insurance to be seen and treated by Dr.  
4 Enna (6-2016), whom physically examined the plaintiff and sent her for a  
5 nerve conduction; which was conclusive with her having: carpal tunnel,  
6 cubital carpal tunnel, and trigger finger. **(Exhibit D)**

7  
8  
9  
10 Though surgery was recommended, the plaintiff wanted to be certain she  
11 was making the right decision and was going to get the best care. The  
12 plaintiff has since sought the care from a different physician and had  
13 recent nerve conduction studies done as of July 30,2018; which validate  
14 the plaintiff's complaints were not some part of her imagination, but  
15 where indeed she sustained these injuries and diagnosis from her right  
16 hand being crushed at work. Had the defendant took the initiative to  
17 provide diligent and due care, the plaintiff's right hand and arm would be  
18 in better shape, and her workers compensation claim and right to a PPD  
19 would have been administered differently. Instead, the plaintiff has had to  
20 endure the suffering of what she was already dealing with in regards to  
21 her cervical and lumbar multi-level disc compromise, which is separate  
22 from this matter. The plaintiff has had an extra burden of fighting the  
23 workers compensation appeal administration, fighting the unemployment,

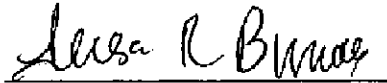
1 having to work tires sly to meet deadlines to file certain documents to  
2 clear her name and prove her claims are valid; all because of the  
3 defendant's professional misconduct and maliciousness to tarnish the  
4 plaintiff's name and character.  
5

6  
7 **CONCLUSION**

8 Accordingly, Plaintiff is entitled to judgment in her favor in the amount  
9 of \$350,000.  
10

11 DATED THIS 3<sup>RD</sup> DAY OF AUGUST 2018

12 Respectfully submitted by:

13   
14

15 **Teresa R. Burwell**  
16 **Plaintiff in Proper Person**  
17

18 **VERIFICATION**

19 I, TERESA R. BURWELL, HEREBY affirm that I am the one that constructed this  
20 MOTION FOR SUMMARY JUDGMENT, attached hereto the exhibits and  
21 pleadings, AND opposition, in the above-entitled and for such further things as  
22 sayeth naught.  
23

24   
25

26 **Teresa R. Burwell/Plaintiff in Proper Person**  
27  
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Les R Brumer

**Teresa R. Burwell/Plaintiff**

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5 **EXHIBIT 1**  
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[Defendant's Name] - 17



5850 S Polaris Ave Ste 100 LAS VEGAS, NV 89118 (702) 739-9957

<b>Patient:</b>	Burwell, Teresa R	<b>Service Date:</b>	09/13/2015
<b>Soc. Sec. #:</b>	435-39-2408	<b>Injury Date:</b>	09/11/2015
<b>Date of Birth:</b>	04/28/1974 Age: 41	<b>Employer:</b>	Cosmopolitan-Injury Care
<b>Service Location:</b>	CMC - LVG Polaris		3708 Las Vegas Blvd S
<b>Service ID #:</b>	1201597820		
<b>Claim #:</b>			Las Vegas, NV 89109
<b>Dictator:</b>	MICHEL JOFFE		
<b>Diagnosis:</b>	923.20 Contusion of Hand(s)		

**Notes:** Reason For Visit  
 Chief Complaint: The patient presents today with Recheck right hand - better . Self reported. Workers Compensation - Patients Occupation: Cosmopolitan .

**Vitals**  
 Vital Signs (Data includes: Current Encounter)  
 Recorded By : Locsin, Jeremy at 13Sep2015 01:30PM  
 Systolic: 121  
 Diastolic: 102  
 Heart Rate: 80  
 Respiration: 16  
 Height: 5 ft 4 in  
 Weight: 178 lb  
 BMI Calculated: 30.55  
 BSA Calculated: 1.86

**Past Medical History Review**  
 PAST MEDICAL, SOCIAL, FAMILY HISTORY: Non-contributory based on review of interval history except as detailed in the clinical documentation.

**History of Present Illness**  
 Patient is a 41 year old African American female who presents for reevaluation of her right hand injury. She reported that she works as a Room Stylist and injured herself while pulling the collector from a room. She reported that the door stopper slipped from under the door and her hand got caught between the collector and the lock. She presented for evaluation, had imaging obtained that was negative, had her laceration repaired and now presents for reevaluation. She reports that she was concerned after evaluation and was seen in the ER at St. Rose Dominican Hospital. She now presents for reevaluation and is a little better.

**Review of Systems**

Constitutional: Reviewed and found to be negative.  
 Head and Face: Reviewed and found to be negative.  
 Eyes: Reviewed and found to be negative.  
 ENT: Reviewed and found to be negative.  
 Cardiovascular: Reviewed and found to be negative.  
 Respiratory: Reviewed and found to be negative.  
 Gastrointestinal: Reviewed and found to be negative.  
 Genitourinary: Reviewed and found to be negative.  
 Musculoskeletal: Bruising, throbbing pain, tingling and numbness in hand and fingers , joint pain, joint swelling and joint stiffness, but no muscle pain, no back pain, no neck pain, no muscle weakness, no limping and no night pain.  
 Integumentary: Reviewed and found to be negative.  
 Breasts: Reviewed and found to be negative.  
 Neurological: Reviewed and found to be negative.  
 Psychiatric: Reviewed and found to be negative.  
 Endocrine: Reviewed and found to be negative.  
 Hematologic and Lymphatic: Reviewed and found to be negative.

Dictated By: MICHEL JOFFE

Dictated On: Sep 13 2015 1:51PM

Printed Date: 09/18/2015

Page: 1

5850 S Polaris Ave Ste 100 LAS VEGAS, NV 89118 (702) 739-9957

Patient:	Burwell, Teresa R	Service Date:	09/13/2015
Soc. Sec. #	435-39-2408	Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CHC - LVG Polaris		3700 Las Vegas Blvd S
Service ID #:	1201597820		
Claim #:			Las Vegas, NV 89109
Dictator:	MICHEL JOFFE		
Diagnosis:	923.20 Contusion of Hand(s)		

## Notes:

## Physical Exam

Constitutional: Well appearing and well nourished. In no acute distress.

Head/Face: Normocephalic, atraumatic, and no tenderness.

Eyes: Conjunctiva and lids with no swelling, erythema or discharge. Pupils are equal, round, and reactive to light and cornea clear. Eye movements: extraocular movements intact.

ENT: No erythema or edema of the external ears or nose.

Pulmonary: No increased work of breathing or signs of respiratory distress. All lung fields clear to auscultation bilaterally.

Cardiovascular: Normal rate and rhythm, normal S1 and S2, without gallops or rubs. No murmur. Extremities are warm with no edema or varicosities.

Abdomen: Soft, non-distended, normal bowel sounds, no tenderness.

Musculoskeletal: Normal gait. No tenderness or swelling of extremities. Range of motion is within normal limits. Normal muscle strength and tone.

## Right Hand/Fingers:

## Hand:

Appearance: Skin trauma of laceration right hand. It is irregular. It is clean, is healing well and is dry. Sutures are intact. No drainage noted. Surrounding tissue is erythematous, discolored and locally swollen. Observations include no active bleeding. Moderate ecchymosis. Moderate swelling.

## Palpation:

## ROM / Motor Strength:

Grip strength is decreased on the right.

Grip strength is normal on the left.

## Motor tone:

Neuro/Vascular function intact.

Psychiatric: Oriented to person, place, and time. Mood and affect are appropriate.

## ASSESSMENT

1. Laceration of hand, right (882.0)
2. Contusion of hand, right (923.20)

## Plan

1. HOME DRESSINGS (5-7 DAYS) Status: Hold For - To Be Completed Requested for: 13Sep2015

Perform: Not Applicable Due: 18Sep2015; Ordered/For: Contusion of hand, right, Laceration of hand, right; Ordered By: JOFFE, MICHEL

2. OFFICE DRESSING, MIN Status: Hold For - To Be Completed Requested for: 13Sep2015

Perform: Not Applicable Due: 18Sep2015; Ordered/For: Contusion of hand, right, Laceration of hand, right; Ordered By: JOFFE, MICHEL

None of the patient's medications for this encounter were dispensed in the center.

Dictated By: MICHEL JOFFE

Dictated On: Sep 13, 2015 1:51PM

Printed Date: 09/18/2015

Page: 2

5850 S Polaris Ave Ste 100 LAS VEGAS, NV 89118 (702) 739-9957

Patient:	Burwell, Teresa R	Service Date:	09/13/2015
Soc. Sec. #	435-39-2408	Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CMC - LVS Polaris		3708 Las Vegas Blvd S
Service ID #:	1201597820		
Claim #:			Las Vegas, NV 89109
Dictator:	MICHEL JOFFE		
Diagnosis:	923.20 Contusion of Hand(s)		

**Notes:****Discussion/Summary**

The diagnoses and treatment plan were discussed with the patient. The patient expressed understanding and was told to keep their scheduled appointments for follow-up and/or to return to Concentra.

**Activity Status and Restrictions****Treatment Status:**

Returning for follow-up: 1 week

**Activity Status**

Return to modified work/activity today.

Restrictions: KRY - Occasionally = up to 3 hrs/day, Frequently = up to 6 hrs/day,

Constantly = up to 8 hours or greater per day

May lift up to 10 lbs occasionally

May push/pull up to 10 lbs occasionally

No use and strong gripping of the right hand.

Keep wound clean and dry.

**Signatures**

Electronically signed by : MICHEL JOFFE, M.D.; Sep 13 2015 3:51PM CST - Author

Dictated By: MICHEL JOFFE

Dictated On: Sep 13 2015 1:51PM

Printed Date: 09/18/2015

Page: 3

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5 **EXHIBIT 2**  
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[Defendant's Name] - 18

**EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT  
FORM C-4**

PLEASE TYPE OR PRINT

**EMPLOYEE'S CLAIM - PROVIDE ALL INFORMATION REQUESTED**

First Name <b>Teresa</b>		Last Name <b>Burnell</b>		Birthdate <b>4/28/74</b>		Sex <input type="checkbox"/> M <input checked="" type="checkbox"/> F		Claim Number (Insurer's Use Only)	
Home Address <b>6803 Frances Celia Ave</b>		Age <b>41</b>		Height <b>5'4"</b>		Weight <b>178</b>		Social Security Number	
City <b>Las Vegas</b>		State <b>NV</b>		Zip <b>89122</b>		Telephone <b>(702) 219-5553</b>			
Mailing Address <b>same as above</b>		City <b>Las Vegas</b>		State <b>NV</b>		Zip <b>89122</b>		Primary Language Spoken <b>English</b>	
INSURER		THIRD-PARTY ADMINISTRATOR		Employee's Occupation (Job Title) <b>Room Stylist</b>		Place Injury or Occupational Disease Occurred <b>Room 84115</b>		Telephone <b>(702) 698-7000</b>	
Employer's Name/Company Name <b>Cosmopolitan of Las Vegas</b>									
Office Mail Address (Number and Street) <b>3709 S. Las Vegas Blvd</b>									
Date of Injury (if applicable) <b>09-11-2015</b>		Hours Injury (if applicable) <b>am 2 pm</b>		Date Employer Notified <b>9-11-2015</b>		Last Day of Work After Injury or Occupational Disease <b>9-11-2015</b>		Supervisor to Whom Injury Reported <b>Lowder - Security</b>	
Address or Location of Accident (if applicable) <b>3709 S. Las Vegas Blvd</b>									
What were you doing at the time of the accident? (if applicable) <b>pulling the collector from room 84115</b>									
How did the injury or occupational disease occur? (Explain in detail. Use additional sheet if necessary.) <b>The door stayed closed from the door and the weight of the collector being full smashed my hand on the metal plate covering the lock, which was loose but didn't budge.</b>									
If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment? <b>N/A</b>								Witnesses to the Accident (if applicable) <b>NA</b>	
Nature of Injury or Occupational Disease <b>Hand crushed</b>				Part(s) of Body Injured or Affected <b>Right Hand</b>					
I CERTIFY THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT I HAVE PROVIDED THIS INFORMATION IN ORDER TO OBTAIN THE BENEFITS OF NEVADA'S INDUSTRIAL INSURANCE AND OCCUPATIONAL DISEASES ACTS (NRS 616A TO 616D, INCLUSIVE OR CHAPTER 617 OF NRS). I HEREBY AUTHORIZE ANY PHYSICIAN, CHIROPRACTOR, SURGEON, PRACTITIONER, OR OTHER PERSON, ANY HOSPITAL, INCLUDING VETERANS ADMINISTRATION OR GOVERNMENTAL HOSPITAL, ANY MEDICAL SERVICE ORGANIZATION, ANY INSURANCE COMPANY, OR OTHER INSTITUTION OR ORGANIZATION TO RELEASE TO EACH OTHER ANY MEDICAL OR OTHER INFORMATION, INCLUDING BENEFITS PAID OR PAYABLE PERTINENT TO THIS INJURY OR DISEASE, EXCEPT INFORMATION RELATIVE TO DIAGNOSIS, TREATMENT AND/OR COUNSELING FOR AIDS, PSYCHOLOGICAL CONDITIONS, ALCOHOL OR CONTROLLED SUBSTANCES, FOR WHICH I MUST GIVE SPECIFIC AUTHORIZATION. A PHOTOSTAT OF THIS AUTHORIZATION SHALL BE AS VALID AS THE ORIGINAL.									
Date: <b>9/11/15</b>		Place <b>Concentra-Polaris</b>		Employee's Signature <b>Teresa R Burnell</b>					
<b>THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 3 WORKING DAYS OF TREATMENT</b>									
Place <b>Las Vegas</b>		Name of Facility <b>Concentra Medical Centers - POLARIS</b>							
Date <b>9/11/15</b>		Diagnosis and Description of Injury or Occupational Disease <b>Right carpal tunnel syndrome, hand numbness, tingling, and weakness.</b>				Is there evidence that the injured employee was under the influence of alcohol and/or another controlled substance at the time of the accident? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (if yes, please explain)			
Hour <b>1:00 PM</b>		Treatment: <b>see list for work restrictions RX weeks</b>				Have you advised the patient to remain off work five days or more? <input checked="" type="checkbox"/> Yes Indicate dates: from <b>9/11/15</b> to <b>9/17/15</b>			
X-Ray Findings: <b>0</b>						<input checked="" type="checkbox"/> No If no, is the injured employee capable of: <input type="checkbox"/> All duty <input checked="" type="checkbox"/> Modified duty			
						If modified duty, specify any limitations/restrictions: <b>see list</b>			
		From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease as job insured? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No							
		Is additional medical care by a physician indicated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No							
		Do you know of any previous injury or disease contributing to this condition or occupational disease? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Explain if yes)							
Date <b>9/11/15</b>		Print Doctor's Name <b>JOHN</b>		I certify that the employer's copy of this form was mailed to the employer on:					
Address <b>5850 Polaris Avenue, Suite 100</b>		INSURER'S USE ONLY							
City <b>Las Vegas</b>		State <b>NV</b>		Zip <b>89118</b>		Provider's Tax I.D. Number <b>75-2014828</b>		Telephone <b>702-739-9957</b>	
Doctor's Signature <b>[Signature]</b>		Degree <b>MD</b>		Date: <b>09/17/15</b> Given By: <b>[Signature]</b>					

ORIGINAL - TREATING PHYSICIAN OR CHIROPRACTOR

PAGE 2 - INSURER/TPA

PAGE 3 - EMPLOYER

PAGE 4 - EMPLOYEE

Form C-4 (Rev. 10/07)

P.003/007

(FAX) 5421767

09/14/2015 07:13



October 5, 2015

Teresa R Burwell  
6803 Frances Celia Ave  
Las Vegas, NV 89122

RE: Claim Number: 2010261681  
Employee: Teresa R Burwell  
Employer: Nevada Property 1 LLC  
Date of Loss: 09-11-2015

Dear Teresa R Burwell:

Zurich American Ins. Co. of IL

Zurich Insurance  
PO Box 401810  
Las Vegas, NV  
89140

Telephone: (855) 399-8553  
Fax: (415) 538-7150  
<http://www.zurichna.com>

The above referenced workers' compensation claim has been accepted on your behalf by Zurich. Compensability is limited to the treatment of your right hand contusion injury. If you find any of this information to be incorrect, please notify us as soon as possible.

If you disagree with the above determination, you may request a hearing before a Hearing Officer by completing the attached Request for Hearing form and sending it to the State of Nevada, Department of Administration, Hearings Division. Your appeal must be filed within seventy (70) days after the date on which the notice of this determination was mailed.

If you have any questions, please feel free to contact me at (702) 408-3836 or toll free at (855) 399-8553.

Sincerely,  
Zurich American Ins. Co. of IL

Stan Lewis  
CSR  
(702) 408-3836

SL/lm

Enclosure: Form D2  
Form D12a  
Form D52

cc: Nevada Property 1 LLC  
Concentra Medical Center

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3 **EXHIBIT 3**  
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[Defendant's Name] - 19

Claim Number:

## Concentra Medical Centers

5850 S Polaris Ave Ste 100 LAS VEGAS, NV, 89119  
Phone: (702) 738-8867 Fax: (702) 739-8370

Service Date: 09/11/2015

Case Date: 09/11/2015

### Physician Work Activity Status Report

Patient: Burwell, Teresa R.

SSN: XXX-XX-2408

Address: 6803 Frances Celia Ave.  
LAS VEGAS, NV 89122

Home: (702) 219-5553

Work: (702) 698-7000 Ext.:

Employer Location: Cosmopolitan-Injury Care

Address: 3708 Las Vegas Blvd S

Las Vegas, NV 891094312

Auth. by: Lordes-Security

Contact: Felicia Koerner

Role: Injury Contact

Phone: (702) 698-7216 Ext.:

Fax: (702) 309-6319

**This Visit:** Time In: 03:40 pm

Time Out: 06:04 pm

Visit Type: New

Treating Provider: Michel M. Joffe, MD

Diagnosis: 923.20 Contusion of Hand(s)

882.0 Hand Lac W/O Complication

#### Medications:

- ☐ Dispensed Prescription Medication to Patient
- ☐ Dispensed Over-The-Counter Prescription
- ☒ Written Prescription given to Patient

#### Patient Status:

**Modified Activity:** - Returning for follow-up visit

**Restricted Activity** (In effect until next physician visit):

Return to work on 09/11/2015 with the following restrictions

Remarks: May lift up to 10 lbs occasionally  
May push/pull up to 10 lbs occasionally  
No use and strong gripping of the right hand.  
Keep wound clean and dry.

**Employer Notice:** The prescribed activity recommendations are suggested guidelines to assist in the patient's treatment and rehabilitation. Your employee has been informed that the activity prescription is expected to be followed at work and away from work.

**Anticipated Date of Maximum Medical Improvement:** 09/25/2015 **Actual Date of Maximum Medical Improvement:**

**Next Visit(s):** Patient Notice: It is essential to your recovery that you keep your scheduled appointments, but should you need to reschedule or cancel your appointment, please contact the clinic. Thank you for your cooperation.

Visit Date: Sunday September 13, 2015 3:30 pm

Provider/Facility: Provider Locum



Claim Number:

## Concentra Medical Centers

149 N Gibson, HENDERSON, NV 89014  
Phone: (702) 558-6275 Fax: (702) 856-3198

Service Date: 09/25/2015

Case Date: 09/11/2015

### Physician Work Activity Status Report

Patient: Burwell, Teresa R

SSN: XXX-XX-2408

Address: 6803 Frances Cella Ave.

LAS VEGAS, NV 89122

Home: (702) 219-5553

Work: (702) 698-7000 Ext.:

Employer Location: Cosmopolitan-Injury Care

Address: 3708 Las Vegas Blvd S

Las Vegas, NV 891094312

Auth. by: Lordes-Security

Contact: Felicia Koerner

Role: Injury Contact

Phone: (702) 698-7216 Ext.:

Fax: (702) 309-6319

**This Visit:** Time In: 03:24 pm

Time Out: 03:57 pm

Visit Type: Recheck

**Treating Provider:** Edmundo C. Estrada, MD

**Diagnosis:** 923.20 Confusion of Hand(s)

882.0 Hand Lac W/O Complication

#### Medications:

- ☐ Dispensed Prescription Medication to Patient
- ☐ Dispensed Over-The-Counter Prescription
- ☐ Written Prescription given to Patient

#### Patient Status:

**Modified Activity - Returning for follow-up visit**

**Restricted Activity (In effect until next physician visit):**

Return to work on 09/25/2015 with the following restrictions

**Remarks:** May lift up to 10 lbs occasionally  
May push/pull up to 10 lbs occasionally  
No use and strong gripping of the right hand. Keep wound clean and dry.

**Employer Notice:** The prescribed activity recommendations are suggested guidelines to assist in the patient's treatment and rehabilitation. Your employee has been informed that the activity prescription is expected to be followed at work and away from work.

**Anticipated Date of Maximum Medical Improvement:**

**Actual Date of Maximum Medical Improvement:**

**Next Visit(s):** **Patient Notice:** It is essential to your recovery that you keep your scheduled appointments, but should you need to reschedule or cancel your appointment, please contact the clinic. Thank you for your cooperation.

**Visit Date:** Monday October 5, 2015 3:45 pm

**Provider/Facility:** Thea M. Klingberg, DO

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7 **EXHIBIT 4**  
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{Defendant's Name} - 20

**EMPLOYER SOLUTIONS NATIONAL CLINICAL ACCOUNT  
SPECIMENS MUST BE TESTED IN A QLS LABORATORY**

**Originated From:**  
**Concentra Enterprise**  
**2904 Las Vegas Polaris**  
\*7822318\*

**Performing Facility:**  
**Referral**

5850 Polaris Ave  
Las Vegas, NV 89118  
(702) 739-9957


**Lab Requisition #: 7822318**

**Account #:**

<b>Patient:</b> Teresa Burwell 6803 Frances Celia Ave. LAS VEGAS, NV 89122	<b>Patient ID:</b> 101-538-307	<b>Sex:</b> F
	<b>DOB:</b> 28-Apr-1974	
	<b>Insurance:</b>	
<b>Other #:</b>		
<b>Other2 #:</b>		
<b>Home:</b> (702) 219-5553		
<b>Work:</b> (702) 698-7000		
<b>PCP:</b>	<b>Group Number:</b>	
<b>OP :</b> MICHEL JOFFE, M.D. - [6732]	<b>Policy Number:</b>	
	<b>Name of Insured:</b>	
<b>NPI:</b> 1154347102		
<b>Appt. Location:</b> NV-LAS VEGAS POLARIS	<b>Guarantor:</b> Teresa Burwell - [Self] 6803 Frances Celia Ave. LAS VEGAS, NV 89122 (702) 219-5553	
	<b>Bill Type:</b> T	

» - [Occupational Therapy Referral] -  
[C501570]

**Order #:** TW205225270

<b>Date Ordered</b> 20-Sep-2015	<b>Approving Provider</b> MICHEL JOFFE [NPI:1154347102]  Electronic Signature	<b>CPT4 Code</b>	<b>Patient Instructions</b>
------------------------------------	---	------------------	-----------------------------

<b>To Be Done Date</b> 20 Sep 2015	<b>Priority</b> Routine	<b>Status</b> Complete	<b>Performing Location Comments</b>
<b>Encounter Date</b> 20-Sep-2015			

**Prompts**

Therapy Order	Evaluate and Treat
Duration	2 weeks
Frequency	3 x week

**Problems**

Contusion of hand, right (923.20)(S60.221A)



Chynoweth, Hill & Leavitt, LLC  
2080 E. Flamingo Rd.  
#111  
Las Vegas, NV USA 89119  
Phone: (702) 737-8820 Fax: (702) 737-1622

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax: Not Specified  
Clinician: Ashley Norman  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435592408

Visit Date: Oct 14, 2015  
Phys Phone:  
SSN: XXX-XX-XXXX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 1  
Cal/Nr: 0  
Employer: Cosmopolitan  
Insured: Teresa Burwell

## Initial Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Confusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

The medical history questionnaire has been completed and signed by the patient, reviewed by the evaluating therapist, and is on file. The patient has read and signed the Patient Rights and Consent for Treatment forms, have been reviewed by the evaluating therapist, and are on file.

Patient states she had a cut that was stitched closed from the injury between her 4th and 5th web space of fingers.

#### ADL / Functional Status:

- Pre-morbid Status: Work status:
  - Independent Without Difficulty. Full time / Full duty.
- Current Status: Work status: Full time / Light duty. Occupation: Housekeeping.

#### Chief Complaint:

- Abnormal Sensation: Patient states the pain she has is minimal, as she is unable to feel her right hand. She states it is not tingling, numb or "asleep" feeling, but rather she cannot feel her hand at all, as if it is not there. Pain: Minimal soreness felt at first 3 digits. Pain travels up anterior forearm when she grips.

#### Extremity Dominance:

- Right.

#### Mechanism of Injury: Primary Episode: Date of Injury:

- Date 09/11/2015

#### Mechanism of Injury:

- Primary Episode: Traumatic: Crush. (Door slammed on it.).

### Objective Examination

#### Muscle Testing: Upper Extremity MMT:

	Left	Right
• Gross Assessment	4/5	
• Forearm Pronation		-4/5
• Forearm Supination		-4/5
• Wrist Extension		-4/5
• Wrist Flexion		-4/5

#### Muscle Testing:

- Finger extension, flexion, abduction strength right hand 4/5. Resisted flexion mildly sore down through forearm.

#### Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:

Measures:	Left	Right
• Average.	20.0 Pounds	5.0 Pounds
• Trial 1.		5.0 Pounds
• Trial 2.		5.0 Pounds
• Trial 3.		5.0 Pounds

Document ID: 00100302.001  
Ashley Norman, PT(NV Lic: 3157)

Status: Signed off (secure electronic signature)

Page 1 of 3

Patient: Teresa Burwell  
Acct #: 233492

Visit Date: Oct 14, 2015

#### Observations:

- Swelling: Generalized swelling present in all 5 digits right compared to left.

#### Range of Motion: Wrist Complex: Pre-Treatment:

- Extension
- Flexion
- Forearm - Pronation
- Forearm - Supination
- Radial Deviation
- Ulnar Deviation

Right AROM	Right PROM
70	80
70	80
90	90
80	90
15	15
35	45

#### Range of Motion:

- Right Hand: AROM is slightly limited in PIP and DIP flexion throughout digits 2-5. PROM is full. Patient is unable to form a full fist actively, but is able to passively. Wrist Complex: Minimal soreness only.

#### Reflex/Sensory Integrity: Dermatome Sensation:

- Light touch sensation is normal on right wrist and hand. Patient is able to differentiate correctly what digit is being touched lightly when her eyes are closed. Patient is able to correctly identify what position each digit is in with eyes closed (flexed or extended when done passively). Intact and Equal-Bilaterally.

### Treatments

#### Exercise Activities: Isometrics:

- Gripping

Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion:

- Finger Flexion

Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small

- Thumb Opposition

Time Elapsed: 4 Minutes, Type: Active

#### Exercise Activities: Flexibility:

- Wrist Flexor Musculature

Time Elapsed: 4 Minutes, Type: Active-Assisted

#### Pt./Family Education:

- Written Home Exercise Program

Time Elapsed: 4 Minutes, Activity: Provided & Reviewed, Description: Diagnosis Specific

### Assessment

The client tolerated today's treatment/therapeutic activity without complaints of pain or difficulty. In my professional opinion, this client requires skilled physical therapy in conjunction with a home exercise program to address the problems and achieve the goals outlined below. Overall rehabilitation potential is good. The expected length of this episode of skilled therapy services required to address the patient's condition is estimated to be 2 weeks. The patient and/or family were educated regarding their diagnosis, prognosis and related pathology. The client exhibits excellent understanding and performance of the therapeutic activity/instructions outlined in this skilled rehabilitation session.

#### Impairments Identified:

- ADL's, ADL Function, Pain, (and abnormal sensation), Range of Motion, Stiffness, Strength, Swelling, Weakness.

#### Treatment Emphasis to focus on:

- Controlling and Normalizing:
  - Pain, abnormal sensation, Swelling/Edema.
- Range of Motion/Mobility Improvements, Muscle Function Improvements.

### Problems & Goals

**Problem #1** Range of Motion: Right Hand: AROM is slightly limited in PIP and DIP flexion throughout digits 2-5. PROM is full. Patient is unable to form a full fist actively, but is able to passively.

STG Achieve by Oct 28, 2015.

#### Range of Motion Improvements to:

- Able to form a full fist actively easily.

**Problem #2** Observations: Swelling: Generalized swelling present in all 5 digits right compared to left.

STG Achieve by Oct 28, 2015.

Document ID: 0010D302.001  
Ashley Norman, PT(NV Lic: 3157)

Status: Signed off (secure electronic signature)

Page 2 of 3

Patient: Teresa Burwell  
Acct #: 233492

Visit Date: Oct 14, 2015

**Girth/Volume Normalization:**

- Decreasing Swelling/Effusion to: Trace Levels.

**Problem #3 Muscle Testing: Upper Extremity MMT.**

*STG Achieve by Oct 28, 2015.*

Musculoskeletal Improvements In: Upper  
Extremity Strength to:

- Gross Assessment(wrist, forearm, fingers)

Right

+4/5

**Problem #4 Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended: Measures.**

*STG Achieve by Oct 28, 2015.*

Musculoskeletal Improvements In: Grip/Pinch  
Strength to: Dynamometer II Elbow Extended:  
Measures:

Right

- Average.

10.0 Pounds

**Plan**

The goals and plan were discussed with the patient and/or family and they concur. The patient and/or family were instructed to call therapist regarding problems or questions. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care.

**Amount, Frequency and Duration:**

- Frequency and Duration: It is recommended that the client attend rehabilitative therapy for 3 visits a week with an expected duration of 2 weeks. Interventions during the course of treatment will be directed toward addressing the problems and achieving the goals previously outlined.

**Therapeutic Contents:**

- Active Assistive Range of Motion Activities. Active Range of Motion Activities. Home Exercise Program. Manual Range of Motion Activities. Modalities: As Needed. Stretching/Flexibility Activities. Therapeutic Activities. Therapeutic Exercise.

Electronically authenticated.

Ashley Norman, PT(NV Lic: 3157)  
Signed on Oct 15, 2015 09:24:24

Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

**Patient:** Teresa Burwell  
**Acct #:** 233492  
**DOB:** Apr 28, 1974  
**Physician:** Michel Joffe  
**Phys Fax:**  
**Physician:** Not Specified  
**Clinician:** Cory Higbee  
**FSC:** Workers Compensation  
**Case Mgr:**  
**Payor:**  
**Pol/Claim#:** 435592408

**Visit Date:** Nov 10, 2015  
**Phys Phone:**  
**SSN:** XXX-XX-XXXX  
**Inj. Date:** Sep 11, 2015  
**Surg. Date:**  
**Visits:** 6  
**Cxl/Ns:** 5  
**Employer:** Cosmopolitan Resorts  
**Insured:** Teresa Burwell

## Re-Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

Patient continues to report numb feeling in her right hand with tension through her 3rd digit.

### Objective Examination

	Oct 14, 2015		Nov 10, 2015	
Muscle Testing: Upper Extremity MMT:	Left	Right	Left	Right
• Gross Assessment	4/5		4/5	
• Forearm Pronation		-4/5		-4/5
• Forearm Supination		-4/5		-4/5
• Wrist Extension		-4/5		-4/5
• Wrist Flexion		-4/5		-4/5
Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:	Left		Right	
Measures:				
• Trial 1.	25.0 Pounds		10.0 Pounds	
Observations:				
• Swelling: Mild swelling in dorsal surface of right hand.				
Range of Motion:				
• Right Hand: Mild 3rd digit difficulty remains.				

### Treatments

Exercise Activities: Isometrics:	
• -Gripping	Time Elapsed: 3 Minutes, Technique: Gripper
Exercise Activities: Range of Motion:	
• Finger Flexion	Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small
Exercise Activities: Flexibility:	
• Wrist Extensor Musculature	Time Elapsed: 2 Minutes, Technique: Active-Assistive
• Wrist Flexor Musculature	Time Elapsed: 2 Minutes, Type: Active-Assisted
Exercise Activities: Aerobic Conditioning:	
• Upper Body Ergometer	Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120
Exercise Activities: Isotonics:	
• Supination/Pronation.	Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2

• Wrist Extension. Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3  
• Wrist Flexion. Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds  
Exercise Activities: Tubing/Bands:  
• Tubing/Bands 1 Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green  
Manual Interventions: Soft Tissue:  
• Extensor Group Time Elapsed: 3 Minutes, Description: Moderate Depth  
• Flexor Group Time Elapsed: 3 Minutes, Description: Moderate Depth  
Manual Interventions: Range of Motion:  
• Manual ROM 1 Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand  
Modalities:  
• Paraffin Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

## Assessment

Patient ROM has improved, she demonstrates improved grip. She continues to have some numbness through her hand.

## Problems & Goals

**Problem #1 Range of Motion: Right Hand: Mild 3rd digit difficulty remains.**

STG Achieve by Nov 17, 2015. Progress: Excellent progress.

Range of Motion Improvements to:

- Patient able to make a full active fist grip with right hand.

**Problem #2 Observations: Swelling: Mild swelling in dorsal surface of right hand.**

STG Achieve by Nov 17, 2015. Progress: Good progress.

Girth/Volume Normalization:

- Decreasing Swelling/Effusion to: Trace Levels.

**Problem #3 Muscle Testing: Upper Extremity MMT.**

STG Achieve by Nov 24, 2015. Progress: Some progress.

Musculoskeletal Improvements In: Upper  
Extremity Strength to:

- Gross Assessment(wrist, forearm, fingers)

Right

44/5

**Problem #4 Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended: Measures.**

Goal Achieved Nov 10, 2015.

Musculoskeletal Improvements In: Grip/Pinch  
Strength to: Dynamometer II Elbow Extended:

Right

Measures:

- Average.

10.0 Pounds

## Plan

Daily Plan:

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890),MSPT

Signed on Nov 10, 2015 08:35:04



Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Melanie Ake  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435592408

Note Date: Nov 10, 2015  
Phys Phone:  
SSN: XXX-XX-XXXX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 5  
Cxl/Ns: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Progress Note

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

#### Daily Comments:

- No New Complaints. Overall Condition is: A little better. Compliance with: Home Exercise Program: Performing Infrequently.

### Objective Examination

	Oct 14, 2015		Nov 10, 2015	
Muscle Testing: Upper Extremity MMT:	Left	Right	Left	Right
• Gross Assessment	4/5		4/5	
• Forearm Pronation		-4/5		-4/5
• Forearm Supination		-4/5		-4/5
• Wrist Extension		-4/5		-4/5
• Wrist Flexion		-4/5		-4/5
Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:	Left		Right	
Measures:				
• Average.	25.0 Pounds		5.0 Pounds	
• Trial 1.			10.0 Pounds	
• Trial 2.			8.0 Pounds	
• Trial 3.			10.0 Pounds	
Observations:				
• Swelling: Generalized swelling present in all 5 digits right compared to left.				
Range of Motion:				
• Right Hand: AROM is slightly limited in PIP and DIP flexion throughout digits 2-5. PROM is full. Patient is unable to form a full fist actively, but is able to passively.				

### Assessment

The client tolerated today's treatment/therapeutic activity with mild complaints of pain and difficulty.

Pt has demonstrated improved AROM during treatment, and is no longer having pain with AROM however she continues to complain of numbness through her R hand. She had no difficulties recognizing light touch through the R hand but reports a fuzzy numb feeling with each treatment.

#### Treatment Emphasis to focus on:

- Neurovascular Improvements. Sensation Normalization. Range of Motion/Mobility Improvements.

### Plan

Await further orders from MD.



Chynoweth, Hill & Leavitt, LLC

375 N. Stephanie

#1111

Henderson, NV USA 89014

Phone: (702) 455-2024 Fax: (702) 455-0035

Patient: Teresa Burwell  
Acc #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Cory Higbee  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 433392408

Visit Date: Nov 10, 2015  
Phys Phone:  
SSN: XXX-XX-XXXX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 6  
Cxl/No: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Re-Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

Patient continues to report numb feeling in her right hand with tension through her 3rd digit.

### Objective Examination

	Oct 14, 2015	Nov 10, 2015
	Left	Right
Muscle Testing: Upper Extremity MMT:		
• Gross Assessment	4/5	4/5
• Forearm Pronation	4/5	4/5
• Forearm Supination	4/5	4/5
• Wrist Extension	4/5	4/5
• Wrist Flexion	4/5	4/5
Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended:	Left	Right
Measures:		
• Trial 1	25.0 Pounds	10.0 Pounds
Observations:		
• Swelling: Mild swelling in dorsal surface of right hand.		
Range of Motion:		
• Right Hand: Mild 3rd digit difficulty remains.		

### Treatments

#### Exercise Activities: Isometrics:

• Gripping Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion:

• Finger Flexion Time Elapsed: 4 Minutes, Type: Active, Digits Involved: Index Small

#### Exercise Activities: Flexibility:

• Wrist Extensor Musculature Time Elapsed: 2 Minutes, Technique: Active-Assistive  
• Wrist Flexor Musculature Time Elapsed: 2 Minutes, Type: Active-Assisted

#### Exercise Activities: Aerobic Conditioning:

• Upper Body Ergometer Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120

#### Exercise Activities: Isotonics:

• Supination/Pronation Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2

Patient: Teresa Burwell  
Acct #: 233492

Visit Date: Nov 10, 2015

• Wrist Extension. Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3  
• Wrist Flexion. Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds  
Exercise Activities: Tubing/Bands:  
• Tubing/Bands: Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green  
Manual Interventions: Soft Tissue:  
• Extensor Group. Time Elapsed: 3 Minutes, Description: Moderate Depth  
• Flexor Group. Time Elapsed: 3 Minutes, Description: Moderate Depth  
Manual Interventions: Range of Motion:  
• Manual ROM: Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand  
Modalities:  
• Paraffin. Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

## Assessment

Patient ROM has improved, she demonstrates improved grip. She continues to have some numbness through her hand.

## Problems & Goals

**Problem #1** Range of Motion: Right Hand: Mild 3rd digit difficulty remains.

STG Achieved by Nov 17, 2015. Progress: Excellent progress.

Range of Motion Improvements to:

- Patient able to make a full active fist grip with right hand.

**Problem #2** Observations: Swelling: Mild swelling in dorsal surface of right hand.

STG Achieved by Nov 17, 2015. Progress: Good progress.

Girth/Volume Normalization:

- Decreasing Swelling/Effusion to: Trace Levels.

**Problem #3** Muscle Testing: Upper Extremity MMT.

STG Achieved by Nov 24, 2015. Progress: Some progress.

Musculoskeletal Improvements In: Upper  
Extremity Strength to:

Right

- Gross Assessment (Wrist, Forearm, Fingers) 4/5

**Problem #4** Muscle Testing: Grip/Pinch: Dynamometer II Elbow Extended: Measures.

Goal Achieved Nov 10, 2015.

Musculoskeletal Improvements In: Grip/Pinch

Right

Strength to: Dynamometer II Elbow Extended:

Measures:

- Average: 10.0 Pounds

## Plan

Daily Plan:

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890), MSPT  
Signed on Nov 10, 2015 08:35:04

Document ID: 0310D302.013  
Cory Higbee, PT(NV Lic: PT 1890), MSPT

Status: Signed off (secure electronic signature)

Page 2 of 2



Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0035

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax: Not Specified  
Clinician: Cory Higbee  
FSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435592408

Visit Date: Nov 12,  
Phys Phone:  
SSN: XXX-XX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 8  
Cx/UMs: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Daily Note

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

#### Daily Comments:

- No New Complaints. Overall Condition is: Unchanged.

### Objective Examination

#### Objective Measurements Not Reassessed Today.

#### Muscle Testing: Upper Extremity MMT:

- Gross Assessment
- Forearm Pronation
- Forearm Supination
- Wrist Extension
- Wrist Flexion

Left  
4/5

Right

4/5  
4/5  
4/5  
4/5

#### Observations:

- Swelling: Mild swelling in dorsal surface of right hand.

#### Range of Motion:

- Right Hand: Mild 3rd digit difficulty remains.

### Treatments

#### Exercise Activities: Isometrics:

- Gripping

Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion:

- Finger Flexion

Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small

#### Exercise Activities: Flexibility:

- Wrist Extensor Musculature
- Wrist Flexor Musculature

Time Elapsed: 2 Minutes, Technique: Active-Assisted  
Time Elapsed: 2 Minutes, Type: Active-Assisted

#### Exercise Activities: Aerobic Conditioning:

- Upper Body Ergometer

Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120

#### Exercise Activities: Isotonics:

- Supination/Pronation

Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2

- Wrist Extension

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3

- Wrist Flexion

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds

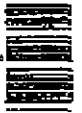
Document ID: 0010D302.016

Status: Signed off (secure electronic signature)  
Melanie Akc,PTA(NV Lic: PTA A 0711); Cory Higbee,PT(NV Lic: PT 1890),MSPT

Page 1 of 2

Patient: Teresa Barwell  
Acct #: 233492

Visit Date: Nov 12, 2015



**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 1

Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green

**Manual Interventions: Soft Tissue:**

- Extensor Group
- Flexor Group

Time Elapsed: 3 Minutes, Description: Moderate Depth

Time Elapsed: 3 Minutes, Description: Moderate Depth

**Manual Interventions: Range of Motion:**

- Manual ROM 1

Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand

**Modalities:**

- Paraffin

Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

**Therapy Session Time**

- Total Therapy Session Time 58 Minutes

**Assessment**

The client tolerated today's treatment/therapeutic activity without complaints of pain or difficulty.

**Treatment Emphasis to focus on:**

- Pain relief, Range of Motion/Mobility Improvements, Muscle Function Improvements.

**Plan**

**Daily Plan:**

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Melanie Ake, PTA(NV Lic: PTA A 0711)

Signed on Nov 13, 2015 07:40:07

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890), MSPT

Signed on Nov 13, 2015 08:23:37



Chynoweth, Hill & Leavitt, LLC  
375 N. Stephanie  
#1111  
Henderson, NV USA 89014  
Phone: (702) 456-2024 Fax: (702) 456-0033

Patient: Teresa Burwell  
Acct #: 233492  
DOB: Apr 28, 1974  
Physician: Michel Joffe  
Phys Fax:  
Physician: Not Specified  
Clinician: Cory Higbee  
PSC: Workers Compensation  
Case Mgr:  
Payor:  
Pol/Claim#: 435592408

Visit Date: Nov 11, 2  
Phys Phone:  
SSN: XXX-XX  
Inj. Date: Sep 11, 2015  
Surg. Date:  
Visits: 7  
Cmt/No: 5  
Employer: Cosmopolitan Resorts  
Insured: Teresa Burwell

## Daily Note

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.644 Pain in right finger(s)

### General Information

Patient is a pleasant 41 year old female who injured her right hand at work on 9/11/15.

### Subjective Examination

#### Daily Comments:

- No New Complaints. Overall Condition is: Unchanged. Compliance with: Home Exercise Program: Performing Infrequently.

### Objective Examination

Range of motion has been performed and is within functional limits.

#### Muscle Testing: Upper Extremity MMT:

- Gross Assessment
- Forearm Pronation
- Forearm Supination
- Wrist Extension
- Wrist Flexion

Left  
4/5

Right  
4/5  
4/5  
4/5  
4/5

#### Observations:

- Swelling: Mild swelling in dorsal surface of right hand.

#### Range of Motion:

- Right Hand: Mild 3rd digit difficulty remains

### Treatments

#### Exercise Activities: Isometrics:

- Gripping

Time Elapsed: 3 Minutes, Technique: Gripper

#### Exercise Activities: Range of Motion:

- Finger Flexion

Time Elapsed: 4 Minutes, Type: Active, Digit Involved: Index - Small

#### Exercise Activities: Flexibility:

- Wrist Extensor Musculature
- Wrist Flexor Musculature

Time Elapsed: 2 Minutes, Technique: Active-Assistive

Time Elapsed: 2 Minutes, Type: Active-Assisted

#### Exercise Activities: Aerobic Conditioning:

- Upper Body Ergometer

Time Elapsed: 6 Minutes, Direction: forward & backward, Speed (rpm): 120

#### Exercise Activities: Isotonics:

- Supination/Pronation

Time Elapsed: 3 Minutes, Weight - Pounds: Hammer Pounds, Repetitions: 10, Sets: 2

- Wrist Extension

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds, Repetitions: 10, Sets: 3

- Wrist Flexion

Time Elapsed: 3 Minutes, Weight - Pounds: 2 Pounds

Document ID: 0010D302.015

Status: Signed off (secure electronic signature)

Page 1 of 2

Melanie Ake,PTA(NV Lic: PTA A 0711); Cory Higbee,PT(NV Lic: PT 1890),MSPT

Patient: Teresa Burwell  
Acct #: 213492

Visit Date: Nov 11, 2015



**Exercise Activities: Tubing/Bands:**

- Tubing/Bands 1

Time Elapsed: 3 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: Finger Web Green

**Manual Interventions: Soft Tissue:**

- Extensor Group
- Flexor Group

Time Elapsed: 3 Minutes, Description: Moderate Depth

Time Elapsed: 3 Minutes, Description: Moderate Depth

**Manual Interventions: Range of Motion:**

- Manual ROM 1

Time Elapsed: 8 Minutes, Description: PROM in all directions to R hand

**Modalities:**

- Paraffin

Time Elapsed: 10 Minutes, Technique: Dip, Clinical Use: Pre Activity

**Therapy Session Time**

- Total Therapy Session Time 53 Minutes

**Assessment**

The client tolerated today's treatment/therapeutic activity without complaints of pain or difficulty.

**Treatment Emphasis to focus on:**

- Pain relief, Range of Motion/Mobility Improvements, Muscle Function Improvements.

**Plan**

**Daily Plan:**

- Continue w/ Current Rehabilitation Program.

Electronically authenticated.

Melanie Ake, PTA(NV Lic: PTA A 0711)  
Signed on Nov 12, 2015 07:17:57

Electronically authenticated.

Cory Higbee, PT(NV Lic: PT 1890),MSPT  
Signed on Nov 12, 2015 07:26:34

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## EXHIBIT 5

[Defendant's Name] - 21



## Transcription

Patient:	Burwell, Teresa R.	Service Date:	9/11/2015
Sec. Sec. #:	XXX-XX	Injury Date:	9/11/2015
Date of Birth:	4/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CMC - LVG Polaris	Dictated By:	MICHEL JOFFE
Service ID #:	1201587314	Diagnosis:	923.20 Contusion of Hand(s)

### Notes:

#### Reason For Visit

Chief Complaint: The patient presents today with new injury right hand. Self reported.

#### Vitals

Vital Signs [Data Includes: Current Encounter]

Recorded by : Ortega De Silva, Maria at 11Sep2015 04:32PM

Systolic: 150

Diastolic: 90

Heart Rate: 70

Respiration: 14

Height: 5 ft 4 in

Weight: 178 lb

BMI Calculated: 30.55

BSA Calculated: 1.88

Pain Scale: 8/10

#### Past Medical History Review

PAST MEDICAL, SOCIAL, FAMILY HISTORY: Non-contributory based on review with patient and/or comprehensive questionnaire except as detailed in the clinical documentation.

#### History of Present Illness

Patient is a 41 year old African American female who presents for evaluation of her right hand injury. She reports that she works as a Room Stylist and injured herself while pulling the collector from a room. She reports that the door stopper slipped from under the door and her hand got caught between the collector and the lock. She now presents for evaluation.

#### Review of Systems

As per documentation in the HPI, all other systems were reviewed and found to be negative.

Other Symptoms: hand and finger pain.

#### Physical Exam

Constitutional: Well appearing and well nourished. In no acute distress.

Head/Face: Normocephalic, atraumatic, and no tenderness.

Eyes: Conjunctiva and lids with no swelling, erythema or discharge. Pupils are equal,

Dictated By: MICHEL JOFFE

Dictated On: 9/11/2015 5:48 PM

Last Update: 09/11/2015 17:45:08

Last Updated By: joffemm

Transcription Printed Date: 09/13/2015

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Form Revision Date: 11/11/2009

P: 004/007

(FAX) 5421767

09/14/2015 07:14

## Transcription

Patient:	Burwell, Teresa R.	Service Date:	9/11/2016
Soc. Sec. #:	XXX-XX-2408	Injury Date:	9/11/2016
Date of Birth:	4/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CMC - LVG Pearls	Dictated By:	MICHEL JOFFE
Service ID #:	1201597314	Diagnosis:	923.20 Contusion of Hand(s)

### Notes:

round, and reactive to light and cornea clear. Eye movements: extraocular movements intact.

ENT: No erythema or edema of the external ears or nose.

Pulmonary: No increased work of breathing or signs of respiratory distress. All lung fields clear to auscultation bilaterally.

Cardiovascular: Normal rate and rhythm, normal S1 and S2, without gallops or rubs. No murmur. Extremities are warm with no edema or varicosities.

Abdomen: Soft, non-distended, normal bowel sounds, no tenderness.

Musculoskeletal: Normal gait. No tenderness or swelling of extremities. Range of motion is within normal limits. Normal muscle strength and tone.

Right Hand/Fingers:

Hand:

Appearance: Skin: trauma of laceration right hand. It is irregular. The wound has bloody drainage. Surrounding tissue is erythematous, discolored and locally swollen. Observations include active bleeding. Moderate ecchymosis. Moderate swelling.

Palpation:

ROM / Motor Strength:

Grip strength is decreased on the right.

Grip strength is normal on the left.

Motor tone:

Neuro/Vascular function intact.

Psychiatric: Oriented to person, place, and time. Mood and affect are appropriate.

### Radiology Results

X rays of the right hand were obtained. They appeared negative.

This is a preliminary radiology interpretation. The images were sent to a radiologist for final interpretation.

Preliminary radiology results were discussed with the patient.

X-Rays were reviewed with the patient.

### Procedure

The wound involved the epithelium and subcutaneous tissue. There was no tendon involvement. It was irregular, had a skin flap. The wound was explored. The neurovascular exam was normal.

Risk, benefits, alternatives, bleeding risk, infection risk and allergic reaction risk were discussed with the patient.

The site was prepped with Betadine, Hibiclens, cleansed and irrigated extensively.

The cutaneous layer was closed with 3 sutures of 6-0 ethilon. Simple interrupted sutures were used. The repair was simple. Good closure was obtained. An antibiotic ointment was applied.

Dictated By: MICHEL JOFFE

Dictated On: 9/11/2016 5:46 PM

## Transcription

Patient:	Burwell, Teresa R.	Service Date:	9/11/2015
Soc. Sec. #:	XXX-XX-2408	Injury Date:	9/11/2015
Date of Birth:	4/28/1974 Age: 41	Employer:	Coastalpolitan-Injury Care
Service Location:	CMC - LVG Polaris	Dictated By:	MICHEL JOFFE
Service ID #:	1201587314	Diagnosis:	923.20 Contusion of Hand(s)

### Notes:

Patient Status: The patient tolerated the procedure well. Post-procedure, the neurovascular exam was normal. There were no complications.

### ASSESSMENT

1. Contusion of hand, right (923.20) - *laceration which caused issues*

#### Plan

1. X-Ray, Right hand; minimum of 3 views Status: Complete - To Be Completed Done: 11Sep2015 05:28PM

Perform: In Office Due: 16Sep2015 Marked Important; Last Updated By: Garganera, Imelda; 9/11/2015 7:29:15 PM; Ordered; For: Contusion of hand, right, Laceration of hand, right; Ordered By: JOFFE, MICHEL

2. Start: Cephalexin 500 MG Oral Capsule; TAKE 2 CAPSULES TWICE DAILY UNTIL GONE

Rx By: JOFFE, MICHEL; Dispense: 7 Days ; #:28 Capsule; Refill: 0; For: Laceration of hand, right; DAW = N; Record

3. Colles Splint Status: Hold For - To Be Completed Requested for: 11Sep2015

Perform: Not Applicable Due: 16Sep2015; Ordered; For: Laceration of hand, right; Ordered By: JOFFE, MICHEL

4. HOME DRESSINGS (5-7 DAYS) Status: Hold For - To Be Completed Requested for: 11Sep2015

Perform: Not Applicable Due: 16Sep2015; Ordered; For: Laceration of hand, right; Ordered By: JOFFE, MICHEL

5. Laceration Tray Status: Complete Done: 11Sep2015

Perform: Not Applicable Due: 16Sep2015; Ordered; For: Laceration of hand, right; Ordered By: JOFFE, MICHEL

6. OFFICE DRESSING, MIN Status: Hold For - To Be Completed Requested for: 11Sep2015

Perform: Not Applicable Due: 16Sep2015; Ordered; For: Laceration of hand, right; Ordered By: JOFFE, MICHEL

7. Administer: Administer: Tdap; INJECT 0.5 ML Intramuscular; To Be Done: 11Sep2015 For: Laceration of hand, right; Ordered By: JOFFE, MICHEL; Effective Date: 11Sep2015

Dictated By: MICHEL JOFFE

Dictated On: 9/11/2015 5:46 PM

Last Update: 09/11/2015 17:46:08

Transcription Page 3 of 4

Last Updated By: joffemm

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Transcription Printed Date: 09/13/2015

Form Revision Date: 11/17/2009

200/900 'd

2921279(XF)

SL 20 SL02/PL/90

## Transcription

<b>Patient:</b>	Burwell, Teresa R.	<b>Service Date:</b>	9/11/2015
<b>Sec. Sec. #:</b>	XXX-XX-2408	<b>Injury Date:</b>	9/11/2015
<b>Date of Birth:</b>	4/28/1974 Age: 41	<b>Employer:</b>	Cosmopolitan-Injury Care
<b>Service Location:</b>	CMC - LVG Polaris	<b>Dictated By:</b>	MICHEL JOFFE
<b>Service ID #:</b>	1201597314	<b>Diagnosis:</b>	923.20 Contusion of Hand(s)

### Notes:

None of the patient's medications for this encounter were dispensed in the center.

### Discussion/Summary

The diagnoses and treatment plan were discussed with the patient. The patient expressed understanding and was told to keep their scheduled appointments for follow-up and/or to return to Concentra.

### Activity Status and Restrictions

#### Treatment Status:

Returning for follow-up: 2 days

#### Activity Status

Return to modified work/activity today.

Restrictions: KEY - Occasionally = up to 3 hrs/day, Frequently = up to 6 hrs/day,

Constantly = up to 8 hours or greater per day

May lift up to 10 lbs occasionally

May push/pull up to 10 lbs occasionally

No use and strong gripping of the right hand.

Keep wound clean and dry.

### Signatures

Electronically signed by: MICHEL JOFFE, M.D.; Sep 11 2015 7:46PM CST - Author

Dictated By: MICHEL JOFFE

Dictated On: 9/11/2015 5:46 PM

Last Update: 09/11/2015 17:45:08

Last Updated By: joffemm

Transcription Printed Date: 09/13/2015

c:\transcription Page 4 of 4

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Form Revision Date: 11/17/2009

Z007Z007

(FAX) 8421767

09/14/2015 07:15

149 N Gibson HENDERSON, NV 89014 (702) 558-6275

Patient:	Burwell, Teresa R	Service Date:	10/13/2015
Soc. Sec. #	435-39-2408	Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CMC - LVG Henderson		3708 Las Vegas Blvd S
Service ID #:	1201619169		
Claim #:			Las Vegas, NV 89109
Dictator:	Margron, PA-C, Lola T		
Diagnosis:	s61.411a Laceration of hand, right		

## Notes:

## RECHECK REPORT

S: The patient presents today for a followup visit regarding her crush/laceration injury of her right hand. The patient states that she has an appointment with a hand specialist scheduled for October 20, 2015. Has been on light duty. The patient is also scheduled to have physical therapy starting tomorrow, October 14, 2015. The patient comments that she has difficulty with flexing and extending, particularly around the fourth and fifth digits. Denies of any further injury. Denies of any further swelling. Denies of any signs of infection around wound site such as redness or discharge.

O: VITAL SIGNS: Blood pressure 118/76, respirations 16, and pulse 76. GENERAL: Alert and pleasant female in no apparent distress. HEENT: Within normal limits. NECK: Supple. CHEST: Breath sounds clear. HEART: Regular rate and rhythm. EXTREMITIES: Right hand wound site around the fourth interdigital webspace is healing well. No signs of dehiscence. No signs of erythema, swelling, or discharge. MOTOR: The patient has difficulty with flexion and hyperextension with fourth and fifth digits. SENSORY: Intact. PULSES: Intact.

A: Followup crush/laceration injury, right hand.

P: Continue with light duty, sitting position, as she is already doing at work. May use her left hand, however, avoid any repetitive grasp and grab with the right. Keep appointment with hand specialist. Keep appointment with physical therapy. The patient understood and agreed with treatment plan.

Job Number: 59065

Dictated By: Margron, PA-C, Lola T

Dictated On: Oct 13 2015 6:07PM

Printed Date: 10/18/2015

Page: 1

# Transcription

2200 S Rancho Dr Ste 100 LAS VEGAS, NV 89102 (702) 677-3544

Patient:	Burwell, Teresa R	Service Date:	11/17/2015
Soc. Sec. #:	435-38-2408	Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan Injury Care
Service Location:	CAS - INV Las Vegas		3708 Las Vegas Blvd S
Service ID #:	1201642954		
Claim #:	2010261681001		Las Vegas, NV 89109
Dictator:	Colby Young, MD Hand - Ortho		
Diagnosis:	S60.221A CONTUSION OF RIGHT HAND, INITIAL ENCOUNTER-S60.221A		

## Notes:

### RECHECK REPORT

Ms. Burwell has returned to the office. I have had, again, a conversation with her. She again is questioning the way I have spoken to her in the past as well as questioning my medical assessment of her condition. I believe at this point we both agree that I would not be the best physician to treat her for her work-related injuries. I have recommended referring her to Psychiatry/Pain Management for her laceration. I believe that this would be the most appropriate way to go, given her conversation with me today. After she had left, I discussed this with her nurse case manager as well. I will keep her on her restrictions of 5 pounds of lifting, 10 pounds of pushing and pulling until she has had her care transferred, but again she and I both agree that her care would best be treated with someone that she feels more comfortable with.

Job Number: 93527

Dictated By: Colby Young, MD Hand - Ortho

Printed Date: 12/01/2015

Page: 1

149 N Gibson HENDERSON, NV 89014 (702) 558-6275

Patient	Burwell, Teresa R	Service Date:	10/13/2015
Soc. Sec. #		Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CMC - LVG Henderson		3708 Las Vegas Blvd S
Service ID #:	1201619169		
Claim #:			Las Vegas, NV 89109
Dictator:	Margron, PA-C, Lola T		
Diagnosis:	s61.411a Laceration of hand, right		

## Notes:

## RECHECK REPORT

S: The patient presents today for a followup visit regarding her crush/laceration injury of her right hand. The patient states that she has an appointment with a hand specialist scheduled for October 20, 2015. Has been on light duty. The patient is also scheduled to have physical therapy starting tomorrow, October 14, 2015. The patient comments that she has difficulty with flexing and extending, particularly around the fourth and fifth digits. Denies of any further injury. Denies of any further swelling. Denies of any signs of infection around wound site such as redness or discharge.

O: VITAL SIGNS: Blood pressure 118/78, respirations 16, and pulse 76. GENERAL: Alert and pleasant female in no apparent distress. HEENT: Within normal limits. NECK: Supple. CHEST: Breath sounds clear. HEART: Regular rate and rhythm. EXTREMITIES: Right hand wound site around the fourth interdigital webspace is healing well. No signs of dehiscence. No signs of erythema, swelling, or discharge. MOTOR: The patient has difficulty with flexion and hyperextension with fourth and fifth digits. SENSORY: Intact. PULSES: Intact.

A: Followup crush/laceration injury, right hand.

P: Continue with light duty, sitting position, as she is already doing at work. May use her left hand, however, avoid any repetitive grasp and grab with the right. Keep appointment with hand specialist. Keep appointment with physical therapy. The patient understood and agreed with treatment plan.

Job Number: 59065

Dictated By: Margron, PA-C, Lola T

Dictated On: Oct 13 2015 5:07PM

Printed Date: 10/18/2015

Page: 1

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# Transcription

2200 S Rancho Dr Ste 100 LAS VEGAS, NV 89102 (702) 677-3544

Patient:	Burwell, Teresa R	Service Date:	10/20/2015
Soc. Sec. #		Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CAS - LVG Las Vegas		3708 Las Vegas Blvd S
Service ID #:	1201623686		
Claim #:	2010261681001		Las Vegas, NV 89109
Dictator:	Colby Young, MD Hand - Ortho		
Diagnosis:	S67.21XA CRUSHING INJURY OF RIGHT HAND, INITIAL ENCOUNTER-S67.21XA		

## Notes:

### CONSULTATION

Teresa Burwell is referred to the office by Lola Magrane. Today, I had the opportunity to evaluate Teresa Burwell in the office. She is a 41-year-old female who presents to the office now 5 weeks status post a crush/laceration injury to her right hand. She states that on 09/11/2015, while at work, she was leaving out of her room and the door stopper slid, clipping her hand. She reports that she had immediate decreased sensation overlying the laceration site. She also describes spasm in the hand with weakness. She reports that she was only able to complete one session of therapy last week. She has had no other therapy for the involvement of the hand. She reports that the hand has limited her ability to grip and grasp that she has brought records from her previously treated left hand to demonstrate the amount of grip strength that she previously had in the right hand, and does report that she has decreased range of motion in the right hand as well as weakness.

PAST MEDICAL HISTORY: She denies.

PAST SURGICAL HISTORY: Significant for multiple cervical as well as neck and back surgeries dating back to 2009 through 2013. She has also had left hand surgery in 2015 as well as left knee surgery in 2015.

MEDICATIONS: She is taking Lortab, naproxen, and Cymbalta.

ALLERGIES: She has allergies to CODEINE and MORPHINE.

PHYSICAL EXAMINATION: Clinically, I have evaluated the right hand. There is a small area which demonstrates a small bulla between the ring finger and small finger interspace. There are no signs of infection. I do not see any definitive lacerations being appreciated today. There is a minimal swelling compared to the contralateral hand. She has ability to extend the digits and has the ability to flex, but again this is limited secondary to some stiffness and some mild swelling.

Her radiographs were reviewed, and I do not appreciate any evidence of bony pathology.

IMPRESSION: Crush injury, right hand with laceration.

PLAN: I have recommended a formal therapy. She does report to me that she was told not to participate in therapy if her blood pressure becomes elevated when she does not have a history of hypertension. I believe that therapy would be beneficial. She has inquired to me why she has the spasm in the hand, and I did acknowledge that I do not know why she would have spasm in the hand, but did attribute a possible explanation of that being some spasm and some stiffness from not utilizing the hand. I strongly recommended formal therapy. I did ask if she would have her medical records sent, so I can address with her the explanation that I had not appreciated why she would not be able to participate in therapy for her hand, but was happy to review the records so I could modify if necessary what I would recommend on. She became very frustrated and angry with me. She did not desire to return to see me in the office. I still believe that she would be of great benefit for her to participate in therapy as the longer she does not utilize the hand, the worse this stiffness could get. I unfortunately was unable to give her an explanation why she had entire hand numbness based on the

Dictated By: Colby Young, MD Hand - Ortho

Dictated On: Oct 20 2015 1:19PM

Printed Date: 10/29/2015

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Transcription

2200 S Rancho Dr Ste 100 LAS VEGAS, NV 89102 (702) 677-3544

Patient:	Burwell, Teresa R	Service Date:	10/20/2015
Soc. Sec. #		Injury Date:	09/11/2015
Date of Birth:	04/28/1974 Age: 41	Employer:	Cosmopolitan-Injury Care
Service Location:	CAS - LVG Las Vegas		3708 Las Vegas Blvd S
Service ID #:	1201623686		
Claim #:	2010261661001		Las Vegas, NV 89109
Dictator:	Colby Young, MD Hand - Ortho		
Diagnosis:	S67.21XA CRUSHING INJURY OF RIGHT HAND, INITIAL ENCOUNTER-S67.21XA		

Notes: mechanism of injury and now that angered her as well. If there are any questions, I would be happy to address them.

Job Number: 65272

Dictated By: Colby Young, MD Hand - Ortho

Dictated On: Oct 20 2015 1:15PM

Printed Date: 10/29/2015

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## EXHIBIT 6

[Defendant's Name] - 22



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wiggam Pkwy Suite 330  
Henderson, Nevada 89074

## Physical/Occupational Therapy Order(s)

Order Date: 12/14/2015

### Patient Information

TERESA R BURWELL  
6803 FRANCES CELIA AVE  
LAS VEGAS, NV 89122  
(702) 219-5553  
Gender: Female Date of Birth: 04/28/1974

### Patient Insurance Information

ZURICH NORTH AMERICA W/C (702) 408-3871  
Group #NONE  
Plan #2010261681

### Physical/Occupational Therapy Facility

PT Select

### Orders

**BMI Above Normal W/ FU** on behalf of ARTHUR J TAYLOR, MD

#### Diagnosis

Contusion (initial), Hand - RT ( 923.20 | S60.221A )  
Overweight ( 278.02 | E66.3 )

**Diet Education** on behalf of ARTHUR J TAYLOR, MD

#### Diagnosis

Contusion (initial), Hand - RT ( 923.20 | S60.221A )  
Overweight ( 278.02 | E66.3 )

**Eval & Treat:** OT CHT Frequency/Duration: using aggressive active and passive motion exercises please focus on grip strengthening of right hand with healed right hand contusion 3 months ago for 3 times a week for 3 weeks and develop a home program

#### Diagnosis

Contusion (initial), Hand - RT ( 923.20 | S60.221A )  
Overweight ( 278.02 | E66.3 )

**Hypertension Education** on behalf of ARTHUR J TAYLOR, MD

#### Diagnosis

Contusion (initial), Hand - RT ( 923.20 | S60.221A )  
Overweight ( 278.02 | E66.3 )

TERESA R BURWELL

Patient #: 394901

DOB: 04/28/1974 (41 years)

Monday, December 14, 2015

Page 1 / 2

**Hypertensive Reading** on behalf of ARTHUR J TAYLOR, MD

**Diagnosis**

Contusion (initial), Hand - RT ( 923.20 | S60.221A )  
Overweight ( 278.02 | E66.3 )

OTHER/COMMENTS:

Fax Reports to: 258.3783

*Arthur J Taylor*

ARTHUR J TAYLOR MD

---

TERESA R BURWELL

Patient #: 394901

DOB: 04/28/1974 (41 years)

Monday, December 14, 2015

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## EXHIBIT 7

[Defendant's Name] - 23

**Dignity Health**  
**St. Rose Dominican Hospitals – Rose de Lima Campus**  
102 East Lake Mead Parkway  
Henderson, NV 89015  
(702) 564-2622

**Emergency Department**  
**Patient Discharge Instructions**

**If your symptoms continue or worsen, return to  
St Rose Dominican Hospital-Rose de Lima or contact your  
Physician.**

**If you have questions about your discharge  
instructions, call St Rose Dominican-Rose de Lima Emergency  
Department  
(702) 564-2622**

**Name:** BURWELL, TERESA R

**Current Date:** 12/31/15 22:06:42

**DOB:** 4/28/1974 12:00 AM

**MRN:** 10026212

**FIN:** 17935792

**Patient Address:** 6803 FRANCES CELIA AVE LAS VEGAS NV 89122

**Patient Phone:** (702)219-5553

**Reason For Visit:**

- 1) Hypertension
- 2) Blood pressure check

**Providers:**

**Provider**

**Role**

McBride, Daniel MD

ED Physician

-->

**Discharge Diagnosis:**

St. Rose Dominican Hospitals-Rose de Lima would like to thank you for allowing us to assist you with your healthcare needs. These instructions are intended to provide general information and guidelines to follow at home to properly care for your particular medical problem.

The following diagnostic tests and/or procedures were performed during your stay:

BURWELL, TERESA R has been given the following list of follow-up instructions, prescriptions, patient education materials, and valuables/belongings:

**Follow-up Instructions:**

<b>With:</b>	<b>Address:</b>	<b>When:</b>
No PCP, Not given SRDH		Within 1 to 3 days
<b>Comments:</b>		

<b>With:</b>	<b>Address:</b>	<b>When:</b>
Behzad Kermani	700 E Silverado Ranch, #140 Las Vegas, NV 89193 (702) 435-1995 Business (1)	Within As soon as possible
<b>Comments:</b>		

Call for follow up appointment  
Return to ED if symptoms worsen

**Immunizations**

No Immunizations Documented This Visit

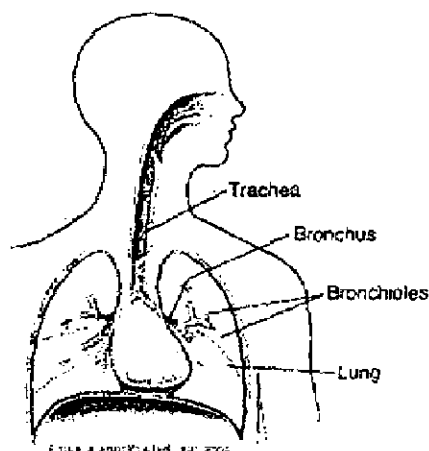
You may have been given the name of our specialist who is on call. They are obligated to see you and provide evaluation and treatment for the medical problem or injury that brought you to the emergency department today. Although they cannot require payment in advance, they are independent practitioners and payment and/or payment arrangements for

their services will be anticipated directly following your initial visit. If you encounter any problem in arranging this follow up care please call the emergency department at which you were seen and ask for the Charge Nurse. (Rose de Lima 616-4600, Siena 616-5600, San Martin 492-8600).

### Patient Education Materials:

## Upper Respiratory Infection, Adult

An upper respiratory infection (URI) is also sometimes known as the common cold. The upper respiratory tract includes the nose, sinuses, throat, trachea, and bronchi. Bronchi are the airways leading to the lungs. Most people improve within 1 week, but symptoms can last up to 2 weeks. A residual cough may last even longer.



### CAUSES

Many different viruses can infect the tissues lining the upper respiratory tract. The tissues become irritated and inflamed and often become very moist. Mucus production is also common. A cold is contagious. You can easily spread the virus to others by oral contact. This includes kissing, sharing a glass, coughing, or sneezing. Touching your mouth or nose and then touching a surface, which is then touched by another person, can also spread the virus.

### SYMPTOMS

Symptoms typically develop 1 to 3 days after you come in contact with a cold virus. Symptoms vary from person to person. They may include:

- Runny nose.
- Sneezing.
- Nasal congestion.
- Sinus irritation.
- Sore throat.
- Loss of voice (*laryngitis*).
- Cough.
- Fatigue.



- Muscle aches.
- Loss of appetite.
- Headache.
- Low-grade fever.

## DIAGNOSIS

You might diagnose your own cold based on familiar symptoms, since most people get a cold 2 to 3 times a year. Your caregiver can confirm this based on your exam. Most importantly, your caregiver can check that your symptoms are not due to another disease such as strep throat, sinusitis, pneumonia, asthma, or epiglottitis. Blood tests, throat tests, and X-rays are not necessary to diagnose a common cold, but they may sometimes be helpful in excluding other more serious diseases. Your caregiver will decide if any further tests are required.

## RISKS AND COMPLICATIONS

You may be at risk for a more severe case of the common cold if you smoke cigarettes, have chronic heart disease (such as heart failure) or lung disease (such as asthma), or if you have a weakened immune system. The very young and very old are also at risk for more serious infections. Bacterial sinusitis, middle ear infections, and bacterial pneumonia can complicate the common cold. The common cold can worsen asthma and chronic obstructive pulmonary disease (COPD). Sometimes, these complications can require emergency medical care and may be life-threatening.

## PREVENTION

The best way to protect against getting a cold is to practice good hygiene. Avoid oral or hand contact with people with cold symptoms. Wash your hands often if contact occurs. There is no clear evidence that vitamin C, vitamin E, echinacea, or exercise reduces the chance of developing a cold. However, it is always recommended to get plenty of rest and practice good nutrition.

## TREATMENT

Treatment is directed at relieving symptoms. There is no cure. Antibiotics are not effective, because the infection is caused by a virus, not by bacteria. Treatment may include:

- Increased fluid intake. Sports drinks offer valuable electrolytes, sugars, and fluids.
- Breathing heated mist or steam (vaporizer or shower).
- Eating chicken soup or other clear broths, and maintaining good nutrition.
- Getting plenty of rest.
- Using gargles or lozenges for comfort.
- Controlling fevers with ibuprofen or acetaminophen as directed by your caregiver.
- Increasing usage of your inhaler if you have asthma.

Zinc gel and zinc lozenges, taken in the first 24 hours of the common cold, can shorten the duration and lessen the severity of symptoms. Pain medicines may help with fever, muscle aches, and throat pain. A variety of non-prescription medicines are available to treat congestion and runny nose. Your caregiver can make recommendations and may suggest nasal or lung inhalers for other symptoms.

## HOME CARE INSTRUCTIONS

- Only take over-the-counter or prescription medicines for pain, discomfort, or fever as directed by your caregiver.
- Use a warm mist humidifier or inhale steam from a shower to increase air moisture. This may keep secretions moist and make it easier to breathe.

- Drink enough water and fluids to keep your urine clear or pale yellow.
- Rest as needed.
- Return to work when your temperature has returned to normal or as your caregiver advises. You may need to stay home longer to avoid infecting others. You can also use a face mask and careful hand washing to prevent spread of the virus.

#### **SEEK MEDICAL CARE IF:**

- After the first few days, you feel you are getting worse rather than better.
- You need your caregiver's advice about medicines to control symptoms.
- You develop chills, worsening shortness of breath, or brown or red sputum. These may be signs of pneumonia.
- You develop yellow or brown nasal discharge or pain in the face, especially when you bend forward. These may be signs of sinusitis.
- You develop a fever, swollen neck glands, pain with swallowing, or white areas in the back of your throat. These may be signs of strep throat.

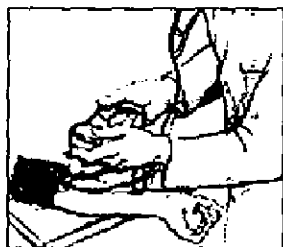
#### **SEEK IMMEDIATE MEDICAL CARE IF:**

- You have a fever.
- You develop severe or persistent headache, ear pain, sinus pain, or chest pain.
- You develop wheezing, a prolonged cough, cough up blood, or have a change in your usual mucus (if you have chronic lung disease).
- You develop sore muscles or a stiff neck.

Document Released: 06/13/2002 Document Revised: 03/11/2013 Document Reviewed: 04/20/2012  
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Make sure you discuss any questions you have with your health care provider.

## **Hypertension**

Hypertension, commonly called high blood pressure, is when the force of blood pumping through your arteries is too strong. Your arteries are the blood vessels that carry blood from your heart throughout your body. A blood pressure reading consists of a higher number over a lower number, such as 110/72. The higher number (*systolic*) is the pressure inside your arteries when your heart pumps. The lower number (*diastolic*) is the pressure inside your arteries when your heart relaxes. Ideally you want your blood pressure below 120/80.



Hypertension forces your heart to work harder to pump blood. Your arteries may become narrow or stiff. Having hypertension puts you at risk for heart disease, stroke, and other problems.

#### **RISK FACTORS**

Some risk factors for high blood pressure are controllable. Others are not.

Risk factors you cannot control include:

- Race. You may be at higher risk if you are African American.
- Age. Risk increases with age.
- Gender. Men are at higher risk than women before age 45 years. After age 65, women are at higher risk than men.

Risk factors you can control include:

- Not getting enough exercise or physical activity.
- Being overweight.
- Getting too much fat, sugar, calories, or salt in your diet.
- Drinking too much alcohol.

## SIGNS AND SYMPTOMS

Hypertension does not usually cause signs or symptoms. Extremely high blood pressure (*hypertensive crisis*) may cause headache, anxiety, shortness of breath, and nosebleed.

## DIAGNOSIS

To check if you have hypertension, your health care provider will measure your blood pressure while you are seated, with your arm held at the level of your heart. It should be measured at least twice using the same arm. Certain conditions can cause a difference in blood pressure between your right and left arms. A blood pressure reading that is higher than normal on one occasion does not mean that you need treatment. If one blood pressure reading is high, ask your health care provider about having it checked again.

## TREATMENT

Treating high blood pressure includes making lifestyle changes and possibly taking medication. Living a healthy lifestyle can help lower high blood pressure. You may need to change some of your habits.

Lifestyle changes may include:

- Following the DASH diet. This diet is high in fruits, vegetables, and whole grains. It is low in salt, red meat, and added sugars.
- Getting at least 2 1/2 hours of brisk physical activity every week.
- Losing weight if necessary.
- Not smoking.
- Limiting alcoholic beverages.
- Learning ways to reduce stress.

If lifestyle changes are not enough to get your blood pressure under control, your health care provider may prescribe medicine. You may need to take more than one. Work closely with your health care provider to understand the risks and benefits.

## HOME CARE INSTRUCTIONS

- Have your blood pressure rechecked as directed by your health care provider.
- Only take medicine as directed by your health care provider. Follow the directions carefully. Blood pressure medicines must be taken as prescribed. The medicine does not work as well when you skip doses. Skipping doses also puts you at risk for problems.
- **Do not smoke.**

- Monitor your blood pressure at home as directed by your health care provider.

**SEEK MEDICAL CARE IF:**

- You think you are having a reaction to medicines taken.
- You have recurrent headaches or feel dizzy.
- You have swelling in your ankles.
- You have trouble with your vision.

**SEEK IMMEDIATE MEDICAL CARE IF:**

- You develop a severe headache or confusion.
- You have unusual weakness, numbness, or feel faint.
- You have severe chest or abdominal pain.
- You vomit repeatedly.
- You have trouble breathing.

**MAKE SURE YOU:**

- Understand these instructions.
- Will watch your condition.
- Will get help right away if you are not doing well or get worse.

Document Released: 12/18/2006 Document Revised: 12/23/2014 Document Reviewed: 10/10/2014

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Make sure you discuss any questions you have with your health care provider.

**lisinopril**

(lyse [N oh pril])

Prinivil, Zestril

**What is the most important information I should know about lisinopril?**

**Do not use lisinopril if you are pregnant.** It could harm the unborn baby. **Stop using this medicine and tell your doctor right away if you become pregnant.**

You should not use lisinopril if you have hereditary angioedema.

If you have diabetes, do not use lisinopril together with any medication that contains aliskiren (Amturnide, Tekturna, Tekamlo, Valturna).

**What is lisinopril?**

Lisinopril is an ACE inhibitor. ACE stands for angiotensin converting enzyme.

Lisinopril is used to treat high blood pressure (hypertension) or congestive heart failure. Lisinopril is also used to improve survival after a heart attack.

Lisinopril may also be used for purposes not listed in this medication guide.

**What should I discuss with my healthcare provider before taking lisinopril?**

You should not use this medication if you are allergic to lisinopril or to any other ACE inhibitor, such as benazepril, captopril, fosinopril, enalapril, moexipril, perindopril, quinapril, ramipril, ortrandolapril.

If you have diabetes, do not use lisinopril together with any medication that contains aliskiren (Amturnide, Tekturna,

Tekamlo, Valtuma).

You may also need to avoid taking lisinopril with aliskiren if you have kidney disease.

You should not use lisinopril if you have hereditary angioedema.

To make sure lisinopril is safe for you, tell your doctor if you have:

- kidney disease (or if you are on dialysis);
- liver disease;
- diabetes; or
- high levels of potassium in your blood.

If you have diabetes or kidney disease, you may not be able to take lisinopril if you are also taking aliskiren (Tekturna, Tekamlo, Valtuma, Aantumide).

**Do not use lisinopril if you are pregnant. Stop using this medication and tell your doctor right away if you become pregnant.** Lisinopril can cause injury or death to the unborn baby if you take the medicine during your second or third trimester. Use effective birth control while taking lisinopril.

It is not known whether lisinopril passes into breast milk or if it could harm a nursing baby. Do not use this medication without telling your doctor if you are breast-feeding a baby.

### **How should I take lisinopril?**

Follow all directions on your prescription label. Your doctor may occasionally change your dose to make sure you get the best results. Do not take this medicine in larger or smaller amounts or for longer than recommended.

Drink plenty of water each day while you are taking this medicine.

Lisinopril can be taken with or without food.

Your blood pressure will need to be checked often, and you may need frequent blood tests.

Call your doctor if you have ongoing vomiting or diarrhea, or if you are sweating more than usual. You can easily become dehydrated while taking this medicine. This can lead to very low blood pressure, electrolyte disorders, or kidney failure while you are taking lisinopril.

If you need surgery, tell the surgeon ahead of time that you are using lisinopril. You may need to stop using the medicine for a short time.

If you are being treated for high blood pressure, **keep using this medication even if you feel well.** High blood pressure often has no symptoms. You may need to use blood pressure medication for the rest of your life.

Store at room temperature away from moisture and heat.

### **What happens if I miss a dose?**

Take the missed dose as soon as you remember. Skip the missed dose if it is almost time for your next scheduled dose. **Do not take extra medicine to make up the missed dose.**

### **What happens if I overdose?**

Seek emergency medical attention or call the Poison Help line at 1-800-222-1222.

### **What should I avoid while taking lisinopril?**

Drinking alcohol can further lower your blood pressure and may increase certain side effects of lisinopril.

Avoid becoming overheated or dehydrated during exercise, in hot weather, or by not drinking enough fluids. Lisinopril can decrease sweating and you may be more prone to heat stroke.

Do not use salt substitutes or potassium supplements while taking lisinopril, unless your doctor has told you to.

Avoid getting up too fast from a sitting or lying position, or you may feel dizzy. Get up slowly and steady yourself to prevent a fall.

### **What are the possible side effects of lisinopril?**

Get emergency medical help if you have signs of an allergic reaction: hives; severe stomach pain, difficult breathing; swelling of your face, lips, tongue, or throat.

Call your doctor at once if you have:

- a light-headed feeling, like you might pass out;
- little or no urinating;
- **high potassium**--nausea, slow or unusual heart rate, weakness, loss of movement;
- **kidney problems**--little or no urinating, painful or difficult urination, swelling in your feet or ankles, feeling tired or short of breath; or
- **liver problems**--nausea, upper stomach pain, itching, tired feeling, loss of appetite, dark urine, clay-colored stools, jaundice (yellowing of the skin or eyes).

Common side effects may include:

- headache, dizziness;
- cough; or
- chest pain.

This is not a complete list of side effects and others may occur. Call your doctor for medical advice about side effects. You may report side effects to FDA at 1-800-FDA-1088.

### **What other drugs will affect lisinopril?**

Tell your doctor about all your current medicines and any you start or stop using, especially:

- lithium;
- a diuretic or 'water pill';
- gold injections to treat arthritis;
- a potassium supplement; or
- NSAIDs (nonsteroidal anti-inflammatory drugs)--aspirin, ibuprofen (Advil, Motrin), naproxen (Aleve), celecoxib, diclofenac, indomethacin, meloxicam, and others.

This list is not complete. Other drugs may interact with lisinopril, including prescription and over-the-counter medicines, vitamins, and herbal products. Not all possible interactions are listed in this medication guide.

### **Where can I get more information?**

Your pharmacist can provide more information about lisinopril.

Remember, keep this and all other medicines out of the reach of children, never share your medicines with others, and use this medication only for the indication prescribed.

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appropriate for any given patient. Multum does not assume any responsibility for any aspect of healthcare administered with the aid of information Multum provides. The information contained herein is not intended to cover all possible uses, directions, precautions, warnings, drug interactions, allergic reactions, or adverse effects. If you have questions about the drugs you are taking, check with your doctor, nurse or pharmacist.

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## Medication Information:

Please advise your Primary Care Physician of these new medications and update your list as your medications change. Be sure to carry your complete medication list with you at all times.

### New Meds

#### Printed or Written Prescriptions

**lisinopril (lisinopril 10 mg oral tablet) 1 Tab, By mouth, once daily, Refills: 0**

Last Dose Given: \_\_\_\_\_ Next Dose Due: \_\_\_\_\_

### Continue Home Meds

#### Other Medications

**acetaminophen-HYDROcodone (Lortab 7.5 mg-325 mg oral tablet) , Refills: 0**

Last Dose Given: \_\_\_\_\_ Next Dose Due: \_\_\_\_\_

**DULoxetine (DULoxetine 60 mg oral delayed release capsule) , By mouth, Refills: 0**

Last Dose Given: \_\_\_\_\_ Next Dose Due: \_\_\_\_\_

**gemfibrozil (Lopid) 600 mg, By mouth, twice daily, Refills: 0**

Last Dose Given: \_\_\_\_\_ Next Dose Due: \_\_\_\_\_

**methocarbamol (Robaxin 500 mg oral tablet) 1 Tab, By mouth, four times daily, 10 Day, Refills: 0, PRN muscle spasm**

Last Dose Given: \_\_\_\_\_ Next Dose Due: \_\_\_\_\_

### Stop Meds

**esomeprazole-naproxen (VIMOVO 500 mg-20 mg oral enteric coated tablet) 1 Tab, Refills: 0, PRN pain**

## EXHIBIT 8





Select Physical Therapy  
400 North Stephanie Street  
Suite 310, Building I  
Henderson, NV USA 89014-6692  
Phone: (702) 454-1162  
Fax: (702) 454-8817

**Patient:** Theresa Burwell  
**Acct #:** 035R240199793  
**DOB:** Apr 28, 1974  
**Clinician:** Pia Dubois, OT  
**Prim Phy:** Arthur J. Taylor  
**Phy Phone:** (702) 258-3782  
**Phy Fax:** (702) 258-3783  
**Sec Phy:** Not Specified  
**Inj. Date:** 9/11/2015  
**Surg. Date:** Not Specified

**Visit Date:** Dec 21, 2015  
**FSC:** Workers Compensation  
**Payor:** ZURICH  
**Pol/Claim#:** Not Specified  
**Insured:** Burwell, Theresa  
**Employer:** Not Specified  
**Case Mgr:** Christina Crosby  
**Visits:** 1  
**Cx/Ns:** 0

## Plan of Care

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.641 Pain in right hand

### Subjective Examination

The medical history questionnaire has been completed and signed by the patient, reviewed by the evaluating therapist, and is on file.

#### ADL / Functional Status:

- Premorbid Status: Work status: Independent Without Difficulty. Occupational Activities: Requirements: will obtain a job description

#### Chief Complaint:

- Pt c/o pain along the dorsum of the hand and the MF. She also tingling along the MF. Pain: Severity: Current : 8/10.

#### Mechanism of Injury:

- see general info

#### Rehabilitation Expectations/Goals:

- Minimize: Numbness/Tingling.

#### ADL / Functional Status:

- Current Status: Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work. Occupation: Pt is a room stylist ( guest room attendant) at the Cosmopolitan

### Assessment

The patient requires skilled occupational therapy to address the problems identified, and to achieve the individualized patient goals as outlined in the problems and goals section of this evaluation. Overall rehabilitation potential is good. The expected length of this episode of skilled therapy services required to address the patient's condition is estimated to be 21 days. The patient was educated regarding their diagnosis, prognosis, related pathology & plan of care. The patient demonstrates a good understanding of the risks, benefits, precautions/contraindications, & prognosis of their skilled rehabilitation program.

#### Presentation:

- Pt is 3 mos s/p hand contusion. Pt's main c/o is of ongoing tingling and pain along the MF. She presents with full AROM of the fingers of the R hand but has diminished grip strength. Pt will be seen for skilled therapy to address the issues above and facilitate return to FD

#### Recommendations: Skilled Intervention: Required To:

- Decrease Pain. Increase Strength. Increase Range of Motion. Return To Work.

### Problems & Goals

**Problem #1 ADL / Functional Status: Current Status: Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work**

*LTG Achieve by Jan 11, 2016.*

#### ADL Improvements In:

- Pt will be able to return to FD work as a guest room attendant

**Problem #2 ADL / Functional Status: Current Status: Basic care: Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.**

*LTG Achieve by Jan 11, 2016.*

#### ADL Improvements In:

- Pt will be able to use the R hand with all ADLs through diminished pain and paresthesias

**Problem #3 Muscle Testing: Grip/Pinch.**

	Left	Right
• Grip Dynamometer II	66.0 Pounds	44.0 Pounds
• Lateral Pinch	16.5 Pounds	16.5 Pounds
• Three Jaw Pinch	15.5 Pounds	10.0 Pounds
• Tip Pinch	13.5 Pounds	11.0 Pounds

*LTG Achieve by Jan 18, 2016.*

#### Musculoskeletal Improvements In: Grip/Pinch

#### Strength to: Tests Strength To:

	Right
• Grip Dynamometer II	60.0 Pounds



Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

### Plan

The goals and plan were discussed with the patient and/or family and they concur. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care. The patient and/or family were instructed to call therapist regarding problems or questions.

#### Amount, Frequency and Duration:

- Frequency and Duration: It is recommended that the patient attend rehabilitative therapy for 3 visits a week with an expected duration of 3 weeks. The outlined therapeutic procedures and services in the plan of care will address the problems and goals identified.

#### Therapeutic Contents:

- Active Assistive Range of Motion Activities. Active Range of Motion Activities. Aerobic Conditioning: Upper Body Ergometer. Client Education. Home Exercise Program. Manual Range of Motion Activities. Manual Therapy Techniques. Modalities: Moist Hot Pack. Orthotic Fitting and Training. Passive Range of Motion Activities. Soft Tissue Mobilization Techniques. Stretching/Flexibility Activities. Therapeutic Activities. Therapeutic Exercise.
- Resistive Activities:
  - Machines/Free Weights. Theraputty. Tubing/Bands.

Pia Dubois, OT, OT(NV Lic: 0227),CHT,CHT  
Signed on Dec 21, 2015 14:51:40

#### Please Sign and Return

I have reviewed the Plan of Care established for skilled therapy services and certify that the services are required and that they will be provided while the patient is under my care.

#### Comments/Revisions

Arthur J. Taylor

Date



Select Physical Therapy  
400 North Stephanie Street  
Suite 310, Building 1  
Henderson, NV USA 89014-6592  
Phone: (702) 454-1162  
Fax: (702) 454-8817

Patient: Teresa Burwell  
Acct #: 035R240199795  
DOB: Apr 30, 1974  
Clinician: Pia Dubois, OT  
Prim. Phy: Arthur J. Taylor  
Phy Phone: (702) 258-3782  
Phy Fax: (702) 258-3783  
Sec Phy: Not Specified  
Inj. Date: 9/11/2015  
Surg. Date: Not Specified

Note Date: Jan 07, 2016  
FSC: Workers Compensation  
Payor: ZURICH  
Pol/Claim#: Not Specified  
Insured: Burwell, Theresa  
Employer: Cosmopolitan  
Case Mgr: Christina Crosby  
Visits: 1  
Cxl/No: 5

## Discharge Summary

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.641 Pain in right hand

### General Information

#### Reason for Referral:

- Pt is a R handed female who sustained a contusion of the R hand when it got caught in a door on 9/11/15. She is now being referred to therapy for aggressive A/P ROM and grip strengthening

### Subjective Examination

MD reports he is no longer her therapist and the he "fired" her because she was non-compliant

#### ADL / Functional Status:

- Current Status:
  - Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work. Basic care: Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.
  - Occupation: Pt is a room stylist ( guest room attendant) at the Cosmopolitan

#### Chief Complaint:

- Pain: Severity: Current : not assessed

### Objective Examination

#### Reflex/Sensory Integrity:

- sharp/ dull Intact R hand

#### Functional Tests: Return to Participation: Occupational Tests: Non-Material Handling:

• Date:	12/21/2015
• Assessment:	Initial
• Sitting:	Able to Perform
• Standing:	Able to Perform
• Walking:	Able to Perform
• Fingering:	Able to Perform
• Grasping:	Able to Perform
• Writing/Typing:	Able to Perform
• Supination / Pronation:	Able to Perform
• Radial / Ulnar Deviation:	Able to Perform
• Fine Motor:	Able to Perform

#### Muscle Testing: Grip/Pinch:

	Left	Right
• Grip Dynamometer II	66.0 Pounds	44.0 Pounds
• Lateral Pinch	16.5 Pounds	16.5 Pounds
• Three Jaw Pinch	15.5 Pounds	10.0 Pounds
• Tip Pinch	13.5 Pounds	11.0 Pounds

#### Observations: Swelling: Girth:

	Left	Right
• Middle Finger Middle Phalanx	5.3 cm.	5.3 cm.
• Middle PIP Joint	6.1 cm.	7.1 cm.
• Middle Proximal Phalanx	5.9 cm.	6.1 cm.

Dec 21, 2015

Range of Motion: Right Hand:  
Pre-Treatment: Fingers / Thumb  
(Active):

	MCP (deg)		PIP (deg)		DIP/IP (deg)		Total Motion (deg)	Dist from DPC (cm)
	Ext	Flex	Ext	Flex	Ext	Flex		
Middle		86		104		70		

### Assessment



Patient: Teresa Burwell  
 Acct #: 035R240199795  
 DOB: Apr 28, 1974

Note Date: Jan 07, 2016

The patient was educated regarding their discharge prognosis and related pathology. The patient demonstrates good understanding of their home program instructions. Based on this patient's clinical presentation, it is my professional opinion that the patient's prognosis at time of discharge is good.

**Presentation:**

- Pt is 3 mos s/p hand contusion. Pt's main c/o is of ongoing tingling and pain along the MF. She presents with full AROM of the fingers of the R hand but has diminished grip strength. Pt will be seen for skilled therapy to address the issues above and facilitate return to FD

**Recommendations:**

- Discharge, Secondary to: Client Non-compliance: Attendance.

**Problems & Goals**

**Problem #1 ADL / Functional Status: Current Status: Work status:** Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work

Goal Abandoned Jan 07, 2016. dc

**ADL Improvements In:**

- Pt will be able to return to FD work as a guest room attendant

**Problem #2 ADL / Functional Status: Current Status: Basic care:** Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.

Goal Abandoned Jan 07, 2016. dc

**ADL Improvements In:**

- Pt will be able to use the R hand with all ADLs through diminished pain and paresthasias

**Problem #3 Muscle Testing: Grip/Pinch.**

Goal Abandoned Jan 07, 2016. dc

**Musculoskeletal Improvements In: Grip/Pinch**

Right

**Strength to: Tests Strength To:**

- Grip Dynamometer II 60.0 Pounds

**Plan**

The goals and plan were discussed with the patient and/or family and they concur. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care. The patient and/or family were instructed to call therapist regarding problems or questions. The patient is discharged due to non-compliance.

**Amount, Frequency and Duration:**

- Frequency and Duration: It is recommended that the patient attend rehabilitative therapy for 3 visits a week with an expected duration of 3 weeks. The outlined therapeutic procedures and services in the plan of care will address the problems and goals identified.

**Therapeutic Contents:**

- Active Assistive Range of Motion Activities. Active Range of Motion Activities. Aerobic Conditioning: Upper Body Ergometer. Client Education. Home Exercise Program. Manual Range of Motion Activities. Manual Therapy Techniques. Modalities: Moist Hot Pack. Orthotic Fitting and Training. Passive Range of Motion Activities. Soft Tissue Mobilization Techniques. Stretching/Flexibility Activities. Therapeutic Activities. Therapeutic Exercise.
- Resistive Activities:
  - Machines/Free Weights. Therapy. Tubing/Bands.

Pia Dubois, OT, OT(NV Lic: 0227),CHT,CHT  
 Signed on Jan 07, 2016 16:39:47



Select Physical Therapy  
400 North Stephanie Street  
Suite 310, Building I  
Henderson, NV USA 89014-6692  
Phone: (702) 454-1162  
Fax: (702) 454-8817

Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974  
Clinician: Pia Dubois, OT  
Prim Phy: Arthur J. Taylor  
Phy Phone: (702) 258-3782  
Phy Fax: (702) 258-3783  
Sec Phy: Not Specified  
Inj. Date: 9/11/2015  
Surg. Date: Not Specified

Visit Date: Dec 21, 2015  
FSC: Workers Compensation  
Payor: ZURICH  
Pol/Claim#: Not Specified  
Insured: Burwell, Theresa  
Employer: Not Specified  
Case Mgr: Christina Crosby  
Visits: 1  
Cd/Ns: 0

## Initial Evaluation

### Diagnoses

Right Wrist/Hand S60.221D Contusion of right hand, subsequent encounter  
M79.641 Pain in right hand

### General Information

#### Reason for Referral:

- Pt is a R handed female who sustained a contusion of the R hand when it got caught in a door on 9/11/15. She is now being referred to therapy for aggressive A/P ROM and grip strengthening

### Subjective Examination

The medical history questionnaire has been completed and signed by the patient, reviewed by the evaluating therapist, and is on file.

Pt reports that she has an attorney as she feels she is being discriminated for having personal claim injury back in 2008

#### ADL / Functional Status:

- Current Status:
  - Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work
  - Basic care: Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.
- Premorbid Status:
  - Work status: Independent Without Difficulty, Basic care: Independent Without Difficulty.
- Occupation: Pt is a room stylist ( guest room attendant) at the Cosmopolitan Occupational Activities: Requirements: will obtain a job description

#### Chief Complaints:

- Pt c/o pain along the dorsum of the hand and the MF. She also tingling along the MF. Pain: Severity: Current : 8/10.

#### History:

- Medical: Completely Unremarkable: by Family Interview.

#### Mechanism of Injury:

- see general info

#### Medical Management:

- Rehabilitative Therapy: pt had 7 sessions of therapy at Kelly Hawkins Medications: Prescription: Pt is on pain meds for neck and back ( Norco and Cymbalta, Lipid) Diagnostic Studies: x rays were remarkable to arthritis

#### Rehabilitation Expectations/Goals:

- Minimize: Numbness/Tingling.

### Objective Examination

#### Functional Tests: Return to Participation: Occupational Tests: Non-Material Handling:

Date:	12/21/2015
Assessment:	Initial
Sitting	Able to Perform
Standing	Able to Perform
Walking	Able to Perform
Fingering	Able to Perform
Grasping	Able to Perform
Writing/Typing	Able to Perform
Supination / Pronation	Able to Perform
Radial / Ulnar Deviation	Able to Perform
Fine Motor	Able to Perform

#### Muscle Testing: Grip/Pinch:

	Left	Right
Grip Dynamometer II	66.0 Pounds	44.0 Pounds
Lateral Pinch	16.5 Pounds	16.5 Pounds
Three Jaw Pinch	15.5 Pounds	10.0 Pounds
Tip Pinch	13.5 Pounds	11.0 Pounds



Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

#### Observations: Swelling: Girth:

- Middle Finger Middle Phalanx
- Middle PIP Joint
- Middle Proximal Phalanx

#### Left

5.3 cm.  
6.1 cm.  
5.9 cm.

#### Right

5.3 cm.  
7.1 cm.  
6.1 cm.

Range of Motion: Right Hand: Pre-Treatment: Fingers / Thumb (Active):

MCP (deg)	PIP (deg)	DIP/IP (deg)	Total Motion (deg)	Dist from DPC (cm)
Ext	Flex	Ext	Flex	
	86	104	1070	

#### Reflex/Sensory Integrity:

- sharp/ dull intact R hand

#### Treatments

##### Documented Procedural Code Summary:

Description	Code	Units	Minutes
• Hot or Cold Packs	97010	1	n/a
• Manual Therapy Techniques	97140	1	5
• Occupational Therapy Evaluation	97003	1	n/a
• Therapeutic Activities	97530	1	13
• Therapeutic Procedure	97110	2	23

##### Exercise Activities: Aerobic Conditioning:

- Upper Body Ergometer Time Elapsed: 8 Minutes, Direction: forward & backward, Speed (rpm): level 2, Charge As: Therapeutic Activities

##### Exercise Activities: Dynamic Training: Coordination/Dexterity:

- Rubber Band Board Time Elapsed: 5 Minutes, Resistance: 2 Rubber Bands red, Activity 1: Grip, Charge As: Therapeutic Activities

##### Exercise Activities: Tubing/Bands:

- Tubing/Bands 2 Time Elapsed: 5 Minutes, Tubing/Band Color: Green, Resistance: Concentric/Eccentric, Description: FA sup / pro with therapy flex bar, Charge As: Therapeutic Exercise

##### Exercise Activities: Isotonics:

- Wrist Extension Time Elapsed: 3 Minutes, Weight - Pounds: 3 Pounds, Charge As: Therapeutic Exercise
- Wrist Flexion Time Elapsed: 3 Minutes, Weight - Pounds: 3 Pounds, Charge As: Therapeutic Exercise
- Isotonic Activity 2 Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: biceps curls, Charge As: Therapeutic Exercise
- Isotonic Activity 3 Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: triceps ext, Charge As: Therapeutic Exercise
- Isotonic Activity 4 Time Elapsed: 3 Minutes, Weight - Pounds: 30 Pounds, Description: CYBEX: pull ups, Charge As: Therapeutic Exercise

##### Exercise Activities: Machines/Weights:

- Seated Rowing Time Elapsed: 3 Minutes, Weight - Pounds: 25 Pounds, Charge As: Therapeutic Exercise

##### Functional/ADL Activities: Functional Task Training:

##### Manual Interventions: Soft Tissue:

- Soft Tissue Mobilization 2 Time Elapsed: 5 Minutes, Tx Depth: Moderate, Technique: Lymph Drainage, Description: R hand, Charge As: Soft tissue Mobilization

##### Modalities:

- Moist Hot Pack Time Elapsed: 10 Minutes, Location: Anterior/Posterior, Clinical Use: Pre Activity, Charge As: Hot or Cold Packs

##### Sensory Re-education:

#### Assessment

The patient requires skilled occupational therapy to address the problems identified, and to achieve the individualized patient goals as outlined in the problems and goals section of this evaluation. Overall rehabilitation potential is good. The expected length of this episode of skilled therapy services required to address the patient's condition is estimated to be 21 days. The patient was educated regarding their diagnosis, prognosis, related pathology & plan of care. The patient demonstrates a good understanding of the risks, benefits, precautions/contraindications, & prognosis of their skilled rehabilitation program.



Patient: Theresa Burwell  
Acct #: 035R240199795  
DOB: Apr 28, 1974

Visit Date: Dec 21, 2015

#### Presentation:

- Pt is 3 mos s/p hand contusion. Pt's main c/o is of ongoing tingling and pain along the MF. She presents with full AROM of the fingers of the R hand but has diminished grip strength. Pt will be seen for skilled therapy to address the issues above and facilitate return to FD

#### Recommendations: Skilled Intervention: Required To:

- Decrease Pain. Increase Strength. Increase Range of Motion. Return To Work.

#### Problems & Goals

**Problem #1 ADL / Functional Status:** Current Status: Work status: Pt was released to light duty but her employer is unable to provide light duty so she has not been able to return to work

LTG Achieve by Jan 11, 2016.

##### ADL Improvements In:

- Pt will be able to return to FD work as a guest room attendant

**Problem #2 ADL / Functional Status:** Current Status: Basic care: Pt reports she is able to perform her ADLs by herself but has limited use of the R hand.

LTG Achieve by Jan 11, 2016.

##### ADL Improvements In:

- Pt will be able to use the R hand with all ADLs through diminished pain and paresthesias

**Problem #3 Muscle Testing: Grip/Pinch.**

LTG Achieve by Jan 18, 2016.

##### Musculoskeletal Improvements In: Grip/Pinch

Right

##### Strength to: Tests Strength To:

- Grip Dynamometer II 50.0 Pounds

#### Plan

The goals and plan were discussed with the patient and/or family and they concur. The patient was instructed in the independent performance of a home exercise program that addresses the problems and achieving the goals outlined in the plan of care. The patient and/or family were instructed to call therapist regarding problems or questions.

#### Amount, Frequency and Duration:

- Frequency and Duration: It is recommended that the patient attend rehabilitative therapy for 3 visits a week with an expected duration of 3 weeks. The outlined therapeutic procedures and services in the plan of care will address the problems and goals identified.

#### Therapeutic Contents:

- Active Assistive Range of Motion Activities. Active Range of Motion Activities. Aerobic Conditioning: Upper Body Ergometer. Client Education. Home Exercise Program. Manual Range of Motion Activities. Manual Therapy Techniques. Modalities: Moist Hot Pack. Orthotic Fitting and Training. Passive Range of Motion Activities. Soft Tissue Mobilization Techniques. Stretching/Flexibility Activities. Therapeutic Activities. Therapeutic Exercise.
- Resistive Activities:
  - Machines/Free Weights. Therapy putty. Tubing/Bands.

Pia Dubois, OT, OT(NV Lic: 0227),CHT,CHT  
Signed on Dec 21, 2015 14:51:40

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

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

Plaintiff,

) Case No. :

Dept No:

**vs.**

Nevada Orthopedic and Spine Center, Dr.

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

**Defendant(s),**

EXHIBIT 9  
MOTION FOR SUMMARY JUDGMENT

(IN VAULT)



Exhibit 9  
sees with  
Motion For  
Summary  
Judgment

Burwell vs Nevada Orthopedic Spine Center  
Dr Taylor

District Court Case # A-18-  
770532 C  
Ex Flash Drive -

## EXHIBIT 10



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Parkway Suite 330  
Henderson, Nevada 89074

### PHYSICIAN'S PROGRESS REPORT

Date of Exam: 12/14/2015 Name: TERESA R BURWELL Provider: ARTHUR J TAYLOR  
Patient's Employer: COSMOPOLITAN RESORT & CAS Injured Area: Acct#: 394901  
Insurance: Claim #: DOI:  
ZURICH NORTH AMERICA W/C 2010261681 09/11/2015  
Adjustor/NCM Information: ADJ CHRISTINA COSBY PH 408-3843 FX 415-538-7150

Patient's Job Description/Occupation: GRA Related to Industrial Injury? ☒ Y ☐ N

Previous injuries/diseases/surgeries contributing to the condition? ☒ Y ☐ N If yes, explain: \_\_\_\_\_

#### Physical Examination/Diagnostic Results:

Hand crush contusions  
novent symptoms tingling forearm/hand  
pain along elbow  
Diagnosis/Treatment Plan: PE - near full ROM (-) swelling - weak grip  
range: 40° (-) post surgery 2° S  
mild OA NP3 level

Medication Prescribed: none

DETAILS: ☐ Case Management ☐ Consultation ☐ Medication may be used while working  
☐ Further diagnostic studies ordered ☐ May have suffered a permanent disability  
PT: ☐ No change in therapy ☒ PT/OT prescribed ☐ PT/OT continued ☐ PT/OT discontinued  
DISABILITY STATUS:

GENERALLY: STABLE ☒ Y ☐ N RATABLY ☒ Y ☐ N CONDITION: IMPROVED SAME WORSENER

#### RESTRICTIONS:

☐ RELEASED TO FULL DUTY/NO RESTRICTIONS ON \_\_\_\_\_ (Date) ESTIMATED MMI \_\_\_\_\_ (Date)  
☐ CERTIFIED TOTALLY TEMPORARILY DISABLED, FROM \_\_\_\_\_ TO \_\_\_\_\_ (Dates)  
☒ RESTRICTED/MODIFIED DUTY ON 12/14/15 (Date) RESTRICTIONS: ☐ PERMANENT ☒ TEMPORARY  
☐ SEDENTARY ONLY

#### NO:

☐ PULLING ☐ PROLONGED STANDING ☐ CONSTANT BENDING AT WAIST ☐ PUSHING ☐ DRIVING  
☐ CARRYING ☐ PROLONGED WALKING ☐ CONSTANT/FREQUENT TWISTING ☐ STOOPING  
☐ CLIMBING ☐ PROLONGED SITTING ☐ FREQUENT BENDING AT WAIST ☐ LIFTING  
☐ KNEELING ☐ SQUATTING ☐ CONSTANT REACHING ABOVE SHOULDERS  
☐ WALKING ON UNEVEN SURFACES ☒ LIFTING RESTRICTED TO 15 LBS. ☒ P

RETURN VISIT: 1/6/16 @ 2:30pm

Provider Signature: Art Taylor

Date: 12/14/2015



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Parkway Suite 330  
Henderson, Nevada 89074

### PHYSICIAN'S PROGRESS REPORT

Date of Exam: \_\_\_\_\_ Name: TERESA R BURWELL Provider: ARTHUR J TAYLOR  
Patient's Employer: COSMOPOLITAN RESORT & CAS Injured Area: \_\_\_\_\_ Acct#: 394901  
Insurance: \_\_\_\_\_ Claim #: \_\_\_\_\_ DOI: \_\_\_\_\_  
ZURICH NORTH AMERICA W/C 2010261681 09/11/2015  
Adjuster/NCM Information: ADJ CHRISTINA COSBY PH 408-3843 FX 415-538-7150

Patient's Job Description/Occupation: GAR Related to industrial injury? Y / N

Previous injuries/diseases/surgeries contributing to the condition? Y / N If yes, explain: \_\_\_\_\_

#### Physical Examination/Diagnostic Results:

*pt. returns + voice disagreement with my recommendations of treatment and requests for a different doctor to handle case*

#### Diagnosis/Treatment Plan:

*she was noncompliant with my recommendations for treatment. will contact insurance company to direct in transfer of care*

#### Medication Prescribed:

DETAILS: ☐ Case Management ☐ Consultation ☐ Medication may be used while working  
☐ Further diagnostic studies ordered ☐ May have suffered a permanent disability  
PT: ☐ No change in therapy ☐ PT/OT prescribed ☐ PT/OT continued ☐ PT/OT discontinued

#### DISABILITY STATUS:

GENERALLY: STABLE Y ☒ RATABLY Y ☒ CONDITION: IMPROVED ☒ SAME ☐ WORSENER

#### RESTRICTIONS:

RELEASED TO FULL DUTY/NO RESTRICTIONS ON \_\_\_\_\_ (Date) ESTIMATED MMI \_\_\_\_\_ (Date)  
CERTIFIED TOTALLY TEMPORARILY DISABLED FROM \_\_\_\_\_ TO \_\_\_\_\_ (Date)  
RESTRICTED/MODIFIED DUTY ON 1/6/16 (Date) RESTRICTIONS: ☐ PERMANENT ☒ TEMPORARY  
SEDENTARY ONLY

#### NO:

PULLING ☐ PROLONGED STANDING ☐ CONSTANT BENDING AT WAIST ☐ PUSHING ☐ DRIVING ☐  
CARRYING ☐ PROLONGED WALKING ☐ CONSTANT/FREQUENT TWISTING ☐ STOOPING ☐  
CLIMBING ☐ PROLONGED SITTING ☐ FREQUENT BENDING AT WAIST ☐ LIFTING ☐  
KNEELING ☐ SQUATTING ☐ CONSTANT REACHING ABOVE SHOULDERS ☐  
WALKING ON UNEVEN SURFACES ☐ LIFTING RESTRICTED TO 5 LBS.

#### RETURN VISIT:

Provider Signature: A Taylor

Date: 01/06/2015 ☒

*pull up left*



7455 W. Washington Ave Suite 160  
Las Vegas, Nevada 89128

Phone: (702) 878-0393  
www.nevadaorthopedic.com

1505 Wigwam Pkwy Suite 330  
Henderson, Nevada 89074

**TERESA R. BURWELL**

**MRN#: 394901**

**DOB: 04/28/1974, 41 years**

**Date: 01/25/2016**

## **Orthopedic Evaluation**

### **History of Present Illness**

#### **History**

No History Data Available

#### **Vitals**

No Vital Data Available

#### **Review of Systems**

No Review of Systems Data Available

### **Physical Exam**

This patient was last seen in my office on January 6 year 2016 and at that time I evaluated her right hand and wrist where this patient complained of severe pain dating back to a contusional injury to her wrist September 11, 2015 which did not cause or produce any lacerations or fractures or any evidence of deep structural involvement. She had been noncompliant with my recommendations for therapy and when I discussed with her that I felt it would be safe to release her to full use of her hands bilaterally for the work as well as activities of daily living she became very belligerent and voiced discontent with my opinion.

I learned subsequently that she was seen by another hand surgeon in Las Vegas after my last appointment with this patient basically concurred with my opinion and felt that therapy would be helpful if she chose to be compliant with that recommendation. Evidently she acted out in a belligerent fashion in his office as well and is now showing a pattern of noncompliance and lack of cooperation with multiple hand surgical providers.

I then have been presented with a videotape of this patient monitored on December 14, 2015 which included an appointment made at my office on the same date and on all of her appointments she showed significant deficits of motion and grip and complained of pain with any types of gripping and lifting and stated to me that she was unable to carry out her normal work duties due to that problem. It's clear me on the videotape that she uses her right and left hands without any guarding or difficulties with normal ranges of motion handling of the cell phone opening and closing of the car doors as well as fairly forcefully turning the steering wheel in her car with turning and twisting motions. I feel that this video gives enough objective evidence to show that she has normal functions of right hand and wrist motions and grip that is inconsistent with her claim of disability of the right hand and wrist usage.

At this point I feel it would be appropriate for her to be released back to full work duties and I don't see any further interventions on a hand surgical level that are indicated based upon the review of this recently reviewed videotape.

### **Assessment and Plan**

Contusion of right hand, subsequent encounter ( V58.89 | S60.221D)

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Restricted: NRS 612.265 limits the use of this material to unemployment compensation litigation except for specified exceptions.

3

Docket #: V-16-A-02769  
Exhibit#: 25

104

## EXHIBIT 11



January 29, 2016

Teresa R Burwell  
6803 Frances Celia Ave  
Las Vegas, NV 89122

RE: Claim Number: 2010261681  
Employee: Teresa R Burwell  
Employer: Nevada Property 1 LLC  
Date of Loss: 09-11-2015

Zurich American Ins. Co. of IL

Zurich Insurance  
PO Box 401819  
Las Vegas, NV  
89140

Telephone: (855) 299-8553  
Fax: (415) 538-7150  
<http://www.zurichna.com>

Dear Teresa R Burwell:

Pursuant to Dr. Arthur Taylor's report dated 01/25/16 (enclosed) and after a careful and thorough review of your workers' compensation claim, it has been determined that all benefits have been paid, therefore your claim will be closed effective seventy (70) days from the date of this notice. You have lifetime reopening rights.

Additionally, we have determined that there is no possibility of permanent impairment related to the injury sustained in the above captioned incident and you will not be scheduled for a permanent partial disability evaluation.

Nevada Revised Statute (NRS) 616C.390 defines your right to reopen your claim. You must make a written request for reopening and your physician must submit a report relating your current condition/problem to the original injury. The report must state that your condition has worsened since the time of claim closure and that the condition requires additional medical care. No compensation benefits will be accepted prior to the date of your written request for reopening unless good cause is shown.

Except as otherwise provided in NRS 616C.390(4), if the request for reopening is denied, the injured employee shall not reapply to reopen the claim until at least one (1) year after the denial date or the final determination of the appeal.

If you disagree with the above determination, you may request a hearing before a Hearing Officer by completing the attached Request for Hearing form and sending it to the State of Nevada, Department of Administration, Hearings Division. Your appeal must be filed within seventy (70) days after the date on which the notice of this determination was mailed.



Page 2

January 29, 2016

If you have any questions, please feel free to contact us toll free at (855) 399-8553.

Sincerely,  
Zurich American Ins. Co. of IL



for  
Christina Cosby  
SPCL  
(702) 408-3843

Enclosure: Taylor report 01/25/16 & Form D12a

cc: Nevada Property 1 LLC, Jacob Leavitt Esq, and File



THE COSMOPOLITAN™  
of LAS VEGAS

February 9, 2016

Teresa Burwell  
6803 Frances Celia Ave  
Las Vegas, NV 89122  
USPS tracking #702 2920 0002 0891 6182

E-Mail: HISGRACEMYFAVOR@YAHOO.COM

Received NERC  
JUN 14 2016  
Las Vegas, NV

Dear Ms. Burwell,

This letter is an attempt to reach you to discuss your present job status. You were on the Worker's Compensation light duty program as of 10/20/15, and were released to full duty on 1/29/15, however; you have not reported to work since then. The present issue that I need to speak with you about involves your employment as it relates to attendance. In addition to the fact that you have not reported back to work; I have been made aware that you have 1) failed to call Basic or your department to inform of absences, and 2) failed to return phone calls that have been placed to 702-219-5553. If there is an issue involving the Workman's Compensation process, please ensure that you reach out to the appropriate entity. It is urgent that you contact me as soon as possible. Let's arrange to meet and we can discuss any option(s) that may be made available to you.

If I do not hear from you within a week of the date stated-above, we will be moving forward with separation for unauthorized leave/job abandonment. If you receive this letter more than 5 business days after the date stated above, please reach out so we can assist you with next steps. Please be aware that this document is also being sent to your email address.

Please contact me in the People Department at (702) 698-7811 as soon as possible, failure to respond could result in termination of your employment with The Cosmopolitan of Las Vegas.

Thank you,

Adriana Kasunic  
Manager, CoStar Relations

E4-12

Electronically Filed  
5/11/2017 2:21 PM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

**ORDER**

Judge Ronald J. Israel  
Eighth Judicial District Court  
Department XXVIII  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
(702)671-3631

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

TERESA BURWELL,

Petitioner,

vs.

EMPLOYMENT SECURITY DIVISION,  
STATE OF NEVADA; and NEVADA  
PROPERTY 1, LLC, as employer

Respondents.

Case No. A-16-740534

Dept. No. XXVIII

Hearing Date: April 25, 2017

Hearing Time: 9:00 a.m.

**ORDER GRANTING PETITION  
FOR JUDICIAL REVIEW**

This matter, having come before the Court on April 25, 2017, on a Petition for Judicial Review, and the Court having reviewed Petitioner's Opening Brief and Respondent's Answering Brief, hearing the arguments of the parties, and good cause appearing therefor, the Court hereby finds as follows:

Petitioner was employed as a guestroom attendant from August 3, 2015, to February 22, 2016.

On February 22, 2016, Petitioner was discharged for failure to return from work following an absence due to a work-related injury after her treating physician issued a full-duty return to work release. Thereafter, Petitioner filed a claim for benefits effective February 28, 2016.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1 On March 29, 2016, the Adjudicator issued a determination finding that Petitioner's  
2 Employer provided documentation supporting its allegation that Petitioner was "discharged  
3 for being disrespectful and combative towards management" and as such, Petitioner was not  
4 entitled to receive unemployment insurance benefits because she committed misconduct and  
5 her employer established that her behavior constituted an act of wrongfulness. Petitioner  
6 timely appealed.

8 On May 6, 2016, an evidentiary hearing was held before the Appeals Tribunal.

10 On May 9, 2016, the Referee issued a decision finding that there was substantial  
11 evidence that Petitioner's failure to comply with the Employer's reasonable expectations to  
12 report for work on February 4, 2016, is conduct less than the employer has a right to expect,  
13 and that such conduct contained the element of wrongfulness such that Petitioner was  
14 ineligible to receive unemployment insurance benefits.

16 On May 17, 2016, Petitioner filed an appeal to the Board of Review.

18 On July 1, 2016, the Board issued a Decision, in which it declined to further review  
19 the appeal, thus adopting the decision of the Appeals Tribunal that Petitioner was not entitled  
20 to benefits.

22 On July 25, 2016, Petitioner filed the instant Petition for Judicial Review.

24 This Court may not substitute its judgment for that of the agency as to the weight of  
25 the evidence on a question of fact. NRS 233B.135(3). In reviewing the Board's decision, this  
26 Court is limited to, among other things, determining whether the Board's Decision was  
27 clearly erroneous in view of the reliable, probative, and substantial evidence on the whole  
28 record. NRS 233B.135(3)(f). "Substantial evidence" is that "which a reasonable mind might

1 accept as adequate to support a conclusion." NRS 233B.135(4).

2 NRS 612.385 provides in pertinent part that "[a] person is ineligible for benefits...if  
3 he or she was discharged from his or her last or next to last employment for misconduct  
4 connected with the person's work." For the purposes of NRS 612.385, "misconduct" is  
5 defined as a  
6

7 deliberate violation or disregard on the part of the employee of  
8 standards of behavior which his employer has the right to expect.  
9 Carelessness or negligence on the part of the employee of such a  
10 degree as to show a substantial disregard of the employer's  
11 interests or the employee's duties and obligations to his employer  
12 are also considered misconduct connected with the work. Mere  
13 inefficiency or failure of performance because of inability or  
14 incapacity, ordinary negligence in isolated instances, or good  
faith errors in judgment or discretion are excluded in the  
definition of misconduct. *Barnum v. Williams*, 84 Nev. 37, 41,  
436 P.2d 219, 222 (1968).

15 A person's termination from employment, even if based on misconduct, does not necessarily  
16 require disqualification from unemployment benefits. *Kolnik v. Nevada Employment Sec.*  
17 *Dep't*, 112 Nev. 11, 15, 908 P.2d 726, 728 (1996). Misconduct warranting termination and  
18 misconduct warranting a denial of unemployment benefits are two different issues. *Id.*; *Clark*  
19 *Cty. Sch. Dist. v. Bundley*, 122 Nev. 1440, 1446, 148 P.3d 750, 755 (2006).

21 Misconduct warranting a denial of unemployment benefits must have an "element of  
22 wrongfulness." *Lellis v. Archie*, 89 Nev. 550, 553, 516 P.2d 469, 471 (1973); *Garman v.*  
23 *State, Employment Security Dep't*, 102 Nev. 563, 565, 729 P.2d 1335, 1336 (1986). The  
24 circumstances of the person's employment must be analyzed to determine whether there is  
25 an element of wrongfulness sufficient to support a determination of misconduct. *Id.*

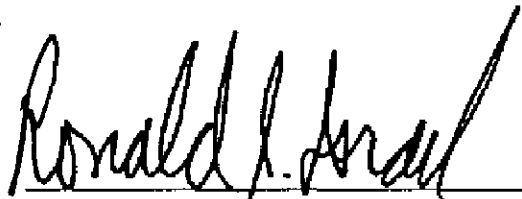
27 In this case, there is not substantial evidence on the record establishing that  
28 Petitioner's failure to report for work on February 4, 2016 after her treating physician

1 released her to return to work without restriction supports a finding of wrongfulness  
2 sufficient enough to support a determination of misconduct warranting denial of  
3 unemployment benefits. Here, unlike the facts in Nevada Employment Sec. Dept. v. Nacheff,  
4 104 Nev. 347 (1988), Petitioner was in communication with her Employer. Both Petitioner  
5 and Employer agree that Petitioner advised Employer that she did not believe she was  
6 medically fit to return to work and that because she was out of state she would be unable to  
7 return to work before February 16, 2017. While failing to return to work upon receipt of a  
8 full-duty return to work release after a work-related injury may be misconduct that warrants  
9 termination, it simply is not misconduct that warrants the denial of unemployment benefits.  
10

11  
12 Neither the Board nor Appeal Tribunal sufficiently explained why Petitioner's failure  
13 to report was work after giving notice of such inability was anything other than "mere  
14 inefficiency or failure of performance because of inability or incapacity, ordinary negligence  
15 in isolated instances, or good faith errors in judgment or discretion."  
16

17 IT IS HEREBY ORDERED that Petitioner Teresa Burwell's Petition for Judicial  
18 Review is GRANTED and the May 9, 2016 Decision of the Referee is Reversed and Set  
19 Aside in Whole. Petitioner is eligible for unemployment benefits from February 28, 2016,  
20 onward.  
21

22 DATED this 11 day of May, 2017.  
23

24  
25   
26 DISTRICT JUDGE RONALD J. ISRAEL  
27 Order Granting Petition For Judicial Review  
28 A-16-740534-J

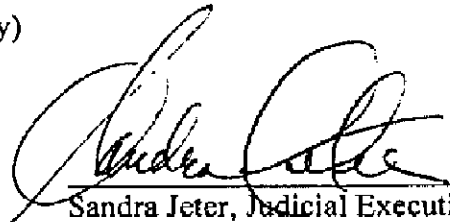
1  
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that on the 11<sup>th</sup> day of May, 2017, I electronically served the  
4 foregoing **ORDER GRANTING PETITION FOR JUDICIAL REVIEW** to all registered  
5 parties in the Eighth Judicial District Court Electronic Filing Program and/or mailed, via  
6 United States mail, postage pre-paid, as follows:

7 Laurie Trotter, Esq.  
8 l-trotter@nvdetr.org

9 Sheri C. Ihler  
10 SCIhler@nvdetr.org

11 Teresa R. Burwell  
12 3952 Hampton Grove Court  
13 Las Vegas, Nevada 89149  
14 Missblessed12@gmail.com (Courtesy Copy)

15  
16   
17 Sandra Jeter, Judicial Executive Assistant  
18 A-16-740534-J  
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**RONALD J. ISRAEL**  
DISTRICT JUDGE

**EIGHTH JUDICIAL DISTRICT COURT**  
REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE  
LAS VEGAS, NEVADA 89155

RETURN SERVICE REQUESTED

Teresa R. Burwell  
3952 Hampton Grove Court  
Las Vegas, Nevada 89149





January 29, 2016

Teresa R Burwell  
6803 Frances Celia Ave  
Las Vegas, NV 89122

RE: Claim Number: 2010261681  
Employee: Teresa R Burwell  
Employer: Nevada Property I LLC  
Date of Loss: 09-11-2015

Zurich American Ins. Co. of IL

Zurich Insurance  
PO Box 401810  
Las Vegas, NV  
89140

Telephone: (855) 399-4543  
Fax: (116) 838-7139  
<http://www.zurichna.com>

Dear Teresa R Burwell:

Pursuant to Dr. Arthur Taylor's report dated 01/25/16 (enclosed) and after a careful and thorough review of your workers' compensation claim, it has been determined that all benefits have been paid, therefore your claim will be closed effective seventy (70) days from the date of this notice. You have lifetime reopening rights.

Additionally, we have determined that there is no possibility of permanent impairment related to the injury sustained in the above captioned incident and you will not be scheduled for a permanent partial disability evaluation.

Nevada Revised Statute (NRS) 616C.390 defines your right to reopen your claim. You must make a written request for reopening and your physician must submit a report relating your current condition/problem to the original injury. The report must state that your condition has worsened since the time of claim closure and that the condition requires additional medical care. No compensation benefits will be accepted prior to the date of your written request for reopening unless good cause is shown.

Except as otherwise provided in NRS 616C.390(4), if the request for reopening is denied, the injured employee shall not reapply to reopen the claim until at least one (1) year after the denial date or the final determination of the appeal.

If you disagree with the above determination, you may request a hearing before a Hearing Officer by completing the attached Request for Hearing form and sending it to the State of Nevada, Department of Administration, Hearings Division. Your appeal must be filed within seventy (70) days after the date on which the notice of this determination was mailed.


IF IT'S THE  
TO UNEMPLOY.  
LITIGATION EXCEP  
FOR SPECIFIED EXCEPTIONS.  
EXHIBIT  
CASE NO. V-16-A-02769

Page 2

January 29, 2016

If you have any questions, please feel free to contact us toll free at (855)  
399-8553.


Sincerely,  
Zurich American Ins. Co. of IL

  
for  
Christina Cosby  
SPCL  
(702) 408-3843

Enclosure: Taylor report 01/25/16 & Form D12a

cc: Nevada Property 1 LLC, Jacob Leavitt Esq., and Efile

RESTRICTED  
NRS 612.265 LIMITS THE USE OF  
THIS MATERIAL TO UNEMPLOYMENT  
COMPENSATION LITIGATION EXCEPT  
FOR SPECIFIED EXCEPTIONS.

EXHIBIT   
CASE NO V-16-A-02769

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## EXHIBIT A

[Defendant's Name] - 24

**Suspect:**

- ☐ Cited ☐ Arrested ☐ Unknown  
☐ City ☐ County  
☐ Misdemeanor ☐ Gross Misdemeanor  
☐ Felony

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT****VICTIM'S INFORMATION GUIDE**

Offense <i>Assault Battery</i>	Area Command <i>CCAC</i>	Event Number <i>160323-2031</i>
-----------------------------------	-----------------------------	------------------------------------

This report is important for you to keep since it is the only way you will have to refer to your particular case and event number. If you need a copy of your report, it can be obtained during the hours of 8 a.m. to 5 p.m., Monday through Friday, 8 a.m. to 3 p.m. on weekends from the LVMPD Police Records Section, 400 S. Martin L. King Blvd., Bldg. C, (702) 828-3476, **FIVE WORKING DAYS** after filing of the report, for a nominal fee.

**ATTENTION: IT IS YOUR RESPONSIBILITY TO IMMEDIATELY NOTIFY THE LVMPD IF YOU SHOULD RECOVER YOUR STOLEN VEHICLE YOURSELF.**

The department relies on a number of factors available in any report to assign a follow-up investigator. Experience has proven that certain information must normally be determined at the time of the initial investigation before a case has the potential for being solved. Without suspects, witnesses, evidence, or other investigative leads, a case cannot be solved except under special circumstances. For example, a suspect caught committing another crime is found with evidence linking him to this one, or he may confess to other crimes including this one. **If you have any questions or additional information, please contact the detective handling your case at the appropriate telephone number listed below or complete an Additional Crime Information report. (Refer to the Event Number listed above.)**

### OBLIGATIONS OF CITIZENS FILING MISDEMEANOR CRIME REPORTS WITH LVMPD

1. If an arrest was not made, or if a citation was not issued, and you wish to pursue this matter, you must contact the detective assigned to handle your case at the appropriate number listed below, **AT LEAST TEN (10) BUSINESS DAYS AFTER THE REPORT HAS BEEN FILED, Monday through Friday, 8:00 a.m. - 4:00 p.m.** You may be required to testify against the defendant (suspect) if the case is prosecuted in the courts. All felonies will be investigated.
2. You must give the Event Number at the top of this page if you call about your case.
3. If the suspect in your case is arrested or cited for a misdemeanor, **DO NOT CONTACT THE DETECTIVE ASSIGNED TO YOUR CASE.** You may get information about the status of your case by contacting either the County or City Victim Advocates (listed below). The police department does not have any court information.
4. If this is a misdemeanor crime report and is for **INSURANCE PURPOSES ONLY** or **YOU DO NOT WISH TO PROSECUTE**, and no one has been arrested, please **DO NOT** contact the detective.
5. If no arrest has been made and you need victim assistance, you may contact a Victim Advocate from the Police Department at (702) 828-2955.

### CONTACT TELEPHONE NUMBERS

Firearms .....	(702) 828-2953	Bolden Area Command .....	(702) 828-3874
Identity Crimes .....	(702) 828-3483	Convention Center Area Command .....	(702) 828-3204
Fraud .....	(702) 828-3285	Downtown Area Command .....	(702) 828-4314
Abuse-Neglect .....	(702) 828-3364	Enterprise Area Command .....	(702) 828-4809
Homicide .....	(702) 828-3521	Northeast Area Command .....	(702) 828-7355
High Risk Runaway Detail .....	(702) 828-3561	Northwest Area Command .....	(702) 828-8577
Missing Persons .....	(702) 828-2907	Southeast Area Command .....	(702) 828-8242
Robbery .....	(702) 828-3591	South Central Area Command .....	(702) 828-8639 / (702) 828-8313
Sexual Assault .....	(702) 828-3421		

**LVMPD VICTIM ADVOCATE:** Provides crisis intervention, an assessment of the immediate needs of the victims and their families, initiates crime victim assistance paperwork, provides referrals to other agencies, and functions as a liaison with LVMPD personnel and other law enforcement agencies. For assistance, please call the LVMPD Victim Advocate at (702) 828-2955 Monday through Friday 7:00 a.m. - 4:00 p.m.

**LAS VEGAS CITY ATTORNEY VICTIM/WITNESS ASSISTANCE:** Provides specialized advocacy for victims of domestic violence or battery occurring within the City of Las Vegas. If you are a victim of domestic violence or battery and an arrest has been made or a citation has been issued, please contact the Las Vegas City Attorney's Victim Witness Advocate at (702) 229-2525.

**CLARK COUNTY DISTRICT ATTORNEY VICTIM/WITNESS ASSISTANCE CENTER:** Provides Justice Court and District Court case information and addresses any concerns you may have regarding your appearance as a witness. When you receive a subpoena to appear in a Justice Court or District Court case, please contact the Victim Witness Assistance Center at (702) 671-2525. If you move or have another address where you wish to receive a subpoena, please contact the advocates at the court.

**ASSISTANCE TO VICTIMS OF VIOLENT CRIME:** Victims of violent crime who are physically injured or victims of sexual assault may qualify for medical and counseling assistance from the State of Nevada under NRS 217. For information, contact the LVMPD Victim/Witness Advocate or the Nevada State Victims of Violent Crime Program at (702) 486-2740. Note: Applications for this service must be received within one year of the commission of the crime.

**ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT:** Victims of sexual assault may be eligible for medical treatment and counseling under NRS 217. For information, call the Clark County District Attorney Victim Witness Assistance Center (702) 671-2525, or Rape Crisis Center at (702) 366-1640. Note: Applications for this service must be received within 60 days of the commission of the crime.

**THREATS AND DISSUASION TO TESTIFY:** Victims and witnesses threatened and/or asked not to testify or prosecute, should contact the detective assigned to the original case. You may also notify the prosecutor if you have already been assigned one.

**Asunto:**  
☐ Ciudad ☐ Arrestado ☐ No se sabe  
☐ Ciudad ☐ Condado  
☐ Delito Menor ☐ Delito Menor Grave  
☐ Delito Mayor

## DEPARTAMENTO DE POLICÍA METROPOLITANA DE LAS VEGAS GUÍA DE INFORMACIÓN PARA LA VÍCTIMA

Delito	Area de Comando	Numero de Evento
--------	-----------------	------------------

Es importante que usted conserve este reporte ya que es la única manera que tendrá para referirse a su caso particular y a su número de evento. Si necesita una copia de su reporte, la puede obtener, por una cuota nominal, en la Sección de Registros Policiales de LVMPD, 400 S. Martin L. King Blvd., Bldg. C, (702) 828-3476, de lunes a viernes de 8 a.m. a 5 p.m., y los fines de semana, de 8 a.m. a 3 p.m., después de **CINCO DÍAS HÁBILES**, de la fecha en que se presentó el reporte.

**ATENCIÓN: ES SU RESPONSABILIDAD NOTIFICAR INMEDIATAMENTE A LVMPD SI USTED HUBIERA RECUPERADO SU VEHÍCULO ROSADO PERSONALMENTE.**

El departamento se basa en un número de factores disponibles de cualquier reporte, para designar un investigador que le dé seguimiento. La experiencia nos ha demostrado que cierta información se debe determinar, normalmente, a la hora de la investigación inicial, para tener la capacidad de resolver cualquier caso. Sin sospechosos, testigos, pruebas u otras pistas de investigación, un caso no se puede resolver, excepto bajo circunstancias especiales. Por ejemplo, un sospechoso atrapado al cometer otro delito a quien se le encuentran pruebas que lo involucren a éste, o él puede confesar sobre otros delitos incluyendo éste. Si usted tiene preguntas o necesita información adicional, por favor comuníquese con el detective que maneja su caso al teléfono designado que se enumera abajo o complete un reporte de Información Adicional del Delito. (Refiérase al Número de Evento anotado en la parte superior.)

### OBLIGACIONES DE LOS CIUDADANOS QUE PRESENTAN REPORTES DE DELITOS MENORES A LVMPD

1. Si no hubo arresto, o si no se dio un citatorio y si desea darle seguimiento a este asunto, usted debe contactar al detective asignado a manejar su caso, al teléfono apropiado en la lista de abajo, CUANDO MENOS DIEZ (10) DÍAS LABORALES DESPUÉS DE QUE PRESENTE EL REPORTE, de lunes a viernes de 8 a.m. a 4 p.m. Puede requerirse que usted testifique contra el acusado (sospechoso) si el caso se procesa penalmente en la corte. Todos los casos al nivel felonía serán investigados.
2. Usted debe proporcionar el número de evento que se encuentra en la parte superior de esta hoja, si llama sobre su caso.
3. Si el sospechoso en su caso es arrestado o citado por un delito menor, NO SE COMUNIQUE CON EL DETECTIVE ASIGNADO A SU CASO. Usted puede obtener información sobre el estatus de su caso comunicándose ya sea con los abogados de las Víctimas del Condado o de la Ciudad (enumerados abajo). El departamento de policía no tiene ninguna información sobre la corte.
4. Si este es un reporte de un delito menor y es solo con Fines DE UN SEGURO o NO QUIERE QUE LLEVE A PROCESO PENAL y no se ha arrestado a nadie, por favor NO contacte al detective.
5. Si no se ha hecho ningún arresto y usted necesita ayuda como víctima, puede comunicarse con el departamento de servicio a Víctimas del Departamento de Policía al (702) 828-2955.

### NUMEROS DE TELEFONO

Armas de Fuego	(702) 828-2953	Bolden Area Command	(702) 828-3874
Falsificación	(702) 828-3483	Convention Center Area Command	(702) 828-3204
Fraude	(702) 828-3285	Downtown Area Command	(702) 828-4314
Maltrato-Descuido	(702) 828-3364	Enterprise Area Command	(702) 828-4809
Homicidio	(702) 828-3521	Northeast Area Command	(702) 828-7355
Juveniles de Alto Riesgo	(702) 828-3561	Northwest Area Command	(702) 828-8577
Personas Extraviadas	(702) 828-2907	Southeast Area Command	(702) 828-8242
Robo	(702) 828-3591	South Central Area Command	(702) 828-8639 / (702) 828-8313
Abuso Sexual	(702) 828-3421		

**CENTRO DE AYUDA A VÍCTIMAS DE LVMPD:** Provee colaboración en crisis, una evaluación de las necesidades inmediatas de las víctimas y sus familias, inicia el papeleo de la reclamación para la compensación por los delitos, provee referencias de otras agencias y funciona como contacto con el personal de LVMPD y otras agencias legales. Para ayuda, por favor llame a servicio a víctimas al (702) 828-2955.

**AYUDA DEL FISCAL DE LA CIUDAD DE LAS VEGAS A VÍCTIMAS Y TESTIGOS:** Provee ayuda especializada para víctimas de violencia doméstica o maltrato cuando ocurre dentro de la Ciudad de Las Vegas. Si usted es víctima de violencia doméstica o maltrato y se ha hecho una detención, o si se ha otorgado un citatorio, por favor comuníquese con el Abogado de Víctimas y Testigos de la oficina del Fiscal de la Ciudad de Las Vegas al (702) 229-2525.

**CENTRO DE AYUDA A VÍCTIMA Y TESTIGOS, DEL FISCAL DE DISTRITO DEL CONDADO DE CLARK:** Provee información de casos de la Corte de Justicia y del la corte de Distrito y trata cualquier inquietud que usted pueda tener respecto a su presentación como testigo. Cuando usted recibe un citatorio escrito para presentarse en un caso de la Corte de Justicia o la Corte de Distrito, favor de comunicarse al Centro de Ayuda a Víctimas y Testigos al (702) 671-2525. Si usted se cambia o tiene otra dirección donde quiera recibir un citatorio escrito, por favor comuníquese con servicio a víctimas de la corte.

**AYUDA A VÍCTIMAS DE DELITOS VIOLENTOS:** Las víctimas de delitos violentos que han sido heridas físicamente o víctimas de agresión sexual, pueden calificar para asistencia y consejería médica, del Estado de Nevada bajo la ley NRS 217. Para información, comuníquese con el centro de ayuda a Víctimas y Testigos de LVMPD o con el Programa de Compensación a Víctimas de Delitos Violentos del Estado, al (702) 486-2740. NOTA: Las solicitudes para este servicio se deben recibir dentro del año siguiente a que se comisionó el delito.

**AYUDA A VÍCTIMAS DE ABUSO SEXUAL:** Las víctimas de abuso sexual pueden ser elegibles para tratamiento y consejería bajo la ley NRS217. Para información, llamar al Centro de Ayuda a Víctimas y Testigos del Fiscal del Distrito del Condado de Clark al (702) 671-2525 o al Centro de Crisis de Violación al (702) 366-1640. Nota: Las solicitudes para este servicio deben ser recibidas dentro de los 60 días de que se comisionó el delito.

**AMENAZAR Y DISUADIR A TESTIFICAR:** Las víctimas y testigos que son amenazadas y/o se les pide no testificar o proceder, deben comunicarse con el detective asignado en el caso original. También puede notificar al fiscal, si ya se le asigno uno.



THIS REPORT IS SUBJECT TO CHANGE  
PENDING SUPERVISOR APPROVAL

## Administrative

Location 3708 S LAS VEGAS BLVD LV, NV 89109  
Occurred On (Date / Time) Sunday 2/21/2016 1:30:00 PM  
Reporting Officer 14409 - Wayne, Cynthia  
Entered By 14409 - Wayne, Cynthia  
Related Cases

Or Between (Date / Time)  
Reported On 3/23/2016  
Entered On 3/23/2016 2:48:35 PM  
Jurisdiction Clark County

Sector / Beat M3

Traffic Report No Place Type Accident Involved

## Offenses:

Assault(M)-NRS 200.471.2A

Completed Yes Domestic Violence No  
Entry Premises Entered  
Weapons None  
Criminal Activities

Hate/Bias Unknown (Offenders Motivation Not Known)  
Type Security Tools  
Location Type Commercial/Office Building

## Victims:

Name: Burwell, Teresa

Victim Type Individual Written Statement Yes Can ID Suspect Yes  
Victim of 50200 - Assault(M)-NRS 200.471.2A

DOB 4/28/1974 Age 41 Sex Female Race Black or African American Ethnicity Unknown  
Height 5' 4" Weight 187 Hair Color Brown Eye Color Brown  
Employer/School  
Occupation/Grade  
Injury None Observed Work Schedule  
Injury Weapons None

### Addresses

Residence 1915 Simmons Stre #2047 LV, NV 89106

### Phones

Cellular (702) 219-5553

### Offender Relationships

S - Cosmopolitan, Tim - Security Team At Victim Was Employee  
Notes:

UNLAWFUL DISSEMINATION of this  
Restricted Information is PROHIBITED  
Violation will subject the offender  
to Criminal and Civil liability

Rel to: Teresa Burwell  
Date: 3/23/16  
Las Vegas Metropolitan Police Department  
By: C14409W  
Bolden Area Command

## Suspects:

Name: Cosmopolitan, Tim - Security Team At

Alias:

Scope ID DOB Age 35 Race Black or African American Ethnicity Unknown  
Sex Male Height 6' 1" Weight 250 Hair Color Blond Eye Color  
Employer/School The Cosmopolitan Occupation/Grade

### Addresses

Business 3708 S Las Vegas Blvd., LV, NV 89109

### Phones

Business/Work (702) 698-7000

Notes:

## Arrestees:

## Witnesses:

## Other Entities:

## Properties: ( )

## Narrative

On 03/23/16, Victim Teresa Burwell (DOB 04/28/1974) came into BAC to report that on 02/21/2016, at 1:30 PM, victim had a meeting at the Cosmopolitan to discuss her current employment status with the Company.

The meeting was being held to discuss the status of her worker's compensation claim and return back to work at the Cosmopolitan.

- When the Victim Burwell exited the meeting, 2 Cosmopolitan Security officers (Tim and Mike) escorted the Victim to the employee shuttle. All 3 people (victim and 2 officers) walked to the shuttle stop so that the Victim could take the shuttle back to her vehicle in the employee lot and they all stopped for a bicyclist who was riding by. When the victim stopped, the Security Officer named 'Tim', turned his body into the Victim causing his body/back to hit her body and almost knock her over.

Victim has a video recording on her phone as she was escorted out of the building.

Victim completed a Voluntary statement and brought in a typed up summary of the incident.

Specific Crime	Date Occurred	Time Occurred
Assault / Battery on disabled person which is myself	2/20/16	about 2:15 pm
Location of Occurrence	Section/Beat	<input type="checkbox"/> City <input type="checkbox"/> County
Cosmopolitan at Las Vegas - 3700 S Las Vegas Blvd		

My step mom Pearl Burwell works on M/C - Afta

Your Name (Last / First / Middle) BIRNCH Teresa Rerita						Date of Birth 4/28/74		Social Security # 435-39-2405	
Race African American	Sex F	Height 5'5"	Weight 182	Hair Br	Eyes Br	Work Schdl. (Hours) NA	(Days Off)	Business / School NA	
Residence Address: (Number & Street) 1915 Summer St #2047						Bldg./Apt.# 17-2047		City W	
State AL						Zip Code 37106		Res. Phone: 702-219-5553	
Bus. (Local) Address: (Number & Street)						Bldg./Apt.#		City	
State						Zip Code		Occupation	
Best place to contact you during the day on my cell						Best time to contact you during the day any time		Can You Identify <input checked="" type="checkbox"/> Yes the Suspect? <input type="checkbox"/> No	

DETAILS On 2/20/11 I was invited to a meeting at the Cosmopolitan. for 1:30pm. Prior to the meeting discussions had been made by a workers comp dr that were untrue, and accused me of being belligerent. Nevertheless, when I went inside the meeting, I quickly dismissed myself because it was a hostile meeting. Upon exiting the room I noticed two guys dressed in suits standing by the door that weren't there when I went in. It was obvious after I was followed by these men to the elevator that something was up, so I began to <sup>video</sup> record with my phone. After we were on the way to the shuttle a bike guard asked if he needed to get off his bike, as if expectancy of a brawl were in their minds. Three men against myself? I thought wow. It was then that Tim, the bigger, more muscular guard played like he was turning to talk and intentionally backed into me, pushing me with his shoulders. He hit me so hard you can see the phone movement from my trying to catch myself from falling. Mind you, I have multi-level disc compromise and am legally disabled.

I also have the video. Please see Attached 2 pages ~~IN THE~~ ~~WHEEL~~ ~~BEARING~~ ~~ASSISTANCE~~ ~~COLL~~ ~~WIP~~ ~~THE~~ ~~LONG~~

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) San Jose, Costa Rica

ON THE 23rd DAY OF March AT 2:10 (AM/PM) pm 3/23/16  
 Las Vegas Metropolitan Police Department  
 By: C1440511  
 Witness/Officer: \_\_\_\_\_ (SIGNATURE)

Witness/Officer: \_\_\_\_\_ P# \_\_\_\_\_  
 LMPD 85 (REV. 6-08) (PRINTED)

By: Bojia C 1440911  
Bojia Area Command  
[Signature]  
SIGNATURE OF PERSON GIVING STATEMENT



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## EXHIBIT B

[Defendant's Name] - 25

Employment Security Division  
Adjudication Center  
500 East Third Street  
Carson City, NV 89713-0035  
Tel (775) 684-0302 Fax (775) 684-0338  
Tel (702) 466-7999 Fax (702) 466-7967



**DETR**

Nevada Department of Employment,  
Training and Rehabilitation

ONE NEVADA - Growing A Skilled, Diverse Workforce



3947483  
<http://www.nvdeir.org>

Original

NEVADA PROPERTY 1 LLC  
PO BOX 173860 %UC EXPRESS  
DENVER, CO 80217-3860

RE: TERESA BURWELL  
SSN: [REDACTED]  
Issue ID: 3249766  
Week End Date: 03/05/2016  
Date Mailed: 03/30/2016  
Last Day to Appeal: 04/11/2016  
Decision Date: 03/29/2016

\* See back of form for Appeal Rights  
and other important information.

\*Vea el reverso de la hoja para  
los derechos de apelación y otra  
información importante.

The claimant received a determination stating:

**DECISION**

You are not entitled to benefits effective 02/28/2016 until you return to work in covered employment and earn at least \$153.00 in each of 10 weeks. (Proof of earnings must be furnished to end this disqualification period.)

**REASON FOR DECISION**

You were discharged for being disrespectful and combative towards management. Your employer has provided documentation to support their allegations. You deny the employers allegations.

Based on the information on file, misconduct in connection with the work has been established and benefits are denied.

**Pertinent Section of Law:**

**NRS 612.385:** A person is ineligible for benefits if he was discharged from his last or next-to-last employment for misconduct connected with the work, and remains ineligible until he works in covered employment and earns his weekly benefit amount in each week up to 16 weeks.

Restricted: NRS 612.265 limits the use of this material to unemployment compensation litigation except for specified exceptions.



Report suspected UI Fraud online at <https://uifraud.nvdeir.org>

Docket #: V-16-A-02769  
Exhibit#: 12  
LET7712\_126.0.0

091

**ACCOUNT INFORMATION**

You did not pay 75% or more of the base period earnings and no ruling applies. Your account may be charged its proportionate share.

**APPEAL RIGHTS**

Notice: If you receive more than one decision, read each one carefully to protect your appeal rights. ANY ineligible decision will stop payment of this claim. Please read the following information carefully. If you disagree with this decision you have the right to file an appeal. The appeal must be faxed or postmarked by 04/11/2016. You may request an appeal date extension, if you did not file your appeal timely, however, you must show good cause for the delay in filing. You may appeal by writing a letter to the address shown at the top of the previous page. This appeal must include your reason for appealing, the employer name, the claimant's social security number and your signature. If an interpreter is needed, please include this request in the appeal letter. If the claimant files an appeal, you should participate in the hearing to protect your rights. If you need additional information, please contact the telephone claims office.

An equal opportunity employer/program.

Auxiliary aids and services available upon request for individuals with disabilities

TTY (775) 687-5353 Relay 711 or (800) 326-6868

**For Spanish Language Interpretation****Para la traducción al Español**

Avisol: Esta notificación contiene información importante acerca de su reclamo, incluyendo plazos para la apelación. Si Ud. tiene problemas para leer y entender Inglés, puede contactarse con un representante de la División de Seguridad de Empleo al para asistencia en traducción.

El Norte de Nevada.....1-775-687-8148

El Sur de Nevada.....1-702-486-2957

Numero de llamada gratuita...1-888-687-8147

Si la decisión establece que usted has sido descalificado para los beneficios de desempleo, usted tiene el derecho de apelar esta decisión presentando una apelación dentro de once días con el División de Seguridad de Empleo. La fecha límite de apelación está anotada en la parte superior de la carta de decisión. Si usted no presenta una apelación a tiempo, puede perder la oportunidad de recibir los beneficios de desempleo. Si se determina que usted no tiene derecho a recibir los beneficios de desempleo, usted puede ser responsable de devolver los beneficios que haya recibido previamente.

Restricted: NRS 612.255 limits the use of this material to unemployment compensation litigation except for specified exceptions.

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Please see Ex #8

## EXHIBIT D

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[Defendant's Name] - 27

**MATTHEW ENNA, M.D.**

**06/29/2016**

**Patient:** Bunwell, Teresa R (Female)  
6803 FRANCES CEJIA AVE  
LAS VEGAS, NV 89122  
(702)219-5553\*  
HISGRACEMYFAVOR@YAHOO.COM

**DOB:** 04/28/1974 (42)  
**Race:** Patient Declined  
**Language:** English  
**Ethnicity:** Patient Declined

**Encounter ID:** 062916-33101478  
**Primary Ins:** Medicare Part B  
Southern California \*

**Location:** GOLDEN STATE BONE AND JOINT  
9033 WILSHIRE BLVD SUITE 403  
Beverly Hills, CA 90211-1847  
(310)858-3880 Ext:0

**Provider:** DR. MATTHEW J ENNA, MD

**Referring:**

## Subjective

---

### Chief Complaint:

The patient is here today for review of her EMG and NCV studies and for cortisone injections. She has persistent numbness in her hand in all five fingers.

### Medication History:

The patient has no known medications.

### Allergies:

The patient has no known allergies.

### Review of Systems:

## Objective

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### Vital Signs:

### Physical Exam:

Tinel's, Phalen's and compression tests are positive at the carpal tunnel. Tinel's is positive at the cubital tunnel. No evidence of ulnar nerve subluxation. No evidence of intrinsic wasting. Diminished light touch in the median nerve distribution in the right hand. The patient is tender at the right middle finger A1 pulley. No triggering. Palpable nodule in the flexor tendon.

## Assessment

---

### Diagnosis:

Description	Code	Problem	Comment
Carpal Tunnel Syndrome, Right Upper Limb	G5601	Acute	
Lesion Of Ulnar Nerve, Right Upper Limb	G5621	Acute	

## Plan

---

### Procedure Coding:

BURWELL, TERESA R (04/28/1974)

<https://txn2.healthfusionclaims.com/electronic/ehr/preview/enc...>

## Care Plan:

42-year-old woman with right carpal tunnel syndrome and cubital tunnel syndrome. I encouraged her to avoid excessive elbow flexion as that will aggravate the cubital tunnel syndrome. I offered her cortisone injection for her right middle finger trigger finger and for her right carpal tunnel syndrome. Prior to the injections, I reviewed the potential risks of cortisone with the patient including but not limited to hypopigmentation and fat atrophy. She provided verbal consent. I injected 1 cc of cortisone into her right middle finger A1 pulley region and 1 cc of cortisone into her right carpal tunnel region. I gave her a splint for her carpal tunnel syndrome. I will see her back in two weeks for a checkup. If she is not better at that time, we will discuss further the option of a right carpal tunnel release and right subcutaneous ulnar nerve transposition.

## Problem List:

Description	Diagnosis	Onset Date	Resolution	Provider	Type	Status
CT - Carpal Tunnel	264448008	06/12/2016		Enna, Matthew	Acute	Active
Cubital Tunnel	59591000	06/12/2016		Enna, Matthew	Acute	Active
CT - Carpal Tunnel	264448008	06/29/2016		Enna, Matthew	Acute	Active
Cubital Tunnel	59591000	06/29/2016		Enna, Matthew	Acute	Active

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) I certify that I am an employee of the State of Nevada, Nevada Attorney for Injured Workers, does hereby certify that on the date shown below, a true and correct copy of the foregoing CLAIMANT'S SECOND EXHIBIT was duly deposited into the State of Nevada mailing system at Las Vegas, Nevada, OR placed in the appropriate addressee file maintained by the Division, 2200 S. Rancho Drive, #220, Las Vegas, Nevada 89102 to the following:

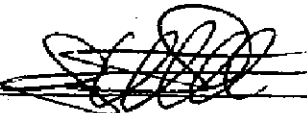
DANIEL L. SCHWARTZ, ESQ.  
LEWIS, BRISBOIS, ET AL  
2300 W SAHARA AVE STE 300 BOX 28  
LAS VEGAS NV 89102

TERESA BURWELL  
C/O THERESA SMITH 3952 HAMPTON GROVE CT  
LAS VEGAS NV 89149

DATED:

October 3, 2016

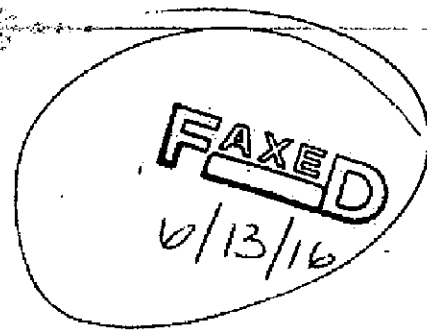
SIGNED:





**Kenith K. Paresa, MD**

Electrodiagnostic Medicine / Musculoskeletal Pain Management



**Fax**

To: Dr. Matthew Enna Fax: (888) 589 6241  
 From: Dr. Paresa - (Ana) Date: 6-13-2016  
 Re: Teresa Burwell Pages: 5  
EMG Report

☐ Urgent    ☒ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

1964 Westwood Blvd., #435, Los Angeles, CA 90025  
 Ph: (310) 856-9488 Fax: (310) 817-6402

**Attention:****Teresa b****Fax: +1 702-732-2490**

---

**Fax From:****Pain and Healing Institute****Phone: 310-856-9488****Fax: +1 (310) 817-6402****Email: drsamimi@painandhealing.com****Date: 2017-06-02 05:56:05 PM**

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**Message:**

here is the emg report that you requested

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**Total Pages: 6***Faxed from drchrono EHR*

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**Notice of Confidentiality**

Please respect the confidentiality of this fax. Should this have been sent to the wrong place, please shred immediately and contact our office.

**Kenith K. Paresa, M.D.**  
**Physical Medicine & Rehabilitation**  
*Electrodiagnostic Medicine*  
*Musculoskeletal Medicine*  
*Musculoskeletal Pain Management*

---

Date: June 10, 2016

RE: Teresa Burwell-EMG and NCS Results

Dear Dr. Enna:

Enclosed are the EMG and nerve conduction study results for Ms. Teresa Burwell.

**Impression/Interpretation of Findings:**

- 1) **Abnormal NCS to the right upper extremity.** *There are electrodiagnostic findings most consistent with:*
  - a. **Moderate right carpal tunnel syndrome.**
  - b. **Moderate right cubital tunnel syndrome.**
  - c. *No clear evidence of a right-sided brachial plexopathy, anomalous innervation (ex. Martin Gruber Anastomosis) or neurogenic thoracic outlet by electrodiagnostic criteria.*
  
- 2) **Mildly abnormal EMG to the right upper extremity.** *There were additional EMG findings most consistent with:*
  - a. **A chronic right C7 radiculopathy possibly extending to the C6 level.**
  - b. *There is no clear evidence of ongoing, active denervation involving the right upper extremity and no clear active (acute or subacute) cervical radiculopathy by electrodiagnostic criteria.*

**Clinical correlation is recommended.**

Thank you, Dr. Enna, for this electrodiagnostic referral. Please call with any questions at (310) 856-9488.

Sincerely,

Kenith K. Paresa, M.D.  
Diplomate, ABPM&R  
FAAPM&R

1964 Westwood Blvd., #433  
Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402

RE: Teresa Burwell

Date: June 10, 2016

**EMG/NCS Study Report**

**Patient Name:** Teresa Burwell  
**Weight:** 200 lbs.  
**Height:** 54 inches  
**Date of Study:** June 10, 2016  
**Gender:** Female  
**Referring MD:** Matthew Enna, MD

**Reason for Study:** *Ms. Burwell is a pleasant 42 year-old RHD female with a history of several cervical and lumbar surgeries over the years. She has developed constant right upper extremity numbness and tingling, most notable to the distal ends of all digits with pain extending to the forefinger and middle finger. She reports frequent neck pain with hand weakness, "dropping things" with a burning sensation. She denies comparable symptoms to the left side.*

*Evaluate with electrodiagnostic studies as indicated to identify a focal mononeuropathy vs. brachial plexus lesion vs. cervical radiculopathy vs. other.*

**Consent:** Informed consent was obtained prior to the study. Skin temperature was maintained between 29-33 deg C. Disposable surface reference, temperature, and ground electrodes were used for the NCS portion of the study. A disposable monopolar 28-gauge needle electrode was used for the EMG portion of the study.

**Muscles Sampled:** Right lateral deltoids, biceps brachii, triceps brachii, extensor digitorum communis (EDC), flexor carpi radialis (FCR), abductor pollicis brevis (APB), and first dorsal interosseous (FDI) and cervical paraspinal muscles were sampled.

**Motor Nerves Sampled:** Right median and ulnar motor nerves were tested. F-waves were included in CMAP studies. Inching techniques were added if indicated.

**Sensory Nerves Sampled:** Right median, radial, and ulnar nerves were sampled. Sensory studies were performed antidromically. If indicated, special studies including co-stimulation tests were added.

MUAP's=Motor Unit Action Potentials  
NCS=Nerve Conduction Study  
EMG=Electromyography  
CMAP=Compound Muscle Action Potential (CMAP)  
SNAP=Sensory Nerve Action Potential (SNAP)  
FIBS=Fibrillation Potentials  
SHARPS=Positive Sharp Waves  
POLYS=Polyphasic Potentials  
DL=Distal Latency  
PL=Peak Latency  
CV=Conduction Velocity

1964 Westwood Blvd., #433  
Los Angeles, CA 90025  
Ph:(310) 856-9488 Fax: (310) 817-6402

RE: Teresa Burwell

Date: June 10, 2016

**Summary of Findings:**

**Motor:** *The right median CMAP DL was delayed (normal median CMAP DL < 3.8 msec for age, height, and gender < right median CMAP DL = 5.2 msec). All other CMAP DL's were normal. The right ulnar CMAP CV was slowed across the elbow (normal ulnar CMAP CV > 49.0 m/sec; right ulnar CMAP CV below the elbow = 54.6 m/sec; right ulnar CMAP CV above elbow = 45.6 m/sec). All other CMAP CV's, amplitudes, waveform configurations and F-waves were otherwise normal in all dimensions.*

**Sensory:** *The right median SNAP PL was delayed (normal median SNAP PL < 3.2 msec; right median SNAP PL = 4.2 msec). All other SNAP PL's, amplitudes, and waveform configurations were otherwise normal.*

**EMG:** *There was no increased insertional activity and there was no abnormal spontaneous activity noted. On minimal recruitment, moderately large MUAP's (6-8 mV range with increased MUAP duration and decreased MUAP recruitment frequency) were noted to the right EDB, PT, and triceps, though not found in the right FCR. All other MUAP's were of normal size, shape, and waveform configuration. There was no evidence of POLY's, satellite potentials, or myopathic MUAP's noted. On maximal recruitment, an otherwise fairly full interference pattern was observed all muscles tested. Due to previous cervical surgeries, sampling of the right cervical paraspinals was done.*

**Impression/Interpretation of Findings:**

- 1) **Abnormal NCS to the right upper extremity.** *There are electrodiagnostic findings most consistent with:*
  - a. **Moderate right carpal tunnel syndrome.**
  - b. **Moderate right cubital tunnel syndrome.**
  - c. **No clear evidence of a right-sided brachial plexopathy, anomalous innervation (ex. Martin Gruber Anastomosis) or neurogenic thoracic outlet by electrodiagnostic criteria.**
- 2) **Mildly abnormal EMG to the right upper extremity.** *There were additional EMG findings most consistent with:*
  - a. **A chronic right C7 radiculopathy possibly extending to the C6 level.**
  - b. **There is no clear evidence of ongoing, active denervation involving the right upper extremity and no clear active (acute or subacute) cervical radiculopathy by electrodiagnostic criteria.**

**Clinical correlation is recommended.**

1964 Westwood Blvd., #435  
Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402

RE: Teresa Burwell

Date: June 10, 2016

Thank you, Dr. Enna, for this electrodiagnostic referral. Please call with any questions at (310) 856-9488.

Sincerely,

Kenith K. Paresa, MD  
Diplomate, ABPM&R  
FAAPM&R

Cc:

1964 Westwood Blvd., #435  
Los Angeles, CA 90025  
Ph: (310) 856-9488 Fax: (310) 817-6402



*Dr. Scott Forbes, D.C., J.D., MCS-P*  
Chiropractic Physician  
Designated Impairment Rating Physician

---

1420 South Jones Blvd.  
Las Vegas, Nevada 89146  
(702) 877-0707  
Fax (702) 877-5611

February 16, 2017

Nevada Attorney for Injured Workers  
2200 South Rancho Drive, Suite 230  
Las Vegas, Nevada 89102-4413  
Attn.: Tara-Lynn Adams, Esq.

RE: Teresa Burwell  
SSN: 435-39-2408  
D.O.I.: 9/11/15  
Employer: Nevada Property 1 LLC  
Date of Exam: 2/16/17

Dear Attorney Adams:

The following is an evaluation on the above captioned claimant.

#### **HISTORY OF INJURY AND PERTINENT RECORDS REVIEW**

Ms. Teresa Burwell is a 42-year-old guest room attendant who incurred injuries to her right hand and wrist. On 9/11/15, the claimant was injured after her right hand got smashed between a guestroom door and the metal plate as she was leaving a guest room.

On 9/11/15, the claimant was seen at Concentra. Hand radiographs were reportedly unremarkable. Impression was right hand contusion/laceration. Her hand was sutured and splinted. The injured worker went to St. Rose ER the following day and was diagnosed with right hand contusion. The claimant then followed up with Concentra on 9/13/15 and 9/20/15 with diagnosis of right hand contusion/laceration. She was slightly improved on 9/20/15. The claimant was referred for physical therapy.

The claimant was seen in multiple follow-ups at Concentra. The claimant attended physical therapy. On 10/20/15, the claimant saw Colby Young, M.D. in hand orthopedics. The claimant had limited range of motion limited secondary to stiffness and some mild swelling. Impression was crush injury, right hand with laceration. He recommended continued physical therapy. The claimant also reported constant numbness in the hand.

The claimant attended physical therapy for about four weeks. She returned to Dr. Young on 11/17/15. Recommendation was physiatry/pain management due to a suboptimal doctor-patient relationship. Diagnosis remained the same.

On 12/14/15, the claimant saw Art Taylor, M.D. There was an near full active range of motion of the fingers except for right long finger flexion. Impression was healed right hand contusion injury. Recommendation was physical therapy including additional exercises. Impression was healed right hand contusion injury. Physical therapy was resumed. On 1/6/16, Dr. Taylor recommended referral to another hand surgeon due to patient discontent.

The claimant saw Matthew Enna, M.D. in California. Recommendation was electrodiagnostic studies. No notes were available for that date. On 6/10/16, the claimant had electrodiagnostic studies with Kenith Paresa, M.D. in California. There were electrodiagnostic findings most consistent with moderate right carpal tunnel and moderate right cubital tunnel syndrome. There were additional findings of mildly abnormal EMG to the right upper extremity. There was chronic right C7 radiculopathy extending to C6. Clinical correlation was recommended.

On 6/29/16, the claimant returned to Dr. Enna. Physical exam findings correlated with the electrodiagnostics. Impression was right carpal tunnel and right cubital tunnel syndrome. The claimant received injections in the right middle finger and right carpal tunnel region.

She was also given a wrist brace from a Dr. Dowd. Apparently the claimant had difficulty with continued trips to California.

## **PERSONAL DATA**

The claimant gave a date of birth of 2-7-58. The claimant was identified by a Nevada driver's license. She stated she is single with four children. She stated she has a high school diploma.

## **PAST MEDICAL HISTORY**

The claimant any previous injuries or diseases affecting the body parts being examined. He had a cervical fusion, lumbar fusion, and left carpal tunnel release. She denied use of tobacco.

## **CURRENT SYMPTOMS**

The claimant complained of intermittent, sharp right forearm and hand pain with numbness and tingling in the right forearm and hand. Medial palm and the index and middle fingers bilaterally. On a pain scale of 0-10, 10 being the worst, she stated her pain and numbness is about an 8. She stated her symptoms worsen with grasping, squeezing, typing, or use of the hand/wrist. She stated her condition has not improved with treatment. The claimant also reported difficulty sleeping due to right forearm and hand pain and numbness.



**PHYSICAL EXAMINATION**

The claimant stood 5'4" tall and weighed 200 lbs. General appearance, mood, manner, orientation, and cooperation were appropriate. She stated she is right hand dominant.

Right wrist ranges of motion were measured as follows:

- Flexion was 45 degrees;
- Extension was 60 degrees;
- Ulnar deviation was 40 degrees;
- Radial deviation was 35 degrees.

Right elbow ranges of motion were full. The claimant's right hand ranges of motion were full except right second MP joint flexion was slightly limited to 85 degrees. Deep tendon reflexes were normal (2+) in the upper extremities. Sensory evaluation noted altered sensation in the fingers of the right hand. Strength testing of the wrists and fingers was normal. Dynamometric testing of grip strength revealed the following serial measurements: 10, 10, and 10 kg. of force on the left and 5, 6, and 7 kg. of force on the right. Palpation revealed mild tenderness over the right carpal tunnel, right medial epicondyle, and right extensor muscles of the forearm. Phalen's test was positive over the right wrist. Tinel's was positive over the cubital tunnel.

**IMPRESSION**

Right carpal and cubital tunnel syndrome.

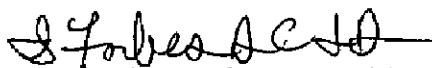
**DISCUSSION**

It appears there is causation to the original injury of 9/11/15. The claimant's current complaints and objective findings appear similar to those found by the physicians in California. These complaints could very well be consistent with the mechanism of injury of 9/11/15. It is unclear why these findings were not noted earlier. Pre-existing complaints were not noted. No intervening causes were noted. I recommend claim reopening with conservative treatment directed toward carpal and cubital tunnel syndrome.

Please note that the above opinions are within a reasonable degree of medical probability.

Please do not hesitate to contact me if you require further assistance.

Sincerely,



Scott Forbes, D.C., J.D., MCS-P

DIR Designated Impairment Rating Examiner, State of Nevada

*Andrew Shuman*  
CLERK OF THE COURT

*District 72*  
**NOTICE OF APPEAL TO THE SUPREME COURT FROM A JUDGEMENT AND  
ORDER OF A DISTRICT COURT**

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

**DEPT NO: 14C**

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

**TERESA R. BURWELL,  
PLAINTIFF/APPELLANT**

**VS.**

**NEVADA ORTHOPEDIC AND  
SPINE CENTER LLP,  
DEFENDANT/RESPONDENT**

**NOTICE OF APPEAL**

Notice is hereby given that, Teresa R. Burwell, plaintiff/appellant, the above named, hereby appeals to the Supreme Court of Nevada, from the final judgment, Defendant's Motion to Dismiss, entered on this action, August 7, 2018, and mailed to the plaintiff on the same day, with her being in receipt of it August 8, 2018; leaving the 30 days valid through today, being the 8<sup>th</sup> was on a weekend. The order and judgment was entered on August 7, 2018, and the decision and order as stated was mailed.

The related cases to this appeal are **District Court Case Number: A-18-770532-C (Appellant filed a Complaint against the defendant/respondent for two separate claims: 1. Professional Negligence and 2. Libel/Defamation of character. The other relative case is District Court Case Number: A-16-74034-J, where the plaintiff/appellant filed a petition for judicial review AND WON due to being abruptly wrongfully terminated from her employment because of an orthopedic report in which the defendant/respondent submitted which outlined statements that were both defamatory and slanderous. At the same time the defendant/respondent presented this orthopedic report he committed fraud and perjury by attesting that he released the plaintiff/appellant back to work during a January 6, 2016 office visit where he insulted the plaintiff/appellant and misrepresented the facts. The plaintiff/appellant has video footage to validate her claims and has yet to be given justice or be heard.**

**REQUEST FOR PRO BONO COUNSEL IF AVAILABLE? – YES**

**STATEMENT OF FACTS**

The plaintiff/appellant brought forth the above mentioned action, case number: **A-18-770532-C**, within the scope of the statutes, laws, and rules which govern such offenses and violations of libel/slander/ defamation of character for claim 2. While the plaintiff/appellant did not provide the court with a medical affidavit, she did provide the court with a legal defense which as upheld by the statute would prevent the need for one. However, the defendant filed a Motion to Dismiss, and having never denied any

1 allegations that were set forth in the plaintiff's/appellant's complaint, statements,  
2 opposition, and exhibits presented to the Court, the defendant was allowed to wiggle his  
3 way out of liability and responsibility.

## 4 FOUNDATION OF THE CASE

5 The plaintiff/appellant was being provided a very different form of treatment by the  
6 defendant after she sustained a right hand injury, while working at the Cosmopolitan of  
7 Las Vegas, otherwise known as Nevada Property I. While pulling the cart properly from  
8 the room, the rubber door stopper slipped on the tile surface while being lodged under  
9 the door. The plaintiff's/appellant's right hand was crushed between the door, the  
10 collector and threshold of the door; being lacerated between her ring finger and pinky  
11 due to the metal plating being broken and loose.

12 Upon being seen and treated by the Concentra clinic the plaintiff/appellant was  
13 placed on light duty, and her worker compensation claim was accepted. During the  
14 plaintiff's/appellant's course of treatment, she attended a round of physical therapy,  
15 which still offered no relief or resolve to her ongoing complaints, symptoms, and injury.

16 On October 20, 2015 the plaintiff/appellant was placed on full medical workers  
17 compensation leave; being eligible for both medical and financial benefits.

18 As prodigal, the plaintiff's/appellant's care was transferred to a hand specialist,  
19 where she attempted to enlighten them on the seriousness of her injury, while they were  
20 being dismissive to her complaints. The plaintiff/appellant provided Dr. Young a copy of  
21 her records from her doctor whom had treated her for a left hand injury and ultimately  
22 did carpal tunnel surgery. It is with this information the plaintiff/appellant was targeted  
23 and the accusations begin to fly is the reason she requested transfer of care from Dr.  
24 Young.

25 Upon the plaintiff/appellant's initial visit with the defendant/respondent, Dr. Arthur  
26 Taylor, he began to make accusatory statements about her personal injury case, which  
27 had nothing to do with why she was there. Dr. Taylor, thumbing through papers said, "I  
28 see you had carpal tunnel surgery even though the tests came back negative for it." The  
plaintiff/appellant stated, "Yes, the symptoms were there and the doctor felt it best to  
perform because as he stated tests can be off or not accurate sometimes, especially  
when symptoms are present." When asked why, the defendant stated he was just  
quoting what was in the report.

Once the plaintiff/appellant left, she was given a progress report, which stated she  
was still on medical leave and had not been released back to work. Each visit any  
recipient of workers compensation is required to call in to see if there is light duty work  
available. The plaintiff/appellant performed each routine call after each visit as required.

On January 6, 2016, the plaintiff/appellant reported to the defendant's office for a  
second follow-up visit. During triage, her blood pressure was charted at 185/143. Due to  
the level of pain the plaintiff/appellant was experiencing from her previous medical  
condition and now an added injury, where pain was only felt in her third finger of her  
right hand, the plaintiff was very sick on this day.

Once the defendant came in, he asked about the plaintiff's/appellant's holiday, where  
she went on to explain to him that after her toy give away, her middle finger on her  
injured right hand was not only still swollen, but stiff and throbbing with pain. The  
plaintiff/appellant went on to advise the defendant that her symptoms since injury  
weren't any better and requested further diagnostic testing because she felt something  
was not right and knew so.

The defendant then told the plaintiff/appellant she had more complaints than gunshot  
victims he treats. After the plaintiff/appellant questioned the arthritis diagnosis and  
attempted to explain to him why she could only complete one session of the **SECOND**  
order for physical therapy, the defendant became offended, and started cutting the  
plaintiff/appellant off and insisted it would be best for her care to be transferred and he  
walked out of the room slamming the door. (Video exhibit exists and has been provided)

1 Upon receipt of the routine progress report, the plaintiff/appellant was given the  
2 same restrictions, the same leave status, and was never told verbally or advised in  
3 writing that she would be released to full duty and needed to report to work immediately.

4 Following a personal matter the plaintiff/appellant, she advised at the time counsel of  
5 her need to leave town for two weeks while awaiting the transfer of care and would be  
6 available via phone, text, or email once they heard back from the workers compensation  
7 claims representative. Instead, the plaintiff/appellant received a phone call on February  
8 2, 2016 from her then employer, stating she had been released back to full duty and  
9 could she come in the upcoming Thursday. Once the plaintiff/appellant made  
10 arrangements with her then employer and manager, Karen, the following she received  
11 an email from the Cosmopolitan's human resources department, stating that she was  
12 unreachable and needed to contact them.

13 It is upon asking the one who called the plaintiff/appellant, Karen, what was going on  
14 and why she advised human resources that she (Karen) informed the plaintiff/appellant  
15 she was on an unauthorized medical leave, the plaintiff/appellant was upon meeting  
16 with her then employer on February 22, 2016 wrongfully terminated for "being rude to  
17 her manager" and an unauthorized medical leave.

18 The plaintiff/appellant was too abruptly terminated from her medical and financial  
19 benefits she was receiving through workers compensation and denied a PPD rating.

20 Strangely, the plaintiff's/appellant counsel resigned from her case and she was left to  
21 pick up the pieces on her own, which she has been doing.

22 After a few months and in the course of her appealing unemployment decisions and  
23 workers compensation denial letters, the plaintiff/appellant went to seek treatment and a  
24 second opinion from a doctor in California, she obtained from her insurance website.

25 On or around June 6, 2016 (or later) the plaintiff/appellant had an appointment with a  
26 Dr. Matthew Enna, where he sent her for nerve study testing, gave her an injection, a  
27 brace and follow-up. Upon following up later in June 2016, the plaintiff/appellant was  
28 diagnosed with right hand carpal tunnel syndrome, trigger finger, and an ulnar nerve  
tear from her injury sustained on September 11, 2015.

In the course of appealing and filing proper civil complaints, the plaintiff/appellant  
delayed surgery until finding a doctor she was comfortable with and has since had the  
needed surgery on September 7, 2018, which is a result of her right hand being crushed  
on September 11, 2015.

### 18 STATEMENT OF DISTRICT COURT ERROR

19 The District court erred in judgment because the claims which were presented  
20 under the provisions of NRS 200.510 1. Libel is a malicious defamation, expressed by  
21 printing, writing, signs, pictures or the like, tending to blacken the memory of the dead,  
22 or to impeach the honesty, integrity, virtue, or reputation, or to publish the natural  
23 defects of a living person or persons, or community of persons, or association of  
24 persons, and thereby to expose them to public hatred, contempt or ridicule. 2. Every  
25 person, whether the writer or publisher, convicted of the offense is guilty of a gross  
26 misdemeanor.

27 It appears that in order to evade the lawful liability and holding the defendant in the  
28 light of his actions, the judge was dismissive to the plaintiff's opposition and exhibits  
presented, which shed a preponderance of evidence onto the weight of the claims set  
forth in the original complaint. It appears that there has been no fair hearing and  
consideration of all evidence, both presented in exhibits and as matters of law because  
the judge has combined both claims set forth separately in the plaintiff's/appellants  
complaint as one.

The error in combining a case of libel, where the defendant defamed the  
plaintiff/appellant, lied on her, misrepresented the facts, and caused a domino effect  
with his untimely orthopedic report and full duty release which never occurred in the  
plaintiff's/appellant's presence is a miscarriage of justice.


1 While there may be some light of evidence in leaning towards a dismissal without  
2 prejudice in regards to the medical affidavit, the judge was still presented a timely  
3 opposition; one for which she either didn't care to read or consider because it bore  
4 reasonable evidence and argument which supported the law of Res Ipsa Loquitur, (the  
5 thing speaks for itself), is written as an affirmative defense against having to provide a  
6 medical affidavit.

7 The act of professional negligence all in itself is one thing, but upon the defendant  
8 releasing himself from the plaintiff's/appellant's medical case, he construed a fabricated  
9 written orthopedic report which violated the provisions set forth in NRS 200.510, NRS  
10 630.3062, and the provisions set forth in the plaintiff's/appellant's original complaint.

11 The plaintiff/appellant, hereby requests this appeal and requests the Nevada  
12 Supreme Court to screen this case for such appeal in order for the proper claims that  
13 have been set forth against the defendant be heard fairly by review of all evidence, both  
14 exhibits, statements, and video. The plaintiff/appellant requests that sanctions be issued  
15 against the defendant for the violations set forth in all the pleadings the  
16 plaintiff/appellant has presented to the court in the above named case, and that the  
17 defendant not be allowed to evade the damages sought for actual and punitive  
18 damages, because if it had not been for his false reports and defamation the  
19 plaintiff's/appellant's outcome would've been handled differently and had a different  
20 outcome, both with her employment and workers compensation claim.

21 DATED THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2018

22 RESPECTUFLLY SUBMITTED BY:

23 

24 TERESA R. BURWELL, PLAINTIFF/APPELLANT  
25 IN PROPER PERSON  
26  
27  
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the date indicated below, I served a copy of this Notice of Appeal, Statement of Facts, and pleadings herein, upon all parties to the appeal as follows:

By depositing a true and correct copy of the Notice of Appeal, Statement of Facts, and pleading herein, in a sealed envelope, and mailing it postage pre-paid to the following parties, with their names and addresses listed.

Robert M<sup>c</sup>Bride

8329 W Sunset Road #200

W No 89113

Mailed on 9/10/18

DATED THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2018

Teresa R Burwell

TERESA R BURWELL, APPELLANT IN PROPER PERSON  
1015 TIMBERLINE COURT, HENDERSON, NEVADA 89015  
(702)628-4927

*Steven D. Grierson*

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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: XIV**

**ORDER GRANTING 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**

Defendants, NEVADA ORTHOPEDIC & SPINE CENTER, LLP and ARTHUR  
TAYLOR, M.D., came before the court on August 7, 2018 for hearing on 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. Having reviewed all  
submitted briefs, no oral argument being necessary, and for good cause showing, the Court finds  
as follows:

///

////

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Def(s)	<input type="checkbox"/> Judgment of Arbitration

*ADP*

I.

**FINDINGS OF FACT**

1. On March 6, 2018, Plaintiff filed her Complaint against Nevada Orthopedic and Spine Center and Arthur Taylor, M.D. relating to care and treatment provided to Plaintiff from December 2015 to January 2016.

2. Plaintiff admits in her complaint, and reiterated at the hearing, that Defendant's treatment of her ceased on January 6, 2016, and that Dr. Taylor's last act as her physician occurred at the time of his January 29, 2016 written evaluation of her condition.

3. Plaintiff admits in her complaint, and reiterated at the hearing, that she was aware of the injury caused by the alleged negligence of Defendants on or about February 2016.

II.

**CONCLUSIONS OF LAW**

1. The entirety of Plaintiff's complaint sounds in professional negligence of a medical professional, as all alleged 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.

2. 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.

3. 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).

4. Plaintiff's claim filed in February of 2018 is time-barred under NRS 41A.097(2),



1 making **dismissal mandatory.**

2 5. Additionally, because NRS 41A.071 applies, the complaint was void ab initio for  
3 lack of a concurrently filed medical expert affidavit, and the complaint **must be automatically**  
4 **dismissed.**

5 6. Because the complaint alleges only professional negligence under NRS Chapter  
6 41A, the requirements of NRS 41A.071 and NRS 41A.097 apply to the entire complaint. NRS  
7 41A.097(2) states that an action for professional negligence must be filed no more than three  
8 years after the date of injury or one year after the Plaintiff discovers the injury, whichever occurs  
9 first. Plaintiff admits in her complaint, and reiterated at the hearing, that she was aware of the  
10 injury caused by the alleged negligence of Dr. Taylor on or about February 2016. Thus, under  
11 NRS 41A.097(2), the one-year limitations period is applicable because it would expire before the  
12 three-year limitations period, in February 2017. For statute of limitations purposes, the  
13 complaint is considered filed upon receipt by the court, which was on February 9, 2018, with  
14 Plaintiff's application to proceed in forma pauperis. Because February 9, 2018 was more than  
15 one year after Plaintiff discovered the injury, the claim is time-barred under NRS 41A.097(2),  
16 and thus must be dismissed with prejudice.

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

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21 ///

22 ///

23 ///

24 ///

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**