

1 BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
2 CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
3 NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
4 Henderson, Nevada 89014  
5 Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
6 [brian@nettlawfirm.com](mailto:brian@nettlawfirm.com)  
7 [christian@nettlawfirm.com](mailto:christian@nettlawfirm.com)  
Attorneys for Plaintiff

8  
9  
10 DISTRICT COURT  
CLARK COUNTY, NEVADA

11 YVONNE O'CONNELL, an individual,

12 Plaintiff,

13  
14 vs.

15 WYNN LAS VEGAS, LLC, a Nevada Limited  
16 Liability Company, doing business as WYNN  
LAS VEGAS; DOES I through X; and ROE  
17 CORPORATIONS I through X, inclusive,

18 Defendants.

CASE NO. A-12-655992-C

DEPARTMENT NO. V

PLAINTIFF'S SIXTH SUPPLEMENT  
TO INITIAL 16.1 DISCLOSURES

19  
20  
21 Plaintiff, YVONNE O'CONNELL, by and through her attorneys of record BRIAN D.  
22 NETTLES, ESQ. and CHRISTIAN M. MORRIS, ESQ. of the NETTLES LAW FIRM, hereby  
23 submits her Sixth Supplement to Early Case Conference Disclosures pursuant to NRCP 16. 1, as  
24 follows (supplemented documents are in bold):

25 I. WITNESSES

26 Pursuant to NRCP 161 (a) (1) (A), the name and, if known, the address and telephone  
27 number of each individual likely to have information discoverable under Rule 26(b), including  
28 for impeachment or rebuttal, identifying the subjects of the information:

1. Yvonne O'Connell  
c/o Nettles Law Firm  
1389 Galleria Drive, Suite 200  
Henderson, NV 89014

This witness, Plaintiff, is expected to testify regarding the facts and circumstances contained in the Complaint on file herein.

2. Person Most Knowledgeable  
Wynn Las Vegas, LLC  
c/o Lawrence J. Semenza, III, Esq.  
LAWRENCE J. SEMENZA, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 835-6803

This witness is expected to testify regarding the facts and circumstances contained in the Complaint on file herein.

3. Jon Sorelle, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
The Minimally Invasive Hand Institute  
8960 W. Tropicana Ave.  
Las Vegas, NV 89147  
Phone: (702) 739-4263

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

4. Person Most Knowledgeable/Custodian of Records  
Steinberg Diagnostics  
2950 S. Maryland Pkwy.  
Las Vegas, NV  
Phone: (702) 732-6000

1 This individual is expected to testify as a treating physician and as an expert regarding  
2 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
3 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
4 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
5 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
6 also a treating physician and thereby not retained or specially employed to provide expert  
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8 let us know immediately or your failure to object will be deemed a stipulation that said  
9 documents are not required under the rule. Further, this expert is expected to testify consistent  
10 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
11 other incidents having relevance to this action. The facts and opinions to which the expert is  
12 expected to testify include any and all facts and opinions in the said medical records, and that the  
13 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
14 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
15 any party in this action that contradict the same.

- 11 5. Person Most Knowledgeable/Custodian of Records  
12 UMC Quickcare  
13 1800 West Charleston Blvd.  
14 Las Vegas, NV 89102  
15 Phone: (702) 383-2000

15 This individual is expected to testify as a treating physician and as an expert regarding  
16 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
17 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
18 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
19 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
20 also a treating physician and thereby not retained or specially employed to provide expert  
21 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
22 let us know immediately or your failure to object will be deemed a stipulation that said  
23 documents are not required under the rule. Further, this expert is expected to testify consistent  
24 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
25 other incidents having relevance to this action. The facts and opinions to which the expert is  
26 expected to testify include any and all facts and opinions in the said medical records, and that the  
27 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
28 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

- 24 6. Person Most Knowledgeable/Custodian of Records  
25 Matt Smith Physical Therapy  
26 9499 W. Charleston Blvd., Suite 220  
27 Las Vegas, NV 89117  
28 Phone: (702) 933-9394

28 This individual is expected to testify as a treating physician and as an expert regarding  
the injuries sustained, past present and future medical treatment and impairment, prognosis,

1 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
2 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
3 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
4 also a treating physician and thereby not retained or specially employed to provide expert  
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7 documents are not required under the rule. Further, this expert is expected to testify consistent  
8 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
9 other incidents having relevance to this action. The facts and opinions to which the expert is  
10 expected to testify include any and all facts and opinions in the said medical records, and that the  
11 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
12 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
13 any party in this action that contradict the same.

9 7. Timothy Trainor, M.D. and/or  
10 Person Most Knowledgeable/Custodian of Records  
11 Advanced Orthopedic & Sports Medicine  
12 8420 W. Warm Springs Rd.  
13 Las Vegas, NV  
14 Phone: (702) 740-5327

14 This individual is expected to testify as a treating physician and as an expert regarding  
15 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
16 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
17 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
18 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
19 also a treating physician and thereby not retained or specially employed to provide expert  
20 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
21 let us know immediately or your failure to object will be deemed a stipulation that said  
22 documents are not required under the rule. Further, this expert is expected to testify consistent  
23 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
24 other incidents having relevance to this action. The facts and opinions to which the expert is  
25 expected to testify include any and all facts and opinions in the said medical records, and that the  
26 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
27 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
28 any party in this action that contradict the same.

23 8. John A. Thompson, M.D. and/or  
24 Person Most Knowledgeable/Custodian of Records  
25 Desert Oasis Clinic  
26 6316 S. Rainbow Blvd., Suite 100  
27 Las Vegas, NV 89118  
28 Phone: (702) 310-9350

28 This individual is expected to testify as a treating physician and as an expert regarding  
the injuries sustained, past present and future medical treatment and impairment, prognosis,  
disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of

1 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
2 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
3 also a treating physician and thereby not retained or specially employed to provide expert  
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7 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
8 other incidents having relevance to this action. The facts and opinions to which the expert is  
9 expected to testify include any and all facts and opinions in the said medical records, and that the  
10 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
11 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
12 any party in this action that contradict the same.

9. Christopher Milford, M.D., P.C. and/or  
Person Most Knowledgeable/Custodian of Records  
Silver State Neurology  
9811 W. Charleston Blvd., Ste. 2-357  
Las Vegas, NV 89117  
Phone: (702) 256-3637

13 This individual is expected to testify as a treating physician and as an expert regarding  
14 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
15 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
16 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
17 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
18 also a treating physician and thereby not retained or specially employed to provide expert  
19 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
20 let us know immediately or your failure to object will be deemed a stipulation that said  
21 documents are not required under the rule. Further, this expert is expected to testify consistent  
22 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
23 other incidents having relevance to this action. The facts and opinions to which the expert is  
24 expected to testify include any and all facts and opinions in the said medical records, and that the  
25 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
26 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
27 any party in this action that contradict the same.

10. Person Most Knowledgeable/Custodian of Records  
Edwin Suarez Physical Therapy  
4955 S. Durango Dr. #100  
Las Vegas, NV 89113  
Phone: (702) 489-9785

27 This individual is expected to testify as a treating physician and as an expert regarding  
28 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records

and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

11. Edson Erkulvrawatr, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Southern Nevada Pain Center  
6950 W. Desert Inn Rd., Ste. 110  
Las Vegas, NV 89117  
Phone: (702) 259-5550

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

12. Leo Germin, M.D.  
Person Most Knowledgeable/Custodian of Records  
Clinical Neurology Specialists  
1691 W. Horizon Ridge Pkwy., Ste. 100  
Henderson, NV 89012  
Phone: (702) 804-1212

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is

also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

13. Andrew Cash, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Nevada Institute of Spine Care  
9339 W. Sunset Road, Ste. 100  
Las Vegas, NV 89148  
Phone: (702) 630-3472

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

14. Lee Wittenberg, DPM and/or  
Person Most Knowledgeable/Custodian of Records  
Apache Foot & Ankle Specialist LLC  
9710W. Tropicana Ave., Ste. 115  
Las Vegas, NV 89147  
Phone: (702) 362-2622

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert

1 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
2 let us know immediately or your failure to object will be deemed a stipulation that said  
3 documents are not required under the rule. Further, this expert is expected to testify consistent  
4 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
5 other incidents having relevance to this action. The facts and opinions to which the expert is  
6 expected to testify include any and all facts and opinions in the said medical records, and that the  
7 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
8 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
9 any party in this action that contradict the same.

10  
11 15. Suresh Prahbu, M.D. and/or  
12 Person Most Knowledgeable/Custodian of Records  
13 Ascent Primary Care  
14 653 N. Town Center Dr., Ste. 217  
15 Las Vegas, NV 89144  
16 Phone: (702) 545-0751

17 This individual is expected to testify as a treating physician and as an expert regarding  
18 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
19 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
20 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
21 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
22 also a treating physician and thereby not retained or specially employed to provide expert  
23 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
24 let us know immediately or your failure to object will be deemed a stipulation that said  
25 documents are not required under the rule. Further, this expert is expected to testify consistent  
26 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
27 other incidents having relevance to this action. The facts and opinions to which the expert is  
28 expected to testify include any and all facts and opinions in the said medical records, and that the  
29 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
30 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
31 any party in this action that contradict the same.

32 16. Person Most Knowledgeable/Custodian of Records  
33 University Medical Center  
34 1800 West Charleston Blvd.  
35 Las Vegas, NV 89102  
36 Phone: (702) 383-2000

37 This individual is expected to testify as a treating physician and as an expert regarding  
38 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
39 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
40 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
41 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
42 also a treating physician and thereby not retained or specially employed to provide expert  
43 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
44 let us know immediately or your failure to object will be deemed a stipulation that said



documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

17. Thomas Dunn, M.D.  
Craig T. Tingey, M.D.  
Andrew S. Martin, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Desert Othopaedic Center  
2800 East Desert Inn Road, Suite 100  
Las Vegas, NV 89121-3609  
Phone: (702) 731-1616

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

18. Yakov Shaposhnikov, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Gastrointestinal and Liver Diseases  
2020 Goldring Avenue  
Las Vegas, NV 89106

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said

documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

17. Enrique Lacayo, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
2020 Goldring Avenue  
Las Vegas, NV 89106

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

18. Nanjunda Subramanyam, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Nevada Heart and Vascular Center  
1820 Desert Inn Rd., Suite A  
Las Vegas, NV 89169

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the

1 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
2 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

3 19. Scott Manthei, M.D. and/or  
4 Person Most Knowledgeable/Custodian of Records  
5 Nevada Eye and Ear  
6 2598 Windmill Pkwy.  
Henderson, NV 89074

7 This individual is expected to testify as a treating physician and as an expert regarding  
8 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
9 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
10 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
11 also a treating physician and thereby not retained or specially employed to provide expert  
12 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
13 let us know immediately or your failure to object will be deemed a stipulation that said  
14 documents are not required under the rule. Further, this expert is expected to testify consistent  
15 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
16 other incidents having relevance to this action. The facts and opinions to which the expert is  
17 expected to testify include any and all facts and opinions in the said medical records, and that the  
18 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
19 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

20 20. Tyree Carr, M.D. and/or  
21 Person Most Knowledgeable/Custodian of Records  
22 Nevada Institute of Ophthalmology  
23 2800 N. Tenaya Way, #102  
24 Las Vegas, NV 89128

25 This individual is expected to testify as a treating physician and as an expert regarding  
26 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
27 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
28 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
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other incidents having relevance to this action. The facts and opinions to which the expert is  
expected to testify include any and all facts and opinions in the said medical records, and that the  
medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

21. Troy Valdez -- brother  
4 Starling Lane  
Aliso Viejo, CA 92656  
(949) 254-4550  
(949) 228-0959

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

22. Holly Valdez -- sister in law  
4 Starling Lane  
Aliso Viejo, CA 92656  
(949) 254-4550  
(949) 228-0959

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

23. Dave Brobeck -- Holly Valdez' father  
217 Monarch Bay Drive  
Dana Point, CA 92629  
(949) 499-9811

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

24. Gaye Brobeck -- Holly Valdez' mother  
217 Monarch Bay Drive  
Dana Point, CA 92629  
(949) 499-9811

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

25. David Brobeck -- Holly Valdez' brother  
20 Blue Heron Lane  
Aliso Viejo, CA 92656  
(949) 859-3793

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

26. Mele Brobeck – Holly Valdez' sister in law  
20 Blue Heron Lane  
Aliso Viejo, CA 92656  
(949) 859-3793

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

27. Larry Muro – Troy Valdez' friend  
4739 Mascagni St.  
Ventura, CA 93003  
(805) 616-0274

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

28. Janine Muro – Troy Valdez' friend  
4739 Mascagni St.  
Ventura, CA 93003  
(805) 616-0274

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

29. Jim Holloway – Troy Valdez' friend  
2834 Serang Place  
Costa Mesa, CA 92626  
(714) 241-7777

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

30. Renee Holloway – Troy Valdez' friend  
2834 Serang Place  
Costa Mesa, CA 92626  
(714) 241-7777

1 This witness is expected to testify concerning her knowledge of Plaintiff's health and  
2 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
on file herein.

3 31. Allen Stroub – Plaintiff's Cousin  
4 7009 Bandolero Way  
5 Bakersfield, CA  
(805) 838-7187

6 This witness is expected to testify concerning his knowledge of Plaintiff's health and  
7 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
on file herein.

8 32. Helen Stroub – Plaintiff's Cousin  
9 7009 Bandolero Way  
10 Bakersfield, CA  
(805) 838-7187

11 This witness is expected to testify concerning her knowledge of Plaintiff's health and  
12 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
on file herein.

13 33. Person Most Knowledgeable/Custodian of Records  
14 Las Vegas Radiology  
15 7500 Smoke Ranch Road, Suite 100  
16 Las Vegas, Nevada 89128  
17 (702) 254-5004

18 This individual is expected to testify as a treating physician and as an expert regarding  
19 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
20 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
21 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
22 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
23 also a treating physician and thereby not retained or specially employed to provide expert  
24 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
25 let us know immediately or your failure to object will be deemed a stipulation that said  
26 documents are not required under the rule. Further, this expert is expected to testify consistent  
with the medical records related to the treatment of the Plaintiff for the subject incident, and  
other incidents having relevance to this action. The facts and opinions to which the expert is  
expected to testify include any and all facts and opinions in the said medical records, and that the  
medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

27 34. Person Most Knowledgeable/Custodian of Records  
28 Open Sided MRI of Las Vegas  
630 South Rancho, Suite G

Las Vegas, Nevada 89106  
(702) 932-2740

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

Plaintiff reserves the right to call any witness designated by any other party to this proceeding.

Discovery is continuing and Plaintiff reserves the right to supplement this list as additional information becomes available.

## II. DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS

*Pursuant to NRC P 161 (a)(1)(B), a copy of or a description by category and location of all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and which are discoverable under Rule 26(b):*

1. Medical Records and Billing Statement  
Jon Sorelle, M.D.  
The Minimally Invasive Hand Institute  
8960 W. Tropicana Ave.  
Las Vegas, NV 89147  
Bate numbered PLTF000001 through PLTF000018 and attached hereto.
2. Diagnostic Records and Billing Statement  
Steinberg Diagnostics  
2950 S. Maryland Pkwy.  
Las Vegas, NV  
Bate numbered PLTF000019 through PLTF000033 and attached hereto.

3. Medical Records and Billing Statement  
UMC Quickcare  
1800 West Charleston Blvd.  
Las Vegas, NV 89102  
Bate numbered PLTF000034 through PLTF000289 and attached hereto.
4. Physical Therapy Records and Billing Statement  
Matt Smith Physical Therapy  
9499 W. Charleston Blvd., Suite 220  
Las Vegas, NV 89117  
Bate numbered PLTF000290 through PLTF000374 and attached hereto.
5. Medical Records and Billing Statement  
Timothy Trainor, M.D.  
Advanced Orthopedic & Sports Medicine  
8420 W. Warm Springs Rd.  
Las Vegas, NV  
Bate numbered PLTF000375 through PLTF000396 and attached hereto.
6. Medical Records and Billing Statement  
John A. Thompson, M.D.  
Desert Oasis Clinic  
6316 S. Rainbow Blvd., Suite 100  
Las Vegas, NV 89118  
Bate numbered PLTF000397 through PLTF000407 and attached hereto.
7. Medical Records and Billing Statement  
Christopher Milford, M.D., P.C.  
Silver State Neurology  
9811 W. Charleston Blvd., Ste. 2-357  
Las Vegas, NV 89117  
Bate numbered PLTF000408 through PLTF000431 and attached hereto.
8. Physical Therapy and Billing Statement  
Edwin Suarez Physical Therapy  
4955 S. Durango Dr. #100  
Las Vegas, NV 89113  
Bate numbered PLTF000432 through PLTF000443 and attached hereto.
9. Medical Records and Billing Statement  
Edson Erkulvrawatr, M.D.  
Southern Nevada Pain Center  
6950 W. Desert Inn Rd., Ste. 110  
Las Vegas, NV 89117  
Phone: (702) 259-5550  
Bate numbered PLTF000444 through PLTF000526 and attached hereto.



10. Medical Records and Billing Statement  
Leo Germin, M.D.  
Clinical Neurology Specialists  
1691 W. Horizon Ridge Pkwy., Ste. 100  
Henderson, NV 89012  
Bate numbered PLTF000527 through PLTF000535 and attached hereto.
11. Medical Records and Billing Statement  
Andrew Cash, M.D.  
Nevada Institute of Spine Care  
9339 W. Sunset Road, Ste. 100  
Las Vegas, NV 89148  
Bate numbered PLTF000536 through PLTF000584 and attached hereto.
12. Medical Records and Billing Statement  
Lee Wittenberg, DPM  
Apache Foot & Ankle Specialist LLC  
9710 W. Tropicana Ave., Ste. 115  
Las Vegas, NV 89147  
Bate numbered PLTF000585 through PLTF000598 and attached hereto.
13. Medical Records and Billing Statement  
Suresh Prahbu, M.D.  
Ascent Primary Care  
653 N. Town Center Dr., Ste. 217  
Las Vegas, NV 89144  
Bate numbered PLTF000594 through PLTF000598 and attached hereto.
14. Medical Records  
Thomas Dunn, M.D. and/or  
Desert Othopaedic Center  
2800 East Desert Inn Road, Suite 100  
Las Vegas, NV 89121-3609  
Bate numbered PLTF000599 through PLTF000627 and attached hereto.
15. Medical Records and Billing Statement  
Yakov Shaposhnikov, M.D. and/or  
Gastrointestinal and Liver Diseases  
2020 Goldring Avenue  
Las Vegas, NV 89106  
Bate numbered PLTF000628 through PLTF000649 and attached hereto.
16. Medical Records and Billing Statement  
Enrique Lacayo, M.D.  
2020 Goldring Avenue  
Las Vegas, NV 89106  
Bate numbered PLTF000650 through PLTF000677 and attached hereto.

**NETTLES LAW FIRM**

1389 Galleria Drive Suite 206  
Henderson, NV 89014  
(702) 434-8282 / (702) 434-1488 (fax)

17. Medical Records and Billing Statement  
Nanjunda Subramanyam, M.D.  
Nevada Heart and Vascular Center  
1820 Desert Inn Rd., Suite A  
Las Vegas, NV 89169  
Bate numbered PLTF000678 through PLTF000683 and attached hereto.
19. Medical Records and Billing Statement  
Scott Manthei, M.D.  
Nevada Eye and Ear  
2598 Windmill Pkwy.  
Henderson, NV 89074  
Bate numbered PLTF000684 through PLTF000699 and attached hereto.
20. Medical Records and Billing Statement  
Tyree Carr, M.D.  
Nevada Institute of Ophthalmology  
2800 N. Tenaya Way, #102  
Las Vegas, NV 89128  
Bate numbered PLTF000700 through PLTF000716 and attached hereto.
21. Photograph of Plaintiff and friend dancing pre-accident  
Bate numbered PLTF000717 and attached hereto.
22. Photographs of Plaintiff and her brother, Troy Valdez, her sister-in-law, Holly Valdez and her niece pre-accident  
Bate numbered PLTF000718 and attached hereto.
23. Photograph of Plaintiff and her cousins, Allen and Helen Stroub pre-accident  
Bate numbered PLTF000719 and attached hereto.
24. Photographs of Plaintiff's injury area and bruising  
Bate numbered PLTF 000720 and PLTF 721
25. Authorization for the Release of Protected Health Information executed by Plaintiff for benefit of Defendant
26. Medical Records and Billing Statement  
Las Vegas Radiology  
8530 W. Sunset Road  
Las Vegas, Nevada 89113  
(702) 254-5004  
Bate numbered PLTF000722 through PLTF000728 are attached hereto.
27. Medical Billing Statement  
Thomas Dum, M.D.

Desert Orthopedic Center  
2930 W. Horizon Ridge Pkwy, #100  
Henderson, Nevada 89052  
(702) 731-1616

Bate numbered PLTF000729 through PLTF000748 are attached hereto.

28. Medical Records and Billing Statement  
Open Sided MRI  
630 South Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740

Bate numbered PLTF000749 through PLTF000752 are attached hereto.

29. C.V., Fee Schedule and Trial History of  
Thomas Dunn, M.D. – Desert Orthopedic Center

Bate numbered PLTF000753 through PLTF000756 are attached hereto.

30. C.V., Fee Schedule and Trial History of  
Craig T. Tingey, M.D – Desert Orthopedic Center

Bate numbered PLTF000757 through PLTF000764 are attached hereto.

Plaintiff reserves the right to offer any document(s) produced during this litigation including, but not limited to, documents produced by other parties and document attached as exhibits to pleadings and depositions.

Discovery is continuing and Plaintiff reserves the right to supplement this list as additional information becomes available.

### III. COMPUTATION OF DAMAGES

*Pursuant to NRCP 16 1(a)(1)(C), a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered:*

...

...

A. MEDICAL DAMAGES:

PROVIDER	AMOUNT
Jon Sorelle, M.D. The Minimally Invasive Hand Institute	\$ 2,625.00
Steinberg Diagnostics	\$ 2,605.00
UMC – Quick Care	\$ 7,783.56
Matt Smith Physical Therapy	\$ 3,235.00
Timothy J. Trainor, M.D. Advanced Orthopedic & Sports Medicine	\$ 181.00
John A. Thompson, M.D. Desert Oasis Clinic	\$ 250.00
Christopher Milford, M.D., P.C. Silver State Neurology	\$ 1,580.00
Edwin Suarez Physical Therapy	\$ 670.00
Southern Nevada Pain Center	\$ 680.00
Leo Germin, M.D. Clinical Neurology Specialists	\$ 2,510.00
Andrew Cash, M.D. Desert Institute of Spine Care	\$ 3,034.42
Lee Wittenberg, DPM Apache Foot & Ankle	\$ 310.00
Suresh Prahbu, M.D. Ascent Primary Care	\$ 270.00
Thomas Dunn, M.D. Desert Orthopaedic Center	\$ 1,640.00
Yakov Shaposhnikov, M.D. Gastrointestinal and Liver Diseases	\$ 828.00
Enrique Lacayo, M.D.	\$ 175.00

Nanjunda Subramanyam, M.D. Nevada Heart and Vascular Center	\$ 1,440.00
Scott Manthei, M.D. Nevada Eye and Ear	\$ 750.00
Tyree Carr, M.D. Nevada Institute of Ophthalmology	\$ 790.00
Las Vegas Radiology	\$ 3,300.00
Open Sided MRI of Las Vegas	\$ 3,290.00
TOTAL	\$ 37,946.98

B. ADDITIONAL DAMAGES:

Plaintiff has also suffered loss of enjoyment of life due to ongoing pain, in an amount to be proved at trial.

IV. INSURANCE POLICY

*Pursuant to NRCP 161(a) (1) (D), for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment and any disclaimer or limitation of coverage or reservation of rights under any such insurance agreement:*

Plaintiff is unaware of any insurance agreement(s).

DATED this 28<sup>th</sup> day of September, 2015.

NETTLES LAW FIRM



BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Attorneys for Plaintiff

NETTLES LAW FIRM

1389 Galleria Drive Suite 200

Henderson, NV 89014

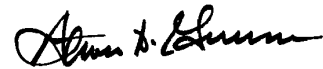
(702) 434-8282 / (702) 434-1488 (fax)

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 28<sup>th</sup> day of September, 2015, I served the foregoing *Plaintiff's Sixth Supplement To Initial Disclosures* to the following parties by electronic transmission through the Wiznet system:

Lawrence J. Semenza, III, Esq.  
Christopher D. Kircher, Esq.  
Lawrence J. Semenza, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
(702) 835-6803  
Fax: (702) 920-8669  
*Attorneys for Defendant*  
*Wynn Las Vegas, LLC dba*  
*Wynn Las Vegas*

  
An Employee of Nettles Law Firm



CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

\* \* \* \* \*

YVONNE O'CONNELL,	.	CASE NO. A-655992
	.	
Plaintiff,	.	DEPT. V
	.	
vs.	.	
	.	
WYNN RESORTS LIMITED, et al,	.	<b>TRANSCRIPT OF</b>
	.	<b>PROCEEDINGS</b>
	.	
Defendants.	.	
. . . . .	.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

**DEFENDANTS' MOTIONS IN LIMINE  
PLAINTIFF'S OMNIBUS MOTIONS IN LIMINE  
CALENDAR CALL**

THURSDAY, OCTOBER 1, 2015

APPEARANCES:

FOR THE PLAINTIFF:	CHRISTIAN MORRIS, ESQ.
FOR THE DEFENDANTS:	LAWRENCE SEMENZA III, ESQ. CHRISTOPHER D. KIRCHER, ESQ.

COURT RECORDER:

DEBRA WYNN  
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC  
Englewood, CO 80110  
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

1       LAS VEGAS, NEVADA, THURSDAY, OCTOBER 1, 2015, 9:05 A.M.

2                       (Court was called to order)

3               MR. SEMENZA: Good morning, Your Honor.

4               THE COURT: Good morning.

5               MR. SEMENZA: L.J. Semenza on behalf of the  
6 defendant. Ms. Morris had, I believe, a status check in  
7 another department. She was going to run down there and come  
8 right back.

9               THE COURT: All right. We'll trail it.

10              MR. SEMENZA: Thank you.

11              (Case trailed at 9:05 a.m., until 9:28 a.m.)

12              THE COURT: All right. Recalling Case No.  
13 A-12-655992. Yvonne O'Connell versus Wynn Resorts.

14              MS. MORRIS: Good morning, Your Honor. Christian  
15 Morris for the plaintiff.

16              THE COURT: Good morning.

17              MR. SEMENZA: Good morning, Your Honor. L.J.  
18 Semenza and Christopher Kircher on behalf of the defendant,  
19 Wynn Las Vegas.

20              THE COURT: Good morning. Okay. So we've got  
21 motions in limine. I'd like to start with -- I know that  
22 there is some overlap.

23              MR. SEMENZA: Yes, there is, Your Honor.

24              THE COURT: So let's just kind of start with the  
25 plaintiff's omnibus, and then when we get to things that



1 overlap we'll talk about those together because I know there  
2 is overlap. So tell me when you're there with your documents.

3 I didn't -- I didn't do tentative rulings on these.  
4 I haven't been doing tentatives on motions in limine because a  
5 lot of times I have questions and it's easier just to go  
6 through them without spending a lot of time writing a  
7 tentative ruling out like I do in dispositive motions.

8 So the first one is the motion to admit pleadings  
9 and discovery. The -- in the initial motion it seemed to say  
10 -- talk about medical records, but then in the reply it said,  
11 no, it wanted to admit the complaint and the answer and  
12 discovery interrogatory. So let me just say this, okay. So  
13 NRS 16.090 covers the order in which a trial proceeds and  
14 provides that if you would like, the pleadings can be read  
15 aloud to the jury.

16 Now, I've never seen that done. There might be --  
17 there might be times when you'd want to do that. I mean, is  
18 it -- as a defense counsel there were a couple times when had  
19 the case gone to trial I probably would have asked for the  
20 complaint to be read aloud to the jury because the claims were  
21 so outrageous in the complaint that, you know, it would have  
22 been a nice tactical move. But they don't get admitted  
23 because they're already part of the record.

24 So if you want to have them read, then you may  
25 certainly ask for that, and then basically you get to read

1 your complaint and the defense can do that, as well, and you  
2 can read your answer. But they don't get admitted into  
3 evidence because they're not evidence. They are pleadings.

4 As far as discovery, discovery, for instance,  
5 answers to interrogatories might be used as impeachment  
6 material and admissions, request for admissions might come  
7 into evidence, as well, if there was -- if there were  
8 admissions made. But the manner of doing that is also, again,  
9 orally. It's just read. If it's a request for admission and  
10 it was admitted or it was deemed to be admitted, then that's  
11 just told to the jury and that's the way you do it. As far  
12 as, as I say, interrogatory answers, then you do that through  
13 a witness. They don't come into evidence, either.

14 MR. SEMENZA: And, Your Honor, I mean, my point with  
15 regard to this particular motion in limine is there may be  
16 things that we may agree on to have admitted. At this point  
17 in time, though, it would be premature prior to trial to make  
18 any sort of determination as to what we would stipulate to  
19 admit, how that particular discovery may ultimately be used  
20 and those sorts of things.

21 So with regard to Motion in Limine No. 1, as far as  
22 the plaintiffs are concerned, my position is let's wait and  
23 see. There may be things we can agree on. There may be  
24 evidentiary issues that may arise relating to it. So as far  
25 as that one is concerned, let's deny it without prejudice is

1 my position.

2 THE COURT: All right. So that's his position.  
3 It's your motion, so you can certainly be heard. Now, did you  
4 want me to talk about the medical records issue? That's  
5 also --

6 MS. MORRIS: Yeah, I think that would be appropriate  
7 at this time, as well.

8 THE COURT: Okay.

9 MS. MORRIS: And my position with the -- the reason  
10 for asking about that is I've had many parties who have agreed  
11 to admit the pleadings in discovery. I've had judges who have  
12 had the -- the complaint admitted as evidence while the  
13 plaintiff is on the stand and it's very confusing sometimes on  
14 how it's going to go forward depending on who the parties are  
15 and how it's going to move forward. I would -- I always  
16 prefer to have more information, obviously.

17 THE COURT: Have you had your pre-trial, you know,  
18 meeting where you mark everything and you agree?

19 MR. SEMENZA: We have not, Your Honor.

20 MS. MORRIS: Yeah.

21 THE COURT: So you have to do that; right?

22 MR. SEMENZA: Correct.

23 MS. MORRIS: Yes. Probably answer a lot of  
24 questions then.

25 THE COURT: Right. So at this point I'm going to

1 deny it because, I mean, I don't think it's proper to admit  
2 pleadings. I suppose if you agree to do that, I don't care.  
3 But it's just not something that you would normally do, and  
4 the same with discovery answers. If you wanted to do that,  
5 you could. But if there was an objection I would sustain that  
6 because that's not, again, how -- how you generally get that  
7 into evidence.

8 But as far as medical records, obviously counsel can  
9 stipulate to have admitted medical records. But authenticity  
10 is different from admissibility and there are ways to  
11 authenticate and that is set forth in Chapter 52. There is  
12 the method of affidavits from the medical providers and having  
13 them sent to the clerks, and a lot of law you're familiar  
14 with. You can do that.

15 There are also other ways because the statute, in  
16 fact, constructs that these are not the only ways that you can  
17 -- it's not, you know, an exhaustive list. It's just  
18 demonstrative ways of how you can authenticate things. But at  
19 this point in time, unless there's a stipulation that they're  
20 authentic, then you have -- then that's your burden.

21 You've got to authenticate and you haven't done that  
22 so I'm not going to deem that you have. And certainly, just  
23 because you've shown authenticity doesn't mean they're  
24 admitted, either. You've got to -- because if they're  
25 irrelevant they don't come in. You know, there's lots of

1 things that go to admissibility besides authenticity. It's  
2 just a prerequisite to admissibility, okay.

3 MS. MORRIS: Yes.

4 THE COURT: All right. So -- so that's -- that's  
5 denied.

6 Let's see, No. 2 is to exclude argument in evidence  
7 that any unnamed third parties were negligent. All right. So  
8 obviously there may be evidence that -- that may come in that  
9 the liquid that was on the floor was spilled by a guest or  
10 something that -- that the defendant doesn't know, so somebody  
11 unnamed.

12 That would be improper to exclude something like  
13 that because, obviously, in a premises liability case you've  
14 got several issues. If you can prove that they caused the  
15 substance to be on the floor, you know, you're in one posture.  
16 Or if they were on notice that it was there and then failed to  
17 clean it up, so you're in your -- another posture. And it  
18 doesn't sound as if that's what you're going with. I don't  
19 know.

20 MS. MORRIS: No. I mean, and, you know, I've  
21 conducted discovery of the two people who were identified  
22 they're employed at the Wynn as to what was on the floor, how  
23 much of it was there, how did it get there. They haven't  
24 identified a customer, some third party, and that's not really  
25 the crux of it, which is why it leads to a confusing argument.

1           Because if the jury is told, well, you know, it was  
2 a customer that did it, that's not the basis of the case. The  
3 basis of the case is whether they were on notice that this  
4 liquid had been on the floor for such a long period of time  
5 that it had dried, that it had footmarks in it that was so  
6 large that they should have cleaned it up. And so where  
7 they're pointing to a third party and --

8           THE COURT: Yeah, except --

9           MS. MORRIS: -- they have an --

10          THE COURT: -- notice --

11          MS. MORRIS: -- affirmative defense on it.

12          THE COURT: -- notice goes to -- I mean, if a third  
13 party spilled it, that goes to the issue of notice because --  
14 right?

15          MR. SEMENZA: And, Your Honor, if opposing counsel  
16 is willing to stipulate that we didn't cause the condition,  
17 then I'll -- I'm fine with having that motion in limine  
18 granted. But I think what they're saying, at least their  
19 theory has been in some fashion we caused it. And then if we  
20 didn't cause it, we had actual notice of it. And then if we  
21 didn't have actual notice of it, we had constructive notice of  
22 it.

23          So obviously in that context, I mean, our position  
24 has and will be that this was, unfortunately, someone's drink  
25 that was spilled at some point in time. Whether it was five

1 minutes before the fall or, you know, a longer period of time.  
2 We don't know at this point in time. But certainly that's our  
3 theory, that it was, in fact, a patron that spilled the drink.

4 THE COURT: All right. So I know that, because I  
5 read part of the plaintiff's deposition and a few papers, that  
6 the plaintiff at least at some point in time was speculating  
7 that it was water from landscaping in the area.

8 MS. MORRIS: Yes, due to the location of it.

9 THE COURT: Are you abandoning that theory?

10 MS. MORRIS: I'm not abandoning the theory. Here's  
11 the problem. They don't know what the liquid was. So if  
12 they're going to allege it's a customer with a drink, they  
13 can't say it's a drink. There's no evidence as to what the --  
14 the liquid was. And so if they're going to walk in and say a  
15 customer spilled a beverage, well, what kind of beverage? Who  
16 was this customer? I mean, this is --

17 THE COURT: Well, okay.

18 MS. MORRIS: -- stuff that's being --

19 THE COURT: All right. So --

20 MS. MORRIS: -- created.

21 THE COURT: -- they obviously can't -- defense can't  
22 get opinion, nor can you, nobody can get up before a jury and  
23 argue something that is not supported by evidence.

24 MS. MORRIS: Correct.

25 THE COURT: Right? So they would have to bring out

1 on, you know, examination, and they can, if there is some  
2 evidence to support an argument later that this may have been  
3 a spill by someone unknown, then they can, they would be able  
4 to argue that. In other words, I mean, you're plaintiff says  
5 that she described the substance as being slightly green in  
6 color and sticky. That would kind of tend to indicate, that  
7 would be evidence it would tend to indicate that it wasn't --  
8 that it was water -- I mean, that it wasn't water, that it may  
9 have been, yes, in fact, a drink.

10 People carry around drinks. That's common knowledge  
11 and it -- and there may be as well evidence of that. And if  
12 that's the case, the jury is entitled to know that, and that,  
13 I think, a reasonable inference could be drawn in argument to  
14 suggest that that may have been the source of the liquid on  
15 the floor. And it's relevant to all of your theories, that  
16 they caused it potentially, or that they had notice of it.  
17 Now, the constructive notice, I'm not clear on how you get  
18 constructive notice because, obviously, the case law is very  
19 clear now that unless it's a self-serve kind of operation --

20 MR. SEMENZA: And it's not.

21 THE COURT: -- that you don't get constructive  
22 notice. In other words, like the grape on the floor in the  
23 *Lucky versus Sprague* case or -- I can't remember the other  
24 one. There was a restaurant case where there was --

25 MS. MORRIS: Right. It was a special use,



1 essentially.

2 THE COURT: Yeah.

3 MS. MORRIS: Correct.

4 THE COURT: So I don't see how you get to  
5 constructive notice. You're going to have to have --

6 MS. MORRIS: Well, in this -- in this case --

7 THE COURT: Yes.

8 MS. MORRIS: -- we have an area which is surrounded  
9 by agriculture. It's an entire walkway of flowers that are  
10 beautiful, to be honest, and they go around and they water  
11 them all the time and it leads to the casino bar and it leads  
12 to the shops. And it is used constantly. And they have  
13 people coming through that water those flowers, they have  
14 people walking from the bar into the shops, into the casinos.

15 And in that area where you know people will be  
16 constantly walking, surrounded by an area that is watered  
17 while they have beverages in their hand can be considered a  
18 special use area due to the knowledge that you have so much  
19 liquid there and they don't have any sweep logs. According to  
20 them, they don't have anyone that has a certain time that they  
21 need to walk around and make sure that there is no liquid in  
22 that area.

23 In fact, they don't even know how often they go  
24 there, however long it takes them to get there, which falls  
25 squarely into the area of the special use. And as you talked

1 about the *Sprague* where it's self-service, where they know  
2 people will be there with beverages, where they know there'll  
3 be an area.

4 MR. SEMENZA: And it's -- it's completely different  
5 than a self-service issue. And what we're going to offer at  
6 trial is testimony that, one, all of the plants in that  
7 agricultural area she's characterized it are watered in the  
8 morning, not in the afternoon when this accident took place,  
9 and that there are no chemical additives in any of that  
10 watering process, which would -- would --

11 THE COURT: Okay. Well, that -- that just is  
12 evidence.

13 MR. SEMENZA: Exactly.

14 THE COURT: Okay. So the issue basically, what  
15 you're going to -- the issue we're talking about now, whether  
16 you can get the jury instruction on constructive notice,  
17 that's a jury instruction issue.

18 MR. SEMENZA: Correct.

19 THE COURT: But I'm telling you now, I think you're  
20 wrong.

21 MS. MORRIS: Okay.

22 THE COURT: So be prepared to maybe a trial -- a  
23 trial brief on that.

24 MS. MORRIS: Yes.

25 THE COURT: Because, I mean, when you get to the end

1 and you're going to be asking for a jury instruction, I'm  
2 going to need to see it because my understanding of the law in  
3 that area is not what you're saying it is.

4 MS. MORRIS: Gotcha.

5 THE COURT: I believe. But, you know, I could  
6 always be wrong. Okay. So this is -- the second motion is  
7 denied with the caveat, of course, that all argument, no  
8 matter what, has to be supported by evidence.

9 All right. No. 3 is precluding arguments that  
10 plaintiff's injuries are unrelated to her fall at the  
11 defendants' casino. Okay. Well, it appears from what I've  
12 read that the plaintiff has an incredible number of  
13 complaints. I mean, I -- I saw some of the medicals where,  
14 you know, she claims that her pain is 10, you know, like,  
15 what, being burned alive because, right, is 10. And she's  
16 claiming that she has that, you know, when she goes to the  
17 doctor. And she has an amazing number of diagnoses from all  
18 these doctors that I don't -- she's apparently claiming all of  
19 this was caused by this fall?

20 MS. MORRIS: No, she's not claiming all of this was  
21 caused by this fall.

22 THE COURT: Well, see, I'm unclear as to what  
23 exactly she's going to claim.

24 MS. MORRIS: Correct.

25 THE COURT: And we won't know that --

1 MS. MORRIS: Her -- her medical providers will be  
2 the ones who testify as to what injuries were a result of this  
3 fall. She will testify as to the pain that she experienced as  
4 a result of this fall, but she obviously can't take the stand  
5 and say what injuries she has as a result of the fall.

6 THE COURT: Right. So I don't really know because I  
7 haven't seen the medical records and I know this is also a  
8 topic of other motions in limine. I don't know what the  
9 doctor, doctors, are going to testify about. Your disclosure  
10 doesn't say as to the treating physicians. The same  
11 disclosure is used for each and every medical provider, same  
12 exact language.

13 And while it does say -- let me go to it -- that the  
14 -- they will testify to the facts and opinions to which the  
15 expert is expected to testify include any and all facts and  
16 opinions in said medical records, okay, and that the medical  
17 treatment was reasonable, necessary, and caused by the  
18 incident set forth in the complaint. So it says and that the  
19 medical treatment the plaintiff received was reasonable,  
20 necessary, and caused. So the medical treatment was cause by  
21 the incident is --

22 MS. MORRIS: The medical treatment --

23 THE COURT: -- what you're claiming your --

24 MS. MORRIS: -- that they rendered. Correct.  
25 Specific to each medical provider.

1 THE COURT: Okay. So without actually seeing what  
2 the facts and opinions are in the medical records, I mean,  
3 your -- your treating physician experts --

4 MS. MORRIS: Correct.

5 THE COURT: -- will have to testify concerning the  
6 facts and opinions that are stated in the medical records.  
7 Additionally, you've said that they're going to say that the  
8 treatment that they received was caused -- the necessity for  
9 that treatment was caused by the incident. I guess it will  
10 remain to be seen as to whether they actually testified to  
11 that.

12 MS. MORRIS: Correct.

13 THE COURT: Okay. So the defense is going to have  
14 an expert potentially that's going to say that some of her  
15 complaints are unrelated and, of course, until -- I don't know  
16 if you're going to have that expert sit through her treating  
17 physician's testimony.

18 MR. SEMENZA: I guess we'll have to because --

19 THE COURT: Yeah, you may need to.

20 MR. SEMENZA: I mean, we did request that we have  
21 the ability to depose Dr. Dunn and Dr. Tingey and that request  
22 was declined. So, I mean, that we requested after the  
23 discovery period had expired because of these disclosures in  
24 all candor and fairness to opposing counsel. So I think  
25 that's ultimately going to be the case that Dr. Klossner

1 (phonetic) is going to have to sit here and watch all the  
2 testimony.

3 THE COURT: Okay. All right.

4 MS. MORRIS: My concern, though, is that I -- I only  
5 know the opinions that he expressed in his report, and those  
6 opinions are what he's limited to in his testimony at trial.  
7 And, additionally, he test -- in his report he opines as to  
8 malingering, which he is not qualified to --

9 THE COURT: Well, we're not there yet.

10 MS. MORRIS: Okay.

11 THE COURT: We're not there yet.

12 MS. MORRIS: So, I mean, my -- my concern is that it  
13 doesn't go outside the scope of what is contained in his  
14 expert report since we're, you know, less than 30 days to  
15 trial. He doesn't have the opportunity to supplement if he  
16 sits here, listens to their opinions, and then tries to opine  
17 as to anything different from his report, then obviously I've  
18 been prejudiced by that. If they wanted to take the  
19 depositions during the discovery period to provide that to  
20 their medical expert --

21 THE COURT: Well --

22 MS. MORRIS: -- so he could opine as to that.

23 THE COURT: -- you put them with no disclosure by --  
24 I mean, they could -- yes, he could have -- they could have  
25 taken the -- every single medical provider, but -- who is it

1 you're actually going to call at trial?

2 MS. MORRIS: Dr. Tingey and Dr. Dunn.

3 THE COURT: Okay. All right.

4 MR. SEMENZA: And, Your Honor, with regard to Dr.  
5 Tingey, he was disclosed late. He was disclosed in August.  
6 Dr. Dunn was disclosed within the discovery period, but all of  
7 those requirements for treating physician expert testimony  
8 were not met until after the discovery deadline in this case.  
9 And that's the problem I have with limiting Dr. Klossner's  
10 testimony to the facts of his report. Because we don't know  
11 what either of these doctors are ultimately going to say. And  
12 that's the problem I have.

13 THE COURT: Okay. So was --

14 MS. MORRIS: Dr. Tingey was properly disclosed. I  
15 supplemented his CV and trial testimony at the request of  
16 defense counsel. He is a treating physician and he's going to  
17 testify as to the opinions he came to while doing his  
18 diagnosis and treatment of her and it's simply limited to  
19 that.

20 THE COURT: Okay. So he's just going to testify  
21 consistent with the medical chart?

22 MS. MORRIS: Consistent with his diagnosis and  
23 treatment. And, obviously, not all opinions are contained in  
24 that, but he's been disclosed to the opinion he's going to  
25 give. I've told them what he's going to give and that's the

1 purpose of --

2 THE COURT: Where?

3 MS. MORRIS: -- the disclosure.

4 MR. SEMENZA: And that's the problem --

5 MS. MORRIS: He's going to --

6 MR. SEMENZA: -- Your Honor.

7 MS. MORRIS: -- testify as to the causation. He  
8 recommended that she needs two meniscal tear repairs done.  
9 That's contained in his medical records. And I've told them  
10 that he is going to relate it to the cause, to the fall as the  
11 cause.

12 MR. SEMENZA: Well after the discovery deadline.  
13 And that's the problem I have is if she's -- if she's going to  
14 offer Dr. Dunn and Dr. Tingey in the four corners of their  
15 medical records, that I understand and that's fair game  
16 because I had those records. But now to say, well, they're  
17 going to be offering testimony relating to causation and --  
18 and referencing, you know, whether she did or didn't have a  
19 preexisting condition, that transforms those treating  
20 physicians into expert witnesses.

21 And what happened here is Dr. Klossner was disclosed  
22 as an initial expert witness. They failed to disclose a  
23 rebuttal expert witness. Now knowing that, now what do they  
24 do? Now they're going to try and bootstrap Dr. Dunn and Dr.  
25 Tingey and expand their testimony as absolutely wide as they



1 can -- they can do in order to establish some sort of claim of  
2 causation relating to these subsequent injuries. And that's  
3 not appropriate and that's not fair.

4 MS. MORRIS: If I may address it, he has been  
5 disclosed and in the same fashion the entire time in  
6 litigation. There hasn't been any bootstrapping or --

7 MR. SEMENZA: Yeah.

8 MS. MORRIS: -- late disclosure of that. We had  
9 them disclosed in the fashion that they were disclosed  
10 throughout litigation. And their -- their documents were  
11 disclosed along with the 16.1 disclosure. So there wasn't any  
12 late surprise.

13 THE COURT: The disclosure that has always -- that  
14 was done in a timely fashion was what this -- this doc  
15 language that is for every provider? Is that right or no?  
16 I'm asking.

17 MR. SEMENZA: My understanding is that Dr. Dunn was  
18 disclosed within the discovery period. The language as far as  
19 what -- I don't know the answer to that question.

20 THE COURT: Okay. So that --

21 MR. SEMENZA: What I do know --

22 THE COURT: -- that makes a difference, so --

23 MR. SEMENZA: I don't know the answer to the  
24 question. What I do know is that Dr. Tingey was disclosed, I  
25 believe, in September of this year.

1 MS. MORRIS: Dr. Tingey was always disclosed. The  
2 language did not change. The only thing that I supplemented  
3 was a CV and fee schedule at the request of defense counsel,  
4 and that's the only thing I changed. And that was the only  
5 supplement that was done. I did not convert the language or  
6 change it in any fashion.

7 THE COURT: So on your initial disclosures Dr.  
8 Tingey was on the list and you used the same language that's  
9 in your fourth supplement?

10 MS. MORRIS: Correct. And to be fair, I came onto  
11 this case in February. And so whatever language since then  
12 has been consistent.

13 MR. SEMENZA: And, Your Honor, I'm looking at --  
14 pardon me. Let me find it real quickly. I apologize.  
15 Exhibit 1 to our -- I'm sorry, to plaintiff's opposition to  
16 Wynn's Motion in Limine No. 2, which is plaintiff's fourth  
17 supplement to initial 16.1 disclosures. And this was filed or  
18 served on July 14th of 2015.

19 THE COURT: That's what I was looking at.

20 MR. SEMENZA: Right. Exactly.

21 THE COURT: But she's saying that any initial  
22 disclosures that would have been made initially was the same.

23 MR. SEMENZA: But, Your Honor --

24 THE COURT: Is that not true?

25 MR. SEMENZA: -- and the reason I point this to you

1 is Dr. Tingey is not identified anywhere in this document.  
2 And this was a month after the discovery deadline in this  
3 case, which was June 12th of 2015.

4 THE COURT: Okay.

5 MR. SEMENZA: That's the problem. And we can get to  
6 Dr. Dunn in a moment, but --

7 THE COURT: Is Dunn in here?

8 MR. SEMENZA: Yes, Dunn is listed at No. 17 --

9 THE COURT: Oh, I see.

10 MR. SEMENZA: -- but Dr. Tingey is not. Dr. Martin  
11 is not, who is another one that they produced medical records  
12 relating to.

13 THE COURT: Right. So what's the scoop?

14 MS. MORRIS: I mean, we'll have to look into this  
15 because I know all of them were disclosed and all of their  
16 medical records were disclosed. This was never briefed in  
17 their motion in limine. This is something new that is being  
18 presented. I don't have all my 16.1 disclosures with me.

19 MR. SEMENZA: And that's fine if counsel needs  
20 additional time to brief it. I mean, we can -- we can address  
21 it. But that's -- that's the problem that I have with Mr. --  
22 Dr. Tingey. And Dr. Dunn, again, yes, he was disclosed within  
23 the period of time. Yes, we did have medical records relating  
24 to Dr. Dunn. But we made decisions not to depose him, okay.

25 And then after the discovery deadline is when they

1 supplement with Dr. Dunn's CV and his fee schedule and all of  
2 those required things that they're supposed to be doing in  
3 order to offer up treating physician testimony in this  
4 particular matter. That's the other issue I have.

5 THE COURT: Okay. Well, I notice that in your -- in  
6 your motion in limine concerning the same issue that you cited  
7 to the original -- let's see. Here it is. Instead of the  
8 updated version of *FCH1, LLC versus Rodriguez*, you know. So  
9 remember they had the first opinion. I think it was in June,  
10 the first version is at 326 P.3d 440, and then the second is  
11 at 335 P.3d 183.

12 Now, I went through it again yesterday to compare  
13 and see exactly what was changed. And in the relevant part of  
14 the opinions, both of them, what I found, which is really only  
15 one, two, three, four, five paragraphs for this issue that  
16 we're talking about.

17 MR. SEMENZA: Okay.

18 THE COURT: The only difference is that the first  
19 version said something about once they opined as to the cause  
20 of Rodriguez's condition and treatments, they testified as  
21 experts and should have been subject to the expert witness  
22 standards. And the change was once they opined as to the  
23 cause of Rodriguez's condition and treatments they should have  
24 been subject to the section's disclosure standards.

25 I think that what that very discrete change means,

1 although, you know, we don't really for sure know, is that  
2 they're alluding to the fact that the rule in 16.1(a)(2)(b)  
3 has that second paragraph that says where it's a treating  
4 physician they're not required to do a report if they're going  
5 to testify. You know, that -- that the disclosure has to be  
6 made as to what their -- the substance of their testimony will  
7 be and the facts and opinions that they're going to, you know.  
8 That's what needs to be disclosed.

9           And then the commentary to the rule says that it  
10 would be sufficient to say they're going to testify  
11 consistently with their medical chart. So anything that's in  
12 there. So, again, I get back to I haven't read the medical  
13 records, so I don't know what's in there.

14           MR. SEMENZA: Right.

15           THE COURT: So I -- if there's testimony that's  
16 going to be beyond -- if you believe that there's going to be  
17 testimony beyond, I may have to reserve this until the trial  
18 so --

19           MR. SEMENZA: That's fine, Your Honor.

20           THE COURT: And we'll hear the testimony outside the  
21 presence of the jury because I don't want them to hear it and  
22 then say, oh, yeah, disregard all that. That's no good. And  
23 see what they're going to testify to and whether there has  
24 been a proper disclosure under the rule.

25           MR. SEMENZA: And that's fine, Your Honor. I mean,

1 and reserving it is appropriate. I have no issue with that at  
2 all with regard to Dr. Dunn. Dr. Tingey, I think, is a  
3 different story, though, because, again, I don't think he was  
4 appropriately and timely disclosed and we may very well have  
5 done things differently had he been timely disclosed. So with  
6 regard to Dr. Dunn, I understand Your Honor's ruling. I'm  
7 certainly fine with taking that approach. But with regard to  
8 Dr. Tingey, I don't believe he's permitted to testimony.

9 THE COURT: Okay. So with Dr. Tingey we're going to  
10 need to continue that issue because we don't have the answers  
11 to -- because you weren't prepared to answer that question  
12 today as far as is he in the initial disclosure, which you  
13 didn't even do because you're new counsel.

14 MS. MORRIS: Correct.

15 THE COURT: So you'll know what's happened since you  
16 joined. But in any event, the --

17 Do we have somebody on -- what's going on?

18 THE CLERK: I don't know if you can put them on  
19 hold.

20 THE COURT: Oh, are they waiting?

21 THE CLERK: It's just Court Call.

22 THE COURT: Oh, okay. And that's for our calendar  
23 call; right?

24 THE CLERK: Yes.

25 THE COURT: Okay. So anyway, as to the Motion in

1 Limine No. 3, I'm denying that. I'm not -- if there -- if  
2 there is evidence that supports an argument that her injuries  
3 or her complaints, I think, is really what you mean to say.  
4 Her complaints are unrelated to the fall at defendants' casino  
5 and that would be fair argument. I mean, if that's -- this is  
6 not only a liability case, it's potentially a damages case, as  
7 well. So I'm not going to keep them from making that argument  
8 when they have -- they have expert testimony that supports  
9 that.

10 All right. No. 4, precluding references to prior  
11 accidents, injuries, lawsuits, or insurance claims. So my  
12 question was does the plaintiff have current complaints that  
13 she's attributing to the fall of which there is evidence that  
14 she had these same preexisting complaints?

15 MS. MORRIS: No, there's not. I mean, this -- the  
16 one thing -- the only history she has is something that  
17 occurred over 20 years ago where she was pushed and went to  
18 physical therapy. We have no medical records regarding it.  
19 She went there for, I think she said a month. I mean, she  
20 doesn't have any prior car accidents, slip and falls, pain  
21 management treatments, anything like that.

22 I mean, that's -- and I think she said she pulled  
23 something in her back 20 years ago which she needed physical  
24 therapy for. I mean, it's so attenuated. And though she has  
25 back complaints now, I mean, to try and link those two when

1 you have 20 years of medical records that are silent regarding  
2 that issue would just lead to confusion and doesn't have any  
3 kind of probative value toward the jury.

4 Other than that, she had a lawsuit where she had a  
5 bake shop and there was an issue with that and she also had a  
6 lawsuit for when she was a dental hygienist and had problems  
7 with her fingers. And that's, you know, been resolved. I  
8 think that was even further back than the ex-husband issue.

9 THE COURT: Is she -- is she claiming that she has  
10 problems as a result of this with her hands?

11 MR. SEMENZA: Yes.

12 MS. MORRIS: She's -- I don't believe that she's  
13 claiming -- she -- I don't know if she's seeing even a hand  
14 doctor.

15 MR. SEMENZA: I think it's part of the medical  
16 expenses that she's claiming damages relating to, just like  
17 her heart ailment, just like her eyes, just like her abdominal  
18 issues. I mean, that's the problem that we've got, Your  
19 Honor. I don't have any issue not getting into the specific  
20 underlying facts of how her preexisting conditions,  
21 preexisting injuries took place. I understand that there may  
22 have been a domestic violence issue. I'm not going to present  
23 that to the jury factually. It doesn't matter.

24 What does matter, however, is her preexisting  
25 symptomology and she has a laundry list of things that were



1 wrong with her. She had a history of fibromyalgia, she had a  
2 history of back pain, she had a history of hand pain, she has  
3 a significant history of abdominal pain, of irritable bowel  
4 syndrome, of GERD, of anxiety, of depression, stress disorder,  
5 Marfan's syndrome, which as I understand it is a genetic  
6 issue, and then Ehlers-Danlos syndrome, which is also a  
7 genetic condition which can lead to joint pain, which is what  
8 we have in this particular case. And the same holds true for  
9 Marfan's syndrome.

10 So all of those things were disclosed by the  
11 plaintiff in her medical history. So all of those things are  
12 likely going to come out at trial and be at issue at trial in  
13 evaluating whether the fall caused all of these issues of  
14 symptomology or whether she had all of these preexisting  
15 issues.

16 MS. MORRIS: And if I could just clarify, my motion  
17 in limine isn't about her preexisting medical condition. It's  
18 talking about prior injuries, prior insurance claims, prior  
19 lawsuits. And so if you want to say she had a back problem 20  
20 years ago, the jurors are going to wonder why and so then we  
21 have to tell them because she got pushed by her husband so  
22 they're not confused and it's not relevant. And, I mean, I  
23 don't understand how -- how it would be or how a 20-year old  
24 back pull has anything to do with the pain. I mean, if he  
25 wants to talk about her preexisting conditions, which I'm sure

1 his medical expert is going to do so, okay --

2 THE COURT: I think what he's saying is that she's  
3 reporting in -- when the -- her treating physicians in this  
4 case take her medical history, she tells them all about all of  
5 these things.

6 MS. MORRIS: Of course. She's not denying any of  
7 those things.

8 THE COURT: Right. Okay.

9 MS. MORRIS: Yeah.

10 THE COURT: All right. So he's saying he's not  
11 going to --

12 MR. SEMENZA: The facts underlying --

13 THE COURT: -- get into -- yeah, the -- something  
14 that happened as far as how did she have these. Now, if you  
15 want to clarify that she didn't have it as she presented that  
16 day, but I -- again, I haven't read the medical records. So I  
17 think what we're going to have to do is he's already said, and  
18 obviously this is something you should have discussed because  
19 here we are in court having a dialogue that's supposed to  
20 happen before you come to court. And so there seems to be  
21 some mutual understanding here about really what he wants to  
22 do and you agree with.

23 MS. MORRIS: Well, I don't agree.

24 THE COURT: It goes beyond that.

25 MS. MORRIS: I don't think that any of her prior --

1 I don't think the prior lawsuit, I don't think the -- the  
2 pushing incident, I don't think that should be admissible.

3 THE COURT: But he's saying --

4 MS. MORRIS: I don't think it's appropriate.

5 THE COURT: -- he's not intending to ask her  
6 anything about a prior lawsuit or a prior --

7 MR. SEMENZA: I'm not.

8 THE COURT: -- disability claim.

9 MS. MORRIS: Okay.

10 THE COURT: Now, if she's claiming -- if she's  
11 claiming that she was permanently -- if she claimed previously  
12 that she was permanently disabled and -- and it's -- she's  
13 making the same claim for the same body part, because as I  
14 understand it, her claims with different treating physicians  
15 have -- have broadened. So initially she makes a claim that  
16 she fell on her -- on her buttocks in this fall and that's  
17 what she claims she hurts. And then years later she claims  
18 her knees were hurt in the fall, which makes not a lot of  
19 sense.

20 MS. MORRIS: Well, no, I mean, there's been  
21 consistent complaints of her knee pain throughout the medical  
22 records. There's no new complaint.

23 THE COURT: Okay. Well, so whatever. As I say, I  
24 only see what I have.

25 MS. MORRIS: I know. I know. I mean, your -- the

1 briefing. I know.

2 THE COURT: Okay. So if potentially there was  
3 something like that, then -- then that prior disability claim  
4 might be relevant. Because if you're saying I'm permanently  
5 disabled, permanent means permanent. It doesn't mean you get  
6 better. It means it's permanent.

7 MS. MORRIS: Right, but --

8 THE COURT: Okay. But --

9 MS. MORRIS: -- we don't have anything like that in  
10 this case.

11 THE COURT: If you don't have that, then that's --

12 MS. MORRIS: And discovery has gone on, so we know  
13 that's not --

14 THE COURT: Okay. Then that's --

15 MS. MORRIS: -- you know --

16 THE COURT: -- not going to come in. So I'm going  
17 to grant it only to the extent that prior accidents or  
18 lawsuits, insurance claims, aren't relevant. That's not  
19 relevant. What -- what is -- the only that is relevant is  
20 what were her preexisting complaints when she appeared with  
21 her treating physicians after this accident. That's what we  
22 need to focus on. That could be allowed. That obviously has  
23 to be allowed because it goes to the very crux of causation.  
24 Okay.

25 MR. SEMENZA: Thank you, Your Honor.

1 THE COURT: 5, excluding evidence in reference to  
2 the fact that plaintiff's medical bills were paid by  
3 insurance, that defense is not opposing this, so that's  
4 granted.

5 MR. SEMENZA: That's fine, Your Honor.

6 THE COURT: That's 5. Okay. 6, limiting defense  
7 experts to opinions expressed in their reports.

8 MR. SEMENZA: It's my understanding you're going to  
9 reserve on this depending on what we --

10 THE COURT: Right. Right. In fact, let's see.

11 MS. MORRIS: Can we do a conversation at least on  
12 the malingering issue based on Dr. Klossner's qualifications?

13 THE COURT: I -- I don't -- that hasn't really been  
14 very briefed for me.

15 MR. SEMENZA: There's been no motion to strike Dr.  
16 Klossner or limit his report.

17 THE COURT: Yeah.

18 MR. SEMENZA: What the motion in limine was to limit  
19 him to his report. So I'm not prepared to discuss that today.  
20 If that is a separate motion in limine, then I think the  
21 plaintiff can file that motion.

22 THE COURT: Well, not -- not now.

23 MR. SEMENZA: Right.

24 THE COURT: That ship has sailed.

25 MR. SEMENZA: That ship has sailed.

1 THE CLERK: That was No. 5?

2 THE COURT: No.

3 MS. MORRIS: That's No. 6.

4 THE CLERK: Okay. What happened with 5? I missed  
5 it. I'm sorry.

6 THE COURT: Granted.

7 MS. MORRIS: 5 was granted.

8 THE COURT: Granted.

9 MS. MORRIS: They didn't oppose it.

10 THE COURT: Okay. So as far as excluding their --  
11 the defense expert from testifying about malingering and what  
12 not, well, I don't know whether he's qualified. He may be  
13 qualified. You're going to have to, you know, lay the  
14 foundation for that.

15 MS. MORRIS: Okay.

16 THE COURT: He may be qualified.

17 MS. MORRIS: As long as they have to lay the  
18 foundation for it prior to --

19 THE COURT: Yeah. I mean --

20 MS. MORRIS: That would be great.

21 THE COURT: -- you don't have to be a psychiatrist  
22 or a psychologist. Treating physicians of many kinds,  
23 especially orthopedic folks and orthopedic surgeons need to be  
24 aware of, and really pretty much any treating physician needs  
25 to know when somebody is showing signs of potentially

1 malingering or secondary gain or somatic disorder because it's  
2 relevant to how they're going to treat the patient. And they,  
3 I believe, are taught that in medical school because it's part  
4 of the diagnostic procedures. And so if that foundation for  
5 that is laid, then, you know, yes.

6 MS. MORRIS: Well, I mean, I think it needs to be  
7 laid according to 50. -- what is it -- 275. I mean, whether  
8 he has the formal schooling for it, the licensure for it, for  
9 him to give an expert testimony regarding it.

10 THE COURT: Right. Okay.

11 MR. SEMENZA: It's our obligation to qualify him as  
12 an expert at the time of trial and we will do so.

13 THE COURT: Okay. And -- and so you can make your  
14 objection. If you believe he is not qualified, then you'll  
15 make your objection after they, you know, laid their  
16 foundation. But remember that the Supreme Court keeps revisit  
17 -- having to revisit this constantly because counsel hang on  
18 to *Hallmark* like it's some kind of talisman. And that's what  
19 they've said, it is not talismanic.

20 Really look at the statute because, you know, is the  
21 expert going to -- is the expert qualified to offer testimony  
22 in the area that he seeks to offer opinion testimony in and  
23 will it assist the jury in coming to their conclusions. That  
24 is basically it. And all of this other focusing on the  
25 minutia the Court has backed away from ever since *Hallmark* was

1 written because it's only created more litigation for us.  
2 Okay. So we'll -- we'll see. You know, so it's denied  
3 without prejudice as far as that because I don't -- I don't  
4 know.

5 Let's see, and as far as -- let's see --

6 (Pause in the proceedings)

7 THE COURT: All right. Let's see.

8 MR. SEMENZA: No. 7 we don't have any --

9 THE COURT: Oh. And, all right, what about Neil  
10 Opfer? Did you want to talk -- because that's also in No. 6  
11 that Neil Opfer is going to make general statements on Wynn's  
12 safety practices.

13 MR. SEMENZA: I think -- I mean, it's the same  
14 issue. I think it's going to be dependent upon what you do  
15 with Mr. Presswood's testimony.

16 THE COURT: Well, yeah, that's true. Okay. So we  
17 haven't gotten to that yet. Okay. No. 7, excluding evidence  
18 in reference as to whether plaintiff's recovery is subject to  
19 income tax and there was a limited opposition.

20 MR. SEMENZA: Your Honor, it's tangential as far as  
21 she was gambling immediately after the accident. To the  
22 extent that there might be some testimony discussion, I don't  
23 even know, frankly. I'm comfortable just allowing it.

24 THE COURT: Granting it?

25 MR. SEMENZA: Yeah, that's fine, Your Honor.



1 THE COURT: Because that's what I'm going to do.  
2 Because, yeah, I don't see that that's relevant.

3 Okay. No. 8, admit all properly disclosed medical  
4 records as authentic. I think we already dealt with this --

5 MS. MORRIS: Yeah, we did. We discussed that.

6 THE COURT: -- and I denied that. No. 9, adverse  
7 inference instruction. All right. So first of all, that's an  
8 issue for jury --

9 MS. MORRIS: Jury instruction.

10 THE COURT: -- instructions at the end as to --

11 MS. MORRIS: Yeah.

12 THE COURT: -- whether you would get that. Based  
13 upon what I've heard so far, I mean, there -- there seems to  
14 be a dispute as to certain factual things about whether there  
15 was an opportunity to take pictures or not and all of that.  
16 But you'll need to review that once we get all of the  
17 testimony in. But I'm not seeing it right now, but I don't  
18 know what will happen during the trial.

19 MS. MORRIS: Okay.

20 MR. SEMENZA: Thank you, Your Honor.

21 THE COURT: So that's just denied without prejudice.

22 MR. SEMENZA: That's fine, Your Honor. And to the  
23 extent we start to get into those issues at trial, then we'll  
24 have to revisit it because I think that any testimony relating  
25 to whether there was or wasn't video coverage, whether the

1 timeline as far as when the opportunity to take photographs  
2 was, all of those sorts of issues I don't think should come  
3 into trial. And that's the subject of one of our motions in  
4 limine.

5 THE COURT: I know.

6 MR. SEMENZA: And so that's fine if you'd like to  
7 reserve it and we can address it, obviously, before counsel  
8 may get into those particular issues.

9 THE COURT: Well, I think that certainly in -- if,  
10 for instance, the security people who responded or whoever it  
11 was that first got there, because I don't really understand  
12 what exactly happened, but I assume that you did find all of  
13 that out in -- in discovery. The timeline is -- is relevant  
14 as to that and -- but as far as arguing that they should have  
15 -- because -- because the whole spoliation issue is not that  
16 they have to create evidence.

17 MS. MORRIS: Correct. I understand.

18 THE COURT: There's no rule that says you have to  
19 take pictures. I mean, it might be nice, but there's nothing  
20 that says that. And, frankly, whether they have an internal  
21 policy that these folks violated, that's also irrelevant  
22 because -- to this case. It doesn't matter. That's not  
23 actionable that they violated, if there was, a risk management  
24 policy that they were supposed to take photos.

25 Certainly to say that they -- that they did

1 something bad by cleaning up a spill where somebody had fallen  
2 in a, as you've now told me, a heavily traveled area where  
3 there are people constantly, well, that would be -- that would  
4 be negligent to not clean it up.

5 MS. MORRIS: Of course. I wasn't asking if they  
6 don't clean it up. It's nothing in that line at all.

7 THE COURT: So -- yeah. So anyway, yeah, we'll take  
8 it as we -- we come at trial.

9 MS. MORRIS: Okay.

10 MR. SEMENZA: Thank you.

11 THE COURT: You know, you can't be arguing that they  
12 -- I'm not going to be allowing you to argue that, yes, there  
13 was video tape that they destroyed when -- if there's no  
14 evidence that there was. And my understanding of it is that  
15 while someone -- someone said because, remember, security  
16 doesn't -- doesn't necessarily know where all the cameras are,  
17 any individual security guard, surveillance and security are  
18 separate.

19 And sometimes surveillance is also further divided  
20 into gaming surveillance, which is completely separate from  
21 other public area surveillance. So those things aren't mixed  
22 up for good reason that don't have anything to do with this  
23 case. But just because some person from security that's on  
24 patrol gets a call and says, oh, well, we might have security  
25 -- or a surveillance video of this doesn't mean that there is.

1           Because with the hand tilt zoom cameras they're not  
2 necessarily looking at a particular area. There may be an  
3 ability to get coverage if they get an alert and they're told,  
4 you know, we're tracking a person and they can go to that  
5 part. But unless there's some evidence of destruction, you  
6 can't be arguing that to the jury. Of course, you're not  
7 going to be arguing anything to the jury that isn't supported  
8 by evidence.

9           MS. MORRIS: Correct.

10          THE COURT: So we'll see how that goes. All right.  
11 So we've finished, I think, the plaintiff's motions so we can  
12 move on to the defense motions.

13          MR. SEMENZA: Yes, Your Honor. And with regard to  
14 Motions in Limine 2 and 3, I think, frankly, we've already  
15 addressed those. Motion in Limine No. 2 related to the  
16 exclusion of any additional damages beyond the \$1,425. And  
17 then Motion in Limine No. 3 related to the failure to preserve  
18 evidence or the spoliation argument that we've just gone over.

19          THE COURT: Okay.

20          MR. SEMENZA: So the only remaining motion in limine  
21 is Mr. Presswood.

22          THE COURT: Correct. But there was a countermotion  
23 for sanctions as to Motion in Limine No. 2 and a  
24 counter-countermotion for attorney's fees. Those are all  
25 denied.

1 MR. SEMENZA: Thank you.

2 THE COURT: Okay.

3 MR. SEMENZA: Fair enough.

4 THE COURT: No. 1 is to exclude the purported expert  
5 witness Gary Presswood. So here is my oral tentative ruling  
6 on this. So I guess I zeroed in, actually, even before  
7 reading the defense -- or the defense reply that, you know, on  
8 the plaintiff's opposition at page 4, line 26 through 27,  
9 quote, the concept of a wet floor being slippery and hazardous  
10 is universally understood. I agree with that.

11 I don't think that Mr. Presswood, who tested the  
12 area where the slip -- where the plaintiff had slipped, but  
13 found the results to be unreliable because I did read his  
14 report because that's the mosaic and they catch on the testing  
15 machinery. He did that. He -- he tested the floor in a dry  
16 condition when the floor was wet, and he's admittedly said  
17 that there is no credible standard for slip resistance for wet  
18 floor or for anything but leather on dry floor. The floor  
19 area where she didn't slip isn't relevant.

20 Where she landed doesn't matter. I mean, you can  
21 slip and go high in the air and fall outside where you slip.  
22 What's relevant is where she slipped. And it's -- he only --  
23 he says he can't really offer anything about standards  
24 concerning the wet floor. And the plaintiff is saying, yeah,  
25 everybody knows a wet floor is slippery and hazardous and it's

1 universally understood.

2           Therefore, Mr. Presswood does not meet the  
3 assistance requirement because he has nothing to add to the  
4 jury's ability to decide whether or not the floor was  
5 hazardous, whether it's -- it's slippery -- whether a place  
6 where she didn't slip is slippery when it's dry is irrelevant  
7 to this case. She didn't slip there and it wasn't dry, so --

8           MS. MORRIS: Well, Your Honor, that's not where she  
9 testified that her foot slipped when it was directly on the  
10 mosaic --

11          THE COURT: That's what I read.

12          MS. MORRIS: -- tile. She circled where her feet  
13 were, and she said I couldn't tell you, and circled the  
14 general area which is a clear area. It's not on the mosaic  
15 tile. And so her testimony saying I slipped on mosaic tile,  
16 there's mosaic tile all over, but her own drawing shows where  
17 her -- where she was, which is on the clear area which we  
18 attached to our opposition. And Mr. Presswood tested the area  
19 where the plaintiff circled and that's where he conducted his  
20 testing.

21          THE COURT: But he tested it in dry conditions. He  
22 tested it in conditions that were not the conditions of that  
23 floor.

24          MS. MORRIS: He tested it in the conditions that is  
25 allowed by the ATMS. The condition -- there is no wet floor

1 testing. There is no such thing.

2 THE COURT: Okay.

3 MS. MORRIS: What he did was test the slip resistance  
4 of the floor upon which she fell.

5 THE COURT: And if she had fallen on a dry floor,  
6 that would be great. But she didn't.

7 MS. MORRIS: It's probative, though, however,  
8 because the jury wants to understand how the fall occurred;  
9 correct? So if they know the type of flooring that she was  
10 on, which says that that floor is below the standard for slip  
11 resistance. Now, is it assisting in the -- for the jury's  
12 mind to know that the floor, even before it had liquid on it,  
13 was a below standard floor? Yes, that's important for them to  
14 understand the conditions in which the plaintiff fell.

15 He can't do -- he is very candid about it and their  
16 own expert is candid about it. They can't do wet slip tests.  
17 Nobody can. But you don't need to in helping the jury  
18 understand. The standard is will it assist the trier of fact  
19 in understand the conditions of which were present when the  
20 plaintiff fell? No one can recreate an exact condition.  
21 That's understandable. But the floor upon which she fell was  
22 already below the standard for a slip resistance. And then it  
23 had liquid on top of it.

24 Is it assisting for the jury to understand that,  
25 yes, that increases the slipperiness of a floor that was

1 already below the standard? He has the proper education,  
2 training, licensure. He has testified before. This is  
3 probative to the case to say that just because he can't  
4 recreate the exact condition no expert can. That's saying --  
5 saying, you know, an accident reconstructionist has to  
6 recreate the exact crash.

7           That's to say that you can never do a test on a  
8 floor where they slipped in liquid, they'd have to have  
9 slipped on a dry floor. And that's not helpful to the jury to  
10 eliminate it all because he cannot exactly recreate the  
11 condition. It's impossible to. But does it assist the trier  
12 of fact in understanding the floor that she was already on was  
13 already below the standard. Therefore, it's very important  
14 that you keep that floor dry since it's already less slip  
15 resistant than the standard would be, and then liquid is put  
16 on top of it.

17           So, yes, it's universally understood that a floor is  
18 more slippery when wet. I agree with that. He even said it  
19 in his statement. But the jury should have the opportunity to  
20 understand that the floor that she slipped on was already one  
21 that had less friction than what the standard is and,  
22 therefore, that liquid made it especially slippery for her.

23           THE COURT: He doesn't say that. That's not his  
24 opinion.

25           MS. MORRIS: It is his opinion. That's exactly his



1 opinion.

2 THE COURT: But that opinion is not supported by  
3 anything. He just as this -- this thing, well, kind of in my  
4 experience I have this rough guesstimate that it's 70 percent  
5 more slippery if there's -- if there --

6 MS. MORRIS: Well, then he doesn't --

7 THE COURT: -- if it's wet.

8 MS. MORRIS: -- have to say 70 percent, but he  
9 should be allowed to testify that the floor upon which she  
10 slipped was less resistant than the floor -- that the standard  
11 of the .05. I mean, that's what the standard is, and he went  
12 through all the protocols and did his testing on that  
13 location. And to say that that's not going to be probative  
14 for the jury to understand that simply because he can't  
15 recreate the condition doesn't give them the opportunity to  
16 understand what was -- where she was and what kind of floor  
17 she was on and the reason for the fall.

18 THE COURT: Do you have anything to add?

19 MR. SEMENZA: Just briefly, Your Honor. And she  
20 testified during her deposition, and this was me questioning  
21 her. "Okay, just so I'm clear and the record is clear, you  
22 started slipping on the portion of the floor that contained  
23 the mosaic which included the flowers; right?" Answer, "Yes."

24 Now, what Mr. Presswood did is he took samples of  
25 that mosaic, and lo and behold, those conclusions, those

1 calculations established that the floor was fine. And then he  
2 made the determination, oh, but that's unreliable because of  
3 the size of the mosaic tile.

4 THE COURT: Well, did he say that in a deposition or  
5 something. Because his report doesn't say that. His report  
6 says that when he tested the floor mosaic area, he thought it  
7 was unreliable because the thing which -- you know, you drag  
8 this thing across the floor. And so that it caught on the  
9 edges of the mosaics, it basically wasn't slippery.

10 MR. SEMENZA: Right. It wasn't slippery. That's  
11 the point. We obtained his claim file.

12 THE COURT: Okay.

13 MR. SEMENZA: And his calculations established that  
14 the floor wasn't slippery. And that's what Mr. Opfer has  
15 provided in his report is identifying that particular issue.  
16 And so what he did then is, well, if I'm -- if I'm not going  
17 to get the right numbers as far as the mosaic is concerned  
18 where she testified she fell, I'll just dry test next to it  
19 and see what I come up with.

20 There is no scientific basis for any of this. It  
21 doesn't help the jury. And, in fact, it's going to mislead  
22 the jury into thinking that there are issues here beyond what  
23 is simply -- is a -- I mean, whether it's more slippery when  
24 wet. We've established that that's the case. And in this  
25 particular setting there's testimony that the -- the liquid

1 was sticky, which is also going to affect the slip ratio of  
2 it. And so I don't think Mr. Presswood is entitled to testify  
3 at trial. I don't think he's going to assist the jury. And I  
4 think he's going to, in fact, mislead the jury on this one.

5 MS. MORRIS: Well, I think what he's established  
6 is --

7 THE COURT: Okay. I'm done. I'm don't. Thank you.

8 MS. MORRIS: He did --

9 THE COURT: I've heard --

10 MS. MORRIS: -- in fact, test the --

11 THE COURT: -- all your arguments.

12 MS. MORRIS: -- area where she fell.

13 THE COURT: I understand your position. But I agree  
14 that he's not going to assist the jury in understanding this  
15 case and that his testimony should be excluded and so the  
16 motion is granted.

17 MR. SEMENZA: Thank you.

18 THE COURT: All right. Thank you. So you're going  
19 to stay on for calendar call because that's what we're going  
20 to right now.

21 MR. SEMENZA: So, Your Honor, with regard to Dr.  
22 Tingey, do you want to set another hearing date or --

23 THE COURT: Yeah.

24 MR. SEMENZA: Okay.

25 THE COURT: Let's see. Well, let's --let's first

1 figure out --

2 MS. MORRIS: Yeah, that makes sense.

3 THE COURT: -- where you're going to be in the  
4 calendar call --

5 MR. SEMENZA: Okay.

6 THE COURT: -- and then we can set that date.

7 MR. SEMENZA: Thank you, Your Honor.

8 THE COURT: All right.

9 (Case trailed at 10:26 a.m., until 10:43 a.m.)

10 THE COURT: All right. Case No. A655922, Yvonne  
11 O'Connell versus Wynn.

12 MR. SEMENZA: Good morning, Your Honor. L.J.  
13 Semenza and Chris Kircher on behalf of defendant Wynn Las  
14 Vegas.

15 MS. MORRIS: Good morning, Your Honor. Christian  
16 Morris for the plaintiff.

17 THE COURT: Good morning. Okay. So --

18 MR. SEMENZA: I had an opportunity to speak with Ms.  
19 Morris outside as far as timing for trial. And what were the  
20 two weeks that worked for you?

21 MS. MORRIS: November 9th, which is -- is it still  
22 in the stack? And November 16th, but I don't know if that's  
23 still in the stack.

24 THE COURT: Nope, that's not in the stack. That's  
25 criminal. So the thing is you have to -- you have to be done

1 by the 13th. You have to wind this up because I don't want it  
2 bleeding into the criminal stack.

3 MR. SEMENZA: Would we be full days, close to full  
4 days?

5 THE COURT: No. I mean, nobody can give you full  
6 days.

7 MR. SEMENZA: Okay.

8 THE CLERK: And the 11th is a holiday.

9 THE COURT: That's not on here. Okay. I didn't  
10 even notice that. You're right. Okay. So that's -- that's  
11 not good because now that means on Mondays you get half day  
12 because that's my criminal calendar. I can't start, really,  
13 until 1:30. Tuesdays you get a whole day. Wednesday you get,  
14 again, a half day. The earliest we might be able to start  
15 would be 1:00. But it's, you know, still a half day.

16 Oh, as far as -- oh, that Wednesday, the 11th, is a  
17 holiday anyway. Thursday's civil calendar we might be able to  
18 get started as early as 11:00. It really depends on the  
19 calendar and how much is there and I always have to play it by  
20 ear. So you kind of have to figure a half day there. Friday  
21 is always a full day. So you're guaranteed two full days each  
22 week, unless I have something, you know, some special setting  
23 on the Friday.

24 MR. SEMENZA: And what date was --

25 THE COURT: I don't know how you get this done in

1 what really amounts to three days.

2 MR. SEMENZA: Right.

3 THE COURT: Three full days.

4 MR. SEMENZA: I guess what other dates would be  
5 available, then, Your Honor?

6 THE COURT: Well, we could start it earlier. We  
7 could start it on Wednesday afternoon, the 4th, because this  
8 other case will be done by the 3rd.

9 THE CLERK: And, Judge, on the 12th, we have no  
10 civil set that day.

11 THE COURT: Oh. You'll get a full day, then, on the  
12 12th, so that's good. But we could -- we could start -- or we  
13 could start Thursday at 9:00 on the 5th.

14 MS. MORRIS: I have a short trial on the 6th.

15 THE COURT: On the 6th. Okay. But we could still  
16 start on the 5th, pick a jury. Just plan on doing nothing but  
17 pick a jury.

18 MR. SEMENZA: If that works for her schedule. I  
19 don't want to overtax her schedule.

20 MS. MORRIS: Yeah, I mean, my client flies in for  
21 her short trial and I'm meeting with her on the 5th --

22 THE COURT: Oh. Oh, you are. Okay.

23 MS. MORRIS: -- to prep her for the short trial.

24 THE COURT: Well, so do you think you can get it  
25 done? You'll have three and a half days of actual work time.

1 MR. SEMENZA: I'm not one to make guarantees.

2 MS. MORRIS: I don't know. I mean --

3 THE COURT: Well, you've got to tell me because --

4 MS. MORRIS: Right.

5 THE COURT: -- if you can't -- because I will --

6 What do we have, do we have some firm settings for  
7 our November 16th?

8 THE CLERK: Let me look.

9 THE COURT: We have some -- a murder case or --

10 THE CLERK: Yes. We have, actually, two.

11 THE COURT: We have two firm trial settings to start  
12 on the 16th. So I'm already double booked for the 16th. So  
13 what would happen is I'm going to start like cutting -- giving  
14 you, okay, you've got a half an hour to, you know -- you've  
15 got 15 minutes and you've got -- and that -- you know, that  
16 would not be necessarily good for you if you're dragging your  
17 feet. Or sometimes I get lawyers who can't get a jury picked  
18 in less than two days.

19 MS. MORRIS: Right.

20 THE COURT: That's not good either.

21 MR. SEMENZA: Yeah, that won't -- I don't think that  
22 will be a problem, but -- and you need Thursday and Friday?

23 MS. MORRIS: Correct.

24 MR. SEMENZA: What about picking a jury on Wednesday  
25 and having them come in on Monday? I don't like --

1 THE COURT: Well, we could do that. We could pick  
2 -- pick the jury and then hope they all show up Monday. I  
3 don't swear them in just in case. We can do that. At least  
4 that would give you the rest of the time for actual testimony.  
5 Now, if you don't -- if we don't get the jury picked, you're  
6 only going to have a half day.

7 Now, if you want to stay late, you can do that in  
8 civil cases if you pay the overtime of staff to stay late, you  
9 agree to that. Otherwise, I have to -- I have to stop at  
10 5:00.

11 MR. SEMENZA: I think if we picked a jury on  
12 Wednesday, I think we could get it done, especially if we have  
13 three full days and then the half on Monday.

14 THE COURT: So -- so what's going to happen is if  
15 you don't get them picked in that afternoon and we have to  
16 bleed over, we will bleed over into the morning of -- well,  
17 into Thursday, which -- to get the jury picked. We need to  
18 get them picked, at least. And you all will have a 1:30 start  
19 on the 4th. So that'll give you, you know, if you're willing  
20 to say, okay, we can go until 5:30, that gives you several  
21 hours --

22 MR. SEMENZA: Yeah.

23 THE COURT: -- to get the jury picked.

24 MR. SEMENZA: What do you think?

25 MS. MORRIS: I guess we can try it. I mean, is that



1 -- do you have any civil stacks in December?

2 THE COURT: No. Uh-huh.

3 MS. MORRIS: No.

4 THE CLERK: January is the next civil.

5 MS. MORRIS: January is good for me. I have a  
6 criminal trial starting on the 26th, but nothing earlier than  
7 that.

8 THE COURT: What else is on that January stack?

9 THE CLERK: You only have one firm setting, and this  
10 case would be second on that stack.

11 MS. MORRIS: When does that stack start?

12 THE CLERK: January 4th.

13 THE COURT: So what's your pleasure?

14 MR. SEMENZA: I'd like to go.

15 MS. MORRIS: Okay.

16 MR. SEMENZA: But, I mean, I don't have a problem  
17 going late if we have to pay for overtime. And why don't -- I  
18 mean, my suggestion would be let's set it, let opposing  
19 counsel and I chat and make sure that we think we can get it  
20 in and done.

21 MS. MORRIS: I'm just concerned with the half days  
22 and picking a jury midweek, and being able to get it done in  
23 the afternoon and coming back.

24 THE CLERK: There's only one half day.

25 THE COURT: Yeah, for the week that you'll be in

1 trial there's only going to be one half day. But we do have  
2 that holiday, so you won't -- you won't get -- you won't get  
3 Wednesday at all, but you'll get all day on Thursday because  
4 there's no civil calendar that day. There's nothing on it.  
5 So you'll get a half day Monday the 9th. You'll get --

6 (Pause in the proceedings)

7 THE COURT: And so you'll have a full day Tuesday, a  
8 full day Thursday, a full day Friday.

9 MS. MORRIS: I mean, I would prefer January just  
10 because I'm starting one trial, having another small trial,  
11 coming back, and it's incredibly disjointed. But, I mean --

12 MR. SEMENZA: If it's fine with Your Honor and fine  
13 with opposing counsel, let's go ahead and set it for  
14 commencing November 4th at 1:30. Starting on that Wednesday,  
15 following up on Monday, Tuesday, Thursday, and Friday. And  
16 then I will have an opportunity to talk to opposing counsel,  
17 make sure that that's going to work, and then we will notify  
18 the Court no later than first thing on Monday, if that's okay.

19 THE COURT: Okay. So we'll -- we'll block you there  
20 for that, but do I have my -- my bench trial folks are here?  
21 Yes? Okay. Let's see where they are, where I can fit them  
22 in.

23 MR. SEMENZA: Sure.

24 THE COURT: Because that's a bunch of time that I  
25 won't be able to plug them in.

1 MS. MORRIS: Gotcha.

2 MR. SEMENZA: Thank you, Your Honor.

3 THE COURT: Okay.

4 (Case trailed at 10:53 a.m., until 11:02 a.m.)

5 THE COURT: -- and say that we'll go ahead and give  
6 you this 4th date.

7 MR. SEMENZA: Thank you.

8 MS. MORRIS: Okay.

9 MR. SEMENZA: And, obviously, I'll work with  
10 opposing counsel to make sure our expert works and Dr. Dunn is  
11 available and those sorts of things.

12 THE COURT: And then you'll let me know if you don't  
13 want that time, but I think that these remaining bench trials  
14 I can fit in this first week anyway, so --

15 MS. MORRIS: Okay.

16 MR. SEMENZA: Okay.

17 THE COURT: -- we should be good.

18 MS. MORRIS: Excellent.

19 THE COURT: But let -- let me know, okay.

20 MR. SEMENZA: Okay. And then as far as a date to  
21 revisit the Dr. Tingey issues.

22 THE COURT: Yes. Okay. So we're going to start on  
23 the 4th. What does -- what's the least busy civil calendar?

24 THE CLERK: You're so cute. Before the 19th? I  
25 would just say do it on a Tuesday.

1 THE COURT: Not before the 19th.

2 THE CLERK: That's when their trial -- oh, no.  
3 Their trial is in November.

4 THE COURT: We've got the 15th, the 22nd, or the  
5 29th. Is the 29th good?

6 MR. SEMENZA: Yeah.

7 THE COURT: 29th. Okay. Let's do it on the 29th.

8 MR. SEMENZA: Thank you, Your Honor. And what time?

9 THE COURT: At 9:00.

10 MR. SEMENZA: We'll be back.

11 MS. MORRIS: Thank you.

12 MR. SEMENZA: And then as far as briefs, when would  
13 you like briefs submitted?

14 Or do you want to do a brief, Chris?

15 MS. MORRIS: Yeah, I think briefs are --

16 THE COURT: For -- it's just supplemental briefing  
17 on this motion. You know, as soon as you can get them to me  
18 would be preferable, but I'll give you the drop deadline of  
19 the 27th.

20 MR. SEMENZA: Thank you, Your Honor.

21 THE COURT: I mean, I need the final everything done  
22 by the 27th.

23 MR. SEMENZA: Sounds good.

24 THE COURT: All right.

25 MR. SEMENZA: Thank you.

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MS. MORRIS: Thank you.

THE COURT: Thank you.

(Proceedings concluded at 11:05 a.m.)

\* \* \* \* \*


CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

Verbatim Digital Reporting, LLC  
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(303) 798-0890

  
\_\_\_\_\_  
JULIE LORD, TRANSCRIBER

10-7-15  
\_\_\_\_\_  
DATE

*Alvin L. Shuman*

CLERK OF THE COURT

BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[briann@nettleslawfirm.com](mailto:briann@nettleslawfirm.com)  
[christian@nettleslawfirm.com](mailto:christian@nettleslawfirm.com)  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

YVONNE O'CONNELL, an individual,  
Plaintiff,

vs.

WYNN LAS VEGAS, LLC, a Nevada  
Limited Liability Company, doing business  
as WYNN LAS VEGAS; DOES I through  
X; and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

CASE NO. A-12-655992-C  
DEPT NO. V

ORDER DENYING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT

Defendant's Motion for Summary Judgment having come on for hearing before  
Honorable Judge Thompson at 9:00 a.m. on September 17, 2015, with Christian Morris, Esq., of  
NETTLES LAW FIRM appearing for the Plaintiff and Christopher Kircher, Esq., of  
LAWRENCE J. SEMENZA, III, P.C., appearing for the Defendant. Having considered the  
record and pleadings, and oral argument by Counsel, this Court finds:

**IT IS HEREBY ORDERED** that Defendant's Motion for Summary Judgment is

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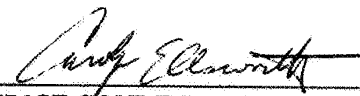
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NETTLES LAW FIRM  
1389 Galleria Dr. Suite 200  
Henderson, NV 89014  
702-434-8282 / 702-434-1488 (fax)

**NETTLES LAW FIRM**  
1389 Galleria Dr., Suite 200  
Henderson, NV 89014  
702-434-8282 / 702-434-1488 (fax)

1 **DENIED.**

2 DATED this 6th day of October, 2015.

3  
4   
5 DISTRICT COURT JUDGE  
6

7 Submitted by:

8 NETTLES LAW FIRM  
9 

10 BRIAN D. NETTLES, ESQ.

Nevada Bar No. 7462

11 CHRISTIAN M. MORRIS, ESQ.

Nevada Bar No. 11218

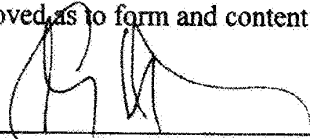
12 NETTLES LAW FIRM

13 1389 Galleria Drive, Suite 200

Henderson, Nevada 89014

14 Attorneys for Plaintiff

15  
16 Approved as to form and content:

17   
18  
19 Lawrence J. Semenza, III, Esq.

Christopher D. Kircher, Esq.

20 Lawrence J. Semenza, III, P.C.

10161 Park Run Drive, Suite 150

21 Las Vegas, Nevada 89145

(702) 835-6803

22 Fax: (702) 920-8669

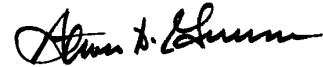
23 Attorneys for Defendant

Wynn Las Vegas, LLC dba

24 Wynn Las Vegas

25  
26  
27  
28 O'Connell v. Wynn – Case No. A-12-655992-C





CLERK OF THE COURT

1 NEO  
2 BRIAN D. NETTLES, ESQ.  
3 Nevada Bar No. 7462  
4 CHRISTIAN M. MORRIS, ESQ.  
5 Nevada Bar No. 11218  
6 NETTLES LAW FIRM  
7 1389 Galleria Drive, Suite 200  
8 Henderson, Nevada 89014  
9 Telephone: (702) 434-8282  
10 Facsimile: (702) 434-1488  
11 briann@nettlslawfirm.com  
12 christian@nettlslawfirm.com  
13 Attorneys for Plaintiff

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DISTRICT COURT  
CLARK COUNTY, NEVADA

YVONNE O'CONNELL, an individual,  
Plaintiff,

vs.

WYNN LAS VEGAS, LLC, a Nevada  
Limited Liability Company, doing business  
as WYNN LAS VEGAS; DOES I through  
X; and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

CASE NO. A-12-655992-C  
DEPT NO. V

**NOTICE OF ENTRY OF  
ORDER DENYING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT**

Hearing Date: 09/17/15  
Hearing Time: 9:00 a.m.

TO: WYNN LAS VEGAS, LLC, Defendant; and

TO: CHRISTOPHER D. KIRCHER, ESQ., LAWRENCE J. SEMENZA, III, P.C., Attorneys  
for Defendant:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the *Order Denying  
Defendant's Motion for Summary Judgment* was entered in the above-entitled matter on the

....  
....

NETTLES LAW FIRM  
1389 Galleria Dr. Suite 200  
Henderson, NV 89014  
702-434-8282 / 702-434-1488 (fax)

1 9<sup>th</sup> day of October, 2015, a copy of which is attached hereto.

2 DATED this 12<sup>th</sup> day of October, 2015.

3 NETTLES LAW FIRM

4  
5 /s/ Christian M. Morris

6 BRIAN D. NETTLES, ESQ.

7 Nevada Bar No. 7462

8 CHRISTIAN M. MORRIS, ESQ.

9 Nevada Bar No. 11218

10 1389 Galleria Drive, Suite 200

11 Henderson, Nevada 89014

12 Attorneys for Plaintiff

13 **CERTIFICATE OF SERVICE**

14 Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 12<sup>th</sup> day of  
15 October, 2015, I served the foregoing *Notice of Entry of Order Denying Defendant's Motion*  
16 *for Summary Judgment* to the following parties by electronic transmission through the Wiznet  
17 system:

18 Lawrence J. Semenza, III, Esq.

19 Christopher D. Kircher, Esq.

20 Lawrence J. Semenza, III, P.C.

21 10161 Park Run Drive, Suite 150

22 Las Vegas, Nevada 89145

23 (702) 835-6803

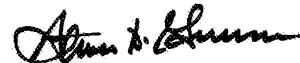
24 Fax: (702) 920-8669

25 *Attorneys for Defendant*

26 *Wynn Las Vegas, LLC dba*

27 *Wynn Las Vegas*

28  
  
An Employee of Nettles Law Firm

  
CLERK OF THE COURT

BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[briann@nettlawfirm.com](mailto:briann@nettlawfirm.com)  
[christian@nettlawfirm.com](mailto:christian@nettlawfirm.com)  
Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

YVONNE O'CONNELL, an individual,  
Plaintiff,

vs.

WYNN LAS VEGAS, LLC, a Nevada  
Limited Liability Company, doing business  
as WYNN LAS VEGAS; DOES I through  
X; and ROE CORPORATIONS I through X,  
inclusive,  
Defendants.

CASE NO. A-12-655992-C  
DEPT NO. V

ORDER DENYING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT

Defendant's Motion for Summary Judgment having come on for hearing before  
Honorable Judge Thompson at 9:00 a.m. on September 17, 2015, with Christian Morris, Esq., of  
NETTLES LAW FIRM appearing for the Plaintiff and Christopher Kircher, Esq., of  
LAWRENCE J. SEMENZA, III, P.C., appearing for the Defendant. Having considered the  
record and pleadings, and oral argument by Counsel, this Court finds:

IT IS HEREBY ORDERED that Defendant's Motion for Summary Judgment is

....

....

NETTLES LAW FIRM  
1389 Galleria Dr. Suite 200  
Henderson, NV 89014  
702-434-8282 / 702-434-1488 (fax)

**NETTLES LAW FIRM**  
1389 Galleria Dr., Suite 200  
Henderson, NV 89014  
702-434-8282 / 702-434-1488 (fax)

1 **DENIED.**

2 DATED this 6th day of October, 2015.

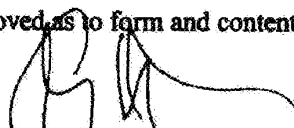
3  
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5 DISTRICT COURT JUDGE  
6

7 Submitted by:

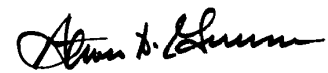
8 NETTLES LAW FIRM  
9 

10 BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
11 CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
12 NETTLES LAW FIRM  
13 1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
14 Attorneys for Plaintiff

15  
16 Approved as to form and content:

17   
18  
19 Lawrence J. Semenza, III, Esq.  
Christopher D. Kircher, Esq.  
20 Lawrence J. Semenza, III, P.C.  
10161 Park Run Drive, Suite 150  
21 Las Vegas, Nevada 89145  
(702) 835-6803  
22 Fax: (702) 920-8669  
23 Attorneys for Defendant  
Wynn Las Vegas, LLC dba  
24 Wynn Las Vegas  
25  
26  
27  
28

O'Connell v. Wynn - Case No. A-12-655992-C



CLERK OF THE COURT

**SUPP**

Lawrence J. Semenza, III, Esq., Bar No. 7174

Email: [ljs@semenzalaw.com](mailto:ljs@semenzalaw.com)

Christopher D. Kircher, Esq., Bar No. 11176

Email: [cdk@semenzalaw.com](mailto:cdk@semenzalaw.com)

LAWRENCE J. SEMENZA, III, P.C.

10161 Park Run Drive, Suite 150

Las Vegas, Nevada 89145

Telephone: (702) 835-6803

Facsimile: (702) 920-8669

Attorneys for Defendant Wynn Las Vegas, LLC

d/b/a Wynn Las Vegas

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

YVONNE O'CONNELL, individually,

Plaintiff,

v.

WYNN LAS VEGAS, LLC, a Nevada  
Limited Liability Company, doing business as  
WYNN LAS VEGAS; DOES I through X;  
and ROE CORPORATIONS I through X;  
inclusive;

Defendants.

Case No. A-12-655992-C

Dept. No. V

**DEFENDANT'S SUPPLEMENTAL  
BRIEF TO EXCLUDE PLAINTIFF'S  
TREATING PHYSICIAN EXPERT  
WITNESSES**

**Date of Hearing: October 29, 2015**

**Time of Hearing: 9:00 a.m.**

**I. INTRODUCTION**

Defendant Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Wynn") hereby submits its supplemental brief in support of its Motion in Limine [#2] (the "Motion"). At the hearing on Wynn's Motion, Plaintiff Yvonne O'Connell ("Plaintiff") specifically identified that she only intended to call two of her treating physicians as witnesses, Dr. Craig T. Tingey and Dr. Thomas Dunn. The Court requested the parties provide supplemental briefing regarding the disclosure of Dr. Tingey. For the reasons set forth below, the Court should not permit Dr. Tingey to testify at trial because Plaintiff untimely and improperly disclosed him. Moreover, the Court should not permit testimony from Dr. Dunn because he was likewise improperly disclosed. In short, Plaintiff

1 utterly failed to meet the minimal requirements of Rule 16.1 regarding the disclosure of treating  
2 physician expert witnesses.

## 3 II. ARGUMENT

### 4 A. The Disclosure Requirements of Expert Testimony under Nevada Rule of 5 Civil Procedure 16.1

6 Nevada law is unambiguous regarding the disclosure of expert witnesses. Rule 16.1  
7 states: "[i]n the absence of extraordinary circumstances, and except as otherwise provided in  
8 subdivision (2), the court shall direct that the disclosures *shall* be made at least 90 days before the  
9 discovery cut-off date." Nev. R. Civ. P. 16.1(a)(2)(C)(i) (emphasis added). This rule applies to  
10 purported treating physician experts as well. *Id.*

11 Furthermore, "[w]hile a treating physician is exempt from the report requirement, this  
12 exemption only extends to 'opinions [that] were formed during the course of treatment.'" *FCHI,*  
13 *LLC v. Rodriguez*, 335 P.3d 183, 189 (Nev. 2014) (amended opinion). Even though a true  
14 treating physician expert witness is not required to provide a written report, the party's disclosure  
15 of the treating physician expert witness "*must state*" the following:

- 16 1. The subject matter on which the witness is expected to present  
17 evidence under NRS 50.275, 50.285 and 50.305;
- 18 2. A summary of the facts and opinions to which the witness is expected  
19 to testify;
- 20 3. The qualifications of that witness to present evidence under NRS  
21 50.275, 50.285 and 50.305, which may be satisfied by the production of a  
22 resume or curriculum vitae; and
- 23 4. The compensation of the witness for providing testimony at deposition  
24 and trial, which is satisfied by production of a fee schedule.

25 Nev. R. Civ. P. 16.1(a)(2)(B) (emphasis added).

26 Additionally, while a treating physician may under certain circumstances testify about  
27 "diagnosis, prognosis, or causation of the patient's injuries," and review documents outside his  
28 medical chart in the course of providing treatment, "*any opinions and any facts or documents*  
*supporting those opinions must be disclosed in accordance with subdivision (a)(2)(B).*" Nev. R.

1 Civ. P. 16.1 Drafter's Note (2012 amendment) (emphasis added); *see also FCHI, LLC*, 335 P.3d  
2 at 190 (stating the plaintiff's treating physician "could only properly testify as to those opinions he  
3 formed based on the documents he disclosed to [the defendant]").

4 Importantly, the Nevada Supreme Court has held that allowing a treating physician to  
5 testify and opine regarding the cause a plaintiff's condition and treatment "without requiring an  
6 appropriate NRCP 16.1(a)(2)(B) disclosure" is an abuse of the district court's discretion.<sup>1</sup> *FCHI,*  
7 *LLC*, 335 P.3d at 189 (citing Nev. R. Civ. P. 16.1(a)(2)(B)); *see also Grover C. Dils Med. Ctr. v.*  
8 *Menditto*, 121 Nev. 278, 288, 112 P.3d 1093, 1100 (2005) ("because an injury is a subjective  
9 condition, an expert opinion is required to establish a causal connection between the incident or  
10 injury and disability").

11 As forth in more detail below, Plaintiff has failed to satisfy the expert disclosure  
12 requirements under Rule 16.1. For example, Plaintiff has never disclosed a summary of the facts  
13 and opinions to which any of her treating physicians, including Dr. Tingey and Dr. Dunn, are  
14 purportedly expected to testify. This has severely prejudiced Wynn because, *inter alia*, it still  
15 does not know the subject matter of her treating physician's testimony even now, which is  
16 approximately one week before trial. Consequently, the Court should not permit any of Plaintiff's  
17 treating physicians to testify at trial.

18 **B. Dr. Tingey Should be Prohibited from Testifying at Trial because Plaintiff**  
19 **Untimely Disclosed Him**

20 At the last hearing, Dr. Tingey is one of the two treating physicians that Plaintiff identified  
21 she intended to call at trial to testify on her behalf. However, Plaintiff failed to timely and

22 <sup>1</sup> At the October 1, 2015 hearing on this matter, the Court correctly identified that the amended opinion of  
23 *FCHI, LLC v. Rodriguez* states: "Allowing [the treating physicians] to so testify without requiring an  
24 appropriate NRCP 16.1(a)(2)(B) disclosure was also an abuse of the district court's discretion—once they  
25 opined as to the cause of [the plaintiff's] condition and treatments **they should have been subject to the**  
26 **section's disclosure standards.**" *FCHI, LLC*, 335 P.3d at 190 (emphasis added) (citing NRCP  
27 16.1(a)(2)(B)). As the Court stated, the initial opinion from the Nevada Supreme Court stated: "Allowing  
28 [the treating physicians] to so testify without requiring them to disclose expert reports was also an abuse of  
the district court's discretion—once they opined as to the cause of [the plaintiff's] condition and treatments  
they testified as experts and **should have been subject to the expert witness standards.**" *FCHI, LLC v.*  
*Rodriguez*, 326 P.3d 440, 446 (Nev. 2014) (emphasis added) (citing *Brooks v. Union Pac. R. Co.*, 620 F.3d  
896, 900 (8th Cir. 2010)). In the case at hand, Plaintiff did not meet the disclosure standards under Rule  
16.1.

properly disclose Dr. Tingey. To start, the following timeline proves that Plaintiff untimely disclosed Dr. Tingey:

Extended Expert Disclosure Deadline	April 13, 2015
Extended Rebuttal Expert Deadline	May 13, 2015
Extended Discovery Deadline	June 12, 2015
Plaintiff's Disclosure of Dr. Tingey's Medical Records <sup>2</sup>	July 14, 2015
Plaintiff's Disclosure of Dr. Tingey as a Witness <sup>3</sup>	August 27, 2015
Plaintiff's Disclosure of Dr. Tingey's CV, Fee Schedule and Trial History <sup>4</sup>	September 28, 2015

In fact, Plaintiff did not disclose Dr. Tingey until after Wynn filed its motions in limine on August 13, 2015. Due to Plaintiff's untimely disclosure of Dr. Tingey, the Court should not permit him to testify at trial.

More reason exists to exclude Dr. Tingey from testifying at trial. Plaintiff has never disclosed a summary of the facts and opinions Dr. Tingey is purportedly expected to testify.<sup>5</sup> See Nev. R. Civ. P. 16.1(a)(2)(B) (the party's disclosure of a treating physician expert witness "must state" a "summary of the facts and opinions to which the witness is expected to testify"). Rather, as the Court astutely remarked at the previous hearing, Plaintiff utilizes the same boilerplate disclosure language for Dr. Tingey as she did for her other twenty (20) purported treating physician experts:

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past, present and future medical treatment and impairment, prognosis disability, pain and suffering,

<sup>2</sup> Dr. Tingey's Medical Records as produced by Plaintiff are attached hereto as **Exhibit 1**.

<sup>3</sup> Plaintiff's Amended Fourth Supplement to Initial 16.1 Disclosures dated 8/27/15 (minus supplemental documents) is attached hereto as **Exhibit 2**, which includes Dr. Tingey as a witness for the first time. Dr. Tingey is not identified in Plaintiff's Fourth Supplement to Initial 16.1 Disclosures. (Plaintiff's Fourth Supplement to Initial 16.1 Disclosures dated 7/14/15 (minus supplemental documents), attached hereto as **Exhibit 3**.)

<sup>4</sup> Plaintiff Sixth Supplement to Initial 16.1 Disclosures dated 9/28/15 is attached hereto as **Exhibit 4**.

<sup>5</sup> Dr. Tingey's medical records, which consists of 17 pages, do not indicate that he reviewed or considered any other medical records or information in his treatment of Plaintiff other than what Plaintiff told him. (Ex. 1.) Not surprisingly, the information Plaintiff provided Dr. Tingey contradicts her previous medical history. (*Id.*) Dr. Tingey only diagnosis Plaintiff with a meniscus tear. (*Id.*)



1 disfigurement, causation and the reasonableness and necessity of all care  
2 and billing as it relates to the Plaintiff, and to authenticate and verify the  
3 medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said  
4 witness, being an expert witness who is also a treating physician and  
5 thereby not retained or specially employed to provide expert testimony  
6 will not be submitting a C.V., Fee Schedule, Report or Trial History. If  
7 you disagree, let us know immediately or your failure to object will be  
8 deemed a stipulation that said documents are not required under the rule.  
9 Further, this expert is expected to testify consistent with the medical  
10 records related to the treatment of the Plaintiff for the subject incident, and  
11 other incidents having relevance to this action. The facts and opinions to  
12 which the expert is expected to testify include any and all facts and  
13 opinions in the said medical records, and that the medical treatment the  
14 Plaintiff received was reasonable, necessary, and caused by the incident  
15 set forth in the Complaint, and would rebut any opinions rendered by any  
16 witness disclosed by any party in this action that contradict the same.

17 (See Exhibits 1, 2 and 3.) Clearly, Plaintiff's disclosure violates the letter and spirit of Rule 16.1.  
18 There are no facts or specific opinions that related to the instant case, which fails to satisfy the  
19 minimal requirements of Rule 16.1(a)(2)(B). Further, it is Plaintiff's burden, not Wynn's, to  
20 satisfy the expert disclosure requirements.

21 Without a doubt, Plaintiff's untimely disclosure has severely prejudiced Wynn. For  
22 instance, Wynn's medical expert could not review Dr. Tingey's medical records prior to preparing  
23 his expert report because of Dr. Tingey's late disclosure and Wynn still does not have an  
24 understanding as to what Dr. Tingey's testimony may entail. Therefore, the Court should not  
25 permit Dr. Tingey to testify at trial.

26 **C. Dr. Dunn Should be Excluded at Trial or His Testimony Must be Limited to**  
27 **His Treatment Identified in His Disclosed Medical Records**

28 Dr. Dunn is the second treating physician that Plaintiff identified she intended to call at  
trial to testify on her behalf. Like Dr. Tingey, Plaintiff has never disclosed summary of the facts  
and opinions that Dr. Dunn is purportedly expected to testify as mandated by Rule 16.1(a)(2)(B).  
In addition, Plaintiff untimely disclosed Dr. Dunn's CV, Fee Schedule and Trial History. Plaintiff  
disclosed this information on September 18, 2015, despite the extended expert disclosure deadline  
being five months earlier.

Furthermore, Plaintiff utilized the same boilerplate disclosure language set forth above for Dr. Dunn that she used for every one of the twenty-one purported treating physician expert witnesses disclosed. (See Exhibits 2, 3 and 4.) Again, this boilerplate disclosure violates the letter and purpose of Rule 16.1(a)(2)(B). For these reasons, the Court should exclude Dr. Dunn from testifying at trial.

If the Court does not exclude Dr. Dunn at trial, his testimony must be limited to his medical records and the tests he ordered, which totals 19 pages.<sup>6</sup> Notably, Dr. Dunn's medical records do not address anything set forth in Plaintiff's deficient Rule 16.1(a)(2)(B) disclosure, such as: 1) causation; 2) the injuries sustained directly as a result of the incident at issue in this lawsuit; 3) that totality of Plaintiff's alleged past, present and future medical treatment; or 4) Plaintiff's pain and suffering, and disfigurement. As such, Dr. Dunn may not offer an opinion on these matters. Simply put, Wynn would be severely prejudiced by any such testimony.

### III. CONCLUSION

Based on the foregoing and Wynn's Motion, the Court should not permit Dr. Tingey or Dr. Dunn from testifying at trial.

DATED this 27th day of October, 2015.

LAWRENCE J. SEMENZA, III, P.C.

/s/ Christopher D. Kircher  
Lawrence J. Semenza, III, Esq., Bar No. 7174  
Christopher D. Kircher, Esq., Bar No. 11176  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145

Attorneys for Defendant Wynn Las Vegas, LLC  
d/b/a Wynn Las Vegas

<sup>6</sup> Dr. Dunn's Medical Records are attached hereto as **Exhibit 5**.

LAWRENCE J. SEMENZA, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 835-6803

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b) and NEFCR 9, I certify that I am an employee of Lawrence J. Semenza, III, P.C., and that on this 27th day of October, 2015 I caused to be sent through electronic transmission via Wiznet's online system, a true copy of the foregoing **DEFENDANT'S SUPPLEMENTAL BRIEF TO EXCLUDE PLAINTIFF'S TREATING PHYSICIAN EXPERT WITNESSES** to the following registered e-mail addresses:

NETTLES LAW FIRM  
christianmorris@nettleslawfirm.com  
kim@nettleslawfirm.com

*Attorneys for Plaintiff*

/s/ Olivia A. Kelly  
An Employee of Lawrence J. Semenza, III, P.C.

# **EXHIBIT 1**


# **EXHIBIT 1**

06/10/2015 12:51

(FAX)  
REDACTED

P.001/003

2742716-  
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F  
10  
F

<p>Brian D. Nettles, Esq.</p> <p>Christian M. Morris, Esq.*</p> <p><i>*Also licensed in California and New Jersey</i></p>		<p>William R. Killip, Jr., Esq.</p> <p>Joel S. Hengstler, Esq.</p> <p>Janice L. Madrid, J.D.</p>
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Exclusively representing injured victims and their families.

June 10, 2015

Via facsimile Only: (702) 697-7202

\*\*URGENT REQUEST\*\*

Thomas Dunn, M.D.  
Desert Orthopaedic Center  
2930 W. Horizon Ridge Pkwy., #100  
Henderson, NV 89052  
Attention: Records & Billing Dept.

Re: My client : Yvonne O'Connell  
DOB : [REDACTED]  
Date of Loss : [REDACTED]  
Dates of Service : 06-16-14 to 10-13-14

Dear Sir or Madam:

This firm represents Yvonne O'Connell for damages arising from personal injuries sustained in the above-referenced accident.

Our records indicate that we received the medical records for Ms. O'Connell's treatment at your facility but we have not yet received the itemized billing statement. This itemized billing must be submitted in this case no later than Friday, June 12, 2015. Would you kindly "fax" to our office the complete itemized billing for the above referenced dates of service, to include any amounts paid as soon as conveniently possible so that we may submit the same by or before our deadline of June 12, 2015. I have enclosed a fully executed authorization by our client permitting us to obtain this information.

Also, to avoid an appearance in court at the time of trial herein, please sign the enclosed Certificates of Custodian of Medical and Billing Records and attach the same to the copies so they may be admitted into court.

I apologize for this last minute request, however your assistance in this matter is greatly appreciated. In the interim should you have any questions, do not hesitate to contact me.

Sincerely yours,  
NETTLES LAW FIRM

*Michelle Haney*  
Michelle Haney  
MH/ch

*Thank you!*

www.nettleslawfirm.com  
1388 GALLERIA DR. STE. 200 • HENDERSON, NV 89014  
O. 702.434.8282 F. 702.434.1488

PLTF 000729 -Suffix

06/10/2015 12:52

(FAX)

P.002/003

**NETTLES LAW FIRM**1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014

REDACTED

Telephone: (702) 434.8282

Facsimile: (702) 434.1488

**AUTHORIZATION FOR MEDICAL AND EMPLOYMENT INFORMATION**  
**(HIPAA Compliant)**TO: THOMAS DUNN, M.D. - DESERT ORTHOPAEDIC CENTER

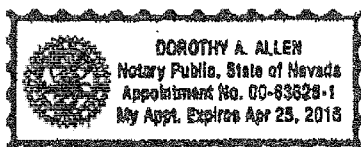
This is to authorize, for use and disclosure, my physician, hospital, medical attendant, pharmacist, pharmacy, employer or others to furnish my attorneys, Nettles Law Firm, and my attorneys' representatives and/or medical consultants, upon presentation of this authorization, whether an original or a copy, any and all information or opinions they may request regarding the undersigned's physical condition and treatment rendered therefore, and/or employment records, and to allow them to see or copy any records, including diagnostic testing, pharmaceutical records, and all itemized billing in your possession regarding the undersigned's condition or treatment, with the understanding that this is protected health information regarding myself. My said attorneys have been retained by the undersigned to prosecute a claim against the insurance carrier or others for injuries sustained and your full cooperation with my attorneys is respectfully requested.

I understand that the information used or disclosed may be subject to re-disclosure by the person, class of persons and/or facility receiving such, and would then no longer be protected by federal privacy regulations. I further understand that the records may include information about mental health, substance abuse/treatment records and HIV/AIDS testing or treatment.

I may revoke this Authorization by notifying the above office in writing of my desire to revoke such. However, I understand that any action already taken in reliance on this Authorization cannot be reversed, and my revocation will not affect those actions. I understand that the medical provider to whom this Authorization is furnished may not condition its treatment of me on whether not I sign the Authorization.

You are further requested to disclose no information to any insurance representative or other persons without written authority from me to do so (pursuant to privileged and confidential communications statutes, codes and/or regulations). All authorizations previously given are hereby canceled and withdrawn. I hereby waive any privileges and confidentiality to my attorneys.

This Authorization expires within two (2) years of the date hereof, OR upon the resolution of the matter that underlies this Authorization.

YVONNE O'CONNELL  
PRINTED NAMEYvonne O'Connell  
SIGNATURE6-10-15  
DATE[REDACTED]  
DATE OF BIRTHDorothy A. Allen  
NOTARY PUBLIC STATE OF NEVADA  
COUNTY OF CLARK6-16-14 to 10-13-14  
DATES OF SERVICE[www.nettleslawfirm.com](http://www.nettleslawfirm.com)

PLTF 000730 -Suffix

06/10/2015 12:52

(FAX)

P.003/003

CERTIFICATE OF CUSTODIAN OF BILLING RECORDS

Under penalty of perjury, the undersigned deposes and says:

1. That the deponent is the Custodian of Billing Records of Thomas Dunn, M.D. and in such capacity is the custodian of the billing records of the office or institution.
2. That the deponent has examined the original of the billing records of Yvonne O'Connell and has made a true and exact copy thereof; that the reproduction of said billing records attached hereto is true and correct.
3. That the originals of those records were made at or near the time of the acts, events, conditions, opinions and diagnosis recited therein by or from information transmitted by a person with knowledge in the course of a regularly conducted activity of the deponent or the office or institution in which the deponent is engaged.

STATE OF \_\_\_\_\_ )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, then and there personally appeared before me, the undersigned, a Notary Public in and for said County, State and Country, known to me to be the person described in and who executed the foregoing instrument and who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

\_\_\_\_\_  
 NOTARY PUBLIC

## Transaction Search Results

Page 1 of 1

<b>Account: Yvonne Louise O'Connell, 2742716</b>					<b>Demographics Transactions Eligibility</b>			
<b>P Bal</b>	<b>I Bal</b>	<b>W Bal</b>	<b>C Bal</b>	<b>Total</b>	<b>Appointments</b>	<b>Documents</b>	<b>Comments</b>	<b>Referrals</b>
.00	17.77	.00	.00	17.77				
					<b>New Search Cancel Help</b>			

Search criteria: DOC; Account: 2742716; Date of Service: Ending 10/14/2014; All; Payer Status: All; Pymt Status: All; Summary; Sort by: Date of Service, Ascending; Separate Open and Paid; Exclude Corrections, ATR0;

[Change Search](#)

Transactions											
Charge #	Date	Patient	Prov	POS	Trans/Mod	Pri Dx	Amount	P/A Total	Due	Due From	Set/Hist Cur C
<u>2725704</u>	06/16/2014	Yvonne	70	4	99245	7243	452.00	<u>452.00</u>	.00	/PS	1/1
<u>2725705</u>	06/16/2014	Yvonne	70	4	72114	7243	220.00	<u>220.00</u>	.00	/PS	1/1
<u>2725706</u>	06/16/2014	Yvonne	70	4	72050	7234	180.00	<u>180.00</u>	.00	/PS	1/1
<u>2740572</u>	07/14/2014	Yvonne	70	4	99214	7224	161.00	<u>161.00</u>	.00	2693/IB	1/1 08/19/
<u>2758377</u>	08/13/2014	Yvonne	40	4	73562/RT	8360	109.00	<u>109.00</u>	.00	/PS	1/8
<u>2758378</u>	08/13/2014	Yvonne	40	4	73510/RT	8360	141.00	<u>141.00</u>	.00	/PS	1/8
<u>2758379</u>	08/13/2014	Yvonne	40	4	99213	7243	108.00	<u>108.00</u>	.00	/PS	1/8
<u>2775083</u>	09/10/2014	Yvonne	40	4	99213	8360	108.00	<u>108.00</u>	.00	/PS	1/8
<u>2794782</u>	10/13/2014	Yvonne	70	4	99214	7224	161.00	<u>161.00</u>	.00	2693/IB	1/8 11/18/
<b>Totals</b>							<b>1640.00</b>	<b>1640.00</b>	<b>.00</b>		

9 matches found



**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

REDACTED

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

05/11/2015 - Office Visit: 15th Room, Complete  
Provider: Craig T Tingey MD  
Location of Care: Desert Orthopaedic Center

**Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**Chief Complaint** Bilateral knee pain.**History of Present Illness**

Referred by: Thomas Dunn

Previous Studies: X-rays, MRI

Yvonne Louise O'Connell is a 63 year old female who comes in for a new problem today. The patient is retired. She presents for evaluation of bilateral knee pain after a slip/fall injury. Her symptoms have been present for 5 years. Her injury occurred on 2/08/2010, when walking she slipped on a liquid and fell backwards. She states she twisted to the right with parts of her body striking a raised divider. This happened on the Las Vegas Strip. Her pain was immediate. She describes the pain as being specifically located in the anterior and medial region of her knees. She has pain when twisting, going from sitting to standing, or climbing stairs. She experiences locking and swelling in the knees. She has undergone physical therapy without improvement. Patient denies any past problems to her knees before the slip and fall in 2010. Other physicians the patient has seen for this problem include another Dr. Andrew Martin. Previous studies performed to evaluate this condition include X-rays and MRI's done at Las Vegas radiology.

She describes her pain as sore, sharp, throbbing, stabbing and severe. Her pain is worse with activities, and since acknowledging the onset, her pain level has worsened. On a scale of 0-10, with 0 being no pain and 10 being the worst pain imaginable, her pain level today is a 10. She is also experiencing clicking, instability, locking, catching, snapping/popping, swelling, pain with sports/activities, radiating pain, and daytime pain with rest. Her symptoms are worse when driving, squatting, kneeling, bending lying supine, lifting, standing from sitting, when twisting the knees, and walking up and down steps.

Treatments tried previously to relieve symptoms include rest, elevation, physical therapy, assistive device, immobilization, and home exercise.

**Allergies**

ANTIBIOTICS (Moderate)

**Medications**

CVS OMEGA-3 CAPS (FLAX OIL-FISH OIL-BORAGE OIL)  
A THRU Z ADVANCED TABS (MULTIPLE VITAMINS-MINERALS)  
VITAMIN C

PLTF 000733 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

REDACTED

Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

**Past Medical History**

Past medical history noted by patient includes depression  
She states she had a mini-stroke 2 days after the slip and fall.

**Problems recorded as Dx. codes:**

TEAR MEDIAL CARTILAGE OR MENISCUS KNEE CURRENT (ICD-836.0)  
PAIN IN JOINT, LOWER LEG (ICD-719.46) (ICD10-M79.606)  
SCIATICA (ICD-724.3) (ICD10-M54.30)  
DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC (ICD-722.52)  
BRACHIAL NEURITIS OR RADICULITIS NOS (ICD-723.4) (ICD10-M54.13)  
DEGENERATION OF CERVICAL INTERVERTEBRAL DISC (ICD-722.4) (ICD10-M50.30)

Information obtained by patient via web portal: depression, neuropathy, stroke, Mini-stroke after accident, not stroke. Other immediate injuries and pain, head and neck, back to foot, right buttocks, hip, down leg still hurt, arms and hands.

**Past Surgical History**

Patient denies any problems related to previous surgery  
Information obtained by patient via web portal: removal of wisdom teeth, removal of tonsils, Breast biopsy. Okay.

**Family Medical History**

There is a reported family history of cancer  
Mother (biol.): Deceased  
Father (biol.): Cancer; Deceased  
Information obtained by patient via web portal: diabetes, cancer

**Social History**

Tobacco use: never smoker  
Alcohol Use: (occasional (weekly 1-6 drinks))  
Does patient live alone: yes  
Drug Use: (no)

Marital Status: widowed  
Number of children: none  
Occupation: retired  
Work Status: retired

**Review of Systems**

General: none  
Cardiovascular: murmur  
Respiratory: cough  
Ears/Nose/Throat: dizziness  
Gastrointestinal: nausea, abdominal pain  
Skin: none  
Neurologic: weakness, numbness, headache  
Genitourinary: night time urination  
Endocrine: cold intolerance

PLTF 000734 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

REDACTED

Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

**Heme/Lymphatic:** denies abnormal bruising, bleeding, enlarged lymph nodes

**Allergic/Immunologic:** none

**Psychiatric:** anxiety, depression, difficulty sleeping

**Musculoskeletal:** stiffness, joint pain or swelling, back pain, weakness, muscle cramping, arthritis

**Possibly Pregnant:** no

**Pregnant:** no

**Infectious Diseases** None

**Physical Exam**

**Vital Signs**

**Height:** 64 in **Weight:** 155 lb **Pulse rate:** 65 **Rhythm:** regular

**BP:** 137/83 **Possibly Pregnant:** no

**Pregnant:** no

**Body Mass Index:** 26.70

**Right Knee Exam**

**Inspection**

**Effusion:** none

**Pain/Tenderness:**

medial joint line

**Active Range of Motion**

**Flexion:** 120°

**Extension:** 0

**Stability**

**Lachman test:** normal

**Anterior drawer sign:** normal

**Medial/MCL:** normal

**Lateral/LCL:** normal

**Posterior drawer:** normal

**Ext Rotation Dial Test:**

Left knee exam is symmetric

**Magnetic Resonance Imaging \* RIGHT KNEE\*** was performed on 08/29/2014  
Tear of the posterior horn of the medial meniscus.

**Magnetic Resonance Imaging \* LEFT KNEE\*** was performed on 09/22/2014  
Truncated appearance of the body and posterior horn of the medial and lateral menisci consistent with tears.

**Right Knee X-ray**

Radiographs of the right knee reviewed today reveal minimal joint-space narrowing.

PLTF 000735 -Suffix

**Desert Orthopaedic Center**

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(702)731-1616 Fax: (702)734-4900

**REDACTED**

Page 4  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

**Impression**

Bilateral knee meniscus tears

**Plan**

Explanation and reassurance were provided to the patient. I discussed a treatment plan in detail with patient. All of the patient's questions were answered. I discussed all treatment options including non-surgical and surgical interventions.

After discussion with the patient, I have recommended bilateral knee arthroscopy with partial medial meniscectomy of the right knee and partial medial and lateral meniscectomy of the left knee. She understands that surgery is not a guarantee for cure of her symptoms, and specifically arthroscopic surgery cannot cure arthritis. The patient would like to review their options and will contact us if they wish to move forward with the procedure.

**Follow up**

Patient will follow up for pre-operative visit.

Electronically Signed by Craig T Tingey MD on 05/11/2015 at 6:53 PM

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PLTF 000736 -Suffix

REDACTED

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
 (702)731-1616 Fax: (702)734-4900

Page 1  
 Transcription

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

**05/09/2015 - Transcription: (P) DOC History and Review of Systems****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center**

DOC HISTORY AND REVIEW OF SYSTEMS	
GENERAL	
Visit due to injury	Yes
Visit due to injury (Yes) Injury description	Walking, slipped and fell backwards on liquid, twisted to the right, with parts of my body striking a raised divider before my head hit the ground. Immediate injuries and pain.
Visit due to injury (Yes) Injury	Slip or fall
Visit due to injury (Yes) Date of injury	Feb 8th 2010
Is injury/problem on the right or left side of the body?	Left
Length of symptoms	1-12 Years
Length of symptoms (1-12 Years) Years	5
Previous procedure to treat chief complaint or problem	No
Experiencing pain or discomfort due to your chief complaint or problem	Yes
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Characteristics of pain or discomfort	Sore, Sharp, Throbbing, Stabbing
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Intensity of pain or discomfort	Severe
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Frequency of pain or discomfort	Worse with activities
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Current level of pain or discomfort	3
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Average level of pain or discomfort	3
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Lowest level of pain or discomfort	2
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Highest level of pain or discomfort	3
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Level of pain or discomfort as compared to originally noticing the problem	Worsened
Pharmacy	Tricare, CVS?
Appointment today to remove the following	No
Procedures undergone related to the chief	X-rays, MRI

DOC History and Review of Systems

PLTF 000737 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
 (702)731-1616 Fax: (702)734-4900

REDACTED Page 2  
 Transcription

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

complaint or problem	
Seen another physician for this problem	Yes
Seen another physician for this problem (Yes) Other physician seen	another orthopaedic surgeon
Tried treatments for this problem	Yes
Tried treatments for this problem (Yes) Treatments tried	Rest, Elevation, Physical therapy, Assistive device, Immobilization, Home exercise
<b>SOCIAL HISTORY</b>	
Work status and occupation	Retired
Marital status	Widowed
Live alone	Yes
Children	None
Tobacco use	Never smoker
Alcohol	Occasional (weekly 1-6 drinks)
Recreational drug use	No
Currently pregnant	No
<b>MEDICAL CONDITIONS</b>	
Hx	
Alcohol abuse	No
Anemia	No
Asthma	No
Bleeding Disorder	No
Blood clots/DVT	No
Breastfeeding	No
Cancer	No
Cerebral Palsy	No
Chronic Bronchitis	No
COPD	No
Dementia	No
Depression	
Diabetes	No
Drug Abuse	No
Fracture/Broken Bone	No
Gout	No
Heart Disease	No
Hepatitis	No
High Blood Pressure	No
High Cholesterol	No
HIV/AIDS	No
Kidney Disease	No
Liver Disease	No
MRSA	No
Neuropathy	
Osteoarthritis	No
Osteoporosis	No
Pregnant	No
Pulmonary Embolism	No
Rheumatoid Arthritis	No
Scoliosis	No
Seizure Disorder	No

DOC History and Review of Systems

PLTF 000738 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
 (702)731-1616 Fax: (702)734-4900

REDACTED

Page 3  
 Transcription

**Yvonne Louise O'Connell**

Female DOB [REDACTED]

Sickle Cell Trait/Disease	No
Stroke	
Thyroid Disorder	No
Other:	
Other: (Yes) Please specify "other" condition.	Mini-stroke after accident, not stroke. Other immediate injuries and pain, head and neck, back to foot, right buttocks, hip, down leg still hurt, arms and hands.

**SURGICAL HISTORY**

Please indicate if you have had any of the following surgeries. If none apply, select "continue."

Removal of Appendix	No
Removal of Lump from Breast	No
Breast Surgery	No
Brain Surgery	No
Removal of Wisdom Teeth	
Cosmetic Surgery	No
Tubes in Ears	No
Removal of Gall Bladder	No
Removal of Cataract from eye	No
Hernia Repair	No
Hemorrhoidectomy	No
Lasik Eye Surgery	No
Heart Surgery	No
Pacemaker Placement	No
Gastric Surgery	No
Colon Surgery	No
Kidney Stone Removal	No
Removal of Tonsils	
Removal of Tonsils and Adenoids	No
Thyroid Surgery	No
Female Surgery - Tubes Tied	No
Female Surgery - Dilation & Curettage	No
Female Surgery - Hysterectomy	No
Female Surgery - Cesarean Section	No
Male Surgery - Vasectomy	No
Male Surgery - Prostate Surgery	No
Other	
Other (Yes) Please specify "other" surgery.	Breast biopsy. Okay.

**FAMILY HISTORY**

Please let us know if you have or have had immediate family (parents, siblings, or children) with any of the following conditions. Please check all that apply. If none apply, select "continue."

Bleeding disorders	No
Cancer	
Connective tissue disorder	No
Diabetes	

DOC History and Review of Systems

PLTF 000739 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609

(702)731-1616 Fax: (702)734-4900

REDACTED

Page 4

Transcription

**Yvonne Louise O'Connell**

Female DOB [REDACTED]

Heart disease	No
Muscular dystrophy	No
Rheumatoid arthritis	No
REVIEW OF SYSTEMS	
Please indicate if you currently have any of the following conditions. Select all that apply. If none apply, select "None."	
Fever	No
Chills	No
Fatigue	No
Weight gain	No
Weight loss	No
Sweating	No
None	
Eye symptoms. Select all that apply. If none apply, select "None."	
Discharge	No
Irritation	No
Light sensitivity	
Pain	
Vision change	
None	No
Ears, Nose, Throat symptoms. Select all that apply. If none apply, select "None."	
Impaired hearing	No
Nosebleeds	No
Sneezing	No
Dizziness	
None	No
Cardiovascular symptoms. Select all that apply. If none apply, select "None."	
Fainting	No
Ankle swelling	No
Leg swelling	No
Shortness of breath with exercise	No
Murmur	
None	No
Respiratory symptoms. Select all that apply. If none apply, select "None."	
Cough	
Cold	No
Wheezing	No
Painful breathing	No
Tuberculosis	No
Asthma	No
None	No
Digestive symptoms. Select all that apply. If none apply, select "None."	
Nausea	
Vomiting	No
Changes in bowel movements	No

DOC History and Review of Systems

PLTF 000740 -Suffix



**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
 (702)731-1616 Fax: (702)734-4900

**REDACTED**

Page 5

Transcription

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Blood in stool	No
Black stool	No
Hemorrhoids	No
Diarrhea	No
Ulcer	No
Heartburn	No
Painful bowel movements	No
Abdominal pain	No
None	No
Musculoskeletal symptoms. Select all that apply. If none apply, select "None."	
Stiffness	
Joint pain or swelling	
Back pain	
Weakness	
Muscle cramping	
Arthritis	
Fracture	No
Sprain	No
None	No
Urinary symptoms. Select all that apply. If none apply, select "None."	
Loss of urine	No
Frequent urination	No
Painful urination	No
Blood in urine	No
Kidney stones	No
Night time urination	No
None	No
Endocrine symptoms. Select all that apply. If none apply, select "None."	
Cold intolerance	
Heat intolerance	No
Weight change	No
Excessive urination	No
Diabetes	No
Fatigue	No
Thyroid problems	No
None	No
Blood/Lymphatic symptoms. Select all that apply. If none apply, select "None."	
Slow healing cuts	No
Anemia	No
Abnormal bruising	No
Bleeding	No
Enlarged lymph nodes	No
None	No
Allergic/Immunologic symptoms. Select all that apply. If none apply, select "None."	
Hives	No
Persistent infections	No

DOC History and Review of Systems

PLTF 000741 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900**REDACTED**Page 6  
Transcription**Yvonne Louise O'Connell**

Female DOB [REDACTED]

HIV exposure	No
Past blood transfusion	No
None	
Skin symptoms. Select all that apply. If none apply, select "None."	
Changing moles	No
Rash	No
Itching	No
Dryness	No
Yellowing of skin	No
Hives	No
Discoloration	No
None	
Emotional symptoms. Select all that apply. If none apply, select "None."	
Anxiety	
Depression	
Tension	No
Memory loss	No
Difficulty sleeping	
None	No
Neurologic symptoms. Select all that apply. If none apply, select "None."	
Weakness	
Numbness	
Temporary paralysis	No
Fainting	No
Seizures	No
Stroke	No
Blackout	No
Headache	
Tremor	No
Slurred speech	No
None	No

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

[REDACTED]

DOC History and Review of Systems

PLTF 000742 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
 (702)731-1616 Fax: (702)734-4900

**REDACTED**

Page 1

Lab Report

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

**05/09/2015 - Lab Report: (P) DOC History and Review of Systems****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center**

Patient: YVONNE LOUISE O'CONNELL

ID: OBERD 4026785

Note: All result statuses are Final unless otherwise noted.

Tests: (1) DOC History and Review of Systems (7\_27168667)

WORK STATUS	retired
WKRELINJURY	<No Reported Value>
HPISPORTMED	<No Reported Value>
HX FALLS	yes
ACCT TYPE	<No Reported Value>
TRAINERNAME	<No Reported Value>
DO SPORTS	<No Reported Value>
DATEOFINJURY	Feb 8th 2010
PAINSIDE	left
MECHANISM	"Result Below..."

RESULT: Walking, slipped and fell backwards on liquid, twisted to the right, with parts of my body striking a raised divider before my head hit the ground. Immediate injuries and pain.

ACTIVITYASSM	<No Reported Value>
PAIN DORATIO	year
HPI DURATION	5
NOPAIN	<No Reported Value>
HPI QUALITY	"Result Below..."

RESULT: sore, sharp, throbbing, stabbing

PREVIRTMNTRC	<No Reported Value>
DATEOFSURG	<No Reported Value>
PAINPOSTOP	<No Reported Value>
REMOVALOF	<No Reported Value>
PREV STUDIES	X-rays, MRI
HPI SEVERITY	severe
HPI TIMING	"Result Below..."

RESULT: worse with activities

PAINASSESMNT	10
AVERAGE PAIN	5
PAINBEST	1
PAINWORST	10
PAIN STATUS	worsened
OTHRMD#1 NAM	"Result Below..."

RESULT: another orthopaedic surgeon

COM PT	"Result Below..."
--------	-------------------

RESULT: rest, elevation, physical therapy, assistive device, immobilization, home exercise

PHARM NAME	Tricare, CVS?
SCHOOL	<No Reported Value>
OCCUPATION#1	<No Reported Value>
PREGNANT	no
MARITAL STAT	widowed
LIVE ALONE	yes
# CHILDREN	none
SMOK STATUS	never smoker
SMKYRSTRT	<No Reported Value>

PLTF 000743 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900**REDACTED**Page 2  
Lab Report**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

CIGARET SMK	<No Reported Value>
CIGAR USE	<No Reported Value>
ORALTOBACUSE	<No Reported Value>
SMOK HX PFD	<No Reported Value>
CIGARS WEEK	<No Reported Value>
ORAL TOBAC/D	<No Reported Value>
SMOK YR Q	<No Reported Value>
HX CIGARETTE	<No Reported Value>
ETOH ABUSE	"Result Below..."

RESULT: occasional (weekly 1-6 drinks)

DRUG USE	no
DRUGAB HOW	<No Reported Value>
LSTDRUGUSE	<No Reported Value>
DRUGAB WHAT	<No Reported Value>
DEP PMH	"Result Below..."

RESULT: depression, neuropathy, stroke, Mini-stroke after accident, not stroke. Other immediate injuries and pain, head and neck, back to foot, right buttocks, hip, down leg still hurt, arms and hands.

DEP SURGERY "Result Below..."

RESULT: removal of wisdom teeth, removal of tonsils, Breast biopsy.

Okay.

FH COMMENTS	<No Reported Value>
DEP FAM PMH	diabetes, cancer
ROS:GENERAL	none
ROS EYES	"Result Below..."
RESULT:	light sensitivity, pain, vision change
ROS ENT	dizziness
ROS: CARDIAC	murmur
ROS:PULMON	cough
ROS: GI	"Result Below..."

RESULT: nausea, abdominal pain

ROS:MUSCSKEL "Result Below..."

RESULT: stiffness, joint pain or swelling, back pain, weakness, muscle cramping, arthritis

ROS: GU "Result Below..."

RESULT: night time urination

ROS ENDO	cold intolerance
ROS HEME	<No Reported Value>
ROS ALLERG	none
ROS SKIN	none
ROS: PSYCH	"Result Below..."

RESULT: anxiety, depression, difficulty sleeping

ROS: NEURO "Result Below..."

RESULT: weakness, numbness, headache

SPORT LEVEL	<No Reported Value>
SURGOUTCOME	<No Reported Value>

Note: An exclamation mark (!) indicates a result that was not dispersed into the flowsheet.

Document Creation Date: 05/10/2015 12:46 AM

(1) Order result status: Preliminary

Collection or observation date-time: 05/09/2015 23:40:09

Requested date-time: 05/10/2015 02:46:02

Receipt date-time: 05/09/2015 23:40:09

PLTF 000744 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

REDACTED

Page 3  
Lab Report**Yvonne Louise O'Connell**

Female DOB [REDACTED]

Reported date-time:  
Referring Physician:  
Ordering Physician:  
Specimen Source:  
Source: OBERD  
Filler Order Number: 198556-2854001  
Lab site:-----  
The following tests had no related values for dispersal to the flowsheet:MLI-91192, [No Value Reported], (F)  
MLI-137094, [No Value Reported], (F)  
MLI-36127, [No Value Reported], (F)  
MLI-113812, [No Value Reported], (F)  
MLI-31798.21, [No Value Reported], (F)  
MLI-53484, [No Value Reported], (F)  
MLI-161429, [No Value Reported], (F)  
MLI-153254, [No Value Reported], (F)  
MLI-4003.38, [No Value Reported], (F)  
MLI-161426, [No Value Reported], (F)  
MLI-161428, [No Value Reported], (F)  
LOC-200211, [No Value Reported], (F)  
LOC-360035, [No Value Reported], (F)  
MLI-161453, [No Value Reported], (F)  
SNO-S-32030, [No Value Reported], (F)  
SNO-S-32020, [No Value Reported], (F)  
SNO-S-32060, [No Value Reported], (F)  
AS4-2000.31, [No Value Reported], (F)  
MLI-43531, [No Value Reported], (F)  
MLI-16032, [No Value Reported], (F)  
RHS-11, [No Value Reported], (F)  
MLI-16025, [No Value Reported], (F)  
MLI-156242, [No Value Reported], (F)  
MLI-27580, [No Value Reported], (F)  
MLI-156243, [No Value Reported], (F)  
MLI-18874, [No Value Reported], (F)  
MLI-4398.95, [No Value Reported], (F)  
MLI-67111, [No Value Reported], (F)  
MLI-161427, [No Value Reported], (F)-----  
The following non-numeric lab results were dispersed to  
the flowsheet even though numeric results were expected:

MLI-111197.2, none

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

PLTF 000745 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900**REDACTED**Page 1  
Transcription**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

05/08/2015 - Transcription: (P) DOC History of Present Illness

Provider: Craig T Tingey MD

Location of Care: Desert Orthopaedic Center

CHIEF COMPLAINT	
Current problem	Knee
What is your specific location of pain in your knee?	Anterior (in front of, towards the front of the body)
What other symptoms are you experiencing in your knee?	Clicking, Instability, Locking, Catching, Snapping/popping, Swelling, Pain with sports/activities, Radiating pain (radiating or spreading from a common point)
Is your problem in your knee related to a prior injury?	Yes
Additional knee complaints	Yes
Additional knee complaints (Yes)Additional knee complaint	Both knees were injured in the same accident. I must move carefully, straight and not twist. Knees hurt when I sit and get up, and climb up and down my stairs. If I move wrong, my knees hurt so much that I can't walk until I rest and let the pain subside. Knees (and leg) give out on me. They hurt at night if I don't move and position them carefully. Pain is also on the side.

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

DOC History of Present Illness

PLTF 000746 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

REDACTED

Page 1  
Lab Report**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

**05/08/2015 - Lab Report: (P) DOC History of Present Illness****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center**

Patient: YVONNE LOUISE O'CONNELL

ID: OBERD 4026785

Note: All result statuses are Final unless otherwise noted.

Tests: (1) DOC History of Present Illness (7 27168665)

CHIEF CMPL#4 "Result Below..."

RESULT: anterior, clicking, instability, locking, catching, snapping/popping, swelling, pain with sports/activities, radiating pain, Both knees were injured in the same accident. I must move carefully, straight and not twist. Knees hurt when I sit and get up, and climb up and down my stairs. If I move wrong, my knees hurt so much that I can't walk until I rest and let the pain subside. Knees (and leg) give out on me. They hurt at night if I don't move and position them carefully. Pain is also on the side.

HANDEDNESS	<No Reported Value>
PRIORINJ	yes
PMH DISCLOC	<No Reported Value>
REDUCEDBY	<No Reported Value>
NUMDISLOC	<No Reported Value>
LOCDISLOC	<No Reported Value>
PAINRADIATIO	<No Reported Value>
PAINRADTO	<No Reported Value>
PMHNECKSURG	<No Reported Value>
PMH HIP SURG	<No Reported Value>
DIGITPAIN	<No Reported Value>
OTHERPAIN	<No Reported Value>

Note: An exclamation mark (!) indicates a result that was not dispersed into the flowsheet.

Document Creation Date: 05/09/2015 11:42 PM

(1) Order result status: Preliminary

Collection or observation date-time: 05/08/2015 14:08:14

Requested date-time: 05/10/2015 01:42:02

Receipt date-time: 05/08/2015 14:08:14

Reported date-time:

Referring Physician:

Ordering Physician:

Specimen Source:

Source: OBERD

Filler Order Number: 198556-2854001

Lab site:

The following tests had no related values for dispersal to the flowsheet:

MAY-1319, [No Value Reported], (F)  
MLI-124599, [No Value Reported], (F)  
MLI-246936, [No Value Reported], (F)

PLTF 000747 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

**REDACTED**

Page 2  
Lab Report

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

MLI-246937, [No Value Reported], (F)  
MLI-246935, [No Value Reported], (F)  
MLI-125444, [No Value Reported], (F)  
MLI-247443, [No Value Reported], (F)  
MLI-29737, [No Value Reported], (F)  
MLI-14337, [No Value Reported], (F)  
MLI-246939, [No Value Reported], (F)  
MLI-161421, [No Value Reported], (F)

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

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PLTF 000748 -Suffix



## **EXHIBIT 2**

## **EXHIBIT 2**

BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
[brian@nettlawfirm.com](mailto:brian@nettlawfirm.com)  
[christian@nettlawfirm.com](mailto:christian@nettlawfirm.com)  
Attorneys for Plaintiff

ELECTRONICALLY SERVED  
08/27/2015 03:47:40 PM

DISTRICT COURT  
CLARK COUNTY, NEVADA

YVONNE O'CONNELL, an individual,

Plaintiff,

vs.

WYNN LAS VEGAS, LLC, a Nevada Limited  
Liability Company, doing business as WYNN  
LAS VEGAS; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

CASE NO. A-12-655992-C

DEPARTMENT NO. V

PLAINTIFF'S AMENDED FOURTH  
SUPPLEMENT TO INITIAL 16.1  
DISCLOSURES

Plaintiff, YVONNE O'CONNELL, by and through her attorneys of record BRIAN D. NETTLES, ESQ. and CHRISTIAN M. MORRIS, ESQ. of the NETTLES LAW FIRM, hereby submits her Amended Fourth Supplement to Early Case Conference Disclosures pursuant to NRCP 16.1, as follows (**supplemented documents are in bold**):

I. **WITNESSES**

*Pursuant to NRCP 161 (a) (1) (A), the name and, if known, the address and telephone number of each individual likely to have information discoverable under Rule 26(b), including*

for impeachment or rebuttal, identifying the subjects of the information:

1. Yvonne O'Connell  
c/o Nettles Law Firm  
1389 Galleria Drive, Suite 200  
Henderson, NV 89014

This witness, Plaintiff, is expected to testify regarding the facts and circumstances contained in the Complaint on file herein.

2. Person Most Knowledgeable  
Wynn Las Vegas, LLC  
c/o Lawrence J. Semenza, III, Esq.  
LAWRENCE J. SEMENZA, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 835-6803

This witness is expected to testify regarding the facts and circumstances contained in the Complaint on file herein.

3. Jon Sorelle, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
The Minimally Invasive Hand Institute  
8960 W. Tropicana Ave.  
Las Vegas, NV 89147  
Phone:(702) 739-4263

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

4. Person Most Knowledgeable/Custodian of Records  
Steinberg Diagnostics

2950 S. Maryland Pkwy.  
Las Vegas, NV  
Phone: (702) 732-6000

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

5. Person Most Knowledgeable/Custodian of Records  
UMC Quickcare  
1800 West Charleston Blvd.  
Las Vegas, NV 89102  
Phone: (702) 383-2000

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

6. Person Most Knowledgeable/Custodian of Records  
Matt Smith Physical Therapy  
9499 W. Charleston Blvd., Suite 220  
Las Vegas, NV 89117  
Phone: (702) 933-9394

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

7. Timothy Trainor, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Advanced Orthopedic & Sports Medicine  
8420 W. Warm Springs Rd.  
Las Vegas, NV  
Phone: (702) 740-5327

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

8. John A. Thompson, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Desert Oasis Clinic  
6316 S. Rainbow Blvd., Suite 100  
Las Vegas, NV 89118  
Phone: (702) 310-9350

1 This individual is expected to testify as a treating physician and as an expert regarding  
2 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
3 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
4 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
5 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
6 also a treating physician and thereby not retained or specially employed to provide expert  
7 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
8 let us know immediately or your failure to object will be deemed a stipulation that said  
9 documents are not required under the rule. Further, this expert is expected to testify consistent  
10 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
11 other incidents having relevance to this action. The facts and opinions to which the expert is  
12 expected to testify include any and all facts and opinions in the said medical records, and that the  
13 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
14 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
15 any party in this action that contradict the same.

- 10 9. Christopher Milford, M.D., P.C. and/or  
11 Person Most Knowledgeable/Custodian of Records  
12 Silver State Neurology  
13 9811 W. Charleston Blvd., Ste. 2-357  
14 Las Vegas, NV 89117  
15 Phone: (702) 256-3637

15 This individual is expected to testify as a treating physician and as an expert regarding  
16 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
17 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
18 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
19 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
20 also a treating physician and thereby not retained or specially employed to provide expert  
21 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
22 let us know immediately or your failure to object will be deemed a stipulation that said  
23 documents are not required under the rule. Further, this expert is expected to testify consistent  
24 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
25 other incidents having relevance to this action. The facts and opinions to which the expert is  
26 expected to testify include any and all facts and opinions in the said medical records, and that the  
27 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
28 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

- 25 10. Person Most Knowledgeable/Custodian of Records  
26 Edwin Suarez Physical Therapy  
27 4955 S. Durango Dr. #100  
28 Las Vegas, NV 89113  
Phone: (702) 489-9785

1 This individual is expected to testify as a treating physician and as an expert regarding  
2 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
3 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
4 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
5 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
6 also a treating physician and thereby not retained or specially employed to provide expert  
7 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
8 let us know immediately or your failure to object will be deemed a stipulation that said  
9 documents are not required under the rule. Further, this expert is expected to testify consistent  
10 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
11 other incidents having relevance to this action. The facts and opinions to which the expert is  
12 expected to testify include any and all facts and opinions in the said medical records, and that the  
13 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
14 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
15 any party in this action that contradict the same.

11. Edson Erkolvrawatr, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Southern Nevada Pain Center  
6950 W. Desert Inn Rd., Ste. 110  
Las Vegas, NV 89117  
Phone: (702) 259-5550

15 This individual is expected to testify as a treating physician and as an expert regarding  
16 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
17 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
18 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
19 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
20 also a treating physician and thereby not retained or specially employed to provide expert  
21 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
22 let us know immediately or your failure to object will be deemed a stipulation that said  
23 documents are not required under the rule. Further, this expert is expected to testify consistent  
24 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
25 other incidents having relevance to this action. The facts and opinions to which the expert is  
26 expected to testify include any and all facts and opinions in the said medical records, and that the  
27 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
28 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

12. Leo Germin, M.D.  
Person Most Knowledgeable/Custodian of Records  
Clinical Neurology Specialists  
1691 W. Horizon Ridge Pkwy., Ste. 100  
Henderson, NV 89012  
Phone: (702) 804-1212

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

13. Andrew Cash, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Nevada Institute of Spine Care  
9339 W. Sunset Road, Ste. 100  
Las Vegas, NV89148  
Phone: (702) 630-3472

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

14. Lee Wittenberg, DPM and/or  
Person Most Knowledgeable/Custodian of Records  
Apache Foot & Ankle Specialist LLC  
9710W. Tropicana Ave., Ste. 115  
Las Vegas, NV 89147  
Phone: (702) 362-2622



This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

15. Suresh Prabhu, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Ascent Primary Care  
653 N. Town Center Dr., Ste. 217  
Las Vegas, NV 89144  
Phone: (702) 545-0751

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

16. Person Most Knowledgeable/Custodian of Records  
University Medical Center  
1800 West Charleston Blvd.  
Las Vegas, NV 89102  
Phone: (702) 383-2000

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis,

1 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
2 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
3 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
4 also a treating physician and thereby not retained or specially employed to provide expert  
5 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
6 let us know immediately or your failure to object will be deemed a stipulation that said  
7 documents are not required under the rule. Further, this expert is expected to testify consistent  
8 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
9 other incidents having relevance to this action. The facts and opinions to which the expert is  
10 expected to testify include any and all facts and opinions in the said medical records, and that the  
11 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
12 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
13 any party in this action that contradict the same.

14  
15 17. Thomas Dunn, M.D.  
16 **Craig T. Tingey, M.D.**  
17 **Andrew S. Martin, M.D. and/or**  
18 Person Most Knowledgeable/Custodian of Records  
19 Desert Orthopaedic Center  
20 2800 East Desert Inn Road, Suite 100  
21 Las Vegas, NV 89121-3609  
22 Phone: (702) 731-1616  
23

24 This individual is expected to testify as a treating physician and as an expert regarding  
25 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
26 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
27 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
28 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
also a treating physician and thereby not retained or specially employed to provide expert  
testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
let us know immediately or your failure to object will be deemed a stipulation that said  
documents are not required under the rule. Further, this expert is expected to testify consistent  
with the medical records related to the treatment of the Plaintiff for the subject incident, and  
other incidents having relevance to this action. The facts and opinions to which the expert is  
expected to testify include any and all facts and opinions in the said medical records, and that the  
medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

24 18. Yakov Shaposhnikov, M.D. and/or  
25 Person Most Knowledgeable/Custodian of Records  
26 Gastrointestinal and Liver Diseases  
27 2020 Goldring Avenue  
28 Las Vegas, NV 89106

This individual is expected to testify as a treating physician and as an expert regarding  
the injuries sustained, past present and future medical treatment and impairment, prognosis,

disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

17. Enrique Lacayo, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
2020 Goldring Avenue  
Las Vegas, NV 89106

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

18. Nanjunda Subramanyam, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Nevada Heart and Vascular Center  
1820 Desert Inn Rd., Suite A  
Las Vegas, NV 89169

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert

1 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
2 let us know immediately or your failure to object will be deemed a stipulation that said  
3 documents are not required under the rule. Further, this expert is expected to testify consistent  
4 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
5 other incidents having relevance to this action. The facts and opinions to which the expert is  
6 expected to testify include any and all facts and opinions in the said medical records, and that the  
7 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
8 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
9 any party in this action that contradict the same.

10  
11 19. Scott Manthel, M.D. and/or  
12 Person Most Knowledgeable/Custodian of Records  
13 Nevada Eye and Ear  
14 2598 Windmill Pkwy.  
15 Henderson, NV 89074

16 This individual is expected to testify as a treating physician and as an expert regarding  
17 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
18 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
19 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
20 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
21 also a treating physician and thereby not retained or specially employed to provide expert  
22 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
23 let us know immediately or your failure to object will be deemed a stipulation that said  
24 documents are not required under the rule. Further, this expert is expected to testify consistent  
25 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
26 other incidents having relevance to this action. The facts and opinions to which the expert is  
27 expected to testify include any and all facts and opinions in the said medical records, and that the  
28 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

20 20. Tyree Carr, M.D. and/or  
21 Person Most Knowledgeable/Custodian of Records  
22 Nevada Institute of Ophthalmology  
23 2800 N. Tenaya Way, #102  
Las Vegas, NV 89128

24 This individual is expected to testify as a treating physician and as an expert regarding  
25 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
26 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
27 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
28 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
also a treating physician and thereby not retained or specially employed to provide expert  
testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
let us know immediately or your failure to object will be deemed a stipulation that said  
documents are not required under the rule. Further, this expert is expected to testify consistent

1 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
2 other incidents having relevance to this action. The facts and opinions to which the expert is  
3 expected to testify include any and all facts and opinions in the said medical records, and that the  
4 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

5 21. Troy Valdez -- brother  
6 4 Starling Lane  
7 Aliso Viejo, CA 92656  
8 (949) 254-4550  
9 (949) 228-0959

10 This witness is expected to testify concerning his knowledge of Plaintiff's health and  
11 circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the  
12 Complaint on file herein.

13 22. Holly Valdez -- sister in law  
14 4 Starling Lane  
15 Aliso Viejo, CA 92656  
16 (949) 254-4550  
17 (949) 228-0959

18 This witness is expected to testify concerning her knowledge of Plaintiff's health and  
19 circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the  
20 Complaint on file herein.

21 23. Dave Brobeck -- Holly Valdez' father  
22 217 Monarch Bay Drive  
23 Dana Point, CA 92629  
24 (949) 499-9811

25 This witness is expected to testify concerning his knowledge of Plaintiff's health and  
26 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
27 on file herein.

28 24. Gaye Brobeck -- Holly Valdez' mother  
217 Monarch Bay Drive  
Dana Point, CA 92629  
(949) 499-9811

This witness is expected to testify concerning her knowledge of Plaintiff's health and  
circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the  
Complaint on file herein.

25. David Brobeck -- Holly Valdez' brother  
20 Blue Heron Lane  
Aliso Viejo, CA 92656  
(949) 859-3793

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

26. Mele Brobeck -- Holly Valdez' sister in law  
20 Blue Heron Lane  
Aliso Viejo, CA 92656  
(949) 859-3793

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

27. Larry Muro -- Troy Valdez' friend  
4739 Mascagni St.  
Ventura, CA 93003  
(805) 616-0274

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

28. Janine Muro -- Troy Valdez' friend  
4739 Mascagni St.  
Ventura, CA 93003  
(805) 616-0274

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

29. Jim Holloway -- Troy Valdez' friend  
2834 Serang Place  
Costa Mesa, CA 92626  
(714) 241-7777

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

30. Renee Holloway -- Troy Valdez' friend  
2834 Serang Place  
Costa Mesa, CA 92626  
(714) 241-7777

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

31. Allen Stroub -- Plaintiff's Cousin  
7009 Bandolero Way  
Bakersfield, CA  
(805) 838-7187

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

32. Helen Stroub -- Plaintiff's Cousin  
7009 Bandolero Way  
Bakersfield, CA  
(805) 838-7187

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

33. Person Most Knowledgeable/Custodian of Records  
Las Vegas Radiology  
7500 Smoke Ranch Road, Suite 100  
Las Vegas, Nevada 89128  
(702) 254-5004

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident

1 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
2 any party in this action that contradict the same.

3 34. Person Most Knowledgeable/Custodian of Records  
4 Open Sided MRI of Las Vegas  
5 630 South Rancho, Suite G  
6 Las Vegas, Nevada 89106  
7 (702) 932-2740

8 This individual is expected to testify as a treating physician and as an expert regarding  
9 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
10 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
11 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
12 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
13 also a treating physician and thereby not retained or specially employed to provide expert  
14 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
15 let us know immediately or your failure to object will be deemed a stipulation that said  
16 documents are not required under the rule. Further, this expert is expected to testify consistent  
17 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
18 other incidents having relevance to this action. The facts and opinions to which the expert is  
19 expected to testify include any and all facts and opinions in the said medical records, and that the  
20 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
21 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
22 any party in this action that contradict the same.

23 Plaintiff reserves the right to call any witness designated by any other party to this  
24 proceeding.

25 Discovery is continuing and Plaintiff reserves the right to supplement this list as  
26 additional information becomes available.

## 27 **II. DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS**

28 Pursuant to NRCP 161 (a)(1)(B), a copy of or a description by category and location of  
all documents, data compilations, and tangible things that are in the possession, custody, or  
control of the party and which are discoverable under Rule 26(b):

1. Medical Records and Billing Statement  
Jon Sorelle, M.D.  
The Minimally Invasive Hand Institute  
8960 W. Tropicana Ave.  
Las Vegas, NV 89147  
Bate numbered PLTF000001 through PLTF000018 and attached hereto.



2. Diagnostic Records and Billing Statement  
Steinberg Diagnostics  
2950 S. Maryland Pkwy.  
Las Vegas, NV  
Bate numbered PLTF000019 through PLTF000033 and attached hereto.
3. Medical Records and Billing Statement  
UMC Quickcare  
1800 West Charleston Blvd.  
Las Vegas, NV 89102  
Bate numbered PLTF000034 through PLTF000289 and attached hereto.
4. Physical Therapy Records and Billing Statement  
Matt Smith Physical Therapy  
9499 W. Charleston Blvd., Suite 220  
Las Vegas, NV 89117  
Bate numbered PLTF000290 through PLTF000374 and attached hereto.
5. Medical Records and Billing Statement  
Timothy Trainor, M.D.  
Advanced Orthopedic & Sports Medicine  
8420 W. Warm Springs Rd.  
Las Vegas, NV  
Bate numbered PLTF000375 through PLTF000396 and attached hereto.
6. Medical Records and Billing Statement  
John A. Thompson, M.D.  
Desert Oasis Clinic  
6316 S. Rainbow Blvd., Suite 100  
Las Vegas, NV 89118  
Bate numbered PLTF000397 through PLTF000407 and attached hereto.
7. Medical Records and Billing Statement  
Christopher Milford, M.D., P.C.  
Silver State Neurology  
9811 W. Charleston Blvd., Ste. 2-357  
Las Vegas, NV 89117  
Bate numbered PLTF000408 through PLTF000431 and attached hereto.
8. Physical Therapy and Billing Statement  
Edwin Suarez Physical Therapy  
4955 S. Durango Dr. #100  
Las Vegas, NV 89113  
Bate numbered PLTF000432 through PLTF000443 and attached hereto.
9. Medical Records and Billing Statement  
Edson Erkulyrawatr, M.D.

**NETTLES LAW FIRM**

1389 Galleria Drive Suite 200  
Henderson, NV 89014  
(702) 434-8282 / (702) 434-1488 (fax)

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Southern Nevada Pain Center  
6950 W. Desert Inn Rd., Ste. 110  
Las Vegas, NV 89117  
Phone: (702) 259-5550  
Bate numbered PLTF000444 through PLTF000526 and attached hereto.

10. Medical Records and Billing Statement  
Leo Germin, M.D.  
Clinical Neurology Specialists  
1691 W. Horizon Ridge Pkwy., Ste. 100  
Henderson, NV 89012  
Bate numbered PLTF000527 through PLTF000535 and attached hereto.

11. Medical Records and Billing Statement  
Andrew Cash, M.D.  
Nevada Institute of Spine Care  
9339 W. Sunset Road, Ste. 100  
Las Vegas, NV 89148  
Bate numbered PLTF000536 through PLTF000584 and attached hereto.

12. Medical Records and Billing Statement  
Lee Wittenberg, DPM  
Apache Foot & Ankle Specialist LLC  
9710 W. Tropicana Ave., Ste. 115  
Las Vegas, NV 89147  
Bate numbered PLTF000585 through PLTF000598 and attached hereto.

13. Medical Records and Billing Statement  
Suresh Prahbu, M.D.  
Ascent Primary Care  
653 N. Town Center Dr., Ste. 217  
Las Vegas, NV 89144  
Bate numbered PLTF000594 through PLTF000598 and attached hereto.

14. Medical Records  
Thomas Dunn, M.D. and/or  
Desert Othopaedic Center  
2800 East Desert Inn Road, Suite 100  
Las Vegas, NV 89121-3609  
Bate numbered PLTF000599 through PLTF000627 and attached hereto.

15. Medical Records and Billing Statement  
Yakov Shaposhnikov, M.D. and/or  
Gastrointestinal and Liver Diseases  
2020 Goldring Avenue  
Las Vegas, NV 89106  
Bate numbered PLTF000628 through PLTF000649 and attached hereto.

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16. Medical Records and Billing Statement  
 Enrique Lacayo, M.D.  
 2020 Goldring Avenue  
 Las Vegas, NV 89106  
 Bate numbered PLTF000650 through PLTF000677 and attached hereto.
17. Medical Records and Billing Statement  
 Nanjunda Subramanyam, M.D.  
 Nevada Heart and Vascular Center  
 1820 Desert Inn Rd., Suite A  
 Las Vegas, NV 89169  
 Bate numbered PLTF000678 through PLTF000683 and attached hereto.
19. Medical Records and Billing Statement  
 Scott Manthei, M.D.  
 Nevada Eye and Ear  
 2598 Windmill Pkwy.  
 Henderson, NV 89074  
 Bate numbered PLTF000684 through PLTF000699 and attached hereto.
20. Medical Records and Billing Statement  
 Tyree Carr, M.D.  
 Nevada Institute of Ophthalmology  
 2800 N. Tenaya Way, #102  
 Las Vegas, NV 89128  
 Bate numbered PLTF000700 through PLTF000716 and attached hereto.
21. Photograph of Plaintiff and friend dancing pre-accident  
 Bate numbered PLTF000717 and attached hereto.
22. Photographs of Plaintiff and her brother, Troy Valdez, her sister-in-law, Holly Valdez and her niece pre-accident  
 Bate numbered PLTF000718 and attached hereto.
23. Photograph of Plaintiff and her cousins, Allen and Helen Stroub pre-accident  
 Bate numbered PLTF000719 and attached hereto.
24. Photographs of Plaintiff's injury area and bruising  
 Bate numbered PLTF 000720 and PLTF 721
25. Authorization for the Release of Protected Health Information executed by Plaintiff for benefit of Defendant
26. Medical Records and Billing Statement  
 Las Vegas Radiology  
 8530 W. Sunset Road

Las Vegas, Nevada 89113

(702) 254-5004

Bate numbered PLTF000722 through PLTF000728 are attached hereto.

**27. Medical Billing Statement**

**Thomas Dunn, M.D.**

**Desert Orthopedic Center**

**2930 W. Horizon Ridge Pkwy, #100**

**Henderson, Nevada 89052**

**(702) 731-1616**

Bate numbered PLTF000729 through PLTF000748 are attached hereto.

**28. Medical Records and Billing Statement**

**Open Sided MRI**

**630 South Rancho, Suite G**

**Las Vegas, Nevada 89106**

**(702) 932-2740**

Bate numbered PLTF000749 through PLTF000752 are attached hereto.

Plaintiff reserves the right to offer any document(s) produced during this litigation including, but not limited to, documents produced by other parties and document attached as exhibits to pleadings and depositions.

Discovery is continuing and Plaintiff reserves the right to supplement this list as additional information becomes available.

**III. COMPUTATION OF DAMAGES**

*Pursuant to NRC P 16 1(a)(1)(C), a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered:*

...

...

A. MEDICAL DAMAGES:

PROVIDER	AMOUNT
Jon Sorelle, M.D. The Minimally Invasive Hand Institute	\$ 2,625.00
Steinberg Diagnostics	\$ 2,605.00
UMC - Quick Care	\$ 7,783.56
Matt Smith Physical Therapy	\$ 3,235.00
Timothy J. Trainor, M.D. Advanced Orthopedic & Sports Medicine	\$ 181.00
John A. Thompson, M.D. Desert Oasis Clinic	\$ 250.00
Christopher Milford, M.D., P.C. Silver State Neurology	\$ 1,580.00
Edwin Suarez Physical Therapy	\$ 670.00
Southern Nevada Pain Center	\$ 680.00
Leo Germin, M.D. Clinical Neurology Specialists	\$ 2,510.00
Andrew Cash, M.D. Desert Institute of Spine Care	\$ 3,034.42
Lee Wittenberg, DPM Apache Foot & Ankle	\$ 310.00
Suresh Prahbu, M.D. Ascent Primary Care	\$ 270.00
Thomas Dunn, M.D. Desert Orthopaedic Center	\$ 1,640.00
Yakov Shaposhnikov, M.D. Gastrointestinal and Liver Diseases	\$ 828.00
Enrique Lacayo, M.D.	\$ 175.00

Nanjunda Subramanyam, M.D. Nevada Heart and Vascular Center	\$ 1,440.00
Scott Manthel, M.D. Nevada Eye and Ear	\$ 750.00
Tyree Carr, M.D. Nevada Institute of Ophthalmology	\$ 790.00
Las Vegas Radiology	\$ 3,300.00
Open Sided MRI of Las Vegas	\$ 3,290.00
TOTAL	\$ 37,946.98

B. ADDITIONAL DAMAGES:

Plaintiff has also suffered loss of enjoyment of life due to ongoing pain, in an amount to be proved at trial.

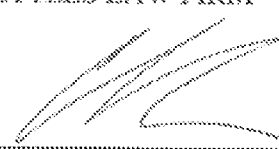
IV. INSURANCE POLICY

*Pursuant to NRCP 161(a) (1) (D), for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment and any disclaimer or limitation of coverage or reservation of rights under any such insurance agreement:*

Plaintiff is unaware of any insurance agreement(s).

DATED this 26<sup>th</sup> day of August, 2015.

NETTLES LAW FIRM

  
 BRIAN D. NETTLES, ESQ.  
 Nevada Bar No. 7462  
 CHRISTIAN M. MORRIS, ESQ.  
 Nevada Bar No. 11218  
 1389 Galleria Drive, Suite 200  
 Henderson, Nevada 89014  
 Attorneys for Plaintiff

NETTLES LAW FIRM

1389 Galleria Drive Suite 200

Henderson, NV 89014

(702) 434-8282 / (702) 434-1488 (fax)

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 27<sup>th</sup> day of August, 2015, I served the foregoing *Plaintiff's Amended Fourth Supplement To Initial Disclosures* to the following parties by electronic transmission through the Wiznet system:

Lawrence J. Semenza, III, Esq.  
Christopher D. Kircher, Esq.  
Lawrence J. Semenza, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
(702) 835-6803  
Fax: (702) 920-8669  
*Attorneys for Defendant*  
*Wynn Las Vegas, LLC dba*  
*Wynn Las Vegas*

  
An Employee of Nettles Law Firm

*In the*  
**Supreme Court**  
*for the*  
**State of Nevada**

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WYNN LAS VEGAS, LLC d/b/a WYNN LAS VEGAS,  
*Appellant and Cross-Respondent,*

v.

YVONNE O'CONNELL,

*Respondent and Cross-Appellant.*

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*Appeal from Judgment on Jury Verdict,  
Eighth Judicial District Court, State of Nevada in and for the County of Clark  
District Court Case No. A-12-671221-C · Honorable Jennifer P. Togliatti*

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**APPELLANT'S APPENDIX**  
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LAWRENCE J. SEMENZA III, ESQ. (7174)  
CHRISTOPHER D. KIRCHER, ESQ. (11176)  
JARROD L. RICKARD, ESQ. (10203)  
SEMENZA KIRCHER RICKARD  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
(702) 835-6803 Telephone  
(702) 920-8669 Facsimile

*Attorneys for Appellant and Cross-Respondent,  
Wynn Las Vegas, LLC*





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CLERK OF THE COURT

**RPLY**

Lawrence J. Semenza, III, Esq., Bar No. 7174  
Email: ljs@semenzalaw.com  
Christopher D. Kircher, Esq., Bar No. 11176  
Email: cdk@semenzalaw.com  
LAWRENCE J. SEMENZA, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 835-6803  
Facsimile: (702) 920-8669

Attorneys for Defendant Wynn Las Vegas, LLC  
d/b/a Wynn Las Vegas

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

YVONNE O'CONNELL, individually,  
  
Plaintiff,  
  
v.

WYNN LAS VEGAS, LLC, a Nevada  
Limited Liability Company, doing business as  
WYNN LAS VEGAS; DOES I through X;  
and ROE CORPORATIONS I through X;  
inclusive;

Defendants.

Case No. A-12-655992-C  
Dept. No. V

**REPLY IN SUPPORT OF  
DEFENDANT'S MOTION IN LIMINE  
[#2] TO EXCLUDE UNRELATED  
MEDICAL CONDITIONS;  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR SANCTIONS**

**Date of Hearing: September 17, 2015  
Time of Hearing: 9:00 a.m.**

**I. INTRODUCTION**

Plaintiff Yvonne O'Connell's ("Plaintiff") strategy is readily apparent now: at all costs ignore her preexisting medical conditions in hopes they will cease to exist for purposes of this case. Not so. Plaintiff has an extensive history of physical issues, including fibromyalgia, back pain, hand pain, abdominal pain, anxiety, stress disorder and Marfan syndrome. To prove the majority of her medical damages, Nevada law therefore requires expert medical testimony but Plaintiff failed to disclose any expert(s) in this case. Moreover, none of the treating physicians identified in Plaintiff's Opposition conclude in the medical records that her alleged injuries, which she claims have lasted for five years, were caused by her alleged slip and fall (the "Incident") at Defendant Wynn Las Vegas, LLC's ("Wynn") property. Further, Plaintiff's treating physicians

1 cannot testify as to causation or aggravation of a preexisting condition because they clearly did  
2 not form these (alleged) opinions during the course of treatment. Thus, the Court should grant  
3 Wynn's Motion in Limine #2 in its entirety.

4 In addition, the Court should deny Plaintiff's purported motion for sanctions and, instead,  
5 award Wynn the attorneys' fees and costs it has incurred on this issue. Simply put, Plaintiff's one  
6 paragraph motion for sanctions is frivolous, brought for an improper purpose and completely  
7 unsupported by the law.

## 8 **II. ARGUMENT**

### 9 **A. Nevada Law Mandates Expert Medical Testimony to Prove Causation in This** 10 **Case and Plaintiff Continues to Ignore Her Numerous Preexisting Conditions**

11 Plaintiff completely ignores the Nevada case law in Wynn's Motion in Limine [#2] for  
12 obvious reasons.<sup>1</sup> It is well-settled that Plaintiff is required to provide expert medical testimony  
13 to prove causation under the circumstances of this case. *Grover C. Dils Med. Ctr. v. Menditto*,  
14 121 Nev. 278, 288, 112 P.3d 1093, 1100 (2005). Since Plaintiff completely ignores the *Menditto*  
15 case, it is worth repeating here. The Nevada Supreme Court held "because injury is subjective  
16 condition, an expert opinion is required to establish a causal connection between the incident or  
17 injury and disability. Evidence that an injury is merely worsened is not sufficient to prove  
18 aggravation." *See Grover C. Dils Med. Ctr. v. Menditto*, 121 Nev. 278, 288, 112 P.3d 1093, 1100  
19 (Nev. 2005) (internal citations and quotations omitted). Put differently, proving causation is too  
20 complex and beyond the capability of a layperson to decide in these situations; thus expert  
21 testimony is required. *Id.* at 288, 112 P.3d at 100. Moreover, Plaintiff cannot show aggravation  
22 or exasperation of a preexisting condition without an expert medical witness. *Id.* ("[e]vidence that  
23 an injury merely worsened is not sufficient to prove aggravation").

24 Here, Plaintiff falsely states there is no relevant history of prior illnesses or incidents  
25 related to the injuries she sustained from the Incident. This is untrue, as delineated in Wynn's  
26

---

27 <sup>1</sup> Wynn incorporates the arguments from its Opposition to Plaintiff's Omnibus Motion in Limine on this  
28 issue.

1 Motion.<sup>2</sup> In reality, Plaintiff has an extensive history of preexisting medical conditions that she  
2 outrageously misrepresents to the Court. Expert medical testimony, therefore, is required in this  
3 case, but Plaintiff failed to retain an expert medical witness.

4 As such, almost none of Plaintiff's medical issues can be related to her alleged slip and fall  
5 at Wynn's property.<sup>3</sup> This is especially true given that she declined medical attention after the  
6 Incident, walked out of Wynn's property on her own accord, continued to gamble for hours and  
7 her early medical evaluations found nothing more than contusions. Furthermore, it is suspect that  
8 five years after the Incident that Plaintiff is diagnosed with knee problems that she alleges were  
9 caused by the Incident. Before she found a doctor that provided her with a diagnosis she liked,  
10 Plaintiff had seen numerous medical providers and had numerous tests completed that found no  
11 objective evidence to suggest an injury related to the Incident. Clearly, a layperson would deeply  
12 question the relatedness of Plaintiff's alleged injuries diagnosed five years after the Incident.

13 Consequently, the Court should not permit Plaintiff to introduce any evidence, references  
14 to evidence, testimony or argument relating to the medical treatment that lacks any causal  
15 connection between the Incident and the purported injuries and conditions.

16 **B. Plaintiff's Treating Physicians Cannot Testify as to Causation in This Case**

17 Because they did not prepare and disclose expert reports, Plaintiff's treating physicians can  
18 only testify as to the treatment they provided as set forth in the medical records disclosed by  
19 Plaintiff to Wynn. *FCHI, LLC v. Rodriguez*, 326 P.3d 440, 445 (Nev. 2014) ("While a treating  
20 physician is exempt from the report requirement, this exemption only extends to opinions [that]  
21 were formed during the course of treatment.") (citations and internal quotations omitted). When a  
22

23 <sup>2</sup> According to her medical records and Wynn's expert medical witness, Plaintiff has an extensive history  
24 of medical problems prior to the Incident at Wynn such as low back and hand pain, IBS, GERD, anxiety,  
25 stress disorder, Marfan syndrome, fibromyalgia and abdominal pain. (See Wynn's Expert Report of Victor  
Klausner, D.O.) Plaintiff attributes all of these purported health issues, and many others, to the Incident  
even though numerous of her medical providers found no objective symptoms of injury after performing  
countless examinations and tests on her. (*Id.*)

26 <sup>3</sup> Based on the undisputed medical expert evidence in this case, at most Plaintiff suffered a minor  
27 contusion as a result of the Incident. (See Wynn's Expert Report of Victor Klausner, D.O.) The rest of her  
28 claimed medical issues are completely unrelated to the Incident. Dr. Klausner attributes her numerous  
medical conditions to preexisting pathology and/or symptom magnification syndrome, which he discusses  
in detail in his expert report. (*Id.*)

1 treating physician's testimony exceeds that scope, they must provide an expert report under Rule  
2 26(e). *Id.*

3 Expert reports are mandated to avoid trial by surprise. *See Washoe Cnty. Bd. of Sch.*  
4 *Trustees v. Pirhala*, 84 Nev. 1, 5, 435 P.2d 756, 758 (1968) (noting that the purpose of discovery  
5 is to take the "surprise out of trials of cases so that all relevant facts and information pertaining to  
6 the action may be ascertained in advance of trial"); *see also Ghiorzi v. Whitewater Pools & Spas*  
7 *Inc.*, No. 2:10-cv-01778-JCM-PAL, 2011 U.S. Dist. LEXIS 125329, 2011 WL 5190804 (D. Nev.  
8 Oct. 28, 2011) ("Expert reports are required in order to eliminate "unfair surprise to the opposing  
9 party and [to conserve] resources.") (citations omitted).

10 Here, none of Plaintiff's treating physicians prepared an expert report under Rule 26(e),  
11 including Dr. Dunn, Dr. Tingey or any of the other treating physicians identified in Plaintiff's  
12 Opposition. Whichever of her treating physicians that Plaintiff intends to testify at trial, which is  
13 still not fully clear to Wynn, they cannot testify as to, among other things "past, present and future  
14 medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement,  
15 causation" as Plaintiff asserts.<sup>4</sup> (Opp., 4:5-21.) This clearly goes beyond the scope of the treating  
16 doctor's treatment. In fact, the Ninth Circuit has held that "when a treating physician morphs into  
17 a witness hired to render expert opinions that go beyond the usual scope of a treating doctor's  
18 testimony, the proponent of the testimony must comply with [the expert report requirement]."  
19 *Goodman v. Staples the Office Superstore, LLC*, 644 F.3d 817, 819-20 (9th Cir. 2011).

20 Despite this, without citing to any evidence such as her medical records, Plaintiff boldly  
21 asserts that Dr. Dunn and Dr. Tingey with Desert Orthopedic Center "directly relate the injuries  
22 sustained and the need for [spine and knee] surgery to the fall at Wynn[] and have been disclosed  
23 accordingly." (Opp., 3:21-22.) However, nowhere in Plaintiff's medical records do any of her  
24 treating physicians conclude that her alleged injuries were caused by the Incident, including Dr.  
25 Dunn or Dr. Tingey.

---

26  
27 <sup>4</sup> Wynn did not even know which doctors Plaintiff believes would supposedly testify as to causation until  
28 receiving her Opposition brief. Even now, Wynn questions whether her recent medical providers will  
actually be willing and able to testify in the manner that Plaintiff claims.

1 According to her medical records, Plaintiff visited Dr. Dunn at for the first time on June  
2 16, 2014 - *over four years after the Incident at Wynn*. (Desert Orthopedic Center Medical  
3 Records Produced by Plaintiff, Bates Number PLTF000601, attached hereto as **Exhibit 1**.) After  
4 four years of doctor shopping, it appears an MRI ordered by Dr. Dunn found a meniscus tear in  
5 the left knee. (*Id.* at PLTF000617.) Further, Dr. Dunn apparently diagnosed her with  
6 "degenerative disc disease of the cervical spine, and cervical radiculopathy, and lumbar disc  
7 disease, and sciatica." (*Id.* at PLTF000618-619.) Plaintiff visited Dr. Tingey on May 11, 2015 –  
8 *over five years after the Incident at Wynn*. (*Id.* at PLTF000733) By this time, Plaintiff was  
9 complaining of pain in both her knees – which appears to be the first time she has had this  
10 complaint according to her previous five years of medical records. (*See id.*) Shockingly, though,  
11 Dr. Tingey's narrative states that Plaintiff describes the pain to both her knees as "immediate"  
12 after the Incident. (*Id.* at PLTF000733, 746) This is obviously untrue.

13 Importantly, Dr. Dunn and Dr. Tingey's medical records do not attribute Plaintiff's recent  
14 and alleged medical issues to the Incident at Wynn. In fact, Plaintiff visited her first orthopedic  
15 doctor on February 12, 2012, and he only diagnosed her with fibromyalgia, complex regional pain  
16 syndrome and found "no obvious organic problems of the hip or the knee." (Advanced  
17 Orthopedics Medical Records, Bates Number PLTF000378-79, cited portion attached hereto as  
18 **Exhibit 2**.)

19 Thus, Plaintiff's treating physicians cannot reasonably testify as to causation or  
20 aggravation of a preexisting condition because they did not form these (alleged) opinions during  
21 the course of their treatment. *Rodriguez*, 326 P.3d at 445.

22 C. **The Treating Physicians Identified in Her Opposition Have Unreliable**  
23 **Opinions Because She Intentionally Failed to Inform Them About, and**  
24 **They Failed to Consider, Her Preexisting Medical Conditions**

25 The medical records of the treating physicians Plaintiff alleges, and hopes, will testify as  
26 to causation did not consider Plaintiff's preexisting conditions as the sole or contributing factor to  
27 her medical conditions. Indeed, Plaintiff consciously failed to inform her most recent treating  
28 physicians about her numerous preexisting medical conditions. For example, Dr. Dunn and Dr.

1 Tingey's medical records do not include any reference to Plaintiff's preexisting medical  
2 conditions, such as fibromyalgia, back pain, hand pain, abdominal pain, GERD, anxiety, stress  
3 disorder and Marfan syndrome. Her medical records from Dr. Dunn merely state a "[p]ast  
4 medical history noted by patient includes diabetes, depression [and] [s]he states she had a mini-  
5 stroke 2 days after the slip and fall."<sup>5</sup> (Ex. 1 at PLTF000602). The medical records from Dr.  
6 Tingey also exclude any reference to the majority of her preexisting conditions.

7 Obviously, Plaintiff failed to tell Dr. Dunn and Dr. Tingey the full story regarding her  
8 medical history. Plaintiff did this because the previous medical providers she had sought treating  
9 from over the past four years found no objective findings to suggest Plaintiff was injured from the  
10 Incident. Quite tellingly, Plaintiff failed to retain an expert medical witness because she likely  
11 could not find a doctor that would testify on her behalf due the absurdness of her injury claims  
12 and continual effort to ignore her preexisting conditions.

13 Therefore, Plaintiff's treating physicians cannot testify as to causation in the manner  
14 Plaintiff alleges they will. Simply put, there is no evidence that Plaintiff's alleged medical issues  
15 are related to the Incident and Plaintiff cannot provide the requisite expert testimony to satisfy her  
16 burden.

17 **D. Plaintiff's Motion for Sanctions Is Frivolous and Wynn Should Be Awarded**  
18 **Its Attorneys' Fees and Costs**

19 In her Opposition, Plaintiff includes a one paragraph "motion for sanctions" apparently  
20 because Plaintiff's expert medical report that was filed with the Court includes her date of birth  
21 and "embarrassing details" about her medical treatment. Plaintiff claims that Wynn should be  
22 sanctioned for purportedly violating "NRS Chapter 239B" and the "HIPAA Omnibus Rule."<sup>6</sup> Not  
23 surprisingly, Plaintiff fails to cite to any specific statute or case law that would support her  
24 completely frivolous motion.

25  
26  
27 <sup>5</sup> There is no medical evidence that Plaintiff suffered a "mini-stroke" as she falsely claims, which is telling  
here.

28 <sup>6</sup> Telling of the time Plaintiff spent evaluating her frivolous motion for sanctions, Plaintiff refers to the  
Health Insurance Portability and Accountability Act, more commonly known as HIPAA, as "HIPPA."

1                   **1.       Wynn Did Not Violate NRS 239B.030**

2                   NRS 239B.030(1) states that a "person shall not include and a governmental agency shall  
3 not require a person to include any personal information about a person on any document that is  
4 recorded, filed or otherwise submitted to the governmental agency on or after January 1, 2007."  
5 Under Nevada law, "personal information" is defined as "a natural person's first name or first  
6 initial and last name in combination with" the person's 1) social security number, 2) driver's  
7 license number or identification card number, 3) account number, credit card number or debit card  
8 number, in combination with any required security code, access code or password that would  
9 permit access to the person's financial account. NRS 603A.040.

10                  Here, Plaintiff alleges that Wynn merely filed her birth date with "embarrassing details"  
11 about her medical treatment. Therefore, Wynn has clearly not violated NRS 239B.030.

12                   **2.       HIPAA Does Not Provide a Private Right of Action**

13                  Plaintiff utterly fails to provide any analysis or explain how Wynn violated HIPAA  
14 because she cannot.<sup>7</sup> Therefore, Wynn has not violated HIPAA and, regardless, HIPAA itself  
15 does not provide a private right of action. *Webb v. Smart Document Solutions*, 499 F.3d 1078  
16 (9th Cir. 2007); *Abdale v. N. Shore Long Island Jewish Health Sys., Inc.*, No. 2367/13, 2015 WL  
17 4879587 (N.Y. Sup. Ct. Aug. 14, 2015) (dismissing plaintiff's claim for negligence per se based  
18 on HIPAA because "HIPAA and its regulations do not create a private right of action") (citations  
19 omitted).

20                   **3.       The Court Should Award Wynn Its Attorneys' Fees and Costs**

21                  Plaintiff's one paragraph motion for sanctions is obviously an attempt by Plaintiff to  
22 distract from the important issues addressed in Wynn's Motion in Limine [#2] and her specious  
23 claims generally. It is undisputed that Plaintiff placed her medical history at issue in this  
24 litigation and has produced her medical records to Wynn during discovery. Moreover, it is  
25 Plaintiff's burden, not Wynn's, to seek to seal her medical records and/or propose the parties enter  
26 into a stipulated protective order if she truly has an issue with the public disclosure of her medical

27  
28 <sup>7</sup> Furthermore, Wynn's counsel engaged in reasonable efforts to address this issue with Plaintiff's counsel  
to no avail.



1 history. Indeed, Wynn's counsel attempted to discuss this issue with Plaintiff's counsel numerous  
2 times after receiving the frivolous motion for sanctions, mentioning to her office that Wynn  
3 would be willing to seal the expert medical report at issue. Tellingly, Plaintiff failed to make any  
4 efforts to discuss this issue with Wynn's counsel.<sup>8</sup>

5 Because Plaintiff brought her motion for sanctions for an improper purpose and is  
6 completely unsupported under the Nevada and federal law, the Court should award Wynn the  
7 attorneys' fees and costs it has incurred addressing this issue.<sup>9</sup>

### 8 **III. CONCLUSION**

9 Based on the foregoing and Wynn's Motion, the Court should enter an Order excluding  
10 any and all evidence, references to evidence, testimony or argument relating to the majority of  
11 Plaintiff's claimed medical injuries, conditions and damages because she cannot prove a causal  
12 connection between the Incident and her alleged injuries and conditions. Further, her treating  
13 physicians cannot testify in the manner Plaintiff seeks to satisfy her burden in this case. Finally,  
14 the Court should deny her unfounded motion for sanctions and instead award Wynn its attorneys'  
15 fees and costs.

16 DATED this 10th day of September, 2015.

17 LAWRENCE J. SEMENZA, III, P.C.

18 /s/ Christopher D. Kircher

19 Lawrence J. Semenza, III, Esq., Bar No. 7174  
20 Christopher D. Kircher, Esq., Bar No. 11176  
21 10161 Park Run Drive, Suite 150  
22 Las Vegas, Nevada 89145

23 Attorneys for Defendant Wynn Las Vegas, LLC  
24 d/b/a Wynn Las Vegas  
25

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26 <sup>8</sup> If Plaintiff truly believes Wynn has violated the law and is able to provide any legal justification to  
27 support her position, Wynn would request that the parties fully brief this issue.

28 <sup>9</sup> At the Court's request, Wynn's counsel will provide a declaration setting forth the attorneys' fees and  
costs it incurred researching and briefing this issue.

LAWRENCE J. SEMENZA, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 835-6803

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b) and NEFCR 9, I certify that I am an employee of Lawrence J. Semenza, III, P.C., and that on this 10th day of September, 2015 I caused to be sent through electronic transmission via Wiznet's online system, a true copy of the foregoing **REPLY IN SUPPORT OF DEFENDANT'S MOTION IN LIMINE [#2] TO EXCLUDE UNRELATED MEDICAL CONDITIONS; OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS** to the following registered e-mail addresses:

NETTLES LAW FIRM  
christianmorris@nettleslawfirm.com  
kim@nettleslawfirm.com

*Attorneys for Plaintiff*

/s/ Olivia A. Kelly  
An Employee of Lawrence J. Semenza, III, P.C.

# EXHIBIT 1

# EXHIBIT 1

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

**06/16/2014 - Office Visit: 2nd Room, Complete**

**Provider: Thomas Dunn MD**

**Location of Care: Desert Orthopaedic Center**

**Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**Chief Complaint** pain in the low back radiating to the butt and the right leg to the heel & pain in the neck radiating to bilateral arms down to the hands . She is also having in the chest area

**History of Present Illness**

**Referred by:** Andrew Cash MD

**Previous Studies:** X-rays, CT scan, MRI

Yvonne O'Connell is a 62 year old right had dominant female who comes in for evaluation of left neck and low back pain after a slip/fall injury on 02/08/2010. While walking in the Wynn Hotel and Casino, she slipped and fell backwards, twisting to the right, striking her right buttock and leg on a raised divider before hitting the ground. She did not lose consciousness. After the fall she was picked up by bystanders and taken to a slot machine to sit down. Security came over and a report was taken. She did not go to the hospital and did not see any doctors until 2 days later on 02/10/2010 at UMC Quick Care. She describes the pain as being specifically located in the posterior region of her neck. The pain radiates to her right arm. Other physicians the patient has seen for this problem include a primary care physician, a neurologist, a spine surgeon, and a pain management physician. Previous studies performed to evaluate this condition include X-rays, CT scan, and MRI.

She describes her pain as sore sharp burning stabbing and severe. Her pain is intermittent, and since acknowledging the onset, her pain level has worsened. On a scale of 0-10, with 0 being no pain and 10 being the worst pain imaginable, her pain level today is a 9. At its least, her pain is a 2, and at its worst it is a 10. Her average pain is 8. She is also experiencing numbness, night pain, daytime pain with rest, and radiating pain down right arm. Her symptoms are worse when driving, turning head side to side, moving head up or down, lifting, typing, and reaching. She has done her best to endure symptoms over the years but expresses increasing difficulty and enduring symptoms of both neck and low back pain.

Treatments tried previously to relieve symptoms include ice, heat, muscle relaxants, physical therapy, narcotic medication, NSAIDS, TENS unit, and home exercise.

The patient is retired.

Her principle problem is that of neck pain that rates down her left arm, ongoing right-sided chest pain along the breast bone and low back pain with intermittent "jolts" down the right buttock and leg.

**Allergies**

ANTIBIOTICS (Moderate)

PLTF000601

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**Medications**

**Past Medical History**

Past medical history noted by patient includes diabetes, depression  
She states she had a mini-stroke 2 days after the slip and fall.

**Past Surgical History**

Patient denies any problems related to previous surgery

**Family Medical History**

There is a reported family history of cancer

**Social History**

**Tobacco use:** never smoker

**Alcohol Use:** (never)

**Does patient live alone:** yes

**Drug Use:** (no)

**Marital Status:** widowed

**Number of children:** none

**Occupation:** retired

**Work Status:** retired

**Review of Systems**

**General:** fatigue

**Cardiovascular:** denies fainting, ankle swelling, leg swelling, shortness of breath with exercise or murmur

**Respiratory:** cough

**Ears/Nose/Throat:** dizziness

**Gastrointestinal:** nausea

**Skin:** denies rash, itching, dryness, mole changes, jaundice, hives or abnormal pigmentation

**Neurologic:** weakness numbness headache

**Genitourinary:** night time urination

**Endocrine:** cold intolerance

**Heme/Lymphatic:** denies abnormal bruising, bleeding, enlarged lymph nodes

**Allergic/Immunologic:** denies hives, persistent infections, HIV exposure

**Psychiatric:** anxiety depression difficulty sleeping

**Musculoskeletal:** stiffness joint pain or swelling back pain weakness

**Pregnant:** no

**Physical Exam**

**Vital Signs**

**Height:** 68 in **Weight:** 155 lb **Pulse rate:** 60 **BP:** 151/86 **Body Mass Index:** 23.65

**Constitutional:**

PLTF000602

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

General appearance: moderate distress

Comments: Complaining of neck pain.

**Cardiovascular:**

Pedal pulses: pulses 2+, symmetric

Periph. circulation: no cyanosis, clubbing or edema

**Skin:**

Skin Inspection: no rashes, lesions in area of examination

Skin Palpation: no subcutaneous nodules or induration in area of examination

**Neurologic:**

Cranial nerves: II-XII grossly intact

Reflexes grossly intact, symmetric

Sensation: intact to touch

**Psychiatric:**

Orientation: oriented to person, place and time

Mood and affect: no depression, anxiety

**Lumbar Spine Exam**

Coordination/balance: normal

Posture: standing erect

Assistive Device: walker

Tenderness to palpation: bilateral

Radiates down: left

Facet tenderness: none

Spasms: mild

Spurling Test: negative

L'Hermitte Sign: negative

Hoffman's Sign: negative

**Cervical ROM**

Flexion: decreased

Extension: decreased

Rotation: Right: decreased Left: decreased

Lateral Flexion: Right: decreased Left: decreased

Sensation to touch is normal from C2-C8. Motor function is normal in the deltoid, elbow flexors, elbow extensors and finger flexors. Reflexes intact and symmetrical in the biceps, triceps and supinator.

Positive Tinel's at the wrist bilaterally.

Examination of the anterior chest over the area of the patient indicates that the source of the pain demonstrates tenderness to the costal manubrial joints on the right.

**Magnetic Resonance Imaging cervical** was performed on 05/08/2010

Cervical spondylosis C4-C7 without significant neural compression.

**Magnetic Resonance Imaging lumbar** was performed on 04/08/2010

Degenerative disc disease with collapse at L3-4 and moderate at L4-5 and L5-S1

RAD Spine Cervical Complete Min 4 Views [72050]

PLTF000603

REDACTED

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 4  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

There is severe disc space narrowing at C4-5, C5-6, and C7-T1. There is severe facet joint arthritis at C4-5, C5-6, and C6-7.

RAD Spine LS w/Bending Views [72114]

There is severe disc space narrowing at L3-4 and L5-S1. There is severe facet joint arthritis at L3-4 and L5-S1.

**Lumbar Spine Exam**

Coordination/balance: normal

Posture: normal

Assistive Device: walker

Tenderness to palpation: bilateral Radiates down: right Facet tenderness: bilateral Pain to straight leg raise: none

Femoral stretch test: none

Weakness: no

Heel Walk: yes

Toe Walk: yes

Faber Test: negative

Babinski: negative

Clonus: negative

**Lumbar ROM**

Flexion: decreased

Extension: decreased

Rotation: Left: decreased

Lateral Flexion: Left: decreased

Sensation to touch is normal from L1-S1. Motor function is normal in the hip flexors, knee extensors, ankle dorsiflexors, long toe extensors and ankle plantar flexors. Reflexes intact and symmetrical in the knee and ankle.

Full ROM of hips, knees, and ankles.

No pain produced with internal rotation or external rotation of the hips bilaterally.

Negative nerve test signs include straight leg raise, Laseques flip text and femoral stretch test.

Palpable pulses bilaterally. Tenderness noted about the right piriformis region.

**Impression**

degenerative disc disease of the cervical spine, and cervical radiculopathy, and lumbar disc disease, and sciatica

Bilateral carpal tunnel syndrome per history

**Plan**

I reviewed the patient's X-rays and MRI. Explanation and reassurance were provided to the patient. I discussed a treatment plan in detail with patient. All of the patient's questions were answered. She has failed all non-surgical treatment.

PLTF000604

REDACTED

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 5  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

A lumbar spine MRI without contrast was ordered. A cervical spine MRI without contrast was ordered.

If the patient continues to remain symptomatic, I may consider the following for the patient: surgery and injection.

**Follow up**

The patient will follow up in 3 weeks. Patient was instructed to follow up after receiving their MRI.

Electronically Signed by Thomas Dunn MD on 06/18/2014 at 12:17 PM

---

PLTF000605



**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

**07/14/2014 - Office Visit: 1st Room, Complete**

**Provider: Thomas Dunn MD**

**Location of Care: Desert Orthopaedic Center**

**Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**Physical Exam**

**Vital Signs**

**Height:** 68 in **Weight:** 155 lb **Body Mass Index:** 23.65

**History of Present Illness**

Yvonne O'Connell presents for result of MRI cervica, lumbar. Test was performed at Open Sided MRI of Las Vegas on 06/27/2014.

She complains of neck pain radiating down right arm and lower back pain radiating down both legs.

She describes her pain as throbbing/stabbing, sharp and severe. Her pain is continuous, and since her last visit her pain level has remained the same. On a scale of 1-10, with 1 being no pain and 10 being the worst pain imaginable, her pain level today is a 10. She is able to walk for less than 5 minutes without having to stop due to pain. Previous studies performed to evaluate this condition include MRI.

**Allergies**

ANTIBIOTICS (Moderate)

**Medications**

LOVAZA 1 GM CAPS (OMEGA-3-ACID ETHYL ESTERS) Take 2 tablets twice a day

Last Refill: #120 x 5, 07/14/2014, Thomas Dunn MD

**Past Medical History**

Past medical history noted by patient includes diabetes, depression

She states she had a mini-stroke 2 days after the slip and fall.

**Problems recorded as Dx. codes:**

SCIATICA (ICD-724.3)

DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC (ICD-722.52)

BRACHIAL NEURITIS OR RADICULITIS NOS (ICD-723.4)

DEGENERATION OF CERVICAL INTERVERTEBRAL DISC (ICD-722.4)

Information obtained by patient via web portal: I was very healthy and athletic until I slipped and fell. I had immediate injuries and pain, which I still have. My arms and hands hurt, it hurt to sit, my right foot hurt and I was dazed.

PLTF000606

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**Past Surgical History**

Patient denies any problems related to previous surgery  
Information obtained by patient via web portal: Tonsillectomy, 1955?

**Family Medical History**

There is a reported family history of cancer

**Social History**

**Tobacco use:** never smoker  
**Alcohol Use:** (never)  
**Does patient live alone:** yes  
**Drug Use:** (no)

**Marital Status:** widowed  
**Number of children:** none

**Physical Exam**

**Vital Signs**

**Height:** 68 in **Weight:** 155 lb **Body Mass Index:** 23.65

**Constitutional:**

General appearance: moderate distress

**Cardiovascular:**

Periph. circulation: no cyanosis, clubbing or edema

**Neurologic:**

Cranial nerves: II-XII grossly intact  
Reflexes grossly intact, symmetric  
Sensation: intact to touch

No acute changes

**Cervical**

No acute changes.

**Magnetic Resonance Imaging-Cervical** was performed on 06/27/2014

Open-sided MRI

Mild central canal stenosis at C3-C4

Mild central canal stenosis C4-C5 with severe bilateral neuroforaminal stenosis.

Moderate central canal stenosis at C5-C6 with severe bilateral neuroforaminal stenosis

Mild central canal stenosis at C6-C7 with mild bilateral neuroforaminal stenosis

**Magnetic Resonance Imaging-Lumbar** was performed on 06/27/2014

Open-sided MRI

PLTF000607

REDACTED

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Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

Mild left neuroforaminal stenosis L4-L5.

**Lumbar**

No acute changes.

**Impression**

degenerative disc disease of the cervical spine, and cervical radiculopathy, and lumbar disc disease, and sciatica  
Bilateral carpal tunnel syndrome per history

**Plan**

I reviewed the patient's MRI. Explanation and reassurance were provided to the patient.

She was given a prescription for LOVAZA 1 GM CAPS Take 2 tablets twice a day.

I am referring her to my colleague, Andrew S Martin MD for further evaluation.

**Follow up**

The patient was advised to return if symptoms worsen.

Electronically Signed by Thomas Dunn MD on 07/14/2014 at 1:08 PM

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PLTF000608

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

08/13/2014 - Office Visit: 5th Room, Complete  
Provider: Andrew S Martin MD  
Location of Care: Desert Orthopaedic Center

**Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**Chief Complaint** right hip and right knee**History of Present Illness**

Referred by: Andrew Cash MD

Previous Studies: X-rays, CT scan, MRI

The patient is a 62 year old female who comes in for a new problem today. The patients work status is retired. She presents for evaluation of left hip and left knee pain after a slip/fall injury. Her symptoms have been present for 4 years. Her injury occurred , when she walking, slipped and fell backwards, twisting to the right, right gluteal and leg struck raised divider, then head struck the ground. She describes the pain as being specifically located in the posterior region of her hip and knee. Other physicians the patient has seen for this problem include a primary care physician, another orthopedic surgeon, a spine surgeon, and a pain management physician. Previous studies performed to evaluate this condition include X-rays and CT scan

She describes her pain as throbbing/stabbing, sharp and severe. Her pain is continuous, and since acknowledging the onset, her pain level has remained the same. On a scale of 0-10, with 0 being no pain and 10 being the worst pain imaginable, her pain level today is a 10. At its least, her pain is a 2, and at its worst it is a 10. Her average pain is 8. She is also experiencing clicking, snapping/popping, swelling, night pain, pain with activities, radiating pain, and daytime pain with rest.

Treatments tried previously to relieve symptoms include ice, heat, muscle relaxants, physical therapy, narcotic medication, NSAIDS, TENS unit, and home exercise.

**Allergies**

ANTIBIOTICS (Moderate)

**Medications**

LOVAZA 1 GM CAPS (OMEGA-3-ACID ETHYL ESTERS) Take 2 tablets twice a day  
Last Refill: #120 x 5, 07/14/2014, Thomas Dunn MD

**Past Medical History**

Past medical history noted by patient includes diabetes, depression  
She states she had a mini-stroke 2 days after the slip and fall.

PLTF000609

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**Problems recorded as Dx. codes:**

DIABETES (ICD-250.00)  
SCIATICA (ICD-724.3)  
DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC (ICD-722.52)  
BRACHIAL NEURITIS OR RADICULITIS NOS (ICD-723.4)  
DEGENERATION OF CERVICAL INTERVERTEBRAL DISC (ICD-722.4)

Information obtained by patient via web portal: I was very healthy and athletic until I slipped and fell. I had immediate injuries and pain, which I still have. My arms and hands hurt, it hurt to sit, my right foot hurt and I was dazed.

**Past Surgical History**

Patient denies any problems related to previous surgery  
Information obtained by patient via web portal: Tonsillectomy, 1955?

**Family Medical History**

There is a reported family history of cancer  
Information obtained by patient via web portal: diabetes connective tissue disorder cancer

**Social History**

**Tobacco use:** never smoker  
**Alcohol Use:** (never)  
**Does patient live alone:** yes  
**Drug Use:** (no)

**Marital Status:** widowed  
**Number of children:** none  
**Work Status:** retired

**Review of Systems**

**General:** fatigue  
**Cardiovascular:** denies fainting, ankle swelling, leg swelling, shortness of breath with exercise or murmur  
**Respiratory:** cough  
**Ears/Nose/Throat:** dizziness  
**Gastrointestinal:** nausea  
**Skin:** denies rash, itching, dryness, mole changes, jaundice, hives or abnormal pigmentation  
**Neurologic:** weakness numbness headache  
**Genitourinary:** night time urination  
**Endocrine:** cold intolerance  
**Heme/Lymphatic:** denies abnormal bruising, bleeding, enlarged lymph nodes  
**Allergic/Immunologic:** denies hives, persistent infections, HIV exposure  
**Psychiatric:** anxiety depression difficulty sleeping  
**Musculoskeletal:** stiffness joint pain or swelling back pain weakness  
**Pregnant:** no

**Physical Exam**

**Vital Signs**

PLTF000610

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**Body Mass Index:** 23.65

**Right Knee Exam**

**Pain/Tenderness:**

diffuse, medial joint line, with range of motion

Neurovascularly intact

**Active Range of Motion**

Flexion: 130

Extension: 0

Crepitus with range of motion

**Stability**

Medial/MCL: normal

Lateral/LCL: normal

Ext Rotation Dial Test:

**Meniscus**

Flexion McMurray Test: positive

**Patella**

Patellofemoral Crepitus: yes

**Right Knee X-ray**

RAD Knee 3 Views [73562], CR Rt Knee; AP WB Lat & Sunrise [CR-rkawls]

There is moderate tricompartmental arthritis noted.

**Right Hip Exam**

**Inspection**

Pain/Tenderness: greater trochanter

Gait: with walker

Neurovascularly intact

**Passive ROM**

Abduction: normal

Adduction: normal

Flexion: normal

Extension: normal

Internal rotation: normal

External rotation: normal

**Impression**

She is here today for follow up of her right knee pain rule out medial meniscus tear. Right hip trochanteric burisits

PLTF000611

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 4  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

**Plan**

I reviewed the patient's X-rays. Explanation and reassurance were provided to the patient. I discussed a treatment plan in detail with patient. All of the patient's questions were answered.

A MRI of the right knee without contrast was ordered. Test was ordered to rule out medial meniscus tear.

**Activities/Work status**

The patient may continue protected activity.

**Follow up**

Patient was instructed to follow up after receiving their MRI.

Electronically Signed by Andrew S Martin MD on 08/14/2014 at 9:29 AM

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PLTF000612

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**09/10/2014 - Office Visit: 2nd Room, Complete**  
**Provider: Andrew S Martin MD**  
**Location of Care: Desert Orthopaedic Center**

**Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**Physical Exam****Vital Signs**

**Body Mass Index:** 23.65

**History of Present Illness**

Patient presents for result of MRI right knee. Test was performed at Las Vegas Radiology on 08/29/2014.

She describes her pain as sharp and severe. Her pain is worse with activities, and since her last visit her pain level has remained the same. On a scale of 1-10, with 1 being no pain and 10 being the worst pain imaginable, her pain level today is a 10. Patient also complaining of left knee pain.

**Allergies**

ANTIBIOTICS (Moderate)

**Medications**

LOVAZA 1 GM CAPS (OMEGA-3-ACID ETHYL ESTERS) Take 2 tablets twice a day  
Last Refill: #120 x 5, 07/14/2014, Thomas Dunn MD

**Past Medical History**

Past medical history noted by patient includes diabetes, depression  
She states she had a mini-stroke 2 days after the slip and fall.

**Problems recorded as Dx. codes:**

TEAR MEDIAL CARTILAGE OR MENISCUS KNEE CURRENT (ICD-836.0)  
PAIN IN JOINT, LOWER LEG (ICD-719.46)  
DIABETES (ICD-250.00)  
SCIATICA (ICD-724.3)  
DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC (ICD-722.52)  
BRACHIAL NEURITIS OR RADICULITIS NOS (ICD-723.4)  
DEGENERATION OF CERVICAL INTERVERTEBRAL DISC (ICD-722.4)

Information obtained by patient via web portal: I was very healthy and athletic until I slipped and fell. I had immediate injuries and pain, which I still have. My arms and hands hurt, it hurt to sit, my right foot hurt and I was dazed.

PLTF000613



**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**Past Surgical History**

Patient denies any problems related to previous surgery  
Information obtained by patient via web portal: Tonsillectomy, 1955?

**Family Medical History**

There is a reported family history of cancer

**Social History**

**Tobacco use:** never smoker

**Alcohol Use:** (never)

**Does patient live alone:** yes

**Drug Use:** (no)

**Marital Status:** widowed

**Number of children:** none

**Physical Exam**

**Vital Signs**

**Body Mass Index:** 23.65

**Constitutional:**

General appearance: well nourished, well hydrated, no acute distress

**Eyes:**

External: conjunctivae and lids normal

**Ears/Nose/Throat:**

External ears: normal, no lesions or deformities

External nose: normal, no lesions or deformities

Pharynx: tongue normal, protrudes midline, posterior pharynx without erythema or exudate

**Neck:**

Neck: supple, no masses, trachea midline

**Respiratory:**

Auscultation: no rales, rhonchi or wheezes

**Cardiovascular:**

Auscultation: S1, S2, no murmur, rub or gallop

**Gastrointestinal:**

Abdominal/GI: normal active bowel sound, nontender, nondistended

**Lymphatic:**

Neck: no cervical adenopathy

**Skin:**

Skin Inspection: no rashes, lesions in area of examination

PLTF000614

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
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Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

**Neurologic:**

Sensation: intact to touch

**Psychiatric:**

Orientation: oriented to person, place and time

**Right Knee Exam**

**Pain/Tenderness:**

diffuse, patella, medial joint line, with range of motion

Neurovascularly intact

**Active Range of Motion**

Flexion: 130

Extension: 0

Crepitus with range of motion

**Stability**

Medial/MCL: normal

Lateral/LCL: normal

Ext Rotation Dial Test:

**Meniscus**

Flexion McMurray Test: positive

**Magnetic Resonance Imaging** Tear of the posterior one third of the medial meniscus.

2. Chondromalacia patellae

3. Mild osteoarthritic changes

**Left Knee Exam**

**Inspection**

**Pain/Tenderness:**

diffuse, patella

Neurovascularly intact

**Active Range of Motion**

Flexion: 130

Extension: 0

Crepitus with range of motion

**Stability**

Medial/MCL: normal

Lateral/LCL: normal

Ext Rotation Dial Test:

**Patella**

PLTF000615

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 4  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

Patellofemoral Crepitus: yes

**Impression**

She is here today for follow up of her bilateral knee arthrosis rule medial meniscus tear on the left

**Plan**

I reviewed the patient's X-rays and MRI. Explanation and reassurance were provided to the patient.

A MRI of the left knee without contrast was ordered. Test was ordered to rule out meniscus tear.

**Activities/Work status**

The patient may gradually return to activity as tolerated.

**Follow up**

Patient was instructed to follow up after receiving their MRI.

Electronically Signed by Andrew S Martin MD on 09/11/2014 at 3:56 PM

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PLTF000616

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]  
Patient ID: [REDACTED]

10/13/2014 - Office Visit: 1st Room, Complete  
Provider: Thomas Dunn MD  
Location of Care: Desert Orthopaedic Center

**Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**History of Present Illness**

Ms. O'Connell returns today for lumbar back pain and states that the pain has become worse and states that she still has radiating pain down both legs along with numbness and tingling. My patient indicates that since her last visit her symptoms have worsened. Her current pain level, on a scale from 0-10, is 10. She notes that the medication prescribed has unchanged her symptoms. The patient is also returns for cervical spine pain which predominates with numbness, tingling, and pain radiating down both arm.

**Allergies**

ANTIBIOTICS (Moderate)

**Medications**

LOVAZA 1 GM CAPS (OMEGA-3-ACID ETHYL ESTERS) Take 2 tablets twice a day  
Last Refill: #120 x 5, 07/14/2014, Thomas Dunn MD

**Past Medical History**

Past medical history noted by patient includes depression  
She states she had a mini-stroke 2 days after the slip and fall.

**Problems recorded as Dx. codes:**

TEAR MEDIAL CARTILAGE OR MENISCUS KNEE CURRENT (ICD-836.0)  
PAIN IN JOINT, LOWER LEG (ICD-719.46)  
DIABETES (ICD-250.00)  
SCIATICA (ICD-724.3)  
DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC (ICD-722.52)  
BRACHIAL NEURITIS OR RADICULITIS NOS (ICD-723.4)  
DEGENERATION OF CERVICAL INTERVERTEBRAL DISC (ICD-722.4)

Information obtained by patient via web portal: I was very healthy and athletic until I slipped and fell. I had immediate injuries and pain, which I still have. My arms and hands hurt, it hurt to sit, my right foot hurt and I was dazed.

**Past Surgical History**

Patient denies any problems related to previous surgery

PLTF000617

REDACTED

**Desert Orthopaedic Center**

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Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

Information obtained by patient via web portal: Tonsillectomy, 1955?

**Family Medical History**

There is a reported family history of cancer

**Social History**

**Tobacco use:** never smoker

**Alcohol Use:** (never)

**Does patient live alone:** yes

**Drug Use:** (no)

**Marital Status:** widowed

**Number of children:** none

**Physical Exam**

**Vital Signs**

**Height:** 64 in **Weight:** 155 lb **Body Mass Index:** 26.70

**Constitutional:**

General appearance: moderate distress

**Cardiovascular:**

Pedal pulses: pulses 2+, symmetric

Periph. circulation: no cyanosis, clubbing or edema

**Neurologic:**

Cranial nerves: II-XII grossly intact

Reflexes grossly intact, symmetric

Sensation: intact to touch

**Psychiatric:**

Orientation: oriented to person, place and time

Mood and affect: no depression, anxiety

**Cervical**

No acute changes. Neuro intact.

**Impression**

degenerative disc disease of the cervical spine, and cervical radiculopathy, and lumbar disc disease, and

PLTF000618

REDACTED

**Desert Orthopaedic Center**

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Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

sciatica

Bilateral carpal tunnel syndrome per history

**Plan**

I reviewed the patient's MRI. Explanation and reassurance were provided to the patient. I discussed a treatment plan in detail with patient. All of the patient's questions were answered. I discussed all treatment options including non-surgical and surgical interventions.

After discussion with the patient, I have recommended anterior cervical decompression and fusion at C4-C5, C5-C6 and C6-C7 with allograft. I have offered non-operative options consisting of physical therapy, pain management and epidural steroid injections.

**Follow up**

The patient was advised to return if symptoms worsen. She has no history of diabetes.

**Lumbar**

No acute changes.

Electronically Signed by Thomas Dunn MD on 10/13/2014 at 1:36 PM

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PLTF000619

REDACTED

## Las Vegas Radiology

TOMORROW'S RADIOLOGY IMAGING... TODAY

7500 Smoke Ranch Road, Suite 100, Las Vegas, Nevada 89128  
8530 W. Sunset Rd, Suite 120, Las Vegas, Nevada 89113  
3175 St. Rose Pkwy, Suite 130, Henderson, Nevada 89052  
3201 S. Maryland Pkwy, Suite 102, Las Vegas, Nevada 89109  
4640 W. Craig Rd, North Las Vegas, Nevada 89032  
Phone: 702-254-5004 Fax: 702-432-4005

Exam Date: September 22, 2014

**REFERRED BY**

ANDREW SCOTT MARTIN,

**PATIENT INFORMATION**

Patient: OCONNELL, YVONNE DOB: [REDACTED]  
MRN: 165910-1 Accession #: 330564  
Exam: MRI LT KNEE W/O

Examination: Magnetic resonance scan of the left knee.  
Noncontrast, multisequence, multiplanar.

History: Question of meniscus tear.

**Findings:** Quadriceps tendon and infrapatellar tendon are normal in appearance. The patella and retropatellar articular cartilaginous tissues appear within normal limits.

Anterior cruciate and posterior cruciate ligaments appear intact.

Medial and lateral collateral ligaments show no abnormality.

No joint effusion is visible.

No popliteal cyst is visible.

No joint effusion is present.

At the mid body of the medial meniscus, the apex of the meniscus appears to have been amputated.  
The body of the meniscus is extruded from the joint space.

OCONNELL, YVONNE MRN: 165910-1 Exam Date: September 22, 2014 (page 1 of 2)

09/29/2014 9:21AM (GMT-07:00)  
PLTF000620

The lateral meniscus shows similar changes without a well configured meniscal apex and partial extrusion of the meniscus from the joint space.

I can identify no meniscal tears in the meniscal remnants.

**Impression:**

1. Amputation of the apices of the medial and lateral menisci with extrusion of the meniscal remnant from the joint space.

---

Electronically signed by:	RICHARD KREMP MD
Date:	Sep 28, 2014
Time:	12:11

O'CONNELL, YVONNE MRN: 165910-1 Exam Date: September 22, 2014 (page 2 of 2)

09/29/2014 9:21AM (GMT-07:00)  
PLTF000621



REDACTED

## Las Vegas Radiology

TCMORROW'S RADIOLOGY IMAGING... TODAY

7500 Smoke Ranch Road, Suite 100, Las Vegas, Nevada 89128  
8530 W. Sunset Rd, Suite 120, Las Vegas, Nevada 89113  
3175 St. Rose Pkwy, Suite 130, Henderson, Nevada 89052  
3201 S. Maryland Pkwy, Suite 102, Las Vegas, Nevada 89109  
4640 W. Craig Rd, North Las Vegas, Nevada 89032  
Phone: 702-254-5004 Fax: 702-432-4005

Exam Date: August 29, 2014

**REFERRED BY**

ANDREW SCOTT MARTIN,

**PATIENT INFORMATION**

Patient: OCONNELL, YVONNE      DOB: [REDACTED]  
MRN: 165910-1      Accession #: 326768  
Exam: MRI RT KNEE W/O

Procedure: MRI right knee without contrast

Clinical history: Medial meniscal tear

**Technique:** Multiplanar, multisequence imaging of the right knee performed.

**Findings:** There is a small amount of joint fluid. Chondromalacia patellae is noted, with subchondral changes. Medial and lateral patellar retinacula are intact. Patellar tendon and quadriceps tendon appear intact. There is marginal osteophyte formation associated with the patella and with the femorotibial articulations. Signal is identified within the posterior one third of the medial meniscus which extends to the surface, and is consistent with tear. The lateral meniscus demonstrates grade 1 signal within the anterior one third. The PCL and ACL are intact.

The lateral collateral ligament complex, and the medial collateral ligament are intact. No significant amount of fluid within the gastrocnemius-semimembranosus bursa.

**Impression:** Tear of the posterior one third of the medial

OCONNELL, YVONNE MRN: 165910-1 Exam Date: August 29, 2014 (page 1 of 2)

meniscus.

2. Chondromalacia patellae

3. Mild osteoarthritic changes

---

Electronically signed by:

JAMES BALODIMAS, MD

Date:

Sep 02, 2014

Time:

10:16

OCONEILL, YVONNE MRN: 165910-1 Exam Date: August 29, 2014 (page 2 of 2)

09/02/2014 10:20AM (GMT-07:00)  
PLTF000623

**Desert Orthopaedic Center**

5546 South Fort Apache Road Suite 100 Las Vegas, NV 89148  
(702) 731-1616 Fax: (702)734-4900

August 13, 2014

Dear Nanjunda Subramanyam MD

Yvonne Louise O'Connell was in my office for evaluation. The patient is a 62 year old female who comes in for a new problem today. The patients work status is retired. She presents for evaluation of left hip and left knee pain after a slip/fall injury. Her symptoms have been present for 4 years. Her injury occurred , when she walking, slipped and fell backwards, twisting to the right, right gluteal and leg struck raised divider, then head struck the ground. She describes the pain as being specifically located in the posterior region of her hip and knee. Other physicians the patient has seen for this problem include a primary care physician, another orthopedic surgeon, a spine surgeon, and a pain management physician. Previous studies performed to evaluate this condition include X-rays and CT scan. She describes her pain as throbbing/stabbing, sharp and severe. Her pain is continuous, and since acknowledging the onset, her pain level has remained the same. On a scale of 0-10, with 0 being no pain and 10 being the worst pain imaginable, her pain level today is a 10. At its least, her pain is a 2, and at its worst it is a 10. Her average pain is 8. She is also experiencing clicking, snapping/popping, swelling, night pain, pain with activities, radiating pain, and daytime pain with rest. Treatments tried previously to relieve symptoms include ice, heat, muscle relaxants, physical therapy, narcotic medication, NSAIDS, TENS unit, and home exercise.

My diagnosis is She is here today for follow up of her right knee pain rule out medial meniscus tear. Right hip trochanteric bursitis

I reviewed the patient's X-rays. Explanation and reassurance were provided to the patient. I discussed a treatment plan in detail with patient. All of the patient's questions were answered.

The patient may continue protected activity.

A MRI of the right knee without contrast was ordered. Test was ordered to rule out medial meniscus tear.

Patient was instructed to follow up after receiving their MRI.

Thank you.

Signed  
Thomas Dunn MD

PLTF000624

06/28/2014 SAT 10:26 FAX 17029322739 OPENSIDED MRI

001/003

2742716

Opensided  
MRI of  
Las Vegas

630 S. Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740 • Fax (702) 932-2739  
www.osmri.com

Patient: OCONNELL YVONNE  
X-Ray #: 10006581  
DOB: [REDACTED]  
Outside Mrno: F00R24152PMI2M  
Referring Doctor: THOMAS DUNN MD

Exam Date: 06/27/2014  
Accession #: 10008773

**PROCEDURE: MRI C-SPINE WITHOUT CONTRAST**

**EXAMINATION: MRI CERVICAL SPINE WITHOUT CONTRAST**

**HISTORY:** History of injury 2010. Neck pain radiating down to both upper extremities.

**COMPARISON:** None

**TECHNIQUE:** The following sequences were performed on an open Tesla magnet: Sagittal T1 and T2. Axial T2.

**FINDINGS:** There is no acute fracture or pathologic osseous lesions. There is disc desiccation noted throughout the cervical spine. Disc height loss is seen extending from C3/C4-C6/C7. No prevertebral soft tissue swelling.

The cervical medullary junction is visualized. No herniation or evidence of abnormal cord signal.

C2/C3: No significant disc bulge. No canal or neuroforaminal stenosis.

C3/C4: There is mild posterior disc osteophyte formation. This causes mild central canal stenosis. There is no significant neuroforaminal narrowing.

C4/C5: There is mild posterior disc osteophyte formation. This causes mild central canal stenosis. There is severe bilateral neuroforaminal stenosis secondary to foraminal disc osteophyte formation and uncovertebral hypertrophy.

C5/C6: There is posterior disc osteophyte formation. This is more prominent along the right paracentral region where it measures approximately 4 mm in AP dimension. There is a moderate central canal stenosis. The central canal measures approximately 7 mm in AP dimension. There is severe bilateral neuroforaminal stenosis secondary to foraminal disc osteophyte formation and uncovertebral hypertrophy.

C6/C7: There is mild posterior disc osteophyte formation causing mild central canal stenosis. There is mild bilateral neuroforaminal stenosis secondary to foraminal disc osteophyte formation and uncovertebral hypertrophy.

C7/T1: Minimal posterior disc bulge. No central canal or neuroforaminal stenosis.

**IMPRESSION:**

1. Mild central canal stenosis at C3/C4.
2. Mild central canal stenosis at C4/C5 with severe bilateral neuroforaminal stenosis.
3. Moderate central canal stenosis at C5/C6 with severe bilateral neuroforaminal stenosis.
4. Mild central canal stenosis at C6/C7 with mild bilateral neuroforaminal stenosis.

REDACTED

OpenSided  
MRI of  
LAS VEGAS

630 S. Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740 • Fax (702) 932-2739  
www.osmri.com

Patient: OCONNELL YVONNE  
X-Ray #: 10006581  
DOB: [REDACTED]  
Outside Mno: F00R24152PMI2M  
Referring Doctor: THOMAS DUNN MD

Exam Date: 06/27/2014  
Accession #: 10008773

PROCEDURE: MRI C-SPINE WITHOUT CONTRAST

Dictated By: Scott Chang M.D. at 2014-06-28 07:53  
Electronically Signed By: Scott Chang M.D. at 2014-06-28 07:57

Professionally interpreted by Radiology Associates of Nevada

REDACTED

06/28/2014 SAT 10:27 FAX 17029322739 OPENSIDED MRI

0003/003

2742716

OpenSided  
MRI of  
Las Vegas

630 S. Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740 • Fax (702) 932-2739  
www.osmri.com

Patient: OCONNELL YVONNE  
X-Ray #: 10006581  
DOB: [REDACTED]  
Outside Mrno: F00R24152PMI2M  
Referring Doctor: THOMAS DUNN MD

Exam Date: 06/27/2014  
Accession #: 10008774

**PROCEDURE: MRI L-SPINE WITHOUT CONTRAST**

**EXAMINATION: MRI LUMBAR SPINE WITHOUT CONTRAST**

**HISTORY:** History of injury to lower back 2/8/2010. Low back pain radiating into both legs.

**COMPARISON:** None

**TECHNIQUE:** The following sequences were performed on a open Tesla magnet: Sagittal T1 and T2. Axial T2.

**FINDINGS:** There is no acute fracture or pathologic osseous lesions. There is disc desiccation extending from L2/L3-L5/S1. Severe disc height loss at L3/L4. Mild disc height loss at L4/L5. Moderate to severe disc height loss at L5/S1.

The conus medullaris terminates at inferior L1. No evidence of obvious abnormal cord signal or a cord mass.

L1/L2: Normal.

L2/L3: Minimal posterior disc bulge. No central canal or neuroforaminal stenosis.

L3/L4: Mild bilateral paracentral and foraminal disc bulge. However, there is no central canal or significant neuroforaminal stenosis.

L4/L5: Mild bilateral paracentral and left foraminal disc bulge. No central canal stenosis. Mild left neuroforaminal narrowing.

L5/S1: No significant posterior disc bulge. There is no central canal or neuroforaminal stenosis.

**IMPRESSION:**

1. No acute fracture.
2. Mild left neuroforaminal stenosis at L4/L5.
3. There is no central canal stenosis of the lumbar spine.

**Dictated By:** Scott Chang M.D. at 2014-06-28 07:59

**Electronically Signed By:** Scott Chang M.D. at 2014-06-28 08:01

Professionally interpreted by Radiology Associates of Nevada

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
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**REDACTED**

Page 1  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

**05/11/2015 - Office Visit: 15th Room, Complete****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center****Clinical List(s) Reviewed**

- The allergy list was reviewed and updated as appropriate.
- The problem list was reviewed and updated as appropriate.
- The medication list was reviewed and updated as appropriate.

**Chief Complaint** Bilateral knee pain.**History of Present Illness****Referred by:** Thomas Dunn**Previous Studies:** X-rays, MRI

Yvonne Louise O'Connell is a 63 year old female who comes in for a new problem today. The patient is retired. She presents for evaluation of bilateral knee pain after a slip/fall injury. Her symptoms have been present for 5 years. Her injury occurred on 2/08/2010, when walking she slipped on a liquid and fell backwards. She states she twisted to the right with parts of her body striking a raised divider. This happened on the Las Vegas Strip. Her pain was immediate. She describes the pain as being specifically located in the anterior and medial region of her knees. She has pain when twisting, going from sitting to standing, or climbing stairs. She experiences locking and swelling in the knees. She has undergone physical therapy without improvement. Patient denies any past problems to her knees before the slip and fall in 2010. Other physicians the patient has seen for this problem include another Dr. Andrew Martin. Previous studies performed to evaluate this condition include X-rays and MRI's done at Las Vegas radiology.

She describes her pain as sore, sharp, throbbing, stabbing and severe. Her pain is worse with activities, and since acknowledging the onset, her pain level has worsened. On a scale of 0-10, with 0 being no pain and 10 being the worst pain imaginable, her pain level today is a 10. She is also experiencing clicking, instability, locking, catching, snapping/popping, swelling, pain with sports/activities, radiating pain, and daytime pain with rest. Her symptoms are worse when driving, squatting, kneeling, bending lying supine, lifting, standing from sitting, when twisting the knees, and walking up and down steps.

Treatments tried previously to relieve symptoms include rest, elevation, physical therapy, assistive device, immobilization, and home exercise.

**Allergies**

ANTIBIOTICS (Moderate)

**Medications**

CVS OMEGA-3 CAPS (FLAX OIL-FISH OIL-BORAGE OIL)  
A THRU Z ADVANCED TABS (MULTIPLE VITAMINS-MINERALS)  
VITAMIN C

PLTF 000733 -Suffix

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**REDACTED**

Page 2  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

**Past Medical History**

Past medical history noted by patient includes depression  
She states she had a mini-stroke 2 days after the slip and fall.

**Problems recorded as Dx. codes:**

TEAR MEDIAL CARTILAGE OR MENISCUS KNEE CURRENT (ICD-836.0)  
PAIN IN JOINT, LOWER LEG (ICD-719.46) (ICD10-M79.606)  
SCIATICA (ICD-724.3) (ICD10-M54.30)  
DEGEN LUMBAR/LUMBOSACRAL INTERVERTEBRAL DISC (ICD-722.52)  
BRACHIAL NEURITIS OR RADICULITIS NOS (ICD-723.4) (ICD10-M54.13)  
DEGENERATION OF CERVICAL INTERVERTEBRAL DISC (ICD-722.4) (ICD10-M50.30)

Information obtained by patient via web portal: depression, neuropathy, stroke, Mini-stroke after accident, not stroke. Other immediate injuries and pain, head and neck, back to foot, right buttocks, hip, down leg still hurt, arms and hands.

**Past Surgical History**

Patient denies any problems related to previous surgery  
Information obtained by patient via web portal: removal of wisdom teeth, removal of tonsils, Breast biopsy. Okay.

**Family Medical History**

There is a reported family history of cancer  
Mother (biol.): Deceased  
Father (biol.): Cancer; Deceased  
Information obtained by patient via web portal: diabetes, cancer

**Social History**

Tobacco use: never smoker  
Alcohol Use: (occasional (weekly 1-6 drinks))  
Does patient live alone: yes  
Drug Use: (no)

Marital Status: widowed  
Number of children: none  
Occupation: retired  
Work Status: retired

**Review of Systems**

General: none  
Cardiovascular: murmur  
Respiratory: cough  
Ears/Nose/Throat: dizziness  
Gastrointestinal: nausea, abdominal pain  
Skin: none  
Neurologic: weakness, numbness, headache  
Genitourinary: night time urination  
Endocrine: cold intolerance

PLTF 000734 -Suffix



**Desert Orthopaedic Center**

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**REDACTED**

Page 3  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

**Heme/Lymphatic:** denies abnormal bruising, bleeding, enlarged lymph nodes

**Allergic/Immunologic:** none

**Psychiatric:** anxiety, depression, difficulty sleeping

**Musculoskeletal:** stiffness, joint pain or swelling, back pain, weakness, muscle cramping, arthritis

**Possibly Pregnant:** no

**Pregnant:** no

**Infectious Diseases** None

**Physical Exam**

**Vital Signs**

**Height:** 64 in **Weight:** 155 lb **Pulse rate:** 65 **Rhythm:** regular

**BP:** 137/83 **Possibly Pregnant:** no

**Pregnant:** no

**Body Mass Index:** 26.70

**Right Knee Exam**

**Inspection**

**Effusion:** none

**Pain/Tenderness:**

medial joint line

**Active Range of Motion**

**Flexion:** 120°

**Extension:** 0

**Stability**

**Lachman test:** normal

**Anterior drawer sign:** normal

**Medial/MCL:** normal

**Lateral/LCL:** normal

**Posterior drawer:** normal

**Ext Rotation Dial Test:**

Left knee exam is symmetric

**Magnetic Resonance Imaging \* RIGHT KNEE\*** was performed on 08/29/2014  
Tear of the posterior horn of the medial meniscus.

**Magnetic Resonance Imaging \* LEFT KNEE\*** was performed on 09/22/2014  
Truncated appearance of the body and posterior horn of the medial and lateral menisci consistent with tears.

**Right Knee X-ray**

Radiographs of the right knee reviewed today reveal minimal joint-space narrowing.

PLTF 000735 -Suffix

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**REDACTED**

Page 4  
Office Visit

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

**Impression**

Bilateral knee meniscus tears

**Plan**

Explanation and reassurance were provided to the patient. I discussed a treatment plan in detail with patient. All of the patient's questions were answered. I discussed all treatment options including non-surgical and surgical interventions.

After discussion with the patient, I have recommended bilateral knee arthroscopy with partial medial meniscectomy of the right knee and partial medial and lateral meniscectomy of the left knee. She understands that surgery is not a guarantee for cure of her symptoms, and specifically arthroscopic surgery cannot cure arthritis. The patient would like to review their options and will contact us if they wish to move forward with the procedure.

**Follow up**

Patient will follow up for pre-operative visit.

Electronically Signed by Craig T Tingey MD on 05/11/2015 at 6:53 PM

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PLTF 000736 -Suffix

**Desert Orthopaedic Center**

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(702)731-1616 Fax: (702)734-4900

**REDACTED**

Page 1  
Transcription

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

**05/09/2015 - Transcription: (P) DOC History and Review of Systems****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center**

DOC HISTORY AND REVIEW OF SYSTEMS	
<b>GENERAL</b>	
Visit due to injury	Yes
Visit due to injury (Yes) Injury description	Walking, slipped and fell backwards on liquid, twisted to the right, with parts of my body striking a raised divider before my head hit the ground. Immediate injuries and pain.
Visit due to injury (Yes) Injury	Slip or fall
Visit due to injury (Yes) Date of injury	Feb 8th 2010
Is injury/problem on the right or left side of the body?	Left
Length of symptoms	1-12 Years
Length of symptoms (1-12 Years) Years	5
Previous procedure to treat chief complaint or problem	No
Experiencing pain or discomfort due to your chief complaint or problem	Yes
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Characteristics of pain or discomfort	Sore, Sharp, Throbbing, Stabbing
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Intensity of pain or discomfort	Severe
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Frequency of pain or discomfort	Worse with activities
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Current level of pain or discomfort	3
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Average level of pain or discomfort	3
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Lowest level of pain or discomfort	2
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Highest level of pain or discomfort	3
Experiencing pain or discomfort due to your chief complaint or problem (Yes) Level of pain or discomfort as compared to originally noticing the problem	Worsened
Pharmacy	Tricare, CVS?
Appointment today to remove the following	No
Procedures undergone related to the chief	X-rays, MRI

DOC History and Review of Systems

PLTF 000737 -Suffix

REDACTED

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900Page 2  
Transcription**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

complaint or problem	
Seen another physician for this problem	Yes
Seen another physician for this problem (Yes) Other physician seen	another orthopaedic surgeon
Tried treatments for this problem	Yes
Tried treatments for this problem (Yes) Treatments tried	Rest, Elevation, Physical therapy, Assistive device, Immobilization, Home exercise
<b>SOCIAL HISTORY</b>	
Work status and occupation	Retired
Marital status	Widowed
Live alone	Yes
Children	None
Tobacco use	Never smoker
Alcohol	Occasional (weekly 1-6 drinks)
Recreational drug use	No
Currently pregnant	No
<b>MEDICAL CONDITIONS</b>	
Hx	
Alcohol abuse	No
Anemia	No
Asthma	No
Bleeding Disorder	No
Blood clots/DVT	No
Breastfeeding	No
Cancer	No
Cerebral Palsy	No
Chronic Bronchitis	No
COPD	No
Dementia	No
Depression	
Diabetes	No
Drug Abuse	No
Fracture/Broken Bone	No
Gout	No
Heart Disease	No
Hepatitis	No
High Blood Pressure	No
High Cholesterol	No
HIV/AIDS	No
Kidney Disease	No
Liver Disease	No
MRSA	No
Neuropathy	
Osteoarthritis	No
Osteoporosis	No
Pregnant	No
Pulmonary Embolism	No
Rheumatoid Arthritis	No
Scoliosis	No
Seizure Disorder	No

DOC History and Review of Systems

PLTF 000738 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900**REDACTED**Page 3  
Transcription**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

Sickle Cell Trait/Disease	No
Stroke	
Thyroid Disorder	No
Other:	
Other: (Yes) Please specify "other" condition.	Mini-stroke after accident, not stroke. Other immediate injuries and pain, head and neck, back to foot, right buttocks, hip, down leg still hurt, arms and hands.
<b>SURGICAL HISTORY</b>	
Please indicate if you have had any of the following surgeries. If none apply, select "continue."	
Removal of Appendix	No
Removal of Lump from Breast	No
Breast Surgery	No
Brain Surgery	No
Removal of Wisdom Teeth	
Cosmetic Surgery	No
Tubes in Ears	No
Removal of Gall Bladder	No
Removal of Cataract from eye	No
Hernia Repair	No
Hemorrhoidectomy	No
Lasik Eye Surgery	No
Heart Surgery	No
Pacemaker Placement	No
Gastric Surgery	No
Colon Surgery	No
Kidney Stone Removal	No
Removal of Tonsils	
Removal of Tonsils and Adenoids	No
Thyroid Surgery	No
Female Surgery - Tubes Tied	No
Female Surgery - Dilation & Curettage	No
Female Surgery - Hysterectomy	No
Female Surgery - Cesarean Section	No
Male Surgery - Vasectomy	No
Male Surgery - Prostate Surgery	No
Other	
Other (Yes) Please specify "other" surgery.	Breast biopsy. Okay.
<b>FAMILY HISTORY</b>	
Please let us know if you have or have had immediate family (parents, siblings, or children) with any of the following conditions. Please check all that apply. If none apply, select "continue."	
Bleeding disorders	No
Cancer	
Connective tissue disorder	No
Diabetes	

DOC History and Review of Systems

PLTF 000739 -Suffix

**Desert Orthopaedic Center**

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**REDACTED**

Page 4  
 Transcription

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

Heart disease	No
Muscular dystrophy	No
Rheumatoid arthritis	No
<b>REVIEW OF SYSTEMS</b>	
Please indicate if you currently have any of the following conditions. Select all that apply. If none apply, select "None."	
Fever	No
Chills	No
Fatigue	No
Weight gain	No
Weight loss	No
Sweating	No
None	
Eye symptoms. Select all that apply. If none apply, select "None."	
Discharge	No
Irritation	No
Light sensitivity	
Pain	
Vision change	
None	No
Ears, Nose, Throat symptoms. Select all that apply. If none apply, select "None."	
Impaired hearing	No
Nosebleeds	No
Sneezing	No
Dizziness	
None	No
Cardiovascular symptoms. Select all that apply. If none apply, select "None."	
Fainting	No
Ankle swelling	No
Leg swelling	No
Shortness of breath with exercise	No
Murmur	
None	No
Respiratory symptoms. Select all that apply. If none apply, select "None."	
Cough	
Cold	No
Wheezing	No
Painful breathing	No
Tuberculosis	No
Asthma	No
None	No
Digestive symptoms. Select all that apply. If none apply, select "None."	
Nausea	
Vomiting	No
Changes in bowel movements	No

DOC History and Review of Systems

PLTF 000740 -Suffix

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
 (702)731-1616 Fax: (702)734-4900

**REDACTED**

Page 5  
 Transcription

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

Blood in stool	No
Black stool	No
Hemorrhoids	No
Diarrhea	No
Ulcer	No
Heartburn	No
Painful bowel movements	No
Abdominal pain	
None	No
Musculoskeletal symptoms. Select all that apply. If none apply, select "None."	
Stiffness	
Joint pain or swelling	
Back pain	
Weakness	
Muscle cramping	
Arthritis	
Fracture	No
Sprain	No
None	No
Urinary symptoms. Select all that apply. If none apply, select "None."	
Loss of urine	No
Frequent urination	No
Painful urination	No
Blood in urine	No
Kidney stones	No
Night time urination	
None	No
Endocrine symptoms. Select all that apply. If none apply, select "None."	
Cold intolerance	
Heat intolerance	No
Weight change	No
Excessive urination	No
Diabetes	No
Fatigue	No
Thyroid problems	No
None	No
Blood/Lymphatic symptoms. Select all that apply. If none apply, select "None."	
Slow healing cuts	No
Anemia	No
Abnormal bruising	No
Bleeding	No
Enlarged lymph nodes	No
None	No
Allergic/Immunologic symptoms. Select all that apply. If none apply, select "None."	
Hives	No
Persistent infections	No

DOC History and Review of Systems

PLTF 000741 -Suffix

REDACTED

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900Page 6  
Transcription**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

HIV exposure	No
Past blood transfusion	No
None	
Skin symptoms. Select all that apply. If none apply, select "None."	
Changing moles	No
Rash	No
Itching	No
Dryness	No
Yellowing of skin	No
Hives	No
Discoloration	No
None	
Emotional symptoms. Select all that apply. If none apply, select "None."	
Anxiety	
Depression	
Tension	No
Memory loss	No
Difficulty sleeping	
None	No
Neurologic symptoms. Select all that apply. If none apply, select "None."	
Weakness	
Numbness	
Temporary paralysis	No
Fainting	No
Seizures	No
Stroke	No
Blackout	No
Headache	
Tremor	No
Slurred speech	No
None	No

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

[REDACTED]

DOC History and Review of Systems

PLTF 000742 -Suffix



**Desert Orthopaedic Center**

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**REDACTED**

Page 1  
Lab Report

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

**05/09/2015 - Lab Report: (P) DOC History and Review of Systems****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center**

Patient: YVONNE LOUISE O'CONNELL

ID: OBERD 4026785

Note: All result statuses are Final unless otherwise noted.

Tests: (1) DOC History and Review of Systems (7\_27168667)

WORK STATUS	retired
WKRELINJURY	<No Reported Value>
HPISPORTMED	<No Reported Value>
HX FALLS	yes
ACCT TYPE	<No Reported Value>
TRAINERNAM	<No Reported Value>
DO SPORTS	<No Reported Value>
DATEOFINJURY	Feb 8th 2010
PAINSIDE	left
MECHANISM	"Result Below..."

RESULT: Walking, slipped and fell backwards on liquid, twisted to the right, with parts of my body striking a raised divider before my head hit the ground. Immediate injuries and pain.

ACTIVITYASSM	<No Reported Value>
PAIN DORATIO	year
HPI DURATION	5
NOPAIN	<No Reported Value>
HPI QUALITY	"Result Below..."

RESULT: sore, sharp, throbbing, stabbing	
PREVIRTMNTRC	<No Reported Value>
DATEOFSURG	<No Reported Value>
PAINPOSTOP	<No Reported Value>
REMOVALOF	<No Reported Value>
PREV STUDIES	X-rays, MRI
HPI SEVERITY	severe
HPI TIMING	"Result Below..."

RESULT: worse with activities

PAINASSESMNT	10
AVERAGE PAIN	5
PAINBEST	1
PAINWORST	10
PAIN STATUS	worsened
OTHRMD#1 NAM	"Result Below..."

RESULT: another orthopaedic surgeon

COM PT "Result Below..."

RESULT: rest, elevation, physical therapy, assistive device, immobilization, home exercise

PHARM NAME	Tricare, CVS?
SCHOOL	<No Reported Value>
OCCUPATION#1	<No Reported Value>
PREGNANT	no
MARITAL STAT	widowed
LIVE ALONE	yes
# CHILDREN	none
SMOK STATUS	never smoker
SMKYRSTRT	<No Reported Value>

PLTF 000743 -Suffix

REDACTED

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900Page 2  
Lab Report**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

CIGARET SMK	<No Reported Value>
CIGAR USE	<No Reported Value>
ORALTOBACUSE	<No Reported Value>
SMOK HX PFD	<No Reported Value>
CIGARS WEEK	<No Reported Value>
ORAL TOBAC/D	<No Reported Value>
SMOK YR Q	<No Reported Value>
HX CIGARETTE	<No Reported Value>
ETOH ABUSE	"Result Below..."

RESULT: occasional (weekly 1-6 drinks)

DRUG USE	no
DRUGAB HOW	<No Reported Value>
LSTDUGUSE	<No Reported Value>
DRUGAB WHAT	<No Reported Value>
DEP PMH	"Result Below..."

RESULT: depression, neuropathy, stroke, Mini-stroke after accident, not stroke. Other immediate injuries and pain, head and neck, back to foot, right buttocks, hip, down leg still hurt, arms and hands.

DEP SURGERY "Result Below..."

RESULT: removal of wisdom teeth, removal of tonsils, Breast biopsy.

Okay.

FH COMMENTS	<No Reported Value>
DEP FAM PMH	diabetes, cancer
ROS:GENERAL	none
ROS EYES	"Result Below..."
RESULT:	light sensitivity, pain, vision change
ROS ENT	dizziness
ROS: CARDIAC	murmur
ROS:PULMON	cough
ROS: GI	"Result Below..."

RESULT: nausea, abdominal pain

ROS:MUSCSKEL "Result Below..."

RESULT: stiffness, joint pain or swelling, back pain, weakness, muscle cramping, arthritis

ROS: GU "Result Below..."

RESULT: night time urination

ROS ENDO	cold intolerance
ROS HEME	<No Reported Value>
ROS ALLERG	none
ROS SKIN	none
ROS: PSYCH	"Result Below..."

RESULT: anxiety, depression, difficulty sleeping

ROS: NEURO "Result Below..."

RESULT: weakness, numbness, headache

SPORT LEVEL	<No Reported Value>
SURGOUTCOME	<No Reported Value>

Note: An exclamation mark (!) indicates a result that was not dispersed into the flowsheet.

Document Creation Date: 05/10/2015 12:46 AM

(1) Order result status: Preliminary

Collection or observation date-time: 05/09/2015 23:40:09

Requested date-time: 05/10/2015 02:46:02

Receipt date-time: 05/09/2015 23:40:09

PLTF 000744 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900**REDACTED**Page 3  
Lab Report**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

Reported date-time:  
Referring Physician:  
Ordering Physician:  
Specimen Source:  
Source: OBERD  
Filler Order Number: 198556-2854001  
Lab site:-----  
The following tests had no related values for dispersal to the flowsheet:MLI-91192, [No Value Reported], (F)  
MLI-137094, [No Value Reported], (F)  
MLI-36127, [No Value Reported], (F)  
MLI-113812, [No Value Reported], (F)  
MLI-31798.21, [No Value Reported], (F)  
MLI-53484, [No Value Reported], (F)  
MLI-161429, [No Value Reported], (F)  
MLI-153254, [No Value Reported], (F)  
MLI-4003.38, [No Value Reported], (F)  
MLI-161426, [No Value Reported], (F)  
MLI-161428, [No Value Reported], (F)  
LOC-200211, [No Value Reported], (F)  
LOC-360035, [No Value Reported], (F)  
MLI-161453, [No Value Reported], (F)  
SNO-S-32030, [No Value Reported], (F)  
SNO-S-32020, [No Value Reported], (F)  
SNO-S-32060, [No Value Reported], (F)  
AS4-2000.31, [No Value Reported], (F)  
MLI-43531, [No Value Reported], (F)  
MLI-16032, [No Value Reported], (F)  
RHS-11, [No Value Reported], (F)  
MLI-16025, [No Value Reported], (F)  
MLI-156242, [No Value Reported], (F)  
MLI-27580, [No Value Reported], (F)  
MLI-156243, [No Value Reported], (F)  
MLI-18874, [No Value Reported], (F)  
MLI-4398.95, [No Value Reported], (F)  
MLI-67111, [No Value Reported], (F)  
MLI-161427, [No Value Reported], (F)-----  
The following non-numeric lab results were dispersed to  
the flowsheet even though numeric results were expected:

MLI-111197.2, none

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

PLTF 000745 -Suffix

REDACTED

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900Page 1  
Transcription**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

05/08/2015 - Transcription: (P) DOC History of Present Illness

Provider: Craig T Tingey MD

Location of Care: Desert Orthopaedic Center

CHIEF COMPLAINT	
Current problem	Knee
Knee	
What is your specific location of pain in your knee?	Anterior (in front of, towards the front of the body)
What other symptoms are you experiencing in your knee?	Clicking, Instability, Locking, Catching, Snapping/popping, Swelling, Pain with sports/activities, Radiating pain (radiating or spreading from a common point)
Is your problem in your knee related to a prior injury?	Yes
Additional knee complaints	Yes
Additional knee complaints (Yes)Additional knee complaint	Both knees were injured in the same accident. I must move carefully, straight and not twist. Knees hurt when I sit and get up, and climb up and down my stairs. If I move wrong, my knees hurt so much that I can't walk until I rest and let the pain subside. Knees (and leg) give out on me. They hurt at night if I don't move and position them carefully. Pain is also on the side.

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

DOC History of Present Illness

PLTF 000746 -Suffix

**Desert Orthopaedic Center**2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900**REDACTED**Page 1  
Lab Report**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Patient ID: [REDACTED]

Home: [REDACTED]

**05/08/2015 - Lab Report: (P) DOC History of Present Illness****Provider: Craig T Tingey MD****Location of Care: Desert Orthopaedic Center**

Patient: YVONNE LOUISE O'CONNELL

ID: OBERD 4026785

Note: All result statuses are Final unless otherwise noted.

Tests: (1) DOC History of Present Illness (7 27168665)

CHIEF CMPL#4 "Result Below..."

RESULT: anterior, clicking, instability, locking, catching, snapping/popping, swelling, pain with sports/activities, radiating pain, Both knees were injured in the same accident. I must move carefully, straight and not twist. Knees hurt when I sit and get up, and climb up and down my stairs. If I move wrong, my knees hurt so much that I can't walk until I rest and let the pain subside. Knees (and leg) give out on me. They hurt at night if I don't move and position them carefully. Pain is also on the side.

HANDEDNESS	<No Reported Value>
PRIORINJ	yes
PMH DISCLOC	<No Reported Value>
REDUCEDBY	<No Reported Value>
NUMDISLOC	<No Reported Value>
LOCDISLOC	<No Reported Value>
PAINRADIATIO	<No Reported Value>
PAINRADTO	<No Reported Value>
PMHNECKSURG	<No Reported Value>
PMH HIP SURG	<No Reported Value>
DIGITPAIN	<No Reported Value>
OTHERPAIN	<No Reported Value>

Note: An exclamation mark (!) indicates a result that was not dispersed into the flowsheet.

Document Creation Date: 05/09/2015 11:42 PM

(1) Order result status: Preliminary

Collection or observation date-time: 05/08/2015 14:08:14

Requested date-time: 05/10/2015 01:42:02

Receipt date-time: 05/08/2015 14:08:14

Reported date-time:

Referring Physician:

Ordering Physician:

Specimen Source:

Source: OBERD

Filler Order Number: 198556-2854001

Lab site:

The following tests had no related values for dispersal to the flowsheet:

MAY-1319, [No Value Reported], (F)  
MLI-124599, [No Value Reported], (F)  
MLI-246936, [No Value Reported], (F)

PLTF 000747 -Suffix

REDACTED

**Desert Orthopaedic Center**

2800 East Desert Inn Road Suite 100 Las Vegas, NV 89121-3609  
(702)731-1616 Fax: (702)734-4900

Page 2  
Lab Report

**Yvonne Louise O'Connell**

Female DOB: [REDACTED]

Home: [REDACTED]

Patient ID: [REDACTED]

MLI-246937, [No Value Reported], (F)  
MLI-246935, [No Value Reported], (F)  
MLI-125444, [No Value Reported], (F)  
MLI-247443, [No Value Reported], (F)  
MLI-29737, [No Value Reported], (F)  
MLI-14337, [No Value Reported], (F)  
MLI-246939, [No Value Reported], (F)  
MLI-161421, [No Value Reported], (F)

Electronically Signed by Lisa M Henry on 05/11/2015 at 3:00 PM

---

PLTF 000748 -Suffix

CMF

OPENSIDED MRI OF LAS VEGAS  
PO BOX 505244  
ST LOUIS MO 63150-5224  
PHONE#: 877/411-8753  
TAX ID#: 54-1783059

\*\*\*\*\* SPECIAL STATEMENT \*\*\*\*\*  
RESPONSIBLE PARTY:

YVONNE OCONNELL

DATE...: 07-01-15

ACCOUNT BALANCE: 0.00  
SELF PAY BALANCE: 0.00

PATIENT NAME:

YVONNE OCONNELL

ACCOUNT NO.

PLACE OF SERVICE:

OPENSIDED OF LAS VEGAS

REFERRING DOCTOR:

THOMAS DUNN

DATE	QTY	CODE	SITE	DESCRIPTION	CHARGES
06-27-14	1	72148	O	MRI L-SPINE	1645.00
				DR: SCOTT C CHANG, MD	
06-27-14	1	72141	O	MRI C-SPINE	1645.00
				DR: SCOTT C CHANG, MD	
08-11-14	1	2251	P	TRICARE PAYMENT	-385.17
				DR: SCOTT C CHANG, MD	
08-11-14	1	2299	P	CHAMPUS LIMIT OF ALLOWANCE	-2776.44
				DR: SCOTT C CHANG, MD	
01-06-15	1	0101	P	SELF PAY	-128.39
				DR: SCOTT C CHANG, MD	
				** ENCOUNTER TOTAL	0.00

-----  
BALANCE: 0.00  
-----

REDACTED

PLTF 000749 -Suffix

REDACTED



630 S. Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740 • Fax (702) 932-2739  
www.osmri.com

Patient: OCONNELL YVONNE  
X-Ray #: 10006581  
DOB: [REDACTED]  
Outside Mrno: F00R24152PMI2M  
Referring Doctor: THOMAS DUNN MD

Exam Date: 06/27/2014  
Accession #: 10008774

PROCEDURE: MRI L-SPINE WITHOUT CONTRAST

3  
72148 724.2

EXAMINATION: MRI LUMBAR SPINE WITHOUT CONTRAST

HISTORY: History of injury to lower back 2/8/2010. Low back pain radiating into both legs.

COMPARISON: None

TECHNIQUE: The following sequences were performed on a open Tesla magnet: Sagittal T1 and T2. Axial T2.

FINDINGS: There is no acute fracture or pathologic osseous lesions. There is disc desiccation extending from L2/L3-L5/S1. Severe disc height loss at L3/L4. Mild disc height loss at L4/L5. Moderate to severe disc height loss at L5/S1.

The conus medullaris terminates at inferior L1. No evidence of obvious abnormal cord signal or a cord mass.

L1/L2: Normal.

L2/L3: Minimal posterior disc bulge. No central canal or neuroforaminal stenosis.

L3/L4: Mild bilateral paracentral and foraminal disc bulge. However, there is no central canal or significant neuroforaminal stenosis.

L4/L5: Mild bilateral paracentral and left foraminal disc bulge. No central canal stenosis. Mild left neuroforaminal narrowing.

L5/S1: No significant posterior disc bulge. There is no central canal or neuroforaminal stenosis.

IMPRESSION:

1. No acute fracture.
2. Mild left neuroforaminal stenosis at L4/L5.
3. There is no central canal stenosis of the lumbar spine.

Dictated By: Scott Chang M.D. at 2014-06-28 07:59

Electronically Signed By: Scott Chang M.D. at 2014-06-28 08:01

Professionally interpreted by Radiology Associates of Nevada



REDACTED



630 S. Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740 • Fax (702) 932-2739  
www.osmri.com

Patient: OCONNELL YVONNE  
X-Ray #: 10006581  
DOB: [REDACTED]  
Outside Mrp: F00R24152PMI2M  
Referring Doctor: THOMAS DUNN MD

Exam Date: 06/27/2014  
Accession #: 10008773

**PROCEDURE: MRI C-SPINE WITHOUT CONTRAST**

4

**EXAMINATION: MRI CERVICAL SPINE WITHOUT CONTRAST**

72141 723.1

**HISTORY:** History of injury 2010. Neck pain radiating down to both upper extremities.

**COMPARISON:** None

**TECHNIQUE:** The following sequences were performed on an open Tesla magnet: Sagittal T1 and T2. Axial T2.

**FINDINGS:** There is no acute fracture or pathologic osseous lesions. There is disc desiccation noted throughout the cervical spine. Disc height loss is seen extending from C3/C4-C6/C7. No prevertebral soft tissue swelling.

The cervical medullary junction is visualized. No herniation or evidence of abnormal cord signal.

C2/C3: No significant disc bulge. No canal or neuroforaminal stenosis.

C3/C4: There is mild posterior disc osteophyte formation. This causes mild central canal stenosis. There is no significant neuroforaminal narrowing.

C4/C5: There is mild posterior disc osteophyte formation. This causes mild central canal stenosis. There is severe bilateral neuroforaminal stenosis secondary to foraminal disc osteophyte formation and uncovertebral hypertrophy.

C5/C6: There is posterior disc osteophyte formation. This is more prominent along the right paracentral region where it measures approximately 4 mm in AP dimension. There is a moderate central canal stenosis. The central canal measures approximately 7 mm in AP dimension. There is severe bilateral neuroforaminal stenosis secondary to foraminal disc osteophyte formation and uncovertebral hypertrophy.

C6/C7: There is mild posterior disc osteophyte formation causing mild central canal stenosis. There is mild bilateral neuroforaminal stenosis secondary to foraminal disc osteophyte formation and uncovertebral hypertrophy.

C7/T1: Minimal posterior disc bulge. No central canal or neuroforaminal stenosis.

**IMPRESSION:**

1. Mild central canal stenosis at C3/C4.
2. Mild central canal stenosis at C4/C5 with severe bilateral neuroforaminal stenosis.
3. Moderate central canal stenosis at C5/C6 with severe bilateral neuroforaminal stenosis.
4. Mild central canal stenosis at C6/C7 with mild bilateral neuroforaminal stenosis.



630 S. Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740 • Fax (702) 932-2739  
www.osmri.com

REDACTED

Patient: OCONNELL YVONNE  
X-Ray #: 10006581  
DOB: [REDACTED]  
Outside Mtno: F00R24152PMI2M  
Referring Doctor: THOMAS DUNN MD

Exam Date: 06/27/2014  
Accession #: 10006773

**PROCEDURE: MRI C-SPINE WITHOUT CONTRAST**

**Dictated By: Scott Chang M.D. at 2014-06-28 07:53**

**Electronically Signed By: Scott Chang M.D. at 2014-06-28 07:57**

Professionally interpreted by Radiology Associates of Nevada

## **EXHIBIT 2**

## **EXHIBIT 2**

REDACTED

**Randall E. Yee, D.O.**  
Board Certified Orthopedics  
Fellowship Trained Sports Medicine  
**X. Nick Liu, D.O.**  
Board Certified Orthopedics  
Fellowship Trained Sports Medicine  
**Timothy J. Trainor, M.D.**  
Board Certified Orthopedics  
Sports Medicine Specialist  
**Thomman Kuruvilla, D.P.M.**  
Board Eligible Podiatry

## ADVANCED ORTHOPEDICS & SPORTS MEDICINE

Sports Injuries • Fracture Care • Joint Replacement • Cartilage Replacement • Minimally Invasive Arthroscopic Surgery

CONNELL, YVONNE L

Trainor, Timothy  
02/10/2012

Dear Dr. SWAMY SUBRAMANYAM,

RE: CONNELL, YVONNE L

Chief complaint: Full body pain.

Ms. CONNELL is a very pleasant 60-year old female. She states that she injured herself 2 years ago when she fell on a raised curb. She states she has never fully healed. She complains of pain along the entire lateral side of her body from the buttocks down the thigh and below the knee. She describes the pain as constant. She says she did physical therapy but has not had much treatment since then. She states she cannot take any medication for other reasons.

Her past medical history including drug allergies were reviewed in the office today. She states she does have a history of fibromyalgia.

On physical examination, she had tenderness to palpation in the upper and lower extremities bilaterally in all locations. She had no specific pain with log rolling in the hip and groin area. She had no specific medial or lateral jointline tenderness to palpation at the knee. She had full range of motion of the right knee compared to the left side.

She had x-rays from Steinberg Imaging which I reviewed. These included AP pelvis, AP/lateral of the hip, and knee x-rays. These were all completely normal with no evidence of arthritis.

### IMPRESSION:

- 1.) Fibromyalgia
- 2.) Complex regional pain syndrome
- 3.) No obvious organic problems of the hip or the knee

PLAN: I discussed the diagnosis at length with the patient. I believe all of her symptoms are related either to fibromyalgia or to complex regional pain syndrome. I have nothing specific to offer her from an

PLTF000378

orthopedic surgery stand point. She should seek help with a pain management specialist. She should follow up with me on an as needed basis.

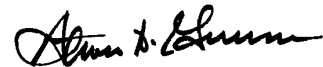
Thank you for allowing me to participate in the care of your patient.

Sincerely,

Timothy J. Trainor, M.D.  
TJT/jk

Tel. (702) 740-5327 \* Fax (702) 740-5328 \* 8420 Warm Springs Rd., Ste. 100, Las Vegas, Nevada 89113  
6850 N. Durango Dr., Ste. 218, Las Vegas, NV 89149 \* 2451 W Horizon Ridge Pkwy, Ste. 130, Henderson, NV 89052

PLTF000379



CLERK OF THE COURT

1 RTRAN

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 YVONNE O'CONNELL, )  
8 )  
9 Plaintiff, ) CASE NO. A655992  
10 ) DEPT. NO. 5  
11 vs. )  
12 )  
13 WYNN RESORTS LIMITED, ET AL., )  
14 )  
15 Defendants. )

16  
17 BEFORE THE HONORABLE CHARLES THOMPSON, SENIOR DISTRICT  
18 JUDGE FOR THE HONORABLE CAROLYN ELLSWORTH, DISTRICT JUDGE  
19 THURSDAY, SEPTEMBER 17, 2015 AT 9:33 A.M.

20 **RECORDER'S TRANSCRIPT RE:**  
21 **DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

22 **APPEARANCES:**

23 FOR THE PLAINTIFF: CHRISTIAN MORRIS, ESQ.

24 FOR THE DEFENDANTS: CHRISTOPHER D. KIRCHER, ESQ.

25 Recorded by: LARA CORCORAN, COURT RECORDER

1 (THURSDAY, SEPTEMBER 17, 2015 AT 9:33 A.M.)  
2 THE COURT: O'Connell versus Wynn Resorts.  
3 MR. KIRCHER: Good morning, Your Honor. Christopher Kircher on  
4 behalf of Wynn Las Vegas.  
5 MS. MORRIS: Good morning, Your Honor. Christian Morris on  
6 behalf of the Plaintiff.  
7 THE COURT: All right. This is the hotel's motion for summary  
8 judgment.  
9 MR. KIRCHER: That is correct, Your Honor. This is a slip and fall  
10 case. The Plaintiff was walking through Wynn's atrium, encountered some  
11 foreign substance –  
12 THE COURT: She slipped on something slippery –  
13 MR. KIRCHER: Exactly.  
14 THE COURT: -- and you don't – and she doesn't know what it is  
15 and you don't know what it is, and you said there's no proof that we didn't clean it  
16 up timely, and, therefore, we're entitled to summary judgment.  
17 MR. KIRCHER: I think you read our brief.  
18 THE COURT: A couple of years ago I would have granted that  
19 motion. This *Costco* case I think makes it impossible. Now, I – I've tried in my  
20 career dozens of these lawsuits, and 19 out of 20 times the defense wins on  
21 these because – but with this *Costco* case I can't grant summary judgment.  
22 They – I mean you've got a pallet in the middle of an aisle, and somebody just  
23 sits there and doesn't see where they're going and trips over it and they say, oh,  
24 that's – there could be liability there, you know. I just can't grant summary  
25 judgment on these anymore.

1 MR. KIRCHER: I understand that, and I guess we can thank Ms.  
2 Morris for that because I think she worked on that case.  
3 MS. MORRIS: That was my case.  
4 THE COURT: Did you work on *Costco*?  
5 MS. MORRIS: I did. I actually took it to trial when it came back  
6 down from the Supreme Court and I got a verdict, so –  
7 THE COURT: Did you?  
8 MS. MORRIS: I did. They found comparative fault 50/50. Not  
9 51/50, 50/50, so –  
10 THE COURT: 50/50.  
11 MS. MORRIS: -- his verdict was cut in half.  
12 THE COURT: So the Plaintiff did get something?  
13 MS. MORRIS: He did, yes.  
14 THE COURT: Well, that's good. I'm –  
15 MS. MORRIS: And he was a very old man by that time, he was a  
16 very nice man too, but he had been waiting a very long time to go to trial.  
17 THE COURT: As a general rule these are terrible cases, and I did  
18 have one one time where somebody tripped over a bumper in a parking – you  
19 know, these bumper –  
20 MS. MORRIS: Yeah. Yep.  
21 THE COURT: -- you know, bumper in a parking lot and because it  
22 was located not right there in front of the vehicle but between the vehicles, so  
23 they got one bumper for two vehicles, I thought it was a fairly decent case, they  
24 came back 50/50, and they always do.  
25 MS. MORRIS: Yeah. There's always comparative for sure.



1 THE COURT: And there's always comparative, so you're going to  
2 pay a little bit to get rid of it, and I hope she wasn't badly – I hope this Plaintiff  
3 wasn't badly hurt.

4 MS. MORRIS: Very nice lady. She was injured, but, you know –

5 MR. KIRCHER: Well, we're disputing that as well.

6 THE COURT: I can't grant –

7 MS. MORRIS: They're disputing every -- everything is in dispute.

8 THE COURT: -- summary judgment on this.

9 MR. KIRCHER: Yeah. I guess just for the record we kind of – we  
10 think that the *Costco* case is somewhat different than this case in that –

11 THE COURT: Well, it gives you – it gives the Court the idea that  
12 don't grant summary judgment in these trip and fall cases, right?

13 MR. KIRCHER: Fair enough. Okay.

14 THE COURT: I mean I – they'll reverse me if I do –

15 MR. KIRCHER: Okay.

16 THE COURT: -- and I'm not going to do that. I mean it's silly. All it  
17 does it takes another 3 or 4 years to get up there and get back and you're going  
18 to either settle it or try it, and you'll win these 18 out of 20 times.

19 MR. KIRCHER: I hope so in this situation.

20 THE COURT: But once in a while you get hit on them.

21 MR. KIRCHER: Right.

22 THE COURT: Okay.

23 MR. KIRCHER: Well, I guess I can't say anything, so thank you for  
24 your time and reading it.

25 MS. MORRIS: All right. I'll prepare the order.

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THE COURT: Yes.  
MS. MORRIS: Okay. Thank you.  
THE COURT: Thank you.  
MR. KIRCHER: Thank you.  
(Whereupon, the proceedings concluded.)

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

 —  
LISA A. LIZOTTE  
Court Recorder

NETTLES LAW FIRM  
1389 Galleria Drive Suite 200  
Henderson, NV 89014  
(702) 434-8282 / (702) 434-1488 (fax)

1 BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
2 CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
3 NETTLES LAW FIRM  
1389 Galleria Drive, Suite 200  
4 Henderson, Nevada 89014  
5 Telephone: (702) 434-8282  
Facsimile: (702) 434-1488  
6 [brian@nettleslawfirm.com](mailto:brian@nettleslawfirm.com)  
7 [christian@nettleslawfirm.com](mailto:christian@nettleslawfirm.com)  
Attorneys for Plaintiff

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 YVONNE O'CONNELL, an individual,  
12  
13 Plaintiff,

CASE NO. A-12-655992-C

DEPARTMENT NO. V

14 vs.

15 WYNN LAS VEGAS, LLC, a Nevada Limited  
16 Liability Company, doing business as WYNN  
LAS VEGAS; DOES I through X; and ROE  
17 CORPORATIONS I through X, inclusive,

PLAINTIFF'S FIFTH SUPPLEMENT  
TO INITIAL 16.1 DISCLOSURES

18 Defendants.  
19

20  
21 Plaintiff, YVONNE O'CONNELL, by and through her attorneys of record BRIAN D.  
22 NETTLES, ESQ. and CHRISTIAN M. MORRIS, ESQ. of the NETTLES LAW FIRM, hereby  
23 submits her Fifth Supplement to Early Case Conference Disclosures pursuant to NRCP 16.1, as  
24 follows (**supplemented documents are in bold**):

25 I. WITNESSES

26 Pursuant to NRCP 161 (a) (1) (A), the name and, if known, the address and telephone  
27 number of each individual likely to have information discoverable under Rule 26(b), including  
28 for impeachment or rebuttal, identifying the subjects of the information:

1. Yvonne O'Connell  
c/o Nettles Law Firm  
1389 Galleria Drive, Suite 200  
Henderson, NV 89014

This witness, Plaintiff, is expected to testify regarding the facts and circumstances contained in the Complaint on file herein.

2. Person Most Knowledgeable  
Wynn Las Vegas, LLC  
c/o Lawrence J. Semenza, III, Esq.  
LAWRENCE J. SEMENZA, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Telephone: (702) 835-6803

This witness is expected to testify regarding the facts and circumstances contained in the Complaint on file herein.

3. Jon Sorelle, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
The Minimally Invasive Hand Institute  
8960 W. Tropicana Ave.  
Las Vegas, NV 89147  
Phone: (702) 739-4263

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

4. Person Most Knowledgeable/Custodian of Records  
Steinberg Diagnostics  
2950 S. Maryland Pkwy.  
Las Vegas, NV  
Phone: (702) 732-6000

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

5. Person Most Knowledgeable/Custodian of Records  
UMC Quickcare  
1800 West Charleston Blvd.  
Las Vegas, NV 89102  
Phone: (702) 383-2000

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

6. Person Most Knowledgeable/Custodian of Records  
Matt Smith Physical Therapy  
9499 W. Charleston Blvd., Suite 220  
Las Vegas, NV 89117  
Phone: (702) 933-9394

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis,

**NETTLES LAW FIRM**

1389 Galleria Drive Suite 200

Henderson, NV 89014

(702) 434-8282 / (702) 434-1488 (fax)

1 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
2 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
3 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
4 also a treating physician and thereby not retained or specially employed to provide expert  
5 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
6 let us know immediately or your failure to object will be deemed a stipulation that said  
7 documents are not required under the rule. Further, this expert is expected to testify consistent  
8 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
9 other incidents having relevance to this action. The facts and opinions to which the expert is  
10 expected to testify include any and all facts and opinions in the said medical records, and that the  
11 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
12 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
13 any party in this action that contradict the same.

9 7. Timothy Trainor, M.D. and/or  
10 Person Most Knowledgeable/Custodian of Records  
11 Advanced Orthopedic & Sports Medicine  
12 8420 W. Warm Springs Rd.  
13 Las Vegas, NV  
14 Phone: (702) 740-5327

15 This individual is expected to testify as a treating physician and as an expert regarding  
16 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
17 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
18 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
19 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
20 also a treating physician and thereby not retained or specially employed to provide expert  
21 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
22 let us know immediately or your failure to object will be deemed a stipulation that said  
23 documents are not required under the rule. Further, this expert is expected to testify consistent  
24 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
25 other incidents having relevance to this action. The facts and opinions to which the expert is  
26 expected to testify include any and all facts and opinions in the said medical records, and that the  
27 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
28 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

23 8. John A. Thompson, M.D. and/or  
24 Person Most Knowledgeable/Custodian of Records  
25 Desert Oasis Clinic  
26 6316 S. Rainbow Blvd., Suite 100  
27 Las Vegas, NV 89118  
28 Phone: (702) 310-9350

This individual is expected to testify as a treating physician and as an expert regarding  
the injuries sustained, past present and future medical treatment and impairment, prognosis,  
disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of

1 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
2 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
3 also a treating physician and thereby not retained or specially employed to provide expert  
4 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
5 let us know immediately or your failure to object will be deemed a stipulation that said  
6 documents are not required under the rule. Further, this expert is expected to testify consistent  
7 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
8 other incidents having relevance to this action. The facts and opinions to which the expert is  
9 expected to testify include any and all facts and opinions in the said medical records, and that the  
10 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
11 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
12 any party in this action that contradict the same.

9. Christopher Milford, M.D., P.C. and/or  
Person Most Knowledgeable/Custodian of Records  
Silver State Neurology  
9811 W. Charleston Blvd., Ste. 2-357  
Las Vegas, NV 89117  
Phone: (702) 256-3637

13 This individual is expected to testify as a treating physician and as an expert regarding  
14 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
15 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
16 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
17 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
18 also a treating physician and thereby not retained or specially employed to provide expert  
19 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
20 let us know immediately or your failure to object will be deemed a stipulation that said  
21 documents are not required under the rule. Further, this expert is expected to testify consistent  
22 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
23 other incidents having relevance to this action. The facts and opinions to which the expert is  
24 expected to testify include any and all facts and opinions in the said medical records, and that the  
25 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
26 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
27 any party in this action that contradict the same.

10. Person Most Knowledgeable/Custodian of Records  
Edwin Suarez Physical Therapy  
4955 S. Durango Dr. #100  
Las Vegas, NV 89113  
Phone: (702) 489-9785

27 This individual is expected to testify as a treating physician and as an expert regarding  
28 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records

also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

13. Andrew Cash, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Nevada Institute of Spine Care  
9339 W. Sunset Road, Ste. 100  
Las Vegas, NV89148  
Phone: (702) 630-3472

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

14. Lee Wittenberg, DPM and/or  
Person Most Knowledgeable/Custodian of Records  
Apache Foot & Ankle Specialist LLC  
9710W. Tropicana Ave., Ste. 115  
Las Vegas, NV 89147  
Phone: (702) 362-2622

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert



1 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
2 let us know immediately or your failure to object will be deemed a stipulation that said  
3 documents are not required under the rule. Further, this expert is expected to testify consistent  
4 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
5 other incidents having relevance to this action. The facts and opinions to which the expert is  
6 expected to testify include any and all facts and opinions in the said medical records, and that the  
7 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
8 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
9 any party in this action that contradict the same.

- 10  
11 15. Suresh Prahbu, M.D. and/or  
12 Person Most Knowledgeable/Custodian of Records  
13 Ascent Primary Care  
14 653 N. Town Center Dr., Ste. 217  
15 Las Vegas, NV 89144  
16 Phone: (702) 545-0751

17 This individual is expected to testify as a treating physician and as an expert regarding  
18 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
19 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
20 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
21 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
22 also a treating physician and thereby not retained or specially employed to provide expert  
23 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
24 let us know immediately or your failure to object will be deemed a stipulation that said  
25 documents are not required under the rule. Further, this expert is expected to testify consistent  
26 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
27 other incidents having relevance to this action. The facts and opinions to which the expert is  
28 expected to testify include any and all facts and opinions in the said medical records, and that the  
29 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
30 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
31 any party in this action that contradict the same.

- 32 16. Person Most Knowledgeable/Custodian of Records  
33 University Medical Center  
34 1800 West Charleston Blvd.  
35 Las Vegas, NV 89102  
36 Phone: (702) 383-2000

37 This individual is expected to testify as a treating physician and as an expert regarding  
38 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
39 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
40 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
41 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
42 also a treating physician and thereby not retained or specially employed to provide expert  
43 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
44 let us know immediately or your failure to object will be deemed a stipulation that said

documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

17. Thomas Dunn, M.D.  
Craig T. Tingey, M.D.  
Andrew S. Martin, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Desert Orthopaedic Center  
2800 East Desert Inn Road, Suite 100  
Las Vegas, NV 89121-3609  
Phone: (702) 731-1616

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

18. Yakov Shaposhnikov, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Gastrointestinal and Liver Diseases  
2020 Goldring Avenue  
Las Vegas, NV 89106

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said

documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

17. Enrique Lacayo, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
2020 Goldring Avenue  
Las Vegas, NV 89106

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

18. Nanjunda Subramanyam, M.D. and/or  
Person Most Knowledgeable/Custodian of Records  
Nevada Heart and Vascular Center  
1820 Desert Inn Rd., Suite A  
Las Vegas, NV 89169

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the

1 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
2 set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

3 19. Scott Manthei, M.D. and/or  
4 Person Most Knowledgeable/Custodian of Records  
5 Nevada Eye and Ear  
6 2598 Windmill Pkwy.  
Henderson, NV 89074

7 This individual is expected to testify as a treating physician and as an expert regarding  
8 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
9 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
10 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
11 and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
12 also a treating physician and thereby not retained or specially employed to provide expert  
13 testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
14 let us know immediately or your failure to object will be deemed a stipulation that said  
15 documents are not required under the rule. Further, this expert is expected to testify consistent  
16 with the medical records related to the treatment of the Plaintiff for the subject incident, and  
17 other incidents having relevance to this action. The facts and opinions to which the expert is  
18 expected to testify include any and all facts and opinions in the said medical records, and that the  
19 medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

20 20. Tyree Carr, M.D. and/or  
21 Person Most Knowledgeable/Custodian of Records  
22 Nevada Institute of Ophthalmology  
23 2800 N. Tenaya Way, #102  
24 Las Vegas, NV 89128

25 This individual is expected to testify as a treating physician and as an expert regarding  
26 the injuries sustained, past present and future medical treatment and impairment, prognosis,  
27 disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of  
28 all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records  
and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is  
also a treating physician and thereby not retained or specially employed to provide expert  
testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree,  
let us know immediately or your failure to object will be deemed a stipulation that said  
documents are not required under the rule. Further, this expert is expected to testify consistent  
with the medical records related to the treatment of the Plaintiff for the subject incident, and  
other incidents having relevance to this action. The facts and opinions to which the expert is  
expected to testify include any and all facts and opinions in the said medical records, and that the  
medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident  
set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by  
any party in this action that contradict the same.

21. Troy Valdez -- brother  
4 Starling Lane  
Aliso Viejo, CA 92656  
(949) 254-4550  
(949) 228-0959

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

22. Holly Valdez -- sister in law  
4 Starling Lane  
Aliso Viejo, CA 92656  
(949) 254-4550  
(949) 228-0959

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

23. Dave Brobeck -- Holly Valdez' father  
217 Monarch Bay Drive  
Dana Point, CA 92629  
(949) 499-9811

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

24. Gaye Brobeck -- Holly Valdez' mother  
217 Monarch Bay Drive  
Dana Point, CA 92629  
(949) 499-9811

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

25. David Brobeck -- Holly Valdez' brother  
20 Blue Heron Lane  
Aliso Viejo, CA 92656  
(949) 859-3793

1 This witness is expected to testify concerning his knowledge of Plaintiff's health and  
2 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
on file herein.

3 26. Mele Brobeck – Holly Valdez' sister in law  
4 20 Blue Heron Lane  
5 Aliso Viejo, CA 92656  
(949) 859-3793

6 This witness is expected to testify concerning her knowledge of Plaintiff's health and  
7 circumstances prior to and after the incident surrounding Plaintiff's allegations contained in the  
Complaint on file herein.

8 27. Larry Muro – Troy Valdez' friend  
9 4739 Mascagni St.  
10 Ventura, CA 93003  
(805) 616-0274

11 This witness is expected to testify concerning his knowledge of Plaintiff's health and  
12 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
13 on file herein.

14 28. Janine Muro – Troy Valdez' friend  
15 4739 Mascagni St.  
16 Ventura, CA 93003  
(805) 616-0274

17 This witness is expected to testify concerning her knowledge of Plaintiff's health and  
18 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
on file herein.

19 29. Jim Holloway – Troy Valdez' friend  
20 2834 Serang Place  
21 Costa Mesa, CA 92626  
(714) 241-7777

22 This witness is expected to testify concerning his knowledge of Plaintiff's health and  
23 circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint  
24 on file herein.

25  
26 30. Renee Holloway – Troy Valdez' friend  
27 2834 Serang Place  
28 Costa Mesa, CA 92626  
(714) 241-7777

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

31. Allen Stroub -- Plaintiff's Cousin  
7009 Bandolero Way  
Bakersfield, CA  
(805) 838-7187

This witness is expected to testify concerning his knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

32. Helen Stroub -- Plaintiff's Cousin  
7009 Bandolero Way  
Bakersfield, CA  
(805) 838-7187

This witness is expected to testify concerning her knowledge of Plaintiff's health and circumstances prior to the incident surrounding Plaintiff's allegations contained in the Complaint on file herein.

33. Person Most Knowledgeable/Custodian of Records  
Las Vegas Radiology  
7500 Smoke Ranch Road, Suite 100  
Las Vegas, Nevada 89128  
(702) 254-5004

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

34. Person Most Knowledgeable/Custodian of Records  
Open Sided MRI of Las Vegas  
630 South Rancho, Suite G

Las Vegas, Nevada 89106  
(702) 932-2740

This individual is expected to testify as a treating physician and as an expert regarding the injuries sustained, past present and future medical treatment and impairment, prognosis, disability, pain and suffering, disfigurement, causation, and the reasonableness and necessity of all care and billing as it relates to the Plaintiff, and to authenticate and verify the medical records and bills. Pursuant to Nev.R.Civ.P. 16.1 (2)(b), the said witness, being an expert witness who is also a treating physician and thereby not retained or specially employed to provide expert testimony will not be submitting a C.V., Fee Schedule, Report or Trial History. If you disagree, let us know immediately or your failure to object will be deemed a stipulation that said documents are not required under the rule. Further, this expert is expected to testify consistent with the medical records related to the treatment of the Plaintiff for the subject incident, and other incidents having relevance to this action. The facts and opinions to which the expert is expected to testify include any and all facts and opinions in the said medical records, and that the medical treatment the Plaintiff received was reasonable, necessary, and caused by the incident set forth in the Complaint, and would rebut any opinions rendered by any witness disclosed by any party in this action that contradict the same.

Plaintiff reserves the right to call any witness designated by any other party to this proceeding.

Discovery is continuing and Plaintiff reserves the right to supplement this list as additional information becomes available.

## II. DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS

*Pursuant to NRCP 161 (a)(1)(B), a copy of or a description by category and location of all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and which are discoverable under Rule 26(b):*

1. Medical Records and Billing Statement  
Jon Sorelle, M.D.  
The Minimally Invasive Hand Institute  
8960 W. Tropicana Ave.  
Las Vegas, NV 89147  
Bate numbered PLTF000001 through PLTF000018 and attached hereto.
2. Diagnostic Records and Billing Statement  
Steinberg Diagnostics  
2950 S. Maryland Pkwy.  
Las Vegas, NV  
Bate numbered PLTF000019 through PLTF000033 and attached hereto.



3. Medical Records and Billing Statement  
UMC Quickcare  
1800 West Charleston Blvd.  
Las Vegas, NV 89102  
Bate numbered PLTF000034 through PLTF000289 and attached hereto.
4. Physical Therapy Records and Billing Statement  
Matt Smith Physical Therapy  
9499 W. Charleston Blvd., Suite 220  
Las Vegas, NV 89117  
Bate numbered PLTF000290 through PLTF000374 and attached hereto.
5. Medical Records and Billing Statement  
Timothy Trainor, M.D.  
Advanced Orthopedic & Sports Medicine  
8420 W. Warm Springs Rd.  
Las Vegas, NV  
Bate numbered PLTF000375 through PLTF000396 and attached hereto.
6. Medical Records and Billing Statement  
John A. Thompson, M.D.  
Desert Oasis Clinic  
6316 S. Rainbow Blvd., Suite 100  
Las Vegas, NV 89118  
Bate numbered PLTF000397 through PLTF000407 and attached hereto.
7. Medical Records and Billing Statement  
Christopher Milford, M.D., P.C.  
Silver State Neurology  
9811 W. Charleston Blvd., Ste. 2-357  
Las Vegas, NV 89117  
Bate numbered PLTF000408 through PLTF000431 and attached hereto.
8. Physical Therapy and Billing Statement  
Edwin Suarez Physical Therapy  
4955 S. Durango Dr. #100  
Las Vegas, NV 89113  
Bate numbered PLTF000432 through PLTF000443 and attached hereto.
9. Medical Records and Billing Statement  
Edson Erkulvrawatr, M.D.  
Southern Nevada Pain Center  
6950 W. Desert Inn Rd., Ste. 110  
Las Vegas, NV 89117  
Phone: (702) 259-5550  
Bate numbered PLTF000444 through PLTF000526 and attached hereto.

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1339 Galleria Drive Suite 200  
Henderson, NV 89014  
(702) 434-8282 / (702) 434-1488 (fax)

10. Medical Records and Billing Statement  
Leo Germin, M.D.  
Clinical Neurology Specialists  
1691 W. Horizon Ridge Pkwy., Ste. 100  
Henderson, NV 89012  
Bate numbered PLTF000527 through PLTF000535 and attached hereto.
11. Medical Records and Billing Statement  
Andrew Cash, M.D.  
Nevada Institute of Spine Care  
9339 W. Sunset Road, Ste. 100  
Las Vegas, NV 89148  
Bate numbered PLTF000536 through PLTF000584 and attached hereto.
12. Medical Records and Billing Statement  
Lee Wittenberg, DPM  
Apache Foot & Ankle Specialist LLC  
9710 W. Tropicana Ave., Ste. 115  
Las Vegas, NV 89147  
Bate numbered PLTF000585 through PLTF000598 and attached hereto.
13. Medical Records and Billing Statement  
Suresh Prahbu, M.D.  
Ascent Primary Care  
653 N. Town Center Dr., Ste. 217  
Las Vegas, NV 89144  
Bate numbered PLTF000594 through PLTF000598 and attached hereto.
14. Medical Records  
Thomas Dunn, M.D. and/or  
Desert Othopaedic Center  
2800 East Desert Inn Road, Suite 100  
Las Vegas, NV 89121-3609  
Bate numbered PLTF000599 through PLTF000627 and attached hereto.
15. Medical Records and Billing Statement  
Yakov Shaposhnikov, M.D. and/or  
Gastrointestinal and Liver Diseases  
2020 Goldring Avenue  
Las Vegas, NV 89106  
Bate numbered PLTF000628 through PLTF000649 and attached hereto.
16. Medical Records and Billing Statement  
Enrique Lacayo, M.D.  
2020 Goldring Avenue  
Las Vegas, NV 89106  
Bate numbered PLTF000650 through PLTF000677 and attached hereto.

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17. Medical Records and Billing Statement  
Nanjunda Subramanyam, M.D.  
Nevada Heart and Vascular Center  
1820 Desert Inn Rd., Suite A  
Las Vegas, NV 89169  
Bate numbered PLTF000678 through PLTF000683 and attached hereto.
19. Medical Records and Billing Statement  
Scott Manthei, M.D.  
Nevada Eye and Ear  
2598 Windmill Pkwy.  
Henderson, NV 89074  
Bate numbered PLTF000684 through PLTF000699 and attached hereto.
20. Medical Records and Billing Statement  
Tyree Carr, M.D.  
Nevada Institute of Ophthalmology  
2800 N. Tenaya Way, #102  
Las Vegas, NV 89128  
Bate numbered PLTF000700 through PLTF000716 and attached hereto.
21. Photograph of Plaintiff and friend dancing pre-accident  
Bate numbered PLTF000717 and attached hereto.
22. Photographs of Plaintiff and her brother, Troy Valdez, her sister-in-law, Holly Valdez and her niece pre-accident  
Bate numbered PLTF000718 and attached hereto.
23. Photograph of Plaintiff and her cousins, Allen and Helen Stroub pre-accident  
Bate numbered PLTF000719 and attached hereto.
24. Photographs of Plaintiff's injury area and bruising  
Bate numbered PLTF 000720 and PLTF 721
25. Authorization for the Release of Protected Health Information executed by Plaintiff for benefit of Defendant
26. Medical Records and Billing Statement  
Las Vegas Radiology  
8530 W. Sunset Road  
Las Vegas, Nevada 89113  
(702) 254-5004  
Bate numbered PLTF000722 through PLTF000728 are attached hereto.
27. Medical Billing Statement  
Thomas Dunn, M.D.

Desert Orthopedic Center  
2930 W. Horizon Ridge Pkwy, #100  
Henderson, Nevada 89052  
(702) 731-1616

Bate numbered PLTF000729 through PLTF000748 are attached hereto.

28. Medical Records and Billing Statement  
Open Sided MRI  
630 South Rancho, Suite G  
Las Vegas, Nevada 89106  
(702) 932-2740

Bate numbered PLTF000749 through PLTF000752 are attached hereto.

29. **C.V., Fee Schedule and Trial History of  
Thomas Dunn, M.D. – Desert Orthopedic Center**  
Bate numbered PLTF000753 through PLTF000756

Plaintiff reserves the right to offer any document(s) produced during this litigation including, but not limited to, documents produced by other parties and document attached as exhibits to pleadings and depositions.

Discovery is continuing and Plaintiff reserves the right to supplement this list as additional information becomes available.

### III. COMPUTATION OF DAMAGES

*Pursuant to NRCP 16 1(a)(1)(C), a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered:*

A. MEDICAL DAMAGES:

PROVIDER	AMOUNT
Jon Sorelle, M.D. The Minimally Invasive Hand Institute	\$ 2,625.00
Steinberg Diagnostics	\$ 2,605.00
UMC -- Quick Care	\$ 7,783.56
Matt Smith Physical Therapy	\$ 3,235.00
Timothy J. Trainor, M.D. Advanced Orthopedic & Sports Medicine	\$ 181.00
John A. Thompson, M.D. Desert Oasis Clinic	\$ 250.00
Christopher Milford, M.D., P.C. Silver State Neurology	\$ 1,580.00
Edwin Suarez Physical Therapy	\$ 670.00
Southern Nevada Pain Center	\$ 680.00
Leo Germin, M.D. Clinical Neurology Specialists	\$ 2,510.00
Andrew Cash, M.D. Desert Institute of Spine Care	\$ 3,034.42
Lee Wittenberg, DPM Apache Foot & Ankle	\$ 310.00
Suresh Prahbu, M.D. Ascent Primary Care	\$ 270.00
Thomas Dunn, M.D. Desert Orthopaedic Center	\$ 1,640.00
Yakov Shaposhnikov, M.D. Gastrointestinal and Liver Diseases	\$ 828.00
Enrique Lacayo, M.D.	\$ 175.00

Nanjunda Subramanyam, M.D. Nevada Heart and Vascular Center	\$ 1,440.00
Scott Manthei, M.D. Nevada Eye and Ear	\$ 750.00
Tyree Carr, M.D. Nevada Institute of Ophthalmology	\$ 790.00
Las Vegas Radiology	\$ 3,300.00
Open Sided MRI of Las Vegas	\$ 3,290.00
TOTAL	\$ 37,946.98

B. ADDITIONAL DAMAGES:

Plaintiff has also suffered loss of enjoyment of life due to ongoing pain, in an amount to be proved at trial.

IV. INSURANCE POLICY

*Pursuant to NRCP 161(a) (1) (D), for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment and any disclaimer or limitation of coverage or reservation of rights under any such insurance agreement:*

Plaintiff is unaware of any insurance agreement(s).

DATED this 18th day of September, 2015.

NETTLES LAW FIRM

/s/ Christian M. Morris  
BRIAN D. NETTLES, ESQ.  
Nevada Bar No. 7462  
CHRISTIAN M. MORRIS, ESQ.  
Nevada Bar No. 11218  
1389 Galleria Drive, Suite 200  
Henderson, Nevada 89014  
Attorneys for Plaintiff

NETTLES LAW FIRM

1589 Galleria Drive Suite 200  
Henderson, NV 89014  
(702) 434-8282 / (702) 434-1488 (fax)

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, I certify that on this 18<sup>th</sup> day of September, 2015, I served the foregoing *Plaintiff's Fifth Supplement To Initial Disclosures* to the following parties by electronic transmission through the Wiznet system:

Lawrence J. Semenza, III, Esq.  
Christopher D. Kircher, Esq.  
Lawrence J. Semenza, III, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
(702) 835-6803  
Fax: (702) 920-8669  
*Attorneys for Defendant*  
*Wynn Las Vegas, LLC dba*  
*Wynn Las Vegas*

  
An Employee of Nettles Law Firm