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Jan 04 2019 03:13 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**NOAS**

MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

**KOLESAR & LEATHAM**

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BENNIE LAZZARA, JR., ESQ. - *Pro Hac Vice*

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*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

\* \* \*

Estate of MARY CURTIS, deceased; LAURA  
LATRENTA, as Personal Representative of the  
Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

Plaintiffs,

vs.

SOUTH LAS VEGAS MEDICAL INVESTORS,  
LLC dba LIFE CARE CENTER OF SOUTH  
LAS VEGAS f/k/a LIFE CARE CENTER OF  
PARADISE VALLEY; SOUTH LAS VEGAS  
INVESTORS LIMITED PARTNERSHIP; LIFE  
CARE CENTERS OF AMERICA, INC.; BINA  
HRIBIK PORTELLO, Administrator; CARL  
WAGNER, Administrator; and DOES 1-50,  
inclusive,

Defendants.

Estate of MARY CURTIS, deceased; LAURA  
LATRENTA, as Personal Representative of the  
Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

Plaintiffs.

Case No. A-17-750520-C

Dept No. XVII

Consolidated With:  
Case No. A-17-754013-C

**PLAINTIFFS' NOTICE OF APPEAL  
OF THE ORDER GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

KOLESAR & LEATHAM  
400 S. Rampart Boulevard, Suite 400  
Las Vegas, Nevada 89145  
Tel: (702) 362-7800 / Fax: (702) 362-9472

1 vs.

2 SAMIR SAXENA, M.D.; ANNABELLE  
3 SOCAOCO, N.P.; IPC HEALTHCARE, INC.  
4 aka THE HOSPITALIST COMPANY, INC.;  
5 INPATIENT CONSULTANTS OF NEVADA,  
6 INC.; IPC HEALTHCARE SERVICES OF  
7 NEVADA, INC.; HOSPITALISTS OF  
8 NEVADA, INC.; and DOES 51-100,

9 Defendant.

10 **PLAINTIFFS' NOTICE OF APPEAL OF THE ORDER GRANTING DEFENDANTS'**  
11 **MOTION FOR SUMMARY JUDGMENT**

12 Notice is hereby given that the Estate of MARY CURTIS, deceased, LAURA  
13 LATRENTA, as Personal Representative of the Estate of MARY CURTIS, and LAURA  
14 LATRENTA, individually, plaintiffs above named, hereby appeal to the Supreme Court of Nevada  
15 the Order Granting Defendants' Motion for Summary Judgment entered in this action on the 7th  
16 day of December, 2018.

17 DATED this 27<sup>th</sup> day of December, 2018.

18 **KOLESAR & LEATHAM**

19 By /s/ Michael D. Davidson, Esq.

20 MICHAEL D. DAVIDSON, ESQ.

21 Nevada Bar No. 000878

22 400 South Rampart Boulevard, Suite 400

23 Las Vegas, Nevada 89145

24 MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*

25 **WILKES & MCHUGH, P.A.**

26 15333 N. Pima Rd., Ste. 300

27 Scottsdale, Arizona 85260

28 BENNIE LAZZARA, JR., ESQ. - *Pro Hac Vice*

**WILKES & MCHUGH, P.A.**

One North Dale Mabry Highway, Suite 700

Tampa, FL, 33609

*Attorneys for Plaintiffs*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Kolesar & Leatham, and that on the 27<sup>th</sup> day of  
3 December, 2018, I caused to be served a true and correct copy of **PLAINTIFFS' NOTICE OF**  
4 **APPEAL OF THE ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY**  
5 **JUDGMENT** in the following manner:

6 (ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced  
7 document was electronically filed on the date hereof and served through the Notice of Electronic  
8 Filing automatically generated by that Court's facilities to those parties listed on the Court's  
9 Master Service List and to those parties listed below:

10 S. Brent Vogel, Esq.  
Amanda J. Brookhyser, Esq.  
11 **LEWIS BRISBOIS BISGAARD & SMITH, L.L.P.**  
6385 S. Rainbow Blvd., Suite 600  
12 Las Vegas, Nevada 89118

13 *Attorneys for Defendants*  
14 *South Las Vegas Medical Investors, LLC dba*  
15 *Life Care Center of South Las Vegas fka Life*  
16 *Care Center of Paradise Valley, South Las*  
*Vegas Investors, LP, Life Care Centers of*  
*America, Inc., and Carl Wagner*

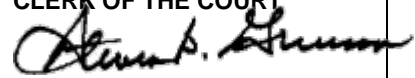
Vincent J. Vitatoe, Esq.  
John H. Cotton, Esq.  
11 **JOHN H. COTTON & ASSOCIATES, LTD.**  
7900 W. Sahara Avenue, Suite 200  
12 Las Vegas, Nevada 89117

13 *Attorneys for Defendants*  
14 *Samir Saxena, MD, Annabelle Socaoco, NP,*  
15 *IPC Healthcare, Inc. aka The Hospitalist*  
16 *Company, Inc., Inpatient Consultants of*  
*Nevada, Inc., IPC Healthcare Services of*  
*Nevada, Inc., Hospitalists of Nevada, Inc.*

17 /s/ Kristina R. Cole

18 An Employee of KOLESAR & LEATHAM  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

KOLESAR & LEATHAM  
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**ASTA**

MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

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Email: [bennie@wilkesmchugh.com](mailto:bennie@wilkesmchugh.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

\* \* \*

Estate of MARY CURTIS, deceased; LAURA  
LATRENTA, as Personal Representative of the  
Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

Plaintiffs,

vs.

SOUTH LAS VEGAS MEDICAL INVESTORS,  
LLC dba LIFE CARE CENTER OF SOUTH  
LAS VEGAS f/k/a LIFE CARE CENTER OF  
PARADISE VALLEY; SOUTH LAS VEGAS  
INVESTORS LIMITED PARTNERSHIP; LIFE  
CARE CENTERS OF AMERICA, INC.; BINA  
HRIBIK PORTELLO, Administrator; CARL  
WAGNER, Administrator; and DOES 1-50,  
inclusive,

Defendants.

Estate of MARY CURTIS, deceased; LAURA  
LATRENTA, as Personal Representative of the  
Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

Plaintiffs.

Case No. A-17-750520-C

Dept No. XVII

Consolidated With:

Case No. A-17-754013-C

**PLAINTIFFS' CASE APPEAL  
STATEMENT**



vs.

SAMIR SAXENA, M.D.; ANNABELLE  
SOCAOCO, N.P.; IPC HEALTHCARE, INC.  
aka THE HOSPITALIST COMPANY, INC.;  
INPATIENT CONSULTANTS OF NEVADA,  
INC.; IPC HEALTHCARE SERVICES OF  
NEVADA, INC.; HOSPITALISTS OF  
NEVADA, INC.; and DOES 51-100,

Defendant.

**PLAINTIFFS' CASE APPEAL STATEMENT**

1. Name of appellant filing this case appeal statement:

The Estate of Mary Curtis, deceased, Laura Latrenta, as Personal Representative of the Estate of Mary Curtis, and Laura Latrenta, individually

2. Identify the judge issuing the decision, judgment, or order appealed from:

Honorable Michael P. Villani

3. Identify each appellant and the name and address of counsel for each appellant:

Appellants are:

The Estate of Mary Curtis  
Laura Latrenta, as Personal Representative of the Estate  
Laura Latrenta, individually

Appellants share the same counsel:

Michael Davidson, Esq.  
Kolesar & Leatham  
400 S. Rampart Blvd, Suite 400  
Las Vegas, NV 89145

Melanie L. Bossie, Esq. - *Pro Hac Vice*  
Wilkes & McHugh, P.A.  
15333 N. Pima Road, Suite 300  
Scottsdale, AZ 85260

Bennie Lazzara, Jr., Esq. - *Pro Hac Vice*  
Wilkes & McHugh, P.A.  
One North Dale Mabry Highway, Suite 700  
Tampa, FL 33609

4. Identify each respondent and the name and address of appellate counsel, if known,  
for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much

1 and provide the name and address of that respondent's trial counsel):

2 Respondents are:

3 South Las Vegas Medical Investors, LLC dba Life Care Center of South  
4 Las Vegas f/k/a LIFE CARE Center of Paradise Valley

5 South Las Vegas Investors Limited Partnership

6 Life Care Centers Of America, Inc.

7 Carl Wagner

8 The name of respondents' appellate counsel is unknown.

9 Respondents shared the same trial counsel:

10 S. Brent Vogel, Esq.  
11 Lewis Brisbois Bisgaard & Smith  
12 6835 S. Rainbow Blvd, Suite 600  
13 Las Vegas, Nevada 89118

14 Amanda J. Brookhyser, Esq.  
15 Lewis Brisbois Bisgaard & Smith  
16 6835 S. Rainbow Blvd, Suite 600  
17 Las Vegas, Nevada 89118

18 5. Indicate whether any attorney identified above in response to question 3 or 4 is not  
19 licensed to practice law in Nevada and, if so, whether the district court granted that attorney  
20 permission to appear under SCR 42 (attach a copy of any district court order granting such  
21 permission):

22 Melanie L. Bossie, Esq. is not licensed to practice law in Nevada. On April 26,  
23 2017, the Eighth Judicial District Court granted Melanie L. Bossie, Esq. permission to  
24 appear under SCR 42. *See Exhibit A* attached hereto.

25 Bennie Lazzara, Jr., Esq. is not licensed to practice law in Nevada. On July 31,  
26 2018, the Eighth Judicial District Court granted Bennie Lazzara, Jr., Esq. permission to  
27 appear under SCR 42. *See Exhibit B* attached hereto.

28 6. Indicate whether appellant was represented by appointed or retained counsel in the  
district court:

Appellants were represented by retained counsel in the district court.

7. Indicate whether appellant is represented by appointed or retained counsel on  
appeal:

Appellants are represented by retained counsel on appeal.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

Appellant was not granted leave to proceed in forma pauperis.

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

The proceedings commenced in the District Court on February 2, 2017.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

On February 2, 2017, in Case No. A-17-750520-C, Plaintiffs filed a Complaint against Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, South Las Vegas Investors Limited Partnership; Life Care Centers Of America, Inc., and Carl Wagner ("Life Care Defendants" or "Respondents") alleging causes of action for (1) abuse/neglect of an older person pursuant to N.R.S. § 41.1395, (2) wrongful death by the Estate, (3) wrongful death by Ms. Curtis' surviving daughter, and (3) bad faith tort.

In short, Plaintiffs' claims against Life Care Defendants are based upon the injuries Ms. Curtis sustained during her residency at Life Care Defendants' nursing home facility called Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley ("the facility"). Ms. Curtis entered the facility on March 2, 2016. Mary Curtis was 90 years old at the time of her admission and therefore was considered an "older person" under NRS 41-1395. Within a week of her admission, Life Care Defendants twice permitted her to fall. Additionally, Life Care Defendants administered drugs to Mrs. Curtis that had not been prescribed for her—morphine, in fact. As found by the trial court, Ms. Curtis was administered "a dose of morphine prescribed to another resident." Life Care Defendants knew they had wrongly administered morphine to Ms. Curtis and failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until March 8, 2016. After Ms. Curtis' daughter discovered Ms. Curtis in distress on March 8, 2016, Life Care Defendants called 911 and emergency personnel transported Ms. Curtis to the hospital where she was diagnosed with anoxic brain encephalopathy. Ms. Curtis died three days later of morphine intoxication.

On April 14, 2017, in Case No. A-17-754013-C, Plaintiffs filed a separate Complaint against Defendant Samir Saxena, M.D.

On September 10, 2017, the district court consolidated Case No. A-17-754013-C with Case No. A-17-750520-C.

On January 17, 2018, Plaintiffs filed a Motion to Amend Complaint to add the following defendants: Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services Of Nevada, Inc., Hospitalists Of Nevada, Inc.

On March 21, 2018, the District Court granted Plaintiffs' Motion to Amend.

On May 1, 2018, Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services

Of Nevada, Inc., Hospitalists Of Nevada, Inc. were added as defendants with Defendant Samir Saxena, M.D. (collectively referred to as "IPC Defendants") to Case No. A-17-754013-C.

On September 10, 2018, almost two years after Plaintiffs filed the Complaint against the Life Care Defendants, Life Care Defendants filed their Motion for Summary Judgment arguing that Plaintiffs' allegations were essentially allegations of professional negligence under 41A.015 and, so, Plaintiffs were required to file an expert affidavit when Plaintiffs filed their Complaint. Life Care Defendants argued that pursuant to NRS 41A.017, the case must be dismissed because an affidavit of merit was not included. In the alternative, Life Care Defendants argued that if the district court did not want to apply the entirety of Chapter 41A to Plaintiffs' claims, then the district court should still apply 41A.035 to limit Plaintiffs' pain and suffering damages to \$350,000.

On October 4, 2018, Plaintiffs filed a Response to Life Care Defendants' Motion for Summary Judgment.

On October 31, 2018, the district court held a hearing on Defendants' Motion for Summary Judgment.

On December 7, 2018, the district court entered its Order Granting Defendants' Motion for Summary Judgment.

On December 11, 2018, Life Care Defendants filed the Notice of Entry of Order Granting Defendants' Motion for Summary Judgment. In the Order Granting Defendants' Motion for Summary Judgment, the district court directed entry of judgment in accordance with NRCP 54(b).

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

The case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.

12. Indicate whether this appeal involves child custody or visitation:

This appeal does not involve child custody or visitation.

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1 13. If this is a civil case, indicate whether this appeal involves the possibility of  
2 settlement:

3 Plaintiffs' counsel attempted to consult Defendants' counsel regarding the  
4 possibility of settlement; however, Plaintiffs' counsel has been unable to reach Defendants'  
counsel. Therefore, the possibility of settlement is unknown.

5 DATED this 27<sup>th</sup> day of December, 2018.

6 **KOLESAR & LEATHAM**

7  
8 By /s/ Michael D. Davidson, Esq.

MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

400 South Rampart Boulevard, Suite 400

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MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*

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BENNIE LAZZARA, JR., ESQ. - *Pro Hac Vice*

**WILKES & MCHUGH, P.A.**

One North Dale Mabry Highway, Suite 700

Tampa, FL, 33609

*Attorneys for Plaintiffs*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Kolesar & Leatham, and that on the 27<sup>th</sup> day of  
3 December, 2018, I caused to be served a true and correct copy of **PLAINTIFFS' CASE APPEAL**  
4 **STATEMENT** in the following manner:

5 (ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced  
6 document was electronically filed on the date hereof and served through the Notice of Electronic  
7 Filing automatically generated by that Court's facilities to those parties listed on the Court's  
8 Master Service List and to those parties listed below:

9 S. Brent Vogel, Esq.  
Amanda J. Brookhyser, Esq.  
10 **LEWIS BRISBOIS BISGAARD & SMITH, L.L.P.**  
6385 S. Rainbow Blvd., Suite 600  
11 Las Vegas, Nevada 89118

Vincent J. Vitatoe, Esq.  
John H. Cotton, Esq.  
**JOHN H. COTTON & ASSOCIATES, LTD.**  
7900 W. Sahara Avenue, Suite 200  
Las Vegas, Nevada 89117

12 *Attorneys for Defendants*  
13 *South Las Vegas Medical Investors, LLC dba*  
14 *Life Care Center of South Las Vegas fka Life*  
15 *Care Center of Paradise Valley, South Las*  
16 *Vegas Investors, LP, Life Care Centers of*  
17 *America, Inc., and Carl Wagner*

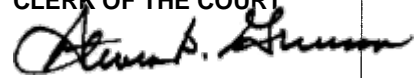
*Attorneys for Defendants*  
*Samir Saxena, MD, Annabelle Socaoco, NP,*  
*IPC Healthcare, Inc. aka The Hospitalist*  
*Company, Inc., Inpatient Consultants of*  
*Nevada, Inc., IPC Healthcare Services of*  
*Nevada, Inc., Hospitalists of Nevada, Inc.*

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/s/ Kristina R. Cole

An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM  
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Las Vegas, Nevada 89145  
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# EXHIBIT A



1 **ORD**

2 MICHAEL D. DAVIDSON, ESQ.  
3 Nevada Bar No. 000878

4 **KOLESAR & LEATHAM**

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6 Las Vegas, Nevada 89145

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8 Facsimile: (702) 362-9472

9 E-Mail: [mdavidson@klnevada.com](mailto:mdavidson@klnevada.com)

10 -and-

11 MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice Pending*

12 **WILKES & MCHUGH, P.A.**

13 15333 N. Pima Rd., Ste. 300

14 Scottsdale, Arizona 85260

15 Telephone: (602) 553-4552

16 Facsimile: (602) 553-4557

17 E-Mail: [Melanie@wilkesmchugh.com](mailto:Melanie@wilkesmchugh.com)

18 Attorneys for Plaintiffs

19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 \* \* \*

22 Estate of MARY CURTIS, deceased; LAURA  
23 LATRENTA, as Personal Representative of the  
24 Estate of MARY CURTIS; and LAURA  
25 LATRENTA, individually,

26 Plaintiffs,

27 vs.

28 SOUTH LAS VEGAS MEDICAL  
INVESTORS, LLC dba LIFE CARE CENTER  
OF SOUTH LAS VEGAS f/k/a LIFE CARE  
CENTER OF PARADISE VALLEY; SOUTH  
LAS VEGAS INVESTORS LIMITED  
PARTNERSHIP; LIFE CARE CENTERS OF  
AMERICA, INC.; BINA HRIBIK PORTELLO,  
Administrator; CARL WAGNER,  
Administrator; and DOES 1-50, inclusive,

Defendants.

CASE NO. A-17-750520-C

DEPT NO. XXIII

**ORDER ADMITTING TO  
PRACTICE PURSUANT TO SCR 42**

Melanie Lynn Bossie, Esq., having filed her Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, Certificates of Good Standing from the Supreme Court of Arizona, the Supreme Court of New



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Las Vegas, Nevada 89145  
Tel: (702) 362-7800 / Fax: (702) 362-9472

Mexico and the State Bar of Florida, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

**ORDERED**, that said application is hereby granted, and **MELANIE LYNN BOSSIE, ESQ.** is hereby admitted to practice in the above-entitled Court for the purposes of the above entitled matter only.

Dated this <sup>April</sup> 26 day of March, 2017.

  
DISTRICT COURT JUDGE  
at

JUL 27 2017 A. MILEY

Submitted by:

**KOLESAR & LEATHAM**

By: 

MICHAEL D. DAVIDSON, ESQ.  
Nevada Bar No. 000878

**KOLESAR & LEATHAM**  
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-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice Pending*  
**WILKES & MCHUGH, P.A.**  
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Scottsdale, Arizona 85260  
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Facsimile: (602) 553-4557  
E-Mail: [Melanie@wilkesmchugh.com](mailto:Melanie@wilkesmchugh.com)

*Attorneys for Plaintiffs*

# EXHIBIT B

ORIGINAL

*Steven D. Grierson*

1 **ORD**

MICHAEL D. DAVIDSON, ESQ.

2 Nevada Bar No. 000878

**KOLESAR & LEATHAM**

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4 Telephone: (702) 362-7800

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5 -and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*

6 **WILKES & MCHUGH, P.A.**

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7 Scottsdale, Arizona 85260

Telephone: (602) 553-4552

8 E-Mail: [Melanie@wilkesmchugh.com](mailto:Melanie@wilkesmchugh.com)

*Attorneys for Plaintiffs,*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

11 Estate of MARY CURTIS, deceased; LAURA  
12 LATRENTA, as Personal Representative of  
the Estate of MARY CURTIS; and LAURA  
13 LATRENTA, individually,

Plaintiffs,

14 vs.

15 SOUTH LAS VEGAS MEDICAL  
16 INVESTORS, LLC dba LIFE CARE CENTER  
OF SOUTH LAS VEGAS f/k/a LIFE CARE  
17 CENTER OF PARADISE VALLEY; SOUTH  
LAS VEGAS INVESTORS LIMITED  
18 PARTNERSHIP; LIFE CARE CENTERS OF  
AMERICA, INC.; BINA HRIBIK  
19 PORTELLO, Administrator; CARL  
WAGNER, Administrator; and DOES 1-50,  
20 inclusive,

Defendants.

21 Estate of MARY CURTIS, deceased; LAURA  
LATRENTA, as Personal Representative of  
22 the Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

Plaintiffs,

23 vs.

24 SAMIR SAXENA, M.D.; ANNABELLE  
25 SOCAOCO, N.P.; IPC HEALTHCARE, INC.  
aka THE HOSPITALIST COMPANY, INC.;  
26 INPATIENT CONSULTANTS OF NEVADA,  
INC.; IPC HEALTHCARE SERVICES OF  
27 NEVADA, INC.; HOSPITALISTS OF  
NEVADA, INC.; and DOES 51-100,

Defendants.

CASE NO. A-17-750520-C

DEPT NO. XVII

CONSOLIDATED WITH:

CASE NO. A-17-754013-C

**ORDER ADMITTING TO  
PRACTICE PURSUANT TO SCR 42**

KOLESAR & LEATHAM  
400 S. Rampart Boulevard, Suite 400  
Las Vegas, Nevada 89145  
Tel: (702) 362-7800 / Fax: (702) 362-9472

RECEIVED BY  
DEPT 17 ON  
JUL 18 2018

KOLESAR & LEATHAM  
400 S. Rampart Boulevard, Suite 400  
Las Vegas, Nevada 89145  
Tel: (702) 362-7800 / Fax: (702) 362-9472

**ORDER ADMITTING TO PRACTICE PURSUANT TO SCR 42**

Bennie Lazzara, Jr., Esq., having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, Certificates of Good Standing from The Florida Bar, State Bar of Montana, State Bar of Texas, Board of Professional Responsibility of the Supreme Court of Tennessee, the Mississippi Bar, Kentucky Bar Association, the Supreme Court of Pennsylvania, the Supreme Court of the State of Arizona and Disciplinary Clerk for and on Behalf of the Supreme Court of Arizona, the State Bar of Georgia, and the Supreme Court of the State of New Mexico; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

**ORDERED**, that said application is hereby granted, and **BENNIE LAZZARA, JR., ESQ.** is hereby admitted to practice in the above-entitled Court for the purposes of the above entitled matter only.

Dated this 31 day of July, 2018.



DISTRICT COURT JUDGE

Submitted by:

**KOLESAR & LEATHAM**

By: 4985

MICHAEL D. DAVIDSON, ESQ.  
Nevada Bar No. 000878

**KOLESAR & LEATHAM**  
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-and-

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*Attorneys for Plaintiffs*

## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. A-17-750520-C****Estate of Mary Curtis, Plaintiff(s)****vs.****South Las Vegas Investors Limited Partnership, Defendant  
(s)**§  
§  
§  
§  
§Location: **Department 17**  
Judicial Officer: **Villani, Michael**  
Filed on: **02/02/2017**  
Case Number History:  
Cross-Reference Case Number: **A750520****CASE INFORMATION****Related Cases**

A-17-754013-C (Consolidated)

Case Type: **Negligence - Other Negligence**Case Status: **02/02/2017 Open****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number A-17-750520-C  
Court Department 17  
Date Assigned 09/14/2017  
Judicial Officer Villani, Michael**PARTY INFORMATION**

<b>Plaintiff</b>	<b>Estate of Mary Curtis</b>	<b>Davidson, Michael D.</b> <i>Retained</i> 702-362-7800(W)
	<b>Latrenta, Laura</b>	<b>Davidson, Michael D.</b> <i>Retained</i> 702-362-7800(W)
<b>Defendant</b>	<b>Life Care Centers of America Inc</b>	<b>Vogel, Stephen B.</b> <i>Retained</i> 702-893-3383(W)
	<b>Portello, Bina Hribik</b>	
	<b>South Las Vegas Investors Limited Partnership</b>	<b>Vogel, Stephen B.</b> <i>Retained</i> 702-893-3383(W)
	<b>South Las Vegas Medical Investors LLC</b>	<b>Vogel, Stephen B.</b> <i>Retained</i> 702-893-3383(W)
	<b>Wagner, Carl</b>	<b>Vogel, Stephen B.</b> <i>Retained</i> 702-893-3383(W)
<b>Consolidated Case Party</b>	<b>Saxena, Samir S., M.D.</b>	<b>Cotton, John H</b> <i>Retained</i> 702-832-5909(W)
<b>Personal Representative</b>	<b>Latrenta, Laura</b>	<b>Davidson, Michael D.</b> <i>Retained</i> 702-362-7800(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

# CASE SUMMARY

CASE NO. A-17-750520-C

02/02/2017	 Complaint Filed By: Plaintiff Estate of Mary Curtis <i>Complaint for Damages</i>
02/02/2017	 Initial Appearance Fee Disclosure Filed By: Personal Representative Latrenta, Laura <i>Initial Appearance Fee Disclosure</i>
03/03/2017	 Affidavit of Service Filed By: Plaintiff Estate of Mary Curtis <i>Affidavit of Service</i>
03/03/2017	 Initial Appearance Fee Disclosure Filed By: Defendant South Las Vegas Medical Investors LLC <i>Initial Appearance Fee Disclosure(NRS Chapter 19)</i>
03/03/2017	 Demand for Jury Trial Filed By: Defendant South Las Vegas Medical Investors LLC <i>Demand for Jury Trial</i>
03/03/2017	 Answer to Complaint Filed by: Defendant South Las Vegas Medical Investors LLC <i>Defendants' Answer to Plaintiffs' Complaint</i>
03/08/2017	 Motion to Associate Counsel Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Motion to Associate Counsel Pursuant to SRC 42</i>
03/09/2017	 Demand for Security of Costs Filed By: Defendant South Las Vegas Medical Investors LLC <i>Defendants' Demand For Posting Of Non-Resident Security Cost Bond Pursuant To NRS 18.130</i>
03/09/2017	 Affidavit of Service Filed By: Plaintiff Estate of Mary Curtis <i>Affidavit of Service</i>
03/09/2017	 Affidavit of Service Filed By: Plaintiff Estate of Mary Curtis <i>Affidavit of Service</i>
03/28/2017	 Notice of Posting Non-Resident Cost Bond Filed by: Personal Representative Latrenta, Laura <i>Notice of Posting Non-Resident Cost Bond</i>
04/14/2017	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption - Granted</i>
04/21/2017	 Decision and Order <i>Decision</i>
05/02/2017	 Order Admitting to Practice Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura <i>Order Admitting to Practice Pursuant to SCR 42.</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

05/05/2017	 Notice of Entry of Order Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura <i>Notice of Entry of Order Admitting to Practice Pursuant to SRC 42</i>
05/12/2017	 Proof of Compliance Party: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura <i>Proof of Compliance</i>
05/26/2017	 Affidavit Filed By: Personal Representative Latrenta, Laura <i>Affidavit of Service on Defendant, Life Care Centers of America, Inc.</i>
05/30/2017	 Affidavit of Service Filed By: Personal Representative Latrenta, Laura <i>Affidavit of Service on Bina Hribik Portello</i>
06/12/2017	 Motion for Summary Judgment Filed By: Defendant Portello, Bina Hribik <i>(7/18/17 Withdrawn) Defendant Bina Hribik Portello's Motion for Summary Judgment</i>
06/12/2017	 Initial Appearance Fee Disclosure Filed By: Defendant Portello, Bina Hribik <i>Initial Appearance Fee Disclosure</i>
06/13/2017	 Joint Case Conference Report Filed By: Plaintiff Estate of Mary Curtis <i>Joint Case Conference Report</i>
06/20/2017	 Scheduling Order <i>Scheduling Order</i>
07/06/2017	 Motion to Consolidate Filed By: Personal Representative Latrenta, Laura <i>Plaintiffs' Motion to Consolidate Case No. A-17-754013-C With This Action</i>
07/18/2017	 Stipulation and Order for Dismissal Without Prejudice Filed By: Personal Representative Latrenta, Laura <i>Stipulation to Dismiss Bina Hribik Poretello Without Prejudice</i>
07/19/2017	 Opposition to Motion Filed By: Plaintiff Estate of Mary Curtis <i>Defendant Samir Saxena M.D. s Opposition to Motion to Consolidate Case No. A-17-754013-C with this Action</i>
07/24/2017	 Notice of Entry of Stipulation & Order for Dismissal Filed By: Personal Representative Latrenta, Laura <i>Notice of Entry of Stipulation to Dismiss Bina Hribik Poretello Without Prejudice</i>
07/27/2017	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
08/15/2017	 Reply in Support

# CASE SUMMARY

CASE NO. A-17-750520-C

Filed By: Plaintiff Estate of Mary Curtis  
*Plaintiffs' Reply in Support of Their Motion to Consolidate Case No. A-17-754013-C With This Action*

08/17/2017



Notice of Department Reassignment  
*Notice of Department Reassignment*

08/17/2017



Notice of Change of Hearing  
*Notice of Change of hearing*

09/14/2017



Notice of Department Reassignment  
*Notice of Department Reassignment*

09/27/2017



Order Setting Civil Jury Trial  
*Order Setting Civil Jury Trial*

10/10/2017



Order Granting Motion  
 Filed By: Plaintiff Estate of Mary Curtis  
*Order Granting Plaintiff's Motion to Consolidate Case No. A-17-754013-C With This Action*

10/11/2017



Notice of Entry of Stipulation & Order for Dismissal  
 Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura  
*Notice of Entry of Order Granting Plaintiff's Motion to Consolidate Case No. A-17-754013-C With This Action*

10/17/2017



Stipulation to Extend Discovery  
 Party: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura  
*Stipulation and Order for Extension of Time to Complete Discovery (First Request)*

10/31/2017



Notice of Entry of Stipulation & Order for Dismissal  
 Filed By: Personal Representative Latrenta, Laura  
*Notice of Entry of Stipulation and Order for Extension of Time to Complete Discovery (First Request)*

11/08/2017



Motion to Compel  
 Filed By: Personal Representative Latrenta, Laura  
*Plaintiffs' Motion to Compel Further Responses to Requests for Production*

11/08/2017



Motion for Protective Order  
 Filed By: Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl  
*Defendants' Motion for Protective Order*

11/09/2017



Declaration  
 Filed By: Personal Representative Latrenta, Laura  
*Declaration of Melanie L. Bossie, Esq. in Support of Order Shortening Time on Plaintiffs' Motion to Compel Further Responses to Requests for Production*

11/15/2017



Demand for Prior Discovery  
*Demand for Prior Discovery*

11/20/2017



Opposition to Motion For Protective Order  
 Filed By: Plaintiff Estate of Mary Curtis  
*Plaintiffs' Response to Defendants' Motion for Protective Order*



# CASE SUMMARY

CASE NO. A-17-750520-C

11/27/2017	 Opposition Filed By: Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Opposition to Plaintiffs' Motion to Compel</i>
11/29/2017	 Declaration Filed By: Plaintiff Estate of Mary Curtis <i>Declaration of Michael D. Davidson, Esq. in Support of Order Shortening Time on Plaintiffs' Motion to Compel Further Responses to Requests for Production - and- Order Shortening Time</i>
12/06/2017	 Reply to Opposition Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion for Protective Order</i>
12/06/2017	 Reply in Support Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Reply in Support of Motion to Compel</i>
01/17/2018	 Motion to Amend Complaint Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Motion to Amend Complaint</i>
01/18/2018	 Errata Filed By: Plaintiff Estate of Mary Curtis <i>Errata to Plaintiffs' Motion to Amend Complaint</i>
01/30/2018	 Stipulation to Extend Discovery Party: Plaintiff Estate of Mary Curtis <i>Stipulation and Order for Extension of Discovery Deadlines (Second Request)</i>
02/01/2018	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Estate of Mary Curtis <i>Notice of Entry of Stipulation and Order for Extension of Discovery Deadlines (Second Request)</i>
02/06/2018	 Countermotion For Summary Judgment Filed By: Consolidated Case Party Saxena, Samir S., M.D. <i>Defendant Samir S. Saxena M.D.'s Opposition to Plaintiffs' Motion to Amend Complaint and Countermotion for Summary Judgment</i>
02/21/2018	 Reply to Opposition Filed by: Plaintiff Estate of Mary Curtis <i>Plaintiffs Reply in Support of Motion to Amend Complaint and Opposition to Defendant Samir S. Saxena M.D. S Countermotion for Summary Judgment</i>
02/26/2018	 Discovery Commissioners Report and Recommendations <i>Discovery Commissioner's Report and Recommendation</i>
02/26/2018	 Reply in Support Filed By: Consolidated Case Party Saxena, Samir S., M.D. <i>Defendant Samir S. Saxena M.D.'s Reply in Support of Countermotion for Summary Judgment</i>

**CASE SUMMARY**

**CASE NO. A-17-750520-C**

03/14/2018	 Brief Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Supplemental Brief Re: Elder Abuse Statute</i>
03/14/2018	 Reply in Support <i>Defendant Samir S. Saxena, M.D. s Supplemental Reply in Support of Countermotion for Summary Judgment</i>
03/29/2018	 Motion to Compel Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Second Motion to Compel Further Responses to Requests for Production and Request for Order Shortening Time</i>
04/02/2018	 Errata Filed By: Plaintiff Estate of Mary Curtis <i>Errata to Plaintiffs' Second Motion to Compel Further Responses to Requests for Production and Request for Order Shortening Time</i>
04/03/2018	 Opposition Filed By: Defendant Life Care Centers of America Inc <i>Defendants' Opposition to Plaintiffs' Second Motion to Compel</i>
04/11/2018	 Order Granting Motion Filed By: Personal Representative Latrenta, Laura <i>Order Granting Plaintiffs' Motion to Amend and Granting in Part Defendant Saxena's Countermotion for Summary Judgment</i>
04/12/2018	 Notice of Entry of Order Filed By: Plaintiff Estate of Mary Curtis <i>Notice of Entry of Order Granting Plaintiffs' Motion to Amend and Granting in Part Defendant Saxena's Countermotion for Summary Judgment</i>
04/23/2018	 Motion to Continue Trial Filed By: Plaintiff Estate of Mary Curtis <i>Joint Motion to Move Firm Trial Date and Extend Discovery Deadlines -and- Request for Order Shortening Time</i>
04/25/2018	 Objection to Discovery Commissioners Report and Recommend Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Objection to Discovery Commissioner's Report and Recommendations</i>
05/01/2018	 Amended Complaint Filed By: Plaintiff Estate of Mary Curtis <i>(A750520, A754013) Amended Complaint for Damages</i>
05/03/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Mary Curtis <i>Summons - Defendant, Annabelle Socaoco, N.P.</i>
05/03/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Mary Curtis <i>Summons - Defendant, Hospitalists of Nevada, Inc.</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

05/03/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Mary Curtis <i>Summons - Defendant, Inpatient Consultants of Nevada, Inc.</i>
05/03/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Mary Curtis <i>Summons - Defendant, IPC Healthcare, Services of Nevada, Inc.</i>
05/03/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Mary Curtis <i>Summons - Defendant, IPC Healthcare, Inc. aka The Hospitalist Company, Inc.</i>
05/04/2018	 Response Filed by: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Objection to Discovery Commissioner s Report and Recommendation</i>
05/10/2018	 Acceptance of Service Filed By: Plaintiff Estate of Mary Curtis <i>Acceptance of Service of Summons and Amended Complaint - Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka The Hospitalist Company, Inc., Inpatient Consultants of Nevada Inc., IPC Healthcare Services of Nevada, Inc., and Hospitalists of Nevada, Inc.</i>
05/10/2018	 Supplement Filed by: Defendant Life Care Centers of America Inc <i>Supplement to Objection to Discovery Commissioner s Report and Recommendations</i>
05/15/2018	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Estate of Mary Curtis <i>Discovery Commissioner's Report and Recommendation</i>
05/16/2018	 Response Filed by: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura <i>Plaintiffs' Response to Defendants' Supplement to Objection to Discovery Commissioner's Report and Recommendation</i>
05/31/2018	 Order Granting Motion Filed By: Plaintiff Estate of Mary Curtis <i>Order Granting Joint Motion to Move Firm Trial Date and extend Discovery Deadlines</i>
05/31/2018	 Motion for Good Faith Settlement <i>Defendant Samir S. Saxena, M.D.'s Motion for Good Faith Settlement on Order Shortening Time</i>
06/04/2018	 Notice of Entry of Order Filed By: Plaintiff Estate of Mary Curtis <i>Notice of Entry of Order Granting Joint Motion to Move Firm Trial Date and extend Discovery Deadlines</i>
06/08/2018	 Joinder Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Joinder to Defendant Saxena s Motion for Good Faith Settlement</i>
06/11/2018	

# CASE SUMMARY

CASE NO. A-17-750520-C

	 Response Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants South Las Vegas Medical Investors, Llc Dba Life Care Center Of South Las Vegas Fka Life Care Center Of Paradise Valley, South Las Vegas Investors Limited Partnership, Life Care Centers Of America, Inc And Carl Wagner Response to Motion for Good Faith Settlement</i>
06/12/2018	 Motion To Dismiss - Alternative Motion For Summary Judgment Filed By: Consolidated Case Party Saxena, Samir S., M.D. <i>Defendants' Motion to Dismiss, or in the alternative, for Summary Judgment</i>
06/25/2018	 Order Filed By: Plaintiff Estate of Mary Curtis <i>Order Adopting Discovery Commissioner's Report &amp; Recommendation</i>
06/29/2018	 Filed Under Seal Filed By: Plaintiff Estate of Mary Curtis <i>SEALED PER MINUTE ORDER 7/2/18 Plaintiffs' Opposition to Defendants' Motion to Dismiss/Motion to Dismiss/Motion for Summary Judgment</i>
07/20/2018	 Motion to Associate Counsel Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Motion to Associate Counsel Pursuant to SRC 42 and Request for Order Shortening Time</i>
07/26/2018	 Order Shortening Time Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura <i>Plaintiffs' Motion to Compel Defendants' Compliance with Court Order and Request for Order Shortening Time</i>
07/26/2018	 Reply in Support Filed By: Consolidated Case Party Saxena, Samir S., M.D. <i>Defendants' Reply in Support of Motion to Dismiss, or, in the alternative, for Summary Judgment</i>
08/03/2018	 Order Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura <i>Order Admitting to Practice Pursuant to SCR 42 ((BENNIE LAZZARA, JR.)</i>
08/08/2018	 Notice of Entry of Order <i>Notice of Entry of Order Granting Samir S. Saxena, M.D.'s Motion for Good Faith Settlement on Order Shortening Time</i>
08/09/2018	 Application for Issuance of Commission to Take Deposition <i>Application for Issuance of Commission to Take Out of State Deposition (Kirby)</i>
08/09/2018	 Application for Issuance of Commission to Take Deposition <i>Application for Issuance of Commission to Take Out of State Deposition (Hill-O'Neill)</i>
08/13/2018	 Commission to Take Deposition Outside the State of Nevada <i>Commission to Take Deposition Outside the State of Nevada (Kirby)</i>
08/13/2018	 Commission to Take Deposition Outside the State of Nevada

# CASE SUMMARY

CASE NO. A-17-750520-C

*Commission to Take Deposition Outside the State of Nevada (Hill-O'Neill)*

08/15/2018



Motion for Protective Order

Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Motion for Protective Order*

08/16/2018



Notice of Change of Hearing

*Notice of Change of Hearing*

08/22/2018



Receipt of Copy

Filed by: Plaintiff Estate of Mary Curtis

*Receipt of Copy of Notices of Depositions*

09/04/2018



Opposition to Motion For Protective Order

Filed By: Plaintiff Estate of Mary Curtis

*Plaintiffs' Response to Defendants' Motion for Protective Order*

09/10/2018



Motion for Summary Judgment

Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Motion for Summary Judgment*

09/12/2018



Reply to Opposition

Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Reply to Opposition to Motion for Protective Order*

09/21/2018



Appendix

Filed By: Plaintiff Estate of Mary Curtis

*Appendix of Exhibits 26 - 52 to Plaintiffs' Motion for Prima Facie Claim for Punitive Damages*

09/21/2018



Motion

Filed By: Plaintiff Estate of Mary Curtis

*Plaintiffs' Motion for Prima Facie Claim for Punitive Damages*

09/21/2018



Appendix

Filed By: Plaintiff Estate of Mary Curtis

*Appendix of Exhibits to Plaintiffs' Motion for Prima Facie Claim for Punitive Damages*

09/21/2018



Appendix

Filed By: Plaintiff Estate of Mary Curtis

*Appendix of Exhibits to Plaintiffs' Motion for Prima Facie Claim for Punitive Damages*

09/21/2018



Motion for Summary Judgment

Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc

*Motion for Summary Judgment Regarding Punative Damages*

09/24/2018



Motion for Partial Summary Judgment

*Defendants' Motion for Partial Summary Judgment*


# CASE SUMMARY

CASE NO. A-17-750520-C

10/04/2018	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Response to Defendants' Motion for Summary Judgment</i>
10/08/2018	 Opposition to Motion Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Opposition to Plaintiffs' Motion for Prima Facie Claim for Punitive Damages</i>
10/10/2018	 Stipulation and Order Filed by: Plaintiff Estate of Mary Curtis <i>Stipulation and Order to Extend Plaintiff's Response to Defendants' Motion for Summary Judgment Regarding Punitives</i>
10/10/2018	 Stipulation and Order Filed by: Plaintiff Estate of Mary Curtis <i>Stipulation and Order to Extend Plaintiff's Response to Defendants' Motion for Summary Judgment</i>
10/10/2018	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Opposition to Defendants' Motion for Summary Judgment Re: Punitive Damages</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude the Use of Reptile Tactics in Trial</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude Evidence of Surveys Conducted at Life Care Centers of Paradise Valley</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Prohibit Argument Regarding Responsibility Avoidance</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude Plaintiffs from Mentioning any Actual or Potential Dollar Amount of Damages to the Jury During Voir Dire</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude Medical Opinions of Non-Medically Trained Witnesses</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude Plaintiff's Experts from Testifying as to Whether any Conduct at Issue Constitutes Fraud, Oppression, or Malice</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine Prohibit Treating Physicians from Offering Standard of Care or Causation Opinions</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Limit Video and Photographic Evidence of Mary Curtis</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Bifurcate Proceedings Regarding Punitive Damages</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Strike Cost Reports</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude Evidence of the Relative Wealth of the Parties</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Limit Expert Testimony to Opinions Contained Within Their Reports</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Motion in Limine to Preclude Evidence of Surveys and Other Materials from Other Facilities</i>
10/12/2018	 Motion in Limine Filed By: Defendant South Las Vegas Investors Limited Partnership <i>Defendants' Motion in Limine to Preclude Evidence of a Printout Dated September 7, 2018 of <a href="https://lcca.com">https://lcca.com</a>.</i>
10/12/2018	 Motion in Limine



# CASE SUMMARY

CASE NO. A-17-750520-C

	<p>Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl</p> <p><i>Defendants' Motion in Limine to Strike Anonymous Letter</i></p>
10/12/2018	<p> Motion in Limine</p> <p>Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl</p> <p><i>Defendants' Motion in Limine to Preclude Evidence of a Survey Results Summary</i></p>
10/12/2018	<p> Motion in Limine</p> <p>Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl</p> <p><i>Defendants' Motion in Limine to Strike Prior Medication Error Reports</i></p>
10/12/2018	<p> Motion in Limine</p> <p>Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl</p> <p><i>Defendants' Motion in Limine to Strike Plaintiff's Expert Ernest Tosh, J.D., B.B.A.</i></p>
10/12/2018	<p> Motion in Limine</p> <p>Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl</p> <p><i>Defendants' Motion in Limine to Preclude Evidence of Yelp Reviews</i></p>
10/12/2018	<p> Motion in Limine</p> <p><i>Defendants' Motion in Limine to Preclude Evidence of Prior Lawsuits</i></p>
10/12/2018	<p> Motion in Limine</p> <p><i>IPC Defendants Motion In Limine No. 1 to Limit Noneconomic Damages Argument</i></p>
10/12/2018	<p> Motion in Limine</p> <p><i>IPC Defendants Motion In Limine No. 2 To Limit Treating Physician Testimony</i></p>
10/12/2018	<p> Motion in Limine</p> <p><i>IPC Defendants Motion In Limine No. 3 To Limit Plaintiffs Cumulative Expert Testimony</i></p>
10/12/2018	<p> Motion in Limine</p> <p><i>IPC Defendants Motion In Limine No. 5 To Permit Collateral Source Evidence</i></p>
10/12/2018	<p> Motion in Limine</p> <p><i>IPC Defendants' Motion in Limine No 4 to Exclude Irrelevant Deviations From Standard of Care</i></p>
10/15/2018	<p> Non Opposition</p> <p>Filed By: Plaintiff Estate of Mary Curtis</p> <p><i>Plaintiffs' Response to IPC Defendants' Motion for Summary Judgment Re: Punitive Damages</i></p>
10/17/2018	<p> Joinder</p> <p>Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl</p>



**CASE SUMMARY**

**CASE NO. A-17-750520-C**

*Defendants' Joinder to IPC Defendants Motion in Limine No. 4 to Exclude Irrelevant Deviations from Standard of Care*

10/17/2018



Joinder

Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Joinder to IPC Defendants Motion in Limine No. 3 to Limit Cumulative Expert Testimony*

10/17/2018



Joinder

Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Joinder to IPC Defendants Motion in Limine No. 2 to Limit Treating Physician Testimony*

10/17/2018



Joinder

Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Joinder to IPC Defendants Motion in Limine No. 1 to Limit Noneconomic Damages Argument*

10/17/2018



Reply

Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Reply to Plaintiffs Opposition to Motion for Summary Judgment*

10/17/2018



Reply in Support

Filed By: Plaintiff Estate of Mary Curtis

*Plaintiffs' Reply in Support of Their Motion for Prima Facie Claim for Punitive Damages*

10/17/2018



Reply

Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Reply in Support of Motion for Summary Judgment as to Punitive Damages*

10/24/2018



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Estate of Mary Curtis

*Notice of Entry of Stipulation and Order to Extend Plaintiffs' Response to Defendants' Motion for Summary Judgment Regarding Punitives*

10/24/2018



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Estate of Mary Curtis

*Notice of Entry of Stipulation and Order to Extend Plaintiff's Response to Defendants' Motion for Summary Judgment*

10/25/2018



Pre-Trial Disclosure

Party: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura

*Plaintiffs Pre-Trial Disclosures Pursuant to NRCP 16.1(a)(3)*

11/01/2018



Opposition to Motion in Limine

Filed By: Plaintiff Estate of Mary Curtis

*Plaintiffs Response to Defendants Motion in Limine to Preclude Plaintiffs from Mentioning*

# CASE SUMMARY

CASE NO. A-17-750520-C

*Any Actual or Potential Dollar Amount of Damages to the Jury During Voir Dire*

11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Response to Defendants' MIL Re: Expert Testimony on Ultimate Issues</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of Survey Results Summary</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Response to Defendants' MIL re: Treating Physicians Testimony</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of Yelp Reviews</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Bifurcate Proceedings Regarding Punitive Damages</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to IPC Defendants' MIL No. 5 Re Collateral Source Evidence</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of Surveys Conducted at Life Care Centers of Paradise Valley</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants MIL Re Photo/Video Evidence</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants MIL Re Anonymous Letter</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Medical Opinions of Non-Medically Trained Witnesses</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of the Relative Wealth of the Parties</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to IPC Defendants Motion in Limine No. 4 to Exclude Irrelevant Deviations from Standard of Care</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of Surveys and Other Materials from Other Facilities</i>
11/01/2018	 Errata Filed By: Plaintiff Estate of Mary Curtis <i>Errata to Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of Surveys and Other Materials from Other Facilities</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants MIL Re Limiting Expert Testimony</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants MIL Re Medication Error Reports</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Prohibit Argument Regarding Responsibility Avoidance</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to IPC Defendants Motion in Limine No. 1 to Limit Noneconomic Damages Argument and Defendants Joinder to IPC Defendants Motion in Limine No. 1 to Limit Noneconomic Damages Argument</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Response to Defendants Motion in Limine to Preclude Evidence of a Printout Dated September 7, 2018 of <a href="https://lcca.com">https://lcca.com</a>.</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude Evidence of Prior Lawsuits</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to IPC Defendants Motion in Limine No. 3 to Limit Plaintiffs Cumulative Expert Testimony</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants MIL Re Ernie Tosh</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine Re Cost Reports</i>
11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to Defendants Motion in Limine to Preclude the Use of Reptile Tactics in</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

## Trial

11/01/2018	 Opposition to Motion in Limine Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Response to IPC Defendants Motion in Limine No. 2 Re Saxena Testimony</i>
11/02/2018	 Trial Memorandum Filed by: Plaintiff Estate of Mary Curtis <i>Plaintiffs Trial Memorandum Regarding General Conditions in Response to Defendants Various Motions in Limine</i>
11/06/2018	 Order <i>(A754013) Order Granting in Part and Denying in Part IPC Defendants' Motion to Dismiss, or, in the Alternative, for Summary Judgment</i>
11/07/2018	 Notice of Entry of Order <i>Notice of Entry of Order Granting in Part and Denying in Part IPC Defendants' Motion to Dismiss, or, in the Alternative, for Summary Judgment</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Loretta Chatman</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Regina Ramos</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Debra Johnson</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Trial Designation of Deposition of Tessie Hecht</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Isabella Reyes</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Annabelle Socaoco</i>
11/07/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Ershiela Dawson</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Limit Video and Photographic Evidence of Mary Curtis</i>
11/07/2018	

# CASE SUMMARY

CASE NO. A-17-750520-C

	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine Prohibit Treating Physicians from Offering Standard of Care or Causation Testimony</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Preclude Evidence of Prior Lawsuits</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Preclude Plaintiffs from Mentioning Any Actual or Potential Dollar Amount of Damages to the Jury During Voir Dire</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Bifurcate Proceedings Regarding Punitive Damages</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Preclude Plaintiff's Experts from Testifying as to Whether any Conduct at Issue Constitutes Fraud, Oppression, or Malice</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Plaintiffs Opposition to Motion in Limine to Strike Plaintiff's Expert Ernest Tosh, J.D., B.B.A</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Preclude the Use of Reptile Tactics in Trial</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Defendants' Reply to Opposition to Motion in Limine to Strike Anonymous Letter</i>
11/07/2018	 Reply Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

# CASE SUMMARY

CASE NO. A-17-750520-C

*Defendants' Reply to Opposition to Motion in Limine to Preclude Medical Opinions of Non-Medically Trained Witnesses*

11/07/2018



Reply

Filed by: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl

*Defendants' Reply to Opposition to Motion in Limine to Preclude Evidence of the Relative Wealth of the Parties*

11/07/2018



Reply

*Defendants' Reply to Opposition to Motion in Limine to Preclude Evidence of Surveys and Other Materials from Other Facilities*

11/07/2018



Reply

Filed by: Defendant South Las Vegas Investors Limited Partnership

*Defendants' Reply to Opposition to Motion in Limine to Preclude Evidence of Surveys Conducted at Life Care Centers of Paradise Valley*

11/07/2018



Reply

Filed by: Defendant Life Care Centers of America Inc

*Defendants' Reply to Opposition to Motion in Limine to Strike Prior Medication Error Reports*

11/07/2018



Reply

Filed by: Defendant Life Care Centers of America Inc

*Defendants' Reply to Plaintiffs Opposition to Defendants Motion in Limine to Preclude Evidence of Yelp Reviews*

11/07/2018



Reply

Filed by: Defendant Life Care Centers of America Inc

*Defendants' Reply to Plaintiffs Opposition to Defendants Motion in Limine to Preclude Evidence of a Survey Results Summary*

11/07/2018



Reply

Filed by: Defendant South Las Vegas Investors Limited Partnership

*Defendants' Reply to Opposition to Motion in Limine to Limit Expert Testimony to Opinions Contained Within Their Reports*

11/07/2018



Reply

Filed by: Defendant South Las Vegas Investors Limited Partnership

*Defendants' Reply to Plaintiffs Opposition to Defendants Motion in Limine to Preclude Evidence of a Printout Dated September 2018 of HTTP://LCCA.com.*

11/07/2018



Reply in Support

Filed By: Consolidated Case Party Saxena, Samir S., M.D.

*IPC Defendants' Reply in Support of Motions in Limine No. 1 to Limit Noneconomic Damages Argument*

11/07/2018



Reply in Support

*IPC Defendants' Reply in Support of Motion in Limine No.2 to Limit Treating Physician Testimony*

11/07/2018



Reply in Support

*IPC Defendants' Reply in Support of Motion in Limine No.3 to Limit Plaintiffs' Cumulative Expert Testimony*














# CASE SUMMARY

CASE NO. A-17-750520-C

11/07/2018	 Reply in Support <i>IPC Defendants' Reply in Support of Motion in Limine No.4 to Exlude Irrelevant Deviations from Standar of Care</i>
11/08/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Machelles Harris</i>
11/08/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Connie Blackmore</i>
11/08/2018	 Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
11/13/2018	 Designation of Witness Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiff's Trial Designation of Deposition of Mezert Werago</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Florence Agorta</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Juvy Solis</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Linda Sanchez</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Cherrie Sayson</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Asiya Hassan</i>
11/13/2018	 Objection Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Objections to IPC Defendants Pre-Trial Disclosures Pursuant to NRCP 16.1(a)(3)</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Meskereme Wolde</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Maria Sabanico</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Tiffany Love</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Michael Malacaman</i>
11/13/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Cecelia Sansone</i>
11/13/2018	 Objection Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs Objections to Life Care Defendants Pre-Trial Disclosures Pursuant to NRCP 16.1(a) (3)</i>
11/19/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Mariver Delloro</i>
11/19/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Cherry Uy</i>
11/19/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Gabriela Gregory, M.D.</i>
11/20/2018	 Discovery Commissioners Report and Recommendations Filed By: Defendant South Las Vegas Investors Limited Partnership; Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Discovery Commissioners Report and Recommendations</i>
11/26/2018	 Motion to Reconsider Filed By: Consolidated Case Party Saxena, Samir S., M.D. <i>IPC Defendants' Motion for Reconsideration</i>
11/28/2018	 Trial Subpoena Filed by: Plaintiff Estate of Mary Curtis <i>Trial Subpoena to Timothy Dutra, M.D.</i>
12/06/2018	 Opposition to Motion Filed By: Plaintiff Estate of Mary Curtis <i>Plaintiffs' Opposition to IPC Defendants' Motion for Reconsideration</i>
12/07/2018	 Order Granting Summary Judgment <i>Order Granting Defendants' Motion for Summary Judgment</i>
12/11/2018	 Notice of Entry of Order Filed By: Defendant South Las Vegas Medical Investors LLC; Defendant Life Care Centers of America Inc; Defendant Wagner, Carl <i>Notice of Entry of Order Granting Defendants' Motion for Summary Judgment</i>
12/17/2018	 Memorandum of Costs and Disbursements <i>Defendants' Verified Memorandum of Costs</i>



# CASE SUMMARY

CASE NO. A-17-750520-C

12/20/2018



## Opposition

Filed By: Plaintiff Estate of Mary Curtis  
*Plaintiffs' Opposition to Defendants' Verified Statement of Costs*

12/27/2018



## Reply in Support

Filed By: Consolidated Case Party Saxena, Samir S., M.D.  
*IPC Defendants' Reply in Support of Motion for Reconsideration*

12/27/2018



## Notice of Appeal

Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura  
*Plaintiffs' Notice of Appeal of the Order Granting Defendants' Motion for Summary Judgment*

12/27/2018



## Case Appeal Statement

Filed By: Plaintiff Estate of Mary Curtis; Personal Representative Latrenta, Laura  
*Plaintiffs' Case Appeal Statement*

## DISPOSITIONS

07/18/2017

### **Order of Dismissal Without Prejudice** (Judicial Officer: Miley, Stefany)

Debtors: Bina Hribik Portello (Defendant)  
Creditors: Estate of Mary Curtis (Plaintiff), Laura Latrenta (Plaintiff)  
Judgment: 07/18/2017, Docketed: 07/18/2017

12/07/2018

### **Summary Judgment** (Judicial Officer: Villani, Michael)

Debtors: Estate of Mary Curtis (Plaintiff), Laura Latrenta (Personal Representative, Plaintiff)  
Creditors: South Las Vegas Medical Investors Limited Partnership (Defendant), South Las Vegas Medical Investors LLC (Defendant), Life Care Centers of America Inc (Defendant)  
Judgment: 12/07/2018, Docketed: 12/10/2018

## HEARINGS

04/25/2017

### **CANCELED Motion to Associate Counsel** (9:30 AM) (Judicial Officer: Miley, Stefany)

*Vacated*  
*Plaintiffs' Motion to Associate Counsel Pursuant to SRC 42*

07/25/2017

### **CANCELED Motion for Summary Judgment** (9:30 AM) (Judicial Officer: Miley, Stefany)

*Vacated - per Stipulation and Order*  
*Defendant Bina Hribik Portello's Motion for Summary Judgment*

08/16/2017



### **Minute Order** (3:57 PM) (Judicial Officer: Miley, Stefany)

*Minute Order Re: Court's Recusal*  
Recused; Minute Order Re: Court's Recusal  
Journal Entry Details:  
*Pursuant to Millen v. District Court, 122 Nev. Adv. Op. No. 105, a Recusal List was prepared, made public record and attorney John H. Cotton, Esq., was named on the list. To avoid the appearance of impropriety and implied bias, the COURT hereby recuses itself. The Motion to Consolidate set for August 22, 2017 at 9:30 am and the Calendar Call set for June 19, 2018 at 11:00 am as well as the Jury Trial set for June 25, 2018 at 1:00 pm are hereby vacated. This matter will be reassigned at random and the hearings will be calendared in the new department.;*

08/22/2017

### **CANCELED Motion to Consolidate** (9:30 AM) (Judicial Officer: Miley, Stefany)

*Vacated - Case Reassigned*  
*Plaintiffs' Motion to Consolidate Case No. A-17-754013-C With This Action*

08/24/2017



### **Motion to Consolidate** (9:30 AM) (Judicial Officer: Allf, Nancy)

Granted;

# CASE SUMMARY

CASE NO. A-17-750520-C

**Journal Entry Details:**

*Appearances: Michael D. Davidson, Esq. for Plaintiff (A750520 and A754013) along with lead counsel Melanie L. Bossie, Pro Hac Vice John Orr, Esq. for Defendant South Las Vegas Medical Investors LLC (A750520) Vincent Vitatoe, Esq. for Samir Saxena M.D. (A754013) Arguments by Ms. Bossie and Mr. Vitatoe regarding the merits of and opposition to the motion. Mr. Orr stated he had nothing to add. Court stated its findings and ORDERED, Motion to Consolidate (A750520 and A754013) GRANTED. Plaintiff's counsel to prepare the order and submit it to opposing counsel for approval. -----CASE CONSOLIDATED (A750520 AND A754013)-----LEAD CASE-----;*

09/08/2017



**Minute Order** (1:59 PM) (Judicial Officer: Gonzalez, Elizabeth)

*Minute Order: Case Reassignment*

Matter Transferred;

**Journal Entry Details:**

*COURT ORDERED, pursuant to EDCR 1.31, this consolidated matter is TRANSFERRED due to the special assignment of the current department (business court) to a department hearing civil but not CD or business court matters. CLERK'S NOTE: A copy of this minute order was distributed to the parties via the E-Service List./ dr 9-8-17;*

09/12/2017



**Discovery Conference** (9:30 AM) (Judicial Officer: Bulla, Bonnie)

*Discovery Conference for Sub Case A754013*

Matter Continued; Discovery Conference for Sub Case A754013

**Journal Entry Details:**

*Vincent Vitatoe, Esq., present on behalf of Deft. Samir Saxena, M.D., in consolidated case A754013. Commissioner noted this is a procedural mess. Cases are consolidated now. Judge Alff consolidated the cases but she is business court and will not be hearing the medical malpractice so it was to be randomly reassigned per Chief Judge Gonzales. Statement by Mr. Davidson. Further, Commissioner stated there is a scheduling order in the lead case controls. There is a scheduling order in the lead case, do not have one in the subordinate case, have a trial date in the subordinate case and not in the lead case. Additionally, Commissioner does not believe the trial date stands in the subordinate case. At the medical malpractice status checks, Judge Weiss actually transferred the subordinate case to Department VI. But now it is consolidated, subordinate case out of Department VI, is with Department XXVII until it is going to be reassigned. The trial date in the lead case has been vacated and will be reset by the department. This case will not go back to the sweeps because it already had a trial date and now is consolidated. The lead case will not go back because it has a scheduling order and trial date. COMMISSIONER RECOMMENDED, counsel to follow the scheduling order in the lead case and there will not be a scheduling order issued for the subordinate case. If counsel needs more time, does not have a trial date in the lead case, counsel to prepare a 2.35 stipulation and send to the Commissioner. FURTHER COMMISSIONER RECOMMENDED, matter SET for status check. Mr. Vitatoe stated in terms of the stipulation, not sure if parties are going to agree to extend the deadlines. Commissioner stated a motion will have to be done and serve in the consolidate case as well. Parties to either submit a 2.35 stipulation in the consolidated cases or file motion to extend in the consolidated cases. Mr. Davidson stated parties anticipated that parties would come back once the cases were consolidated either the Commissioner or the Judge would take a look at the two cases and set a unified schedule. Commissioner stated that does not happen. Once parties receive a scheduling order, the only way to move discovery deadlines by 2/35 stipulation or motion. A new scheduling order will not be issued in this case as the lead case already has one. CONTINUED TO: 10/24/17 9:30 AM;*

12/13/2017

**Motion to Compel** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

*Plaintiffs Motion to Compel Further Responses to Requests for Production*

Granted in Part;

12/13/2017

**Motion for Protective Order** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

*Defendant's Motion for Protective Order*

Granted in Part;

12/13/2017



**All Pending Motions** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Matter Heard;

**Journal Entry Details:**


**CASE SUMMARY****CASE NO. A-17-750520-C**

*Plaintiffs Motion to Compel Further Responses to Requests for Production ..... Defendant's Motion for Protective Order Mr. Bossie asked to proceed without Mr. Davidson (adding another hearing); no objection by Defense counsel. Once the Protective Order is in place, it appears to Commissioner that Defense counsel will provide a significant part of information. COMMISSIONER RECOMMENDED, Plaintiffs Motion to Compel is GRANTED IN PART; Defendant's Motion for Protective Order is GRANTED IN PART; parameters discussed; (1) INSUFFICIENT STAFFING - staffing information must be provided during the time Plaintiff was in the life care center for six months before and six months after to determine trending, and was there a subsequent remedial measure; (2) any MEDICATION ERRORS - Deft needs to be more responsive, but REDACT resident patient names or use a code sheet; go back five years - start with local facility to determine the process, then do a 30(b)(6) deposition. Two hundred plus facilities nationwide. COMMISSIONER RECOMMENDED, Request to Produce 46 - look at 1-1-2016 through 3-31-2016, Plaintiff was only there March 2nd through March 8th (a few days); colloquy re: other lawsuits for five years before; turn over employment file for Nurse with proper redactions, and go back five years before date of this medication error. Michael Davidson, Esquire, present. Start with this facility and broaden to the Southwest if necessary. Commissioner addressed the confusing Motion work; lack of 2.34 conference. Ms. Bossie moved the case forward with depositions without the Incident Report or Error Report. Mr. Vogel will provide it if he can obtain it. Ms. Bossie stated the Autopsy Report confirmed Pltf died of Morphine intoxication. Commissioner offered a Mandatory Settlement Conference coordinated by Judge Scotti's Department or the Senior Judge Department. Mr. Vogel and Mr. Weiss agreed. Ms. Bossie agreed, but requested to speak with her client in New Jersey. COMMISSIONER RECOMMENDED a Mandatory Settlement Conference or alternatively Mediation. Argument by Ms. Bossie. Commissioner stated the insurance policy and policies and procedures will be disclosed without necessarily being protected. Ms. Bossie to prepare the Report and Recommendations, and Defense counsel to approve as to form and content. A proper report must be timely submitted within 20 days of the hearing. Otherwise, counsel will pay a contribution. ;*

02/01/2018 **CANCELED Status Check: Compliance** (3:00 AM) (Judicial Officer: Bulla, Bonnie)  
*Vacated - per Commissioner*

02/28/2018 **Motion to Amend Complaint** (8:30 AM) (Judicial Officer: Villani, Michael)  
**02/28/2018, 03/21/2018**  
*Plaintiffs' Motion to Amend Complaint*  
Matter Continued;  
Granted;  
Matter Continued;  
Granted;

02/28/2018 **Opposition and Countermotion** (8:30 AM) (Judicial Officer: Villani, Michael)  
**02/28/2018, 03/21/2018**  
*Defendant Samir S. Saxena M.D.'s Opposition to Plaintiffs' Motion to Amend Complaint and Countermotion for Summary Judgment*  
Matter Continued;  
Granted in Part;  
Matter Continued;  
Granted in Part;

02/28/2018  **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)  
Matter Heard;  
Journal Entry Details:

**PLAINTIFF'S MOTION TO AMEND COMPLAINT...DEFENDANT SAMIR S. SAXENA M.D.'S OPPOSITION TO PLAINTIFF'S MOTION TO AMEND COMPLAINT AND COUNTERMOTION FOR SUMMARY JUDGMENT** Ms. Bossie stated the alleged facts and procedural history of the case. Ms. Bossie requested a Motion to leave and Amend the Complaint and argued Defendant Life Care and Defendant Saxena didn't list Nurse Annabelle in their disclosure statements. Ms. Bossie stated it was a discovery rule and question of fact when it was learned of the injury and who was part and parcel of committing the injury. As to the elder abuse issue, Ms. Bossie noted there was not much Nevada law pertaining to medical professions regarding if it came under a Medical Mal-Practice action, 41A, or the older adult statute and argued in reading both statutes if the legislature wanted to make one or the other the exclusive remedy for the cause of action they would have done so. Ms. Bossie argued the statute does not eliminate out this cause of action as if it couldn't be brought against the

**CASE SUMMARY****CASE NO. A-17-750520-C**

attending physician of the provider and there wasn't exclusive language in 41A. Ms. Bossie requested Defendant's summary judgment motion be denied as to the older abuse statute and grant Plaintiff's Motion to Amend Complaint. Upon Court's inquiry, Ms. Bossie argued Plaintiff didn't know what the cause of death was until April 15th and the complaint was filed within one year. Mr. Vitatoe stated the criticisms level of Dr. Saxena was two-fold, he didn't transfer Plaintiff Curtis quickly enough and he provided her an IV drip of Narcan, that's important to the statute of limitation analysis. Mr. Vitatoe argued there was no case law that stated only when an autopsy was received did the statute of limitation commence. Mr. Vitatoe further argued the standard as set forth in Massey was when facts were presented to Plaintiff that would put a reasonable person to be on inquiry notice that some negligence may have caused the death, at that point they were supposed to investigate further. Mr. Vitatoe argued there was no issue of fact because parties were relying on admissions. Mr. Vitatoe cited case law and stated parties inconsistent statements were not genuine issues of fact and argued the undisputed admissions put Plaintiff on inquiry notice in March, under Massey that barred the claims against Dr. Saxena. Further arguments by counsel. Court stated as to cause of action regarding the expansion of elder abuse counsel was to submit supplemental briefing on March 14, 2018 by 5:00 pm. Court further stated it would review the matter and **ORDERED**, matter **CONTINUED** to the Chamber Calendar for the Court's written decision. **CONTINUED TO: 03/21/18 (CHAMBER CALENDAR);**

03/21/2018

**All Pending Motions (3:00 AM) (Judicial Officer: Villani, Michael)**

Minute Order - No Hearing Held;

Journal Entry Details:

**PLAINTIFF'S MOTION TO AMEND COMPLAINT...DEFENDANT SAMIR S. SAXENA M.D.'S OPPOSITION TO PLAINTIFFS' MOTION TO AMEND COMPLAINT AND COUNTERMOTION FOR SUMMARY JUDGMENT** Plaintiffs' Motion to Amend Complaint and Defendant Samir S. Saxena, M.D.'s Countermotion for Summary Judgment came before this Court on the February 28, 2018 Oral Calendar at 8:30 a.m. The Court requested supplemental briefing, and continued the matter for written decision on the March 21, 2018 Chamber Calendar. This Court, having reviewed the pleadings and papers on file herein, finds as follows: Plaintiffs seek to amend the Complaint to add IPC Healthcare, Inc. and nurse practitioner Annabelle Socaoco as parties to this matter. Defendant Samir S. Saxena, M.D. seeks summary judgment on the elder abuse cause of action (NRS 41.1395) because a cause of action for malpractice of a healthcare provider is governed by NRS 41A. Pursuant to NRCP 15(a), leave to amend should be freely granted when justice requires. Additionally, when determining the claims for relief, the Court looks to the gravamen of the Complaint. *Egan v. Chambers*, 129 Nev. 239, 241, 299 P.3d 364, 366 (2013). The Complaint in question is for professional negligence against a healthcare provider and, therefore, governed by NRS 41A. The Court **FINDS** that it was not the legislative intent of enacting NRS 41.1395 to supersede the caps under NRS 41A. There is neither legislative purpose nor intent to carve out an exception for elderly patients covered under NRS 41A. The Court **FURTHER FINDS** the reasoning in *Brown v. Mt. General Hospital*, 2013 WL 4523488 (D. Nev. 2013) to be persuasive. Therefore, **COURT ORDERED** Plaintiffs' Motion to Amend Complaint **GRANTED** and Defendant Samir S. Saxena, M.D. s Countermotion for Summary Judgment is **GRANTED** as it relates to Plaintiffs' First Cause of Action for Abuse/Neglect of an Older Person. Counsel for Plaintiffs to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed-copy of the Order to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be signed as to form and content by opposing counsel. **CLERK'S NOTE:** A copy of the foregoing minute order has been electronically distributed to all registered parties.//ob/03/26/18.;

04/04/2018

**Motion to Compel (9:30 AM) (Judicial Officer: Bulla, Bonnie)**

Plaintiffs' Second Motion to Compel Further Responses to Requests for Production and Request for OST

Granted; Plaintiffs' Second Motion to Compel Further Responses to Requests for Production and Request for OST

Journal Entry Details:

Commissioner discussed focusing on 1) what happened to this particular Plaintiff and her condition, and 2) was the entire facility staffed appropriately and were patients receiving care appropriately. Colloquy re: search terms and scope. Ms. Brookhyser will submit a Stipulation to extend deadlines after receiving a new Trial date from the Judge. Argument by Ms. Bossie. Colloquy re: including census in search terms. Mr. Bossie stated terms agreed to by counsel are staff, labor, PPD, budget, fall, medication error, bounce back, LOS (length of stay). **COMMISSIONER RECOMMENDED**, put a clawback provision in place and incorporate

# CASE SUMMARY

CASE NO. A-17-750520-C

*Federal Court language in Report and Recommendation; redact attorney client privilege or other privileges, but prepare a privilege log; Commissioner can review the information in camera; colloquy re: annual budgets, produce the previous fiscal year and the year that controlled during this admission. COMMISSIONER RECOMMENDED, budget variance reports are under a Protective Order pursuant to Rule 26(c) proprietary confidential information until such time as ordered by the District Court Judge; motion is GRANTED within parameters. Counsel must have a 2.34 conference, if counsel cannot agree, do not turn over documents, but file a Motion for Protective Order. Colloquy re: the adopting the proposed Federal Proportionality Rule. Commissioner is available by conference call. Colloquy re: generally speaking 30 days prior to Trial, three years of net worth are provided with supporting documentation. Ms. Bossie to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. CLERK'S NOTE: Minutes amended 6-1-18 to reflect Ms. Bossie to prepare the Report and Recommendations. JL;*

05/09/2018



**Motion** (8:30 AM) (Judicial Officer: Villani, Michael)

*Plaintiffs Estate of Mary Curtis, Laura Latrenta and Defendants South Las Vegas Medical Investors LLC, Life Care Centers of America Inc., South Las Vegas Medical Investors Limited Partnership, and Carl Wagner's Joint Motion to Move Firm Trial Date and Extend Discovery Deadlines -and- Request for Order Shortening Time*

Motion Granted;

Journal Entry Details:

*Court noted this was a motion to continue the trial date and reset discovery deadlines. Ms. Bossie requested to extend the deadline ninety days. Colloquy regarding trial dates. Counsel estimated 7 days for trial. CONFERENCE AT BENCH. COURT ORDERED, Trial dates VACATED and RESET. Court instructed Ms. Bossie to prepare the Order with the discovery deadline dates with a Stipulation and Order. 10/31/18 9:00 AM CALENDAR CALL 11/26/18 9:00 AM JURY TRIAL;*

05/30/2018



**Objection to Discovery Commissioner's Report** (8:30 AM) (Judicial Officer: Villani, Michael)

*Discovery Commissioner's Report and Recommendation*

Matter Heard;

Journal Entry Details:

*Mr. Vogel argued part of the issue was the scope, the Discovery Commissioner ordered seven months of emails. Mr. Vogel further argued they collected 15,000 emails, 14,000 attachments which was 100,000 pages that they still had to go through and be redacted. Mr. Vogel argued the scope was too broad and requested to provide two months of emails to include the regional individuals involved, not corporate. Ms. Bossie gave a history of the case and argued opposing counsel was able to search the matter and she needed to prove the why as this would be a punitive damage case. Ms. Bossie further argued the information was already accessible and they already retrieved the data and they could do a searchable format. Further argument by Mr. Vogel. COURT stated it did not find this to be overly burdensome. COURT ADOPTED the report recommendation by Commissioner Bulla. Ms. Bossie to prepare the Order and submit it to opposing counsel as to form and content. Upon Court's inquiry, Ms. Bossie estimated eight days for trial, Mr. Vogel estimated two weeks for trial. At the request of Ms. Bossie, Court stated the information was to be provided within thirty days thereafter information was to be provided on a rolling basis.;*

05/31/2018

**CANCELED Status Check: Compliance** (3:00 AM) (Judicial Officer: Bulla, Bonnie)

*Vacated - per Commissioner*

06/13/2018

**Motion for Good Faith Settlement** (8:30 AM) (Judicial Officer: Villani, Michael)

*Defendant Samir S. Saxena, M.D.'s Motion for Good Faith Settlement on Order Shortening Time*

06/13/2018

**Joinder** (8:30 AM) (Judicial Officer: Villani, Michael)

*Plaintiffs' Joinder to Defendant Saxena's Motion for Good Faith Settlement*

06/13/2018



**All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)

Matter Heard;

Journal Entry Details:



*Melaine Bossie, Esq. appearing telephonically. PLAINTIFF'S JOINDER TO DEFENDANT*



# CASE SUMMARY

CASE NO. A-17-750520-C

*SAXENA'S MOTION FOR GOOD FAITH SETTLEMENT...DEFENDANT'S SAMIR S. SAXENA, M.D'S MOTION FOR GOOD FAITH SETTLEMENT As to Defendant's motion, Court noted there was no objection to the motion, there was one issue that came up which was allowing Dr. Saxena placed on the verdict form. Ms. Brookhyser concurred and advised initially when the issue was brought up a request was made that in exchange for dismissing Dr. Saxena that Lifecare Center Defendants would agree not to place him on the verdict form which she couldn't agree to. Ms. Brookhyser noted she didn't see that issue reference in the good faith settlement and would to make certain it was on the record. Ms. Bossie noted based on the investigation Dr. Saxena didn't know about the event. Ms. Bossie further noted there was no evidence that would warrant Dr. Saxena be on the verdict form. Following representations by counsel, COURT ORDERED, Motion GRANTED for Good Faith Settlement; ruling DEFERRED on adding Dr. Saxena to the verdict form upon closing of presentation of the evidence. Mr. Vitatoe to prepare the Order and submit to opposing counsel as to form and content.;*

06/13/2018	<b>CANCELED Calendar Call</b> (9:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i>
06/19/2018	<b>CANCELED Calendar Call</b> (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Vacated - Case Reassigned</i>
06/25/2018	<b>CANCELED Jury Trial - FIRM</b> (9:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i>
06/25/2018	<b>CANCELED Jury Trial</b> (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated - Case Reassigned</i>
07/02/2018	 <b>Minute Order</b> (12:00 PM) (Judicial Officer: Villani, Michael) Minute Order - No Hearing Held; Journal Entry Details: <i>Upon the Court's review of the documents filed in this matter, the Opposition to motion for Summary Judgment filed on 6/29/18 contained a social security number. Therefore, Court ORDERED this document SEALED pursuant to E.D.C.R. 2.13. CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File &amp; Serve. ndo/7/2/18;</i>
08/01/2018	<b>Motion to Dismiss</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendants Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc., Intatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., and Hospitalist of Nevada's Motion to Dismiss or, in the Alternative, for Summary Judgement (A-11-642647-C)</i> Granted in Part;
08/01/2018	<b>Motion to Associate Counsel</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiffs' Motion to Associate Counsel Pursuant to SCR 42 and Request for Order Shortening Time</i> Granted;
08/01/2018	<b>Motion to Compel</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiffs' Motion to Compel Defendants' Compliance with Court Order and Request for Order Shortening Time</i> Matter Heard;
08/01/2018	 <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Villani, Michael) Matter Heard; Journal Entry Details:  <i>DEFENDANTS SAMIR SAXENA, M.D., ANNABELLE SOCAOCO, N.P., IPC HEALTHCARE, INC., INTATIENT CONSULTANTS OF NEVADA, INC., IPC HEALTHCARE SERVICES OF NEVADA, INC., AND HOSPITALIST OF NEVADA'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGEMENT (A-11-642647-C) ... PLAINTIFFS' MOTION TO ASSOCIATE COUNSEL PURSUANT TO SCR 42 AND REQUEST FOR ORDER SHORTENING TIME ... PLAINTIFFS' MOTION TO COMPEL DEFENDANTS' COMPLIANCE WITH COURT ORDER AND REQUEST FOR ORDER SHORTENING TIME</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

Bennie Lazzara, Jr., Esq., also present on behalf of Plaintiff via Court Call. COURT ORDERED, Plaintiff's Motion to Associate Counsel GRANTED. Following arguments by counsel regarding statute of limitations and Motion to Dismiss, COURT FURTHER ORDERED, Motion to Dismiss or, in the Alternative, for Summary Judgement TAKEN UNDER ADVISEMENT. Further arguments by counsel regarding Motion to Compel. As to the Motion to Compel, Court directed Ms. Brookhyser to create a privileged log and go through medication errors at other facilities as well. COURT ORDERED, matter SET for Status Check regarding compliance of Court's directives. 09/05/18 8:30 AM STATUS CHECK: COMPLIANCE ;

08/13/2018



**Minute Order** (1:45 PM) (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

*Defendants Motion to Dismiss or, in the Alternative, for Summary Judgment came before this Court on the August 1, 2018 Oral Calendar at 8:30 a.m. The Court took the matter under advisement and now rules as follows: IPC Defendants (Annabelle Socaoco, N.P.; IP Healthcare, Inc. a/k/a The Hospitalist Company, Inc.; Inpatient Consultants of Nevada, Inc.; IPC Healthcare Services of Nevada, Inc.; and Hospitalists of Nevada, Inc.) seek summary judgment on the elder abuse cause of action (NRS 41.1395) because a cause of action for malpractice of a healthcare provider is governed by NRS 41A. IPC Defendants also argue that the statute of limitations bars the medical malpractice and wrongful death claims. The Court adopts its previous ruling via minute order dated March 21, 2018. The Complaint in question is for professional negligence against a healthcare providers and, therefore, governed by NRS 41A. The Court FINDS that it was not the legislative intent of enacting NRS 41.1395 to superseded the caps under NRS 41A. There is neither legislative purpose nor intent to carve out an exception for elderly patients covered under NRS 41A. The Court FURTHER FINDS the reasoning in Brown v. Mt. General Hospital, 2013 WL 4523488 (D. Nev. 2013) to be persuasive. NRS 41A.017 provides the definition of provider of health care. The Court FINDS IPC Defendants fall within this definition, and therefore, the elder abuse causes of action are improper in the instant matter. The statute of limitations accrual date is a question of law only if the facts are uncontroverted. Winn v. Sunrise Hospital and Medical Center, 128 Nev. 246, 252-253 (2012) (citing Day v. Zube, 112 Nev. 972, 977 (1996)). The Court FINDS a question of fact remains as to the date of inquiry as to the names of the tortfeasors in this matter. Therefore, COURT ORDERED Defendants Motion to Dismiss or, in the Alternative, for Summary Judgment GRANTED IN PART and DENIED IN PART. Counsel for Defendants to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed-copy of the Order to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be signed as to form and content by all parties. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/8/13/18;*

09/05/2018



**Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)

Status Check: Compliance

Matter Heard; Status Check: Compliance

Journal Entry Details:

*Ms. Brookhyser advised 6 e-mail addresses, produced attachments within the scope of the Court's order for four of them. The last two, one of them is the largest of the e-mails which is taking the longest. Further, counsel believes everything will be produced within thirty days. Ms. Bossie stated she needs this a little quicker than thirty days. Expert is being deposed on September 27 and 28, 2018. Further, counsel advised the Court of the critical evidence redacted by Life Care. For example, which counsel would of liked to have when counsel took the Director of Nursing's deposition, is a letter from a loyal employee to Forest Preston, who is the owner of the company, bring to light the many critical issues still occurring at the Life Care of Paradise Valley facility. An employee wanted to bring forth to the ownership regarding the poor leadership, cover up of many incidents by the Director of Nursing, and she is writing to insure safety of the patients. Coincidentally, this letter goes through where management had been covering up many incidents such as having staff file false documents or false statements, being aware of many medication errors and as the Court knows, this is a main issue in this case and wrong medications have been given to patients that always have been covered up. This is a letter right to the owner about this facility, management at this facility and the problems about 2 and a half months prior to Pltf. being there given the wrong medication and died. Further, Ms. Bossie requested un-redacted of direct concerns, complaints, compliance issues and medication issue prior to nursing expert getting deposed. Counsel will have this letter when Mr. Preston is deposed to see what he did about his*

# CASE SUMMARY

CASE NO. A-17-750520-C

knowledge of this but counsel did not have this on all other depositions taken to date. Additionally, this letter is crucial, discoverable for notice and knowledge and request a shorter timeframe to produce. Ms. Brookhyser stated she will do her best to produce as quickly as she can. One of the e-mail addresses is the Senior Vice President for the entire division and there is over 10,000 e-mails. His e-mail address in particular, almost every e-mail has attachments and counsel has to go through, look at to make sure that it applies to Paradise Valley or has anything to do with medication error. Further, counsel will do her utmost to get them disclosed as quickly as can be and they have been done on a rolling basis. Court inquired if they will be produced prior to expert deposition. Ms. Brookhyser stated she will have it done before expert depositions. Court advised if there are any other issues, counsel to file appropriate motion.;

09/19/2018



**Motion for Protective Order** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

*Defendants' Motion for Protective Order*

Granted Without Prejudice; Defendants' Motion for Protective Order

Journal Entry Details:

COMMISSIONER RECOMMENDED, Defendants' Motion for Protective Order is GRANTED In Part Without Prejudice as to Walker and Preston Without Prejudice subject to a Rule 30(b) (6) deposition occurring establishing some foundation as to their personal knowledge regarding this event. Commissioner suggests it would benefit Plaintiff to put together a Rule 30(b)(6) deposition with the topic areas of concern; and, that may require the Defendant to produce one of those officers or directors for that deposition. FURTHER, IF it is determined that Mr. Hamm will be the Deponent, Defense to advise Plaintiff's counsel so they can prepare and have Mr. Hamm deposed just once. Ms. Brookhyser to prepare the Report and Recommendations, and Ms. Bossie and Mr. Vitatoe to approve as to form and content; no fees or costs. A proper report must be timely submitted within 10 days of the hearing. Commissioner is available by conference call if necessary. 11/15/18 (CHAMBERS) Status Check: Compliance (DCRR);

10/29/2018



**Minute Order** (12:30 PM) (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court, having reviewed the pleadings and papers on file herein, there being no opposition filed with the Court and pursuant to EDCR 2.20, 2.23, and for good cause appearing, COURT ORDERED IPC Defendants Motion for Partial Summary Judgment is GRANTED. Counsel for IPC Defendants is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hyp/10/29/18;

10/31/2018

**Motion for Summary Judgment** (8:30 AM) (Judicial Officer: Villani, Michael)

*Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas fka Life Care Center of Paradise Valley, South Las Vegas Investors Limited Partnership, Life Care Centers of America, Inc. and Carl Wagner's Motion for Summary Judgment*

Per 10/23/18 email from law clerk

Motion Granted;

10/31/2018

**Motion** (8:30 AM) (Judicial Officer: Villani, Michael)

*Plaintiffs' Motion for Prima Facie Claim for Punitive Damages*

Per 10/23/18 email from law clerk

Off Calendar;

10/31/2018

**Motion for Summary Judgment** (8:30 AM) (Judicial Officer: Villani, Michael)

*Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas fka Life Care Center of Paradise Valley, South Las Vegas Investors Limited Partnership, Life Care Centers of America, Inc., and Carl Wagner's Motion for Summary Judgment Regarding Punitive Damages*

pe 10/23/18 email from law clerk

Off Calendar;

10/31/2018

**CANCELED Motion for Partial Summary Judgment** (8:30 AM) (Judicial Officer: Villani, Michael)



# CASE SUMMARY

CASE NO. A-17-750520-C

*Vacated - per Judge*

*Defendant's Motion for Partial Summary Judgment*

10/31/2018

**CANCELED All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - Set in Error*

10/31/2018



**All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)

Matter Heard;

Journal Entry Details:

*PLTFS' MOTION FOR PRIMA FACIE CLAIM FOR PUNITIVE DAMAGES...DEFTS' SOUTH LAS VEGAS MEDICAL INVESTORS, LLC, DBA LIFE CARE OF SOUTH LAS VEGAS FKA LIKE CARE CENTER OF PARADISE VALLEY, SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP, LIFE CARE CENTERS OF AMERICA, INC., AND CARL WAGNER'S MOTION FOR SUMMARY JUDGMENT...DEFTS' SOUTH LAS VEGAS MEDICAL INVESTORS, LLC. DBA LIFE CARE CENTER OF SOUTH LAS VEGAS FKA LIFE CARE CENTER OF PARADISE VALLEY, SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP, LIFE CARE CENTERS OF AMERICA, INC., AND CAR WAGNER'S MOTION FOR SUMMARY JUDGMENT REGARDING PUNITIVE DAMAGES Following arguments by counsel. COURT ORDERED, written decision will issue.;*

10/31/2018



**Calendar Call** (9:00 AM) (Judicial Officer: Villani, Michael)

Trial Date Set;

Journal Entry Details:

*Court noted eight to ten days for trial. Ms. Bossie stated she believes trial will take ten days. Colloquy. Ms. Bossie requested to trail trial that is scheduled before this one. Court stated this matter will trail and ORDERED, matter SET for trial. 4/3/19 9:00 AM CALENDAR CALL 4/15/19 9:00 AM JURY TRIAL;*

11/13/2018



**Minute Order** (12:00 PM) (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

*Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner Motion for Summary Judgment came before this Court on the October 31, 2018 oral calendar. The Court having further reviewed the pleadings, files, and argument finds as follows: Summary judgment is appropriate when the pleadings and other evidence on file demonstrate no genuine issue as to any material fact [remains] and the moving party is entitled to judgment as a matter of law. See NRCP 56(c); Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). In ruling upon a motion for summary judgment, the Court must view all evidence and inferences in the light most favorable to the non-moving party. See Torrealba v. Kesmetis, 124 Nev. 95, 178 P.3d 716 (2008). To rebut a motion for summary judgment, the nonmoving party must present some specific facts to demonstrate that a genuine issue of material fact exists. Forouzan, Inc. v. Bank of George, 128 Nev. 896, 381 P.3d 612 (2012). Defendants bring their Motion For Summary Judgment on the basis that although Plaintiffs causes of action are titled abuse of an older person, wrongful death and bad faith tort the claims are actually professional negligence covered under NRS 41A.015. Further, since the claims involve professional negligence there is an affidavit of merit requirement pursuant to NRS 41A.100 and since an affidavit was not attached to the complaint summary judgment should be granted. NRS 41A.015 defines professional negligence as failure of a provider of health care, in rendering services, to use reasonable care, skill or knowledge ordinarily used under similar circumstances by similarly trained and experienced health care professionals. NRS 41A.100 provides for any action sounding in professional negligence there is a requirement of an affidavit of merit. Without such an affidavit the case must be dismissed. Washoe Medical Center v. Second Dist. Court State of Nev. ex. rel. County of Washoe provides that if a complaint in professional negligence fails to have attached thereto an affidavit of merit the complaint is void ab initio. Id. at 122 Nev. 1298, 1300 (2006). Countering said argument Plaintiffs state that by filing such a motion after two years of litigation the Defendants have waived their objection to the affidavit requirement but more importantly the claim is one of elder abuse which does not require an affidavit. Waiver If Plaintiffs claims are based upon professional negligence, there is an affidavit requirement. Such a complaint without an affidavit must be dismissed. Plaintiffs claims that Defendants waited two years to bring this matter to the Court s attention and participated in litigation for two years have therefore waived the affidavit requirement. Since*

**CASE SUMMARY****CASE NO. A-17-750520-C**

such a claim is void ab initio and the Court does not find such a claim to have merit. Vicarious Liability Defendants contend that they are entitled to the protections of Chapter 41A because their liability is derivative of its nursing staff. In *DeBoer v. Senior Bridges at Sparks Family Hospital*, 282 P.3d 727 (Nev. 2012), the Supreme Court distinguished between medical malpractice and traditional negligence on the basis of the provision of medical services provided to the plaintiff i.e. medical diagnosis, judgment, or treatment. *Id.* at 732. The Court finds that Defendants liability is based on the acts (LPN Dawson's administration of morphine to Mary Curtis) and omissions (failure to monitor Mary Curtis thereafter) of its nursing staff. Said acts and omissions are a provision of medical services based on Defendants nursing personal which gives rise to Defendants liability. Therefore, the provision of NRS 41A apply. Affidavit Requirement More fundamental to the determination by the Court is whether or not the allegations are for general negligence resulting from non-medical services or for negligent medical treatment which calls for an affidavit of merit. *Szymborski v. Spring Mountain Treatment Ctr.*, 403 P.3d 1280 (Nev. 2017). *Szymborski* holds that a Plaintiff's complaint can be based upon both negligent acts and medical malpractice. The Nevada Supreme Court stated that the Court is to look beyond the title to a particular cause of action and determine whether or not the claims actually involve medical malpractice or general negligence. *Id.* at 1284. Elder abuse is codified in NRS 41.1395 as willful and unjustified infliction of pain, injury or mental anguish or deprivation of food, shelter, clothing or services which are necessary to maintain the physical. Nev.Rev.Stat. 41.1395. As stated in *Szymborski and Egan v. Chambers*, 299 P.3d 364, 366 (Nev. 2013) the courts should look to the nature of the grievance to determine the character of the action, not the form of the pleadings. Cited with approval in *Brown v. Mt. General Hospital*, 3:12-CV-00461-LRH, 2013 WL 4523488, D. Nev. Aug. 26, 2013). Although, Plaintiffs use language from NRS 41.1395 in their complaint the underlining basis of the complaint is for medical malpractice. See paragraph 18 Despite defendant's notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on March 7, 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine. Also, See paragraph 19 Despite Defendant's notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until March 8, 2016. The administration of morphine by a LPN and failure to monitor the effects of the administration of morphine is a claim of professional negligence requiring an affidavit pursuant to NRS 41A.100. But for LPN Dawson's alleged nursing conduct of improperly administering morphine and subsequent lack of nursing monitoring Ms. Curtis, she would not have died. A claim is grounded in medical malpractice and must adhere to NRS 41A.071 where the facts underlying the claim involve medical diagnosis, treatment, or judgment and the standards of care pertaining to the medical issue require explanation to the jury from a medical expert. *Szymborski* at 1288. This Court finds persuasive the holding in *Brown v. Mt. Grant Gen. Hosp.*, 3:12-CV-00461-LRH, 2013 WL 4523488, (D. Nev. Aug. 26, 2013) which sets forth the following: Moreover, the Nevada Supreme Court has signaled a disapproval of artful pleading for the purposes of evading the medical malpractice limitations. For example, the Court concluded that medical malpractice claims extend to both intentional and negligence-based actions. *Fierle*, 219 P.2d at 913 n. 8. This means that a plaintiff cannot escape the malpractice statutes' damages or timeliness limitations by pleading an intentional tort battery, say instead of negligence. If the Nevada Supreme Court casts a jaundiced eye on the artful pleading of intentional torts, it is likely to view the artful pleading of elder abuse similarly. In the end, it seems, Nevada courts look to the nature of the grievance to determine the character of the action, not the form of the pleadings. *Egan v. Chambers*, 299 P.3d 364, 366 n. 2 (Nev.2013) (citing *State Farm Mut. Auto. Ins. Co. v. Wharton*, 88 Nev. 183, 495 P.2d 359, 361 (1972)). *Brown* at \*8. Plaintiffs Complaint is grounded in and involves medical treatment and the standard of care (administration of morphine and the failure to monitor). Thus the gravamen of the complaint sounds in professional negligence which requires an affidavit. Therefore, COURT ORDERED Defendants Motion for Summary Judgment GRANTED. Counsel for Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be approved as to form and content by all parties. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/13/18 ;

11/13/2018

**Minute Order (12:00 PM)** (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

# CASE SUMMARY

CASE NO. A-17-750520-C

*Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner ( Defendants ) Motion for Summary Judgment Regarding Punitive Damages came before this Court on the October 31, 2018 oral calendar. Based on this Court s ruling issued on November 13, 2018 on Defendants Motion for Summary Judgement, this matter is ORDERED OFF CALENDAR as being moot. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/13/18;*

11/13/2018



**Minute Order** (12:00 PM) (Judicial Officer: Villani, Michael)

Minute Order - No Hearing Held;

Journal Entry Details:

*Plaintiffs Motion for Prima Facie Claim for Punitive Damages came before this Court on the October 31, 2018 oral calendar. Based on this Court s ruling issued on November 13, 2018 on Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner Motion for Summary Judgment, this matter is ORDERED OFF CALENDAR as being moot. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/13/18;*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Preclude the Use of Reptile Tactics in Trial*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Preclude Evidence of Surveys Conducted at Life Care Centers of Paradise Valley*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Prohibit Argument Regarding Responsibility Avoidance*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Preclude Plaintiffs from Mentioning any Actual or Potential Dollar Amount of Damages to the Jury During Voir Dire*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Preclude Medical Opinions of Non-Medically Trained Witnesses*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Preclude Plaintiffs' Experts From Testifying as to Whether Any Conduct at Issue Constitutes Fraud, Oppression or Malice*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine Limit Video and Photographic Evidence of Mary Curtis*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine Prohibit Treating Physicians from Offering Standard of Care or Causation Opinions*

11/14/2018

**CANCELED Motion in Limine** (8:30 AM) (Judicial Officer: Villani, Michael)

*Vacated - per Judge*

*Defendants' Motion in Limine to Bifurcate Proceedings Regarding Punitive Damages*

**CASE SUMMARY**

**CASE NO. A-17-750520-C**

11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Strike Cost Reports</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Preclude Evidence of the Relative Wealth of the Parties</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Limit Expert Testimony to Opinions Contained Within Their Reports</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Preclude Evidence of Surveys and Other Materials From Other Facilities</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Preclude Evidence of a Printout Dated September 7, 2018 of <a href="https://acca.com">https://acca.com</a>.</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Strike Anonymous Letter</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Preclude Evidence of Survey Results Summary</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Strike Prior Medication Error Reports</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Strike Plaintiff's Expert Ernest Tosh, J.D., B.B.A</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendant's Motion In Limine to Preclude Evidence of "YELP" Reviews</i>
11/14/2018	<b>CANCELED Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i> <i>Defendants' Motion in Limine to Preclude Evidence of Prior Lawsuits</i>
11/14/2018	<b>Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>IPC Defendants Motion In Limine No. 1 to Limit Noneconomic Damages Argument Off Calendar;</i>
11/14/2018	<b>Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>IPC Defendants Motion In Limine No. 2 To Limit Treating Physician Testimony Off Calendar;</i>
11/14/2018	<b>Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>IPC Defendants Motion In Limine No. 3 To Limit Plaintiffs Cumulative Expert Testimony Off Calendar;</i>
11/14/2018	<b>Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>IPC Defendants Motion In Limine No. 5 To Permit Collateral Source Evidence</i>

# CASE SUMMARY

CASE NO. A-17-750520-C

	Off Calendar;
11/14/2018	<b>Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>IPC Defendants' Motion in Limine No 4 to Exclude Irrelevant Deviations From Standard of Care</i> Per 10/23/18 email from law clerk Off Calendar;
11/14/2018	<b>Joinder to Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendants' Joinder to IPC Defendants Motion in Limine No. 4 to Exclude Irrelevant Deviations from Standard of Care</i> Per 10/23/18 email from law clerk Off Calendar;
11/14/2018	<b>Joinder to Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendants' Joinder to IPC Defendants Motion in Limine No. 3 to Limit Cumulative Expert Testimony</i> Off Calendar;
11/14/2018	<b>Joinder to Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendants' Joinder to IPC Defendants Motion in Limine No. 2 to Limit Treating Physician Testimony</i> Off Calendar;
11/14/2018	<b>Joinder to Motion in Limine</b> (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendants' Joinder to IPC Defendants Motion in Limine No. 1 to Limit Noneconomic Damages Argument</i> Off Calendar;
11/14/2018	 <b>All Pending Motions</b> (8:30 AM) (Judicial Officer: Villani, Michael) Matter Heard; Journal Entry Details: <i>IPC DEFENDANTS MOTION IN LIMINE NO. 1 TO LIMIT NONECONOMIC DAMAGES ARGUMENT ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 1 TO LIMIT NONECONOMIC DAMAGES ARGUMENT COURT ORDERED, Motion OFF CALENDAR. IPC DEFENDANTS MOTION IN LIMINE NO. 2 TO LIMIT TREATING PHYSICIAN TESTIMONY ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 2 TO LIMIT TREATING PHYSICIAN TESTIMONY COURT ORDERED, Motion OFF CALENDAR. IPC DEFENDANTS MOTION IN LIMINE NO. 3 TO LIMIT PLAINTIFFS CUMULATIVE EXPERT TESTIMONY ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 3 TO LIMIT CUMULATIVE EXPERT TESTIMONY COURT ORDERED, Motion OFF CALENDAR. IPC DEFENDANTS' MOTION IN LIMINE NO 4 TO EXCLUDE IRRELEVANT DEVIATIONS FROM STANDARD OF CARE ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 4 TO EXCLUDE IRRELEVANT DEVIATIONS FROM STANDARD OF CARE COURT ORDERED, Motion OFF CALENDAR. IPC DEFENDANTS MOTION IN LIMINE NO. 5 TO PERMIT COLLATERAL SOURCE EVIDENCE COURT ORDERED, Motion OFF CALENDAR. Colloquy regarding the 54B language being added to the Court's Order. Court stated if parties agree to add the language to the Order, then they may do so. Court directed counsel to file a Motion for Certification if the parties do not agree.;</i>
11/15/2018	<b>CANCELED Status Check: Compliance</b> (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i> <i>Status Check: Compliance / DCRR</i>
11/26/2018	<b>CANCELED Jury Trial</b> (9:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Judge</i>
01/09/2019	<b>Motion For Reconsideration</b> (3:00 AM) (Judicial Officer: Villani, Michael) <i>IPC Defendants' Motion for Reconsideration</i>
04/03/2019	<b>Calendar Call</b> (9:00 AM) (Judicial Officer: Villani, Michael)

**CASE SUMMARY****CASE NO. A-17-750520-C**

04/15/2019	<b>Jury Trial (9:00 AM)</b> (Judicial Officer: Villani, Michael)	
DATE	FINANCIAL INFORMATION	
	<b>Consolidated Case Party</b> Saxena, Samir S., M.D.	
	Total Charges	973.00
	Total Payments and Credits	973.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Defendant</b> Life Care Centers of America Inc	
	Total Charges	30.00
	Total Payments and Credits	30.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Defendant</b> Portello, Bina Hribik	
	Total Charges	423.00
	Total Payments and Credits	423.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Defendant</b> South Las Vegas Investors Limited Partnership	
	Total Charges	30.00
	Total Payments and Credits	30.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Defendant</b> South Las Vegas Medical Investors LLC	
	Total Charges	423.00
	Total Payments and Credits	423.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Defendant</b> Wagner, Carl	
	Total Charges	30.00
	Total Payments and Credits	30.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Plaintiff</b> Estate of Mary Curtis	
	Total Charges	494.00
	Total Payments and Credits	494.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Personal Representative</b> Latrenta, Laura	
	Total Charges	30.00
	Total Payments and Credits	30.00
	<b>Balance Due as of 12/29/2018</b>	<b>0.00</b>
	<b>Personal Representative</b> Latrenta, Laura	
	Security Cost Bond Balance as of 12/29/2018	<b>500.00</b>
	<b>Personal Representative</b> Latrenta, Laura	
	Appeal Bond Balance as of 12/29/2018	<b>500.00</b>



## DISTRICT COURT CIVIL COVER SHEET

A-17-750520-C

County, Nevada

XXIII

Case No.

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Estate of Mary Curtis, deceased; Laura LaTrenta, as Personal Representative of the Estate of Mary Curtis; and Laura LaTrenta	Defendant(s) (name/address/phone): South Las Vegas Medical Investors, LLC d/b/a Life Care Center of South Las Vegas, f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.
Attorney (name/address/phone): Michael D. Davidson Esq. - Kolesar & Leatham 400 S. Rampart Blvd., Suite 400, Las Vegas, NV 89145 (702) 362-7800, telephone (702) 362-9472, facsimile	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input checked="" type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

February 2, 2017

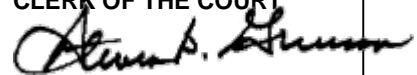
Date

Signature of initiating party or representative

See other side for family-related case filings.

ORIGINAL

Electronically Filed  
12/7/2018 4:12 PM  
Steven D. Grierson  
CLERK OF THE COURT



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*Attorneys for Defendants South Las Vegas*  
7 *Medical Investors LLC dba Life Care Center of*  
*South Las Vegas fka Life Care Center of Paradise*  
8 *Valley, South Las Vegas Investors, LP, Life Care*  
*Centers of America, Inc., Carl Wagner,*  
9

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 Estate of MARY CURTIS, deceased; LAURA  
13 LATRENTA, as Personal Representative of  
the Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

14 Plaintiffs,

15 vs.

16 SOUTH LAS VEGAS MEDICAL  
17 INVESTORS, LLC dba LIFE CARE  
CENTER OF SOUTH LAS VEGAS fka LIFE  
18 CARE CENTER OF PARADISE VALLEY;  
SOUTH LAS VEGAS INVESTORS  
19 LIMITED PARTNERSHIP; LIFE CARE  
CENTERS OF AMERICA, INC.; BINA  
20 HRIBIK PORTELLO, Administrator; CARL  
WAGNER, Administrator; and DOES 1-50  
21 inclusive,

22 Defendants.

23 -----  
24 Estate of MARY CURTIS, deceased; LAURA  
25 LATRENTA, as Personal Representative of the  
Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

26 Plaintiffs,

27 Vs.  
28

CASE NO. A-17-750520-C  
Dept. No.: XVII

Consolidated with:  
CASE NO. A-17-754013-C

**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

RECEIVED BY  
DEPT 17 ON  
DEC 03 2018

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IS



1 SAMIR SAXENA , M.D.,  
2 Defendant  
3  
4

**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

5 THIS MATTER, having come on for hearing the 31st day of October, 2018 on Defendants South  
6 Las Vegas Medical Investors LLC dba Life Care Center of South Las Vegas fka Life Care Center  
7 of Paradise Valley, South Las Vegas Investors, LP, Life Care Centers of America, Inc., and Carl  
8 Wagner's Motion for Summary Judgment, S. Brent Vogel, Esq., of the Law Firm Lewis Brisbois  
9 Bisgaard & Smith, appearing on behalf of Defendants South Las Vegas Medical Investors LLC dba  
10 Life Care Center of South Las Vegas fka Life Care Center of Paradise Valley, South Las Vegas  
11 Investors, LP, Life Care Centers of America, Inc., and Carl Wagner ("Defendants"); Vincent  
12 Vitatoe, Esq., of the Law Firm John H. Cotton & Associates, Ltd., appearing on behalf of Annabelle  
13 Socaoco, N.P.; IPC Healthcare, Inc. aka The Hospitalist Company, Inc.; INPATIENT  
14 CONSULTANTS OF NEVADA, INC.; IPC Healthcare Services Of Nevada, Inc.; Hospitalists Of  
15 Nevada, Inc. (collectively, "IPC Defendants"); and Melanie Bossie, Esq., of the Law Firm Wilkes  
16 & McHugh, and Michael Davidson, Esq., of the Law Firm Kolesar and Leatham, appearing on  
17 behalf of Plaintiffs Estate of Mary Curtis and Laura Latrenta, the Court, having considered the  
18 papers and pleadings in this matter and after hearing oral argument, finds as follows:  
19  
20  
21

**FINDINGS OF FACT**

- 22
- 23 1). Mary Curtis was a resident at Life Care Center of South Las Vegas fka Life Care  
24 Center of Paradise Valley (LCCPV) from March 2, 2016 through March 8, 2016.
- 25 2). On March 7, 2016, Ersheila Dawson, LPN, administered to Ms. Curtis a dose of  
26 morphine prescribed to another resident.
- 27 3). On March 8, 2016, Ms. Curtis was transferred from LCCPV to Sunrise Hospital.  
28



1 granted. Plaintiffs state that by filing such a Motion after two years of litigation, the Defendants  
2 have waived their objection to the affidavit requirement but more importantly, the claim is one of  
3 abuse/neglect of an older person and not professional negligence under Chapter 41A, which does  
4 not require an expert affidavit.

5 3). NRS 41A.015 defines professional negligence as a failure of a provider of healthcare,  
6 in rendering services, to use the reasonable care, skill or knowledge ordinarily used under similar  
7 circumstances by similarly trained and experienced health care professionals. NRS 41A.071  
8 provides that for any action sounding in professional negligence, there is a requirement of an  
9 affidavit of merit. Without such an affidavit, the case must be dismissed. If a complaint for  
10 professional negligence fails to have attached thereto an affidavit of merit, the complaint is void *ab*  
11 *initio*. Washoe Medical Center v. Second Dist. Court, 122 Nev. 1298, 1300 (2006).  
12

13 4). The Court does not find the claim that Defendants waived the affidavit requirement  
14 by filing their Motion after two years of litigation. If Plaintiffs' claims are based upon professional  
15 negligence, there is an affidavit requirement. Such a complaint without an affidavit must be  
16 dismissed since it is void *ab initio*. Additionally, given that the expert affidavit requirement is  
17 jurisdictional, it cannot be waived. See, e.g., Jasper v. Jewkes, 50 Nev. 153, 254 P. 698  
18 (1927); Liberty Mut. v. Thomasson, 317 P.3d 831 (2014); Padilla Constr.Co. v. Burley, 2016 Nev.  
19 App. Unpub. LEXIS 10 (May 10, 2016); Finley v. Finley, 65 Nev. 113 (1948).  
20

21 5). Defendants contend that they are entitled to the protections of Chapter 41A because  
22 their liability is derivative of its nursing staff. In Deboer v. Senior Bridges at Sparks Family Hospital,  
23 282 P.3d 727 (Nev. 2012), the Supreme Court distinguished between medical malpractice and  
24 traditional negligence on the basis of the provision of medical services provided to the plaintiff, i.e.,  
25 medical diagnosis, judgment or treatment. *Id.* at 732.  
26

27 6). The Court finds that Defendants' liability is based on the acts (LPN Dawson's  
28

1 administration of morphine to Mary Curtis) and omissions (failure to monitor Mary Curtis  
2 thereafter) of its nursing staff. LPN Dawson and the other nursing staff monitoring Ms. Curtis are  
3 providers of health care pursuant to NRS 41A.017. Said acts and omissions are a provision of  
4 medical services which give rise to Defendants' liability. Therefore, the provisions of NRS Chapter  
5 41A apply.

6  
7 7). More fundamental to the determination by the Court is whether or not the allegations  
8 are for general negligence resulting from non-medical services or for negligent medical treatment  
9 which calls for an affidavit of merit. Szyborski v. Spring Mountain Treatment Ctr., 403 P.3d 1280  
10 (Nev. 2017). Szyborski holds that a plaintiff's complaint can be based upon both general  
11 negligence and professional negligence. The Nevada Supreme Court stated that the Court is to look  
12 beyond the title to a particular cause of action and determine whether or not the claims actually  
13 involve professional negligence or general negligence. *Id.* at 1284.

14  
15 8). Abuse/neglect of an older person is codified in NRS 41.1395 as willful and  
16 unjustified infliction of pain, injury or mental anguish or deprivation of food, shelter, clothing or  
17 services which are necessary to maintain the physical or mental health of an older person or a  
18 vulnerable person. Nev.Rev.Stat.41.1395. As stated in Szyborski and Egan v. Chambers, 299 P.3d  
19 364, 366 (Nev. 2013), the courts should look to the nature of the grievance to determine the character  
20 of the action, not the form of the pleadings. Cited with approval in Brown v. Mt. General Hospital,  
21 3:12-CV-00461-LRH, 2013 WL 4523488 (D. Nev., Aug. 2013).

22  
23 9). Although Plaintiffs use language from NRS 41.1395 in their complaint, the  
24 underlying basis of the complaint is for medical malpractice. See Complaint, ¶18. Plaintiffs allege  
25 that despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for proper  
26 medication administration, they, on March 7, 2016, administered to her a dose of morphine  
27 prescribed to another resident. Ms. Curtis was not prescribed morphine. See Complaint, ¶19.  
28

10). Plaintiffs further allege that, despite Defendants' notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until March 8, 2016.

11). The administration of morphine by an LPN and failure to monitor the effects of the administration of morphine is a claim of professional negligence requiring an affidavit pursuant to NRS 41A.071. In other words, Plaintiffs allege that but for LPN Dawson's alleged nursing conduct of improperly administering morphine and subsequent lack of nursing monitoring of Ms. Curtis, she would not have died. As the gravamen of Plaintiffs' allegations sounds in professional negligence, NRS Chapter 41A applies to all of Plaintiffs' claims to the exclusion of NRS 41.1395.

12). A claim is grounded in professional negligence and must adhere to NRS 41A.071 where the facts underlying the claim involve medical diagnosis, treatment, or judgment and the standards of care pertaining to the medical issue require explanation to the jury from a medical expert. Szymborski at 1288. This Court finds persuasive the holding in Brown v. Mt. Grant Gen. Hosp., 3:12-CV-00461-LRH, 2013 WL 4523488 (D.Nev. Aug.26, 2-13), which sets forth the following:

"Moreover, the Nevada Supreme Court has signaled a disapproval of artful pleading for the purposes of evading the medical malpractice limitations. For example, the Court concluded that medical malpractice claims extend to both intentional and negligence-based actions. Fierle, 219 P.2d at 913 n. 8. This means that a plaintiff cannot escape the malpractice statutes damages or timeliness limitations by pleadings intentional tort battery, say instead of negligence. If the Nevada Supreme Court casts an jaundiced eye on the artful pleading of intentional torts, it is likely to view the artful pleading of elder abuse similarly. In the end, it seems, Nevada courts look to the nature of the grievance to determine the character of the action, not the form of the pleadings. Egan v. Chambers, 299 P.3d 364, 366 n.2 (Nev. 2013 (citing State Farm Mut. Auto. Ins. Co. v. Wharton, 88 Nev. 183, 495 P.2d 359, 361 (1972)))."

Brown, at \*8.

13). Plaintiffs' Complaint is grounded in and involves medical treatment and the standard

1 of care (administration of morphine and the failure to monitor). Thus, the gravamen of the  
2 Complaint, and all claims therein, sounds in professional negligence, which requires an affidavit.

3 IT IS THEREFORE HEREBY ORDERED, ADJUDGED, AND DECREED, that  
4 Defendants South Las Vegas Medical Investors LLC dba Life Care Center of South Las Vegas fka  
5 Life Care Center of Paradise Valley, South Las Vegas Investors, LP, Life Care Centers of America,  
6 Inc., and Carl Wagner's Motion for Summary Judgment is hereby GRANTED.  
7

8 It is further determined and ordered pursuant to Nev. R. Civ. P. 54(b), this is a final judgment  
9 and there is no just reason for delay of entry of judgment in favor of Defendants.

10 IT IS SO ORDERED

11 DATED this 3 day of Dec., 2018.




DISTRICT COURT JUDGE

13 Submitted by:

14 LEWIS BRISBOIS BISGAARD & SMITH LLP

JM

16 By:



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Approved as to form by:

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*Attorneys for Plaintiffs*

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By: \_\_\_\_\_

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*Attorneys for IPC Defendants*



1 Approved as to form by:

2

3 **KOLESAR & LEATHAM**

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9 Las Vegas, Nevada 89145

10 -and-

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12 Arizona Bar No. 022825  
13 **WILKES & MCHUGH, P.A.**  
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15 Scottsdale, Arizona 85260

16 *Attorneys for Plaintiffs*

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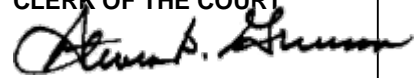
Approved as to form and content by:

**JOHN H. COTTON & ASSOCIATES, LTD.**

By:   
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*Attorneys for IPC Defendants*





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7 *Medical Investors LLC dba Life Care Center of*  
*South Las Vegas fka Life Care Center of Paradise*  
8 *Valley, South Las Vegas Investors, LP, Life Care*  
*Centers of America, Inc., Carl Wagner,*  
9

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 Estate of MARY CURTIS, deceased; LAURA  
13 LATRENTA, as Personal Representative of  
the Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

14 Plaintiffs,

15 vs.

16 SOUTH LAS VEGAS MEDICAL  
17 INVESTORS, LLC dba LIFE CARE  
CENTER OF SOUTH LAS VEGAS fka LIFE  
18 CARE CENTER OF PARADISE VALLEY;  
SOUTH LAS VEGAS INVESTORS  
19 LIMITED PARTNERSHIP; LIFE CARE  
CENTERS OF AMERICA, INC.; BINA  
20 HRIBIK PORTELLO, Administrator; CARL  
WAGNER, Administrator; and DOES 1-50  
21 inclusive,

22 Defendants.

23 -----  
24 Estate of MARY CURTIS, deceased; LAURA  
25 LATRENTA, as Personal Representative of  
the Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

26 Plaintiffs,

27 Vs.  
28

CASE NO. A-17-750520-C  
Dept. No.: XVII

Consolidated with:  
CASE NO. A-17-754013-C

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT**

1 SAMIR SAXENA , M.D.,  
2  
3 Defendant  
4

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANTS' MOTION  
FOR SUMMARY JUDGMENT**

5 PLEASE TAKE NOTICE that an **ORDER GRANTING DEFENDANTS' MOTION**  
6 **FOR SUMMARY JUDGMENT** was entered with the Court in the above-captioned matter on the  
7 7th day of December, 2018, a copy of which is attached hereto.

8 DATED this 11th day of December, 2018

9 LEWIS BRISBOIS BISGAARD & SMITH LLP  
10  
11

12 By /s/ Amanda J. Brookhyser

13 S. BRENT VOGEL  
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21 South Las Vegas fka Life Care Center of Paradise  
22 Valley, South Las Vegas Investors, LP, Life Care  
23 Centers of America, Inc., Carl Wagner,  
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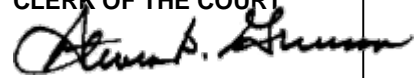
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 11<sup>th</sup> day of December, 2018, a true and correct copy  
3 of **NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' MOTION FOR**  
4 **SUMMARY JUDGMENT** was served by electronically filing with the Clerk of the Court using  
5 the Wiznet Electronic Service system and serving all parties with an email-address on record, who  
6 have agreed to receive Electronic Service in this action.

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10 By /s/ Johana Whitbeck  
11 an Employee of  
12 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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Steven D. Grierson  
CLERK OF THE COURT



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*South Las Vegas fka Life Care Center of Paradise*  
8 *Valley, South Las Vegas Investors, LP, Life Care*  
*Centers of America, Inc., Carl Wagner,*  
9

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 Estate of MARY CURTIS, deceased; LAURA  
13 LATRENTA, as Personal Representative of  
the Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

14 Plaintiffs,

15 vs.

16 SOUTH LAS VEGAS MEDICAL  
17 INVESTORS, LLC dba LIFE CARE  
CENTER OF SOUTH LAS VEGAS fka LIFE  
18 CARE CENTER OF PARADISE VALLEY;  
SOUTH LAS VEGAS INVESTORS  
19 LIMITED PARTNERSHIP; LIFE CARE  
CENTERS OF AMERICA, INC.; BINA  
20 HRIBIK PORTELLO, Administrator; CARL  
WAGNER, Administrator; and DOES 1-50  
21 inclusive,

22 Defendants.

23 -----  
24 Estate of MARY CURTIS, deceased; LAURA  
25 LATRENTA, as Personal Representative of the  
Estate of MARY CURTIS; and LAURA  
LATRENTA, individually,

26 Plaintiffs,

27  
28 Vs.

CASE NO. A-17-750520-C  
Dept. No.: XVII

Consolidated with:  
CASE NO. A-17-754013-C

**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

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IS

1 SAMIR SAXENA , M.D.,  
2 Defendant  
3  
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**ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT**

5 THIS MATTER, having come on for hearing the 31st day of October, 2018 on Defendants South  
6 Las Vegas Medical Investors LLC dba Life Care Center of South Las Vegas fka Life Care Center  
7 of Paradise Valley, South Las Vegas Investors, LP, Life Care Centers of America, Inc., and Carl  
8 Wagner's Motion for Summary Judgment, S. Brent Vogel, Esq., of the Law Firm Lewis Brisbois  
9 Bisgaard & Smith, appearing on behalf of Defendants South Las Vegas Medical Investors LLC dba  
10 Life Care Center of South Las Vegas fka Life Care Center of Paradise Valley, South Las Vegas  
11 Investors, LP, Life Care Centers of America, Inc., and Carl Wagner ("Defendants"); Vincent  
12 Vitatoe, Esq., of the Law Firm John H. Cotton & Associates, Ltd., appearing on behalf of Annabelle  
13 Socaoco, N.P.; IPC Healthcare, Inc. aka The Hospitalist Company, Inc.; INPATIENT  
14 CONSULTANTS OF NEVADA, INC.; IPC Healthcare Services Of Nevada, Inc.; Hospitalists Of  
15 Nevada, Inc. (collectively, "IPC Defendants"); and Melanie Bossie, Esq., of the Law Firm Wilkes  
16 & McHugh, and Michael Davidson, Esq., of the Law Firm Kolesar and Leatham, appearing on  
17 behalf of Plaintiffs Estate of Mary Curtis and Laura Latrenta, the Court, having considered the  
18 papers and pleadings in this matter and after hearing oral argument, finds as follows:  
19  
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21

**FINDINGS OF FACT**

- 22
- 23 1). Mary Curtis was a resident at Life Care Center of South Las Vegas fka Life Care  
24 Center of Paradise Valley (LCCPV) from March 2, 2016 through March 8, 2016.
- 25 2). On March 7, 2016, Ersheila Dawson, LPN, administered to Ms. Curtis a dose of  
26 morphine prescribed to another resident.
- 27 3). On March 8, 2016, Ms. Curtis was transferred from LCCPV to Sunrise Hospital.  
28



1 granted. Plaintiffs state that by filing such a Motion after two years of litigation, the Defendants  
2 have waived their objection to the affidavit requirement but more importantly, the claim is one of  
3 abuse/neglect of an older person and not professional negligence under Chapter 41A, which does  
4 not require an expert affidavit.

5 3). NRS 41A.015 defines professional negligence as a failure of a provider of healthcare,  
6 in rendering services, to use the reasonable care, skill or knowledge ordinarily used under similar  
7 circumstances by similarly trained and experienced health care professionals. NRS 41A.071  
8 provides that for any action sounding in professional negligence, there is a requirement of an  
9 affidavit of merit. Without such an affidavit, the case must be dismissed. If a complaint for  
10 professional negligence fails to have attached thereto an affidavit of merit, the complaint is void *ab*  
11 *initio*. Washoe Medical Center v. Second Dist. Court, 122 Nev. 1298, 1300 (2006).  
12

13 4). The Court does not find the claim that Defendants waived the affidavit requirement  
14 by filing their Motion after two years of litigation. If Plaintiffs' claims are based upon professional  
15 negligence, there is an affidavit requirement. Such a complaint without an affidavit must be  
16 dismissed since it is void *ab initio*. Additionally, given that the expert affidavit requirement is  
17 jurisdictional, it cannot be waived. See, e.g., Jasper v. Jewkes, 50 Nev. 153, 254 P. 698  
18 (1927); Liberty Mut. v. Thomasson, 317 P.3d 831 (2014); Padilla Constr.Co. v. Burley, 2016 Nev.  
19 App. Unpub. LEXIS 10 (May 10, 2016); Finley v. Finley, 65 Nev. 113 (1948).  
20

21 5). Defendants contend that they are entitled to the protections of Chapter 41A because  
22 their liability is derivative of its nursing staff. In Deboer v. Senior Bridges at Sparks Family Hospital,  
23 282 P.3d 727 (Nev. 2012), the Supreme Court distinguished between medical malpractice and  
24 traditional negligence on the basis of the provision of medical services provided to the plaintiff, i.e.,  
25 medical diagnosis, judgment or treatment. *Id.* at 732.  
26

27 6). The Court finds that Defendants' liability is based on the acts (LPN Dawson's  
28

1 administration of morphine to Mary Curtis) and omissions (failure to monitor Mary Curtis  
2 thereafter) of its nursing staff. LPN Dawson and the other nursing staff monitoring Ms. Curtis are  
3 providers of health care pursuant to NRS 41A.017. Said acts and omissions are a provision of  
4 medical services which give rise to Defendants' liability. Therefore, the provisions of NRS Chapter  
5 41A apply.

6  
7 7). More fundamental to the determination by the Court is whether or not the allegations  
8 are for general negligence resulting from non-medical services or for negligent medical treatment  
9 which calls for an affidavit of merit. Szyborski v. Spring Mountain Treatment Ctr., 403 P.3d 1280  
10 (Nev. 2017). Szyborski holds that a plaintiff's complaint can be based upon both general  
11 negligence and professional negligence. The Nevada Supreme Court stated that the Court is to look  
12 beyond the title to a particular cause of action and determine whether or not the claims actually  
13 involve professional negligence or general negligence. *Id.* at 1284.

14  
15 8). Abuse/neglect of an older person is codified in NRS 41.1395 as willful and  
16 unjustified infliction of pain, injury or mental anguish or deprivation of food, shelter, clothing or  
17 services which are necessary to maintain the physical or mental health of an older person or a  
18 vulnerable person. Nev.Rev.Stat.41.1395. As stated in Szyborski and Egan v. Chambers, 299 P.3d  
19 364, 366 (Nev. 2013), the courts should look to the nature of the grievance to determine the character  
20 of the action, not the form of the pleadings. Cited with approval in Brown v. Mt. General Hospital,  
21 3:12-CV-00461-LRH, 2013 WL 4523488 (D. Nev., Aug. 2013).

22  
23 9). Although Plaintiffs use language from NRS 41.1395 in their complaint, the  
24 underlying basis of the complaint is for medical malpractice. See Complaint, ¶18. Plaintiffs allege  
25 that despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for proper  
26 medication administration, they, on March 7, 2016, administered to her a dose of morphine  
27 prescribed to another resident. Ms. Curtis was not prescribed morphine. See Complaint, ¶19.  
28



10). Plaintiffs further allege that, despite Defendants' notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until March 8, 2016.

11). The administration of morphine by an LPN and failure to monitor the effects of the administration of morphine is a claim of professional negligence requiring an affidavit pursuant to NRS 41A.071. In other words, Plaintiffs allege that but for LPN Dawson's alleged nursing conduct of improperly administering morphine and subsequent lack of nursing monitoring of Ms. Curtis, she would not have died. As the gravamen of Plaintiffs' allegations sounds in professional negligence, NRS Chapter 41A applies to all of Plaintiffs' claims to the exclusion of NRS 41.1395.

12). A claim is grounded in professional negligence and must adhere to NRS 41A.071 where the facts underlying the claim involve medical diagnosis, treatment, or judgment and the standards of care pertaining to the medical issue require explanation to the jury from a medical expert. Szymborski at 1288. This Court finds persuasive the holding in Brown v. Mt. Grant Gen. Hosp., 3:12-CV-00461-LRH, 2013 WL 4523488 (D.Nev. Aug.26, 2-13), which sets forth the following:

"Moreover, the Nevada Supreme Court has signaled a disapproval of artful pleading for the purposes of evading the medical malpractice limitations. For example, the Court concluded that medical malpractice claims extend to both intentional and negligence-based actions. Fierle, 219 P.2d at 913 n. 8. This means that a plaintiff cannot escape the malpractice statutes damages or timeliness limitations by pleadings intentional tort battery, say instead of negligence. If the Nevada Supreme Court casts an jaundiced eye on the artful pleading of intentional torts, it is likely to view the artful pleading of elder abuse similarly. In the end, it seems, Nevada courts look to the nature of the grievance to determine the character of the action, not the form of the pleadings. Egan v. Chambers, 299 P.3d 364, 366 n.2 (Nev. 2013 (citing State Farm Mut. Auto. Ins. Co. v. Wharton, 88 Nev. 183, 495 P.2d 359, 361 (1972)))."

Brown, at \*8.

13). Plaintiffs' Complaint is grounded in and involves medical treatment and the standard

1 of care (administration of morphine and the failure to monitor). Thus, the gravamen of the  
2 Complaint, and all claims therein, sounds in professional negligence, which requires an affidavit.

3 IT IS THEREFORE HEREBY ORDERED, ADJUDGED, AND DECREED, that  
4 Defendants South Las Vegas Medical Investors LLC dba Life Care Center of South Las Vegas fka  
5 Life Care Center of Paradise Valley, South Las Vegas Investors, LP, Life Care Centers of America,  
6 Inc., and Carl Wagner's Motion for Summary Judgment is hereby GRANTED.  
7

8 It is further determined and ordered pursuant to Nev. R. Civ. P. 54(b), this is a final judgment  
9 and there is no just reason for delay of entry of judgment in favor of Defendants.

10 IT IS SO ORDERED

11 DATED this 3 day of Dec., 2018.




DISTRICT COURT JUDGE

13 Submitted by:

14 LEWIS BRISBOIS BISGAARD & SMITH LLP

JM

16 By:



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20 *Attorneys for Life Care Defendants*  
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*Attorneys for Plaintiffs*

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*Attorneys for IPC Defendants*

1 Approved as to form by:

2

3 **KOLESAR & LEATHAM**

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5 By: \_\_\_\_\_  
6 MICHAEL DAVIDSON, ESQ. (NV Bar No.  
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16 *Attorneys for Plaintiffs*

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*Attorneys for IPC Defendants*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**August 16, 2017**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**August 16, 2017**

**3:57 PM**

**Minute Order**

**Minute Order Re:  
Court's Recusal**

**HEARD BY:** Miley, Stefany

**COURTROOM:** RJC Courtroom 12C

**COURT CLERK:** Katherine Streuber

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Pursuant to Millen v. District Court, 122 Nev. Adv. Op. No. 105, a Recusal List was prepared, made public record and attorney John H. Cotton, Esq., was named on the list. To avoid the appearance of impropriety and implied bias, the COURT hereby recuses itself. The Motion to Consolidate set for August 22, 2017 at 9:30 am and the Calendar Call set for June 19, 2018 at 11:00 am as well as the Jury Trial set for June 25, 2018 at 1:00 pm are hereby vacated. This matter will be reassigned at random and the hearings will be calendared in the new department.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**August 24, 2017**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**August 24, 2017      9:30 AM      Motion to Consolidate**

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

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn Griffiths

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Appearances:

Michael D. Davidson, Esq. for Plaintiff (A750520 and A754013) along with lead counsel Melanie L. Bossie, Pro Hac Vice

John Orr, Esq. for Defendant South Las Vegas Medical Investors LLC (A750520)

Vincent Vitatoe, Esq. for Samir Saxena M.D. (A754013)

Arguments by Ms. Bossie and Mr. Vitatoe regarding the merits of and opposition to the motion. Mr. Orr stated he had nothing to add. Court stated its findings and ORDERED, Motion to Consolidate (A750520 and A754013) GRANTED. Plaintiff's counsel to prepare the order and submit it to opposing counsel for approval.

-----CASE CONSOLIDATED (A750520 AND A754013)-----

-----LEAD CASE-----

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**September 08, 2017**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**September 08, 2017    1:59 PM      Minute Order**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:**

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, pursuant to EDCR 1.31, this consolidated matter is TRANSFERRED due to the special assignment of the current department (business court) to a department hearing civil but not CD or business court matters.

CLERK'S NOTE: A copy of this minute order was distributed to the parties via the E-Service List./ dr  
9-8-17

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence****COURT MINUTES****September 12, 2017**

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
                                  vs.  
                                  South Las Vegas Investors Limited Partnership, Defendant(s)

**September 12, 2017      9:30 AM      Discovery Conference      Discovery  
    Conference for Sub  
    Case A754013**

**HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** April Watkins**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

**PRESENT:**      Davidson, Michael D.      Attorney

**JOURNAL ENTRIES**

- Vincent Vitatoe, Esq., present on behalf of Deft. Samir Saxena, M.D., in consolidated case A754013.

Commissioner noted this is a procedural mess. Cases are consolidated now. Judge Alff consolidated the cases but she is business court and will not be hearing the medical malpractice so it was to be randomly reassigned per Chief Judge Gonzales. Statement by Mr. Davidson. Further, Commissioner stated there is a scheduling order in the lead case controls. There is a scheduling order in the lead case, do not have one in the subordinate case, have a trial date in the subordinate case and not in the lead case. Additionally, Commissioner does not believe the trial date stands in the subordinate case. At the medical malpractice status checks, Judge Weiss actually transferred the subordinate case to Department VI. But now it is consolidated, subordinate case out of Department VI, is with Department XXVII until it is going to be reassigned. The trial date in the lead case has been vacated and will be reset by the department. This case will not go back to the sweeps because it already had a trial date and now is consolidated. The lead case will not go back because it has a scheduling order and trial date. COMMISSIONER RECOMMENDED, counsel to follow the scheduling order in the lead case and there will not be a scheduling order issued for the subordinate case. If counsel needs more time, does not have a trial date in the lead case, counsel to prepare a 2.35 stipulation and send



to the Commissioner. FURTHER COMMISSIONER RECOMMENDED, matter SET for status check. Mr. Vitatoe stated in terms of the stipulation, not sure if parties are going to agree to extend the deadlines. Commissioner stated a motion will have to be done and serve in the consolidate case as well. Parties to either submit a 2.35 stipulation in the consolidated cases or file motion to extend in the consolidated cases. Mr. Davidson stated parties anticipated that parties would come back once the cases were consolidated either the Commissioner or the Judge would take a look at the two cases and set a unified schedule. Commissioner stated that does not happen. Once parties receive a scheduling order, the only way to move discovery deadlines by 2/35 stipulation or motion. A new scheduling order will not be issued in this case as the lead case already has one.

CONTINUED TO: 10/24/17 9:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**December 13, 2017**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**December 13, 2017      9:00 AM**

**All Pending Motions**

**HEARD BY:** Bulla, Bonnie

**COURTROOM:** RJC Level 5 Hearing Room

**COURT CLERK:** Jennifer Lott

**RECORDER:** Francesca Haak

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
Vogel, Stephen B.      Attorney  
Weiss, Todd M.      Attorney

**JOURNAL ENTRIES**

- Plaintiffs Motion to Compel Further Responses to Requests for Production ..... Defendant's Motion for Protective Order

Mr. Bossie asked to proceed without Mr. Davidson (adding another hearing); no objection by Defense counsel. Once the Protective Order is in place, it appears to Commissioner that Defense counsel will provide a significant part of information. COMMISSIONER RECOMMENDED, Plaintiffs Motion to Compel is GRANTED IN PART; Defendant's Motion for Protective Order is GRANTED IN PART; parameters discussed; (1) INSUFFICIENT STAFFING - staffing information must be provided during the time Plaintiff was in the life care center for six months before and six months after to determine trending, and was there a subsequent remedial measure; (2) any MEDICATION ERRORS - Deft needs to be more responsive, but REDACT resident patient names or use a code sheet; go back five years - start with local facility to determine the process, then do a 30(b)(6) deposition. Two hundred plus facilities nationwide.

COMMISSIONER RECOMMENDED, Request to Produce 46 - look at 1-1-2016 through 3-31-2016, Plaintiff was only there March 2nd through March 8th (a few days); colloquy re: other lawsuits for five years before; turn over employment file for Nurse with proper redactions, and go back five years before date of this medication error. Michael Davidson, Esquire, present. Start with this facility and broaden to the Southwest if necessary. Commissioner addressed the confusing Motion work; lack of 2.34 conference.

Ms. Bossie moved the case forward with depositions without the Incident Report or Error Report. Mr. Vogel will provide it if he can obtain it. Ms. Bossie stated the Autopsy Report confirmed Pltff died of Morphine intoxication. Commissioner offered a Mandatory Settlement Conference coordinated by Judge Scotti's Department or the Senior Judge Department. Mr. Vogel and Mr. Weiss agreed. Ms. Bossie agreed, but requested to speak with her client in New Jersey. COMMISSIONER RECOMMENDED a Mandatory Settlement Conference or alternatively Mediation.

Argument by Ms. Bossie. Commissioner stated the insurance policy and policies and procedures will be disclosed without necessarily being protected. Ms. Bossie to prepare the Report and Recommendations, and Defense counsel to approve as to form and content. A proper report must be timely submitted within 20 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence****COURT MINUTES****February 28, 2018**

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
                                  vs.  
                                  South Las Vegas Investors Limited Partnership, Defendant(s)

**February 28, 2018      8:30 AM      All Pending Motions**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Olivia Black  
                                  Vanessa Medina

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
                                  Vitatoe, Vincent      Attorney

**JOURNAL ENTRIES**

- PLAINTIFF'S MOTION TO AMEND COMPLAINT...DEFENDANT SAMIR S. SAXENA M.D.'S  
 OPPOSITION TO PLAINTIFF'S MOTION TO AMEND COMPLAINT AND COUNTERMOTION  
 FOR SUMMARY JUDGMENT

Ms. Bossie stated the alleged facts and procedural history of the case. Ms. Bossie requested a Motion to leave and Amend the Complaint and argued Defendant Life Care and Defendant Saxena didn't list Nurse Annabelle in their disclosure statements. Ms. Bossie stated it was a discovery rule and question of fact when it was learned of the injury and who was part and parcel of committing the injury. As to the elder abuse issue, Ms. Bossie noted there was not much Nevada law pertaining to medical professions regarding if it came under a Medical Mal-Practice action, 41A, or the older adult statue and argued in reading both statutes if the legislature wanted to make one or the other the exclusive remedy for the cause of action they would have done so. Ms. Bossie argued the statute does not eliminate out this cause of action as if it couldn't be brought against the attending physician of the provider and there wasn't exclusive language in 41A. Ms. Bossie requested Defendant's summary judgment motion be denied as to the older abuse statute and grant Plaintiff's Motion to Amend Complaint. Upon Court's inquiry, Ms. Bossie argued Plaintiff didn't know what the cause of

death was until April 15th and the complaint was filed within one year. Mr. Vitatoe stated the criticisms level of Dr. Saxena was two-fold, he didn't transfer Plaintiff Curtis quickly enough and he provided her an IV drip of Narcan, that's important to the statute of limitation analysis. Mr. Vitatoe argued there was no case law that stated only when an autopsy was received did the statute of limitation commence. Mr. Vitatoe further argued the standard as set forth in Massey was when facts were presented to Plaintiff that would put a reasonable person to be on inquiry notice that some negligence may have caused the death, at that point they were supposed to investigate further. Mr. Vitatoe argued there was no issue of fact because parties were relying on admissions. Mr. Vitatoe cited case law and stated parties inconsistent statements were not genuine issues of fact and argued the undisputed admissions put Plaintiff on inquiry notice in March, under Massey that barred the claims against Dr. Saxena. Further arguments by counsel. Court stated as to cause of action regarding the expansion of elder abuse counsel was to submit supplemental briefing on March 14, 2018 by 5:00 pm. Court further stated it would review the matter and ORDERED, matter CONTINUED to the Chamber Calendar for the Court's written decision.

CONTINUED TO: 03/21/18 (CHAMBER CALENDAR)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Negligence - Other Negligence

# COURT MINUTES

**March 21, 2018**

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

**March 21, 2018                      3:00 AM                      All Pending Motions**

**HEARD BY:** Villani, Michael                      **COURTROOM:** Chambers

**COURT CLERK:** Olivia Black

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO AMEND COMPLAINT...DEFENDANT SAMIR S. SAXENA M.D.'S  
OPPOSITION TO PLAINTIFFS' MOTION TO AMEND COMPLAINT AND COUNTERMOTION  
FOR SUMMARY JUDGMENT

Plaintiffs' Motion to Amend Complaint and Defendant Samir S. Saxena, M.D.'s Counter-motion for Summary Judgment came before this Court on the February 28, 2018 Oral Calendar at 8:30 a.m. The Court requested supplemental briefing, and continued the matter for written decision on the March 21, 2018 Chamber Calendar. This Court, having reviewed the pleadings and papers on file herein, finds as follows:

Plaintiffs seek to amend the Complaint to add IPC Healthcare, Inc. and nurse practitioner Annabelle Socaoco as parties to this matter. Defendant Samir S. Saxena, M.D. seeks summary judgment on the elder abuse cause of action (NRS 41.1395) because a cause of action for malpractice of a healthcare provider is governed by NRS 41A.

Pursuant to NRCP 15(a), leave to amend should be freely granted when justice requires. Additionally, when determining the claims for relief, the Court looks to the gravamen of the Complaint. *Egan v. Chambers*, 129 Nev. 239, 241, 299 P.3d 364, 366 (2013). The Complaint in

question is for professional negligence against a healthcare provider and, therefore, governed by NRS 41A. The Court FINDS that it was not the legislative intent of enacting NRS 41.1395 to superseded the caps under NRS 41A. There is neither legislative purpose nor intent to carve out an exception for elderly patients covered under NRS 41A. The Court FURTHER FINDS the reasoning in *Brown v. Mt. General Hospital*, 2013 WL 4523488 (D. Nev. 2013) to be persuasive.

Therefore, COURT ORDERED Plaintiffs' Motion to Amend Complaint GRANTED and Defendant Samir S. Saxena, M.D. s Countermotion for Summary Judgment is GRANTED as it relates to Plaintiffs' First Cause of Action for Abuse/Neglect of an Older Person. Counsel for Plaintiffs to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed-copy of the Order to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be signed as to form and content by opposing counsel.

CLERK'S NOTE: A copy of the foregoing minute order has been electronically distributed to all registered parties.//ob/03/26/18.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence****COURT MINUTES****April 04, 2018**

A-17-750520-C

Estate of Mary Curtis, Plaintiff(s)

vs.

South Las Vegas Investors Limited Partnership, Defendant(s)

**April 04, 2018****9:30 AM****Motion to Compel**

**Plaintiffs' Second  
Motion to Compel  
Further Responses to  
Requests for  
Production and  
Request for OST**

**HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES****PRESENT:**

Bossie, Melanie L

Attorney

Brookhyser, Amanda Jeanine

Attorney

Davidson, Michael D.

Attorney

Vitatoe, Vincent

Attorney

**JOURNAL ENTRIES**

- Commissioner discussed focusing on 1) what happened to this particular Plaintiff and her condition, and 2) was the entire facility staffed appropriately and were patients receiving care appropriately. Colloquy re: search terms and scope. Ms. Brookhyser will submit a Stipulation to extend deadlines after receiving a new Trial date from the Judge. Argument by Ms. Bossie. Colloquy re: including census in search terms. Mr. Bossie stated terms agreed to by counsel are staff, labor, PPD, budget, fall, medication error, bounce back, LOS (length of stay).

COMMISSIONER RECOMMENDED, put a clawback provision in place and incorporate Federal Court language in Report and Recommendation; redact attorney client privilege or other privileges,



but prepare a privilege log; Commissioner can review the information in camera; colloquy re: annual budgets, produce the previous fiscal year and the year that controlled during this admission. COMMISSIONER RECOMMENDED, budget variance reports are under a Protective Order pursuant to Rule 26(c) proprietary confidential information until such time as ordered by the District Court Judge; motion is GRANTED within parameters. Counsel must have a 2.34 conference, if counsel cannot agree, do not turn over documents, but file a Motion for Protective Order. Colloquy re: the adopting the proposed Federal Proportionality Rule. Commissioner is available by conference call. Colloquy re: generally speaking 30 days prior to Trial, three years of net worth are provided with supporting documentation. Ms. Bossie to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

CLERK'S NOTE: Minutes amended 6-1-18 to reflect Ms. Bossie to prepare the Report and Recommendations. JL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**May 09, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**May 09, 2018**

**8:30 AM**

**Motion**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Olivia Black

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
Brookhyser, Amanda Jeanine      Attorney  
Davidson, Michael D.      Attorney  
Vitatoe, Vincent      Attorney

**JOURNAL ENTRIES**

- Court noted this was a motion to continue the trial date and reset discovery deadlines. Ms. Bossie requested to extend the deadline ninety days. Colloquy regarding trial dates. Counsel estimated 7 days for trial. CONFERENCE AT BENCH. COURT ORDERED, Trial dates VACATED and RESET. Court instructed Ms. Bossie to prepare the Order with the discovery deadline dates with a Stipulation and Order.

10/31/18 9:00 AM CALENDAR CALL

11/26/18 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence****COURT MINUTES****May 30, 2018**

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
                                  vs.  
                                  South Las Vegas Investors Limited Partnership, Defendant(s)

**May 30, 2018      8:30 AM      Objection to Discovery  
                                  Commissioner's Report**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Olivia Black

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
                          Davidson, Michael D.      Attorney  
                          Vogel, Stephen B.      Attorney

**JOURNAL ENTRIES**

- Mr. Vogel argued part of the issue was the scope, the Discovery Commissioner ordered seven months of emails. Mr. Vogel further argued they collected 15,000 emails, 14,000 attachments which was 100,000 pages that they still had to go through and be redacted. Mr. Vogel argued the scope was to broad and requested to provide two months of emails to include the regional individuals involved, not corporate. Ms. Bossie gave a history of the case and argued opposing counsel was able to search the matter and she needed to prove the why as this would be a punitive damage case. Ms. Bossie further argued the information was already accessible and they already retrieved the data and they could do a searchable format. Further argument by Mr. Vogel. COURT stated it did not find this to be overly burdensome. COURT ADOPTED the report recommendation by Commissioner Bulla. Ms. Bossie to prepare the Order and submit it to opposing counsel as to form and content. Upon Court's inquiry, Ms. Bossie estimated eight days for trial, Mr. Vogel estimated two weeks for trial. At the request of Ms. Bossie, Court stated the information was to provided within thirty days thereafter information was to be provided on a rolling bases.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**June 13, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**June 13, 2018**

**8:30 AM**

**All Pending Motions**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Olivia Black

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
                 Brookhyser, Amanda Jeanine      Attorney  
                 Vitatoe, Vincent      Attorney

**JOURNAL ENTRIES**

- Melaine Bossie, Esq. appearing telephonically.

PLAINTIFF'S JOINDER TO DEFENDANT SAXENA'S MOTION FOR GOOD FAITH  
SETTLEMENT...DEFENDANT'S SAMIR S. SAXENA, M.D'S MOTION FOR GOOD FAITH  
SETTLEMENT

As to Defendant's motion, Court noted there was no objection to the motion, there was one issue that came up which was allowing Dr. Saxena placed on the verdict form. Ms. Brookhyser concurred and advised initially when the issue was brought up a request was made that in exchange for dismissing Dr. Saxena that Lifecare Center Defendants would agree not to place him on the verdict form which she couldn't agree to. Ms. Brookhyser noted she didn't see that issue reference in the good faith settlement and would to make certain it was on the record. Ms. Bossie noted based on the investigation Dr. Saxena didn't know about the event. Ms. Bossie further noted there was no evidence that would warrant Dr. Saxena be on the verdict form. Following representations by counsel, COURT ORDERED, Motion GRANTED for Good Faith Settlement; ruling DEFERRED on adding Dr. Saxena to the verdict form upon closing of presentation of the evidence. Mr. Vitatoe to

prepare the Order and submit to opposing counsel as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**July 02, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**July 02, 2018      12:00 AM      Minute Order**

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**HEARD BY:** Villani, Michael      **COURTROOM:** Chambers  
Chambers

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**COURT CLERK:**  
Natalie Ortega

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Upon the Court's review of the documents filed in this matter, the Opposition to motion for Summary Judgment filed on 6/29/18 contained a social security number. Therefore, Court ORDERED this document SEALED pursuant to E.D.C.R. 2.13.

CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/7/2/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**August 01, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**August 01, 2018      8:30 AM      All Pending Motions**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Haly Pannullo

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
Brookhyser, Amanda Jeanine      Attorney  
Davidson, Michael D.      Attorney  
Vitatoe, Vincent      Attorney

**JOURNAL ENTRIES**

- DEFENDANTS SAMIR SAXENA, M.D., ANNABELLE SOCAOCO, N.P.. IPC HEALTHCARE, INC., INTATIENT CONSULTANTS OF NEVADA, INC., IPC HEALTHCARE SERVICES OF NEVADA, INC., AND HOSPITALIST OF NEVADA'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGEMENT (A-11-642647-C) ... PLAINTIFFS' MOTION TO ASSOCIATE COUNSEL PURSUANT TO SCR 42 AND REQUEST FOR ORDER SHORTENING TIME ... PLAINTIFFS' MOTION TO COMPEL DEFENDANTS' COMPLIANCE WITH COURT ORDER AND REQUEST FOR ORDER SHORTENING TIME

Bennie Lazzara, Jr., Esq., also present on behalf of Plaintiff via Court Call.

COURT ORDERED, Plaintiff's Motion to Associate Counsel GRANTED. Following arguments by counsel regarding statute of limitations and Motion to Dismiss, COURT FURTHER ORDERED, Motion to Dismiss or, in the Alternative, for Summary Judgement TAKEN UNDER ADVISEMENT. Further arguments by counsel regarding Motion to Compel. As to the Motion to Compel, Court directed Ms. Brookhyser to create a privileged log and go through medication errors at other facilities

as well. COURT ORDERED, matter SET for Status Check regarding compliance of Court's directives.

09/05/18 8:30 AM STATUS CHECK: COMPLIANCE



**DISTRICT COURT  
CLARK COUNTY, NEVADA****Negligence - Other Negligence****COURT MINUTES****August 13, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**August 13, 2018      1:45 PM      Minute Order**

**HEARD BY:** Villani, Michael      **COURTROOM:** Chambers  
Chambers

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**COURT CLERK:**

Haly Pannullo

**RECORDER:****REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Defendants Motion to Dismiss or, in the Alternative, for Summary Judgment came before this Court on the August 1, 2018 Oral Calendar at 8:30 a.m. The Court took the matter under advisement and now rules as follows:

IPC Defendants (Annabelle Socaoco, N.P; IP Healthcare, Inc. a/k/a The Hospitalist Company, Inc.; Inpatient Consultants of Nevada, Inc.; IPC Healthcare Services of Nevada, Inc.; and Hospitalists of Nevada, Inc.) seek summary judgment on the elder abuse cause of action (NRS 41.1395) because a cause of action for malpractice of a healthcare provider is governed by NRS 41A. IPC Defendants also argue that the statute of limitations bars the medical malpractice and wrongful death claims.

The Court adopts its previous ruling via minute order dated March 21, 2018. The Complaint in question is for professional negligence against a healthcare providers and, therefore, governed by NRS 41A. The Court FINDS that it was not the legislative intent of enacting NRS 41.1395 to superseded the caps under NRS 41A. There is neither legislative purpose nor intent to carve out an exception for elderly patients covered under NRS 41A. The Court FURTHER FINDS the reasoning in Brown v. Mt. General Hospital, 2013 WL 4523488 (D. Nev. 2013) to be persuasive. NRS 41A.017

provides the definition of provider of health care. The Court FINDS IPC Defendants fall within this definition, and therefore, the elder abuse causes of action are improper in the instant matter.

The statute of limitations accrual date is a question of law only if the facts are uncontroverted. *Winn v. Sunrise Hospital and Medical Center*, 128 Nev. 246, 252-253 (2012) (citing *Day v. Zubel*, 112 Nev. 972, 977 (1996)). The Court FINDS a question of fact remains as to the date of inquiry as to the names of the tortfeasors in this matter.

Therefore, COURT ORDERED Defendants Motion to Dismiss or, in the Alternative, for Summary Judgment GRANTED IN PART and DENIED IN PART. Counsel for Defendants to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed-copy of the Order to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be signed as to form and content by all parties.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/8/13/18



This is a letter right to the owner about this facility, management at this facility and the problems about 2 and a half months prior to Pltf. being there given the wrong medication and died. Further, Ms. Bossie requested un-redacted of direct concerns, complaints, compliance issues and medication issue prior to nursing expert getting deposed. Counsel will have this letter when Mr. Preston is deposed to see what he did about his knowledge of this but counsel did not have this on all other depositions taken to date. Additionally, this letter is crucial, discoverable for notice and knowledge and request a shorter timeframe to produce. Ms. Brookhyser stated she will do her best to produce as quickly as she can. One of the e-mail addresses is the Senior Vice President for the entire division and there is over 10,000 e-mails. His e-mail address in particular, almost every e-mail has attachments and counsel has to go through, look at to make sure that it applies to Paradise Valley or has anything to do with medication error. Further, counsel will do her utmost to get them disclosed as quickly as can be and they have been done on a rolling basis. Court inquired if they will be produced prior to expert deposition. Ms. Brookhyser stated she will have it done before expert depositions. Court advised if there are any other issues, counsel to file appropriate motion.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence****COURT MINUTES****September 19, 2018**

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
                                  vs.  
                                  South Las Vegas Investors Limited Partnership, Defendant(s)

**September 19, 2018      9:00 AM****Motion for Protective  
Order****Defendants' Motion  
for Protective Order****HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Alan Castle**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

<b>PRESENT:</b>	Bossie, Melanie L	Attorney
	Brookhyser, Amanda Jeanine	Attorney
	Davidson, Michael D.	Attorney
	Lazzara, Bennie NMN, Jr.	Attorney
	Vitaoe, Vincent	Attorney

**JOURNAL ENTRIES**

- COMMISSIONER RECOMMENDED, Defendants' Motion for Protective Order is GRANTED In Part Without Prejudice as to Walker and Preston Without Prejudice subject to a Rule 30(b)(6) deposition occurring establishing some foundation as to their personal knowledge regarding this event. Commissioner suggests it would benefit Plaintiff to put together a Rule 30(b)(6) deposition with the topic areas of concern; and, that may require the Defendant to produce one of those officers or directors for that deposition. FURTHER, IF it is determined that Mr. Hamm will be the Deponent, Defense to advise Plaintiff's counsel so they can prepare and have Mr. Hamm deposed just once. Ms. Brookhyser to prepare the Report and Recommendations, and Ms. Bossie and Mr. Vitaoe to approve as to form and content; no fees or costs. A proper report must be timely submitted within 10 days of the hearing. Commissioner is available by conference call if necessary.

11/15/18 (CHAMBERS) Status Check: Compliance (DCRR)

PRINT DATE: 12/29/2018

Page 25 of 37

Minutes Date: August 16, 2017



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**October 29, 2018**

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A-17-750520-C	Estate of Mary Curtis, Plaintiff(s)
	vs.
	South Las Vegas Investors Limited Partnership, Defendant(s)

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**October 29, 2018      12:30 AM      Minute Order**

**HEARD BY:** Villani, Michael      **COURTROOM:** Chambers

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Court, having reviewed the pleadings and papers on file herein, there being no opposition filed with the Court and pursuant to EDCR 2.20, 2.23, and for good cause appearing, COURT ORDERED IPC Defendants Motion for Partial Summary Judgment is GRANTED. Counsel for IPC Defendants is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/10/29/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**October 31, 2018**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**October 31, 2018**

**8:30 AM**

**All Pending Motions**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** April Watkins

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Bossie, Melanie L	Attorney
	Davidson, Michael D.	Attorney
	Lazzara, Bennie NMN, Jr.	Attorney
	Vitatoe, Vincent	Attorney
	Vogel, Stephen B.	Attorney

**JOURNAL ENTRIES**

- PLTFS' MOTION FOR PRIMA FACIE CLAIM FOR PUNITIVE DAMAGES...DEFTS' SOUTH LAS VEGAS MEDICAL INVESTORS, LLC, DBA LIFE CARE OF SOUTH LAS VEGAS FKA LIKE CARE CENTER OF PARADISE VALLEY, SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP, LIFE CARE CENTERS OF AMERICA, INC., AND CARL WAGNER'S MOTION FOR SUMMARY JUDGMENT...DEFTS' SOUTH LAS VEGAS MEDICAL INVESTORS, LLC. DBA LIFE CARE CENTER OF SOUTH LAS VEGAS FKA LIFE CARE CENTER OF PARADISE VALLEY, SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP, LIFE CARE CENTERS OF AMERICA, INC., AND CAR WAGNER'S MOTION FOR SUMMARY JUDGMENT REGARDING PUNITIVE DAMAGES

Following arguments by counsel. COURT ORDERED, written decision will issue.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**October 31, 2018**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**October 31, 2018      9:00 AM      Calendar Call**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** April Watkins

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
Davidson, Michael D.      Attorney  
Lazzara, Bennie NMN, Jr.      Attorney  
Vitatoe, Vincent      Attorney  
Vogel, Stephen B.      Attorney

**JOURNAL ENTRIES**

- Court noted eight to ten days for trial. Ms. Bossie stated she believes trial will take ten days. Colloquy. Ms. Bossie requested to trail trial that is scheduled before this one. Court stated this matter will trail and ORDERED, matter SET for trial.

4/3/19 9:00 AM CALENDAR CALL

4/15/19 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**November 13, 2018**

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A-17-750520-C	Estate of Mary Curtis, Plaintiff(s)
	vs.
	South Las Vegas Investors Limited Partnership, Defendant(s)

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**November 13, 2018      12:00 AM      Minute Order**

**HEARD BY:** Villani, Michael

**COURTROOM:** Chambers

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner Motion for Summary Judgment came before this Court on the October 31, 2018 oral calendar. The Court having further reviewed the pleadings, files, and argument finds as follows:

Summary judgment is appropriate when the pleadings and other evidence on file demonstrate no genuine issue as to any material fact [remains] and the moving party is entitled to judgment as a matter of law. See NRCP 56(c); Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). In ruling upon a motion for summary judgment, the Court must view all evidence and inferences in the light most favorable to the non-moving party. See Torrealba v. Kesmetis, 124 Nev. 95, 178 P.3d 716 (2008). To rebut a motion for summary judgment, the nonmoving party must present some specific facts to demonstrate that a genuine issue of material fact exists. Forouzan, Inc. v. Bank of George, 128 Nev. 896, 381 P.3d 612 (2012).

Defendants bring their Motion For Summary Judgment on the basis that although Plaintiffs causes of action are titled abuse of an older person, wrongful death and bad faith tort the claims are actually professional negligence covered under NRS 41A.015. Further, since the claims involve

professional negligence there is an affidavit of merit requirement pursuant to NRS 41A.100 and since an affidavit was not attached to the complaint summary judgment should be granted.

NRS 41A.015 defines professional negligence as failure of a provider of health care, in rendering services, to use reasonable care, skill or knowledge ordinarily used under similar circumstances by similarly trained and experienced health care professionals. NRS 41A.100 provides for any action sounding in professional negligence there is a requirement of an affidavit of merit. Without such an affidavit the case must be dismissed. *Washoe Medical Center v. Second Dist. Court State of Nev. ex. rel. County of Washoe* provides that if a complaint in professional negligence fails to have attached thereto an affidavit of merit the complaint is void ab initio. *Id.* at 122 Nev. 1298, 1300 (2006). Countering said argument Plaintiffs state that by filing such a motion after two years of litigation the Defendants have waived their objection to the affidavit requirement but more importantly the claim is one of elder abuse which does not require an affidavit.

#### Waiver

If Plaintiffs claims are based upon professional negligence, there is an affidavit requirement. Such a complaint without an affidavit must be dismissed. Plaintiffs claims that Defendants waited two years to bring this matter to the Court s attention and participated in litigation for two years have therefore waived the affidavit requirement. Since such a claim is void ab initio and the Court does not find such a claim to have merit.

#### Vicarious Liability

Defendants contend that they are entitled to the protections of Chapter 41A because their liability is derivative of its nursing staff. In *DeBoer v. Senior Bridges at Sparks Family Hospital*, 282 P.3d 727 (Nev. 2012), the Supreme Court distinguished between medical malpractice and traditional negligence on the basis of the provision of medical services provided to the plaintiff i.e. medical diagnosis, judgment, or treatment. *Id.* at 732. The Court finds that Defendants liability is based on the acts (LPN Dawson s administration of morphine to Mary Curtis) and omissions (failure to monitor Mary Curtis thereafter) of its nursing staff. Said acts and omissions are a provision of medical services based on Defendants nursing personal which gives rise to Defendants liability. Therefore, the provision of NRS 41A apply.

#### Affidavit Requirement

More fundamental to the determination by the Court is whether or not the allegations are for general negligence resulting from non-medical services or for negligent medical treatment which calls for an affidavit of merit. *Szymborski v. Spring Mountain Treatment Ctr.*, 403 P.3d 1280 (Nev. 2017). *Szymborski* holds that a Plaintiff s complaint can be based upon both negligent acts and medical malpractice. The Nevada Supreme Court stated that the Court is to look beyond the title to a particular cause of action and determine whether or not the claims actually involve medical malpractice or general negligence. *Id.* at 1284.

Elder abuse is codified in NRS 41.1395 as willful and unjustified infliction of pain, injury or mental anguish or deprivation of food, shelter, clothing or services which are necessary to maintain the physical. Nev.Rev.Stat. 41.1395. As stated in *Szymborski and Egan v. Chambers*, 299 P.3d 364, 366 (Nev. 2013) the courts should look to the nature of the grievance to determine the character of the action, not the form of the pleadings. Cited with approval in *Brown v. Mt. General Hospital*, 3:12-CV-00461-LRH, 2013 WL 4523488, D. Nev. Aug. 26, 2013). Although, Plaintiffs use language from NRS 41.1395 in their complaint the underlining basis of the complaint is for medical malpractice. See paragraph 18 Despite defendant s notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on March 7, 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine. Also, See paragraph 19 Despite Defendant s notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until March 8, 2016. The administration of morphine by a LPN and failure to monitor the effects of the administration of morphine is a claim of professional negligence requiring an affidavit pursuant to NRS 41A.100. But for LPN Dawson s alleged nursing conduct of improperly administering morphine and subsequent lack of nursing monitoring Ms. Curtis, she would not have died. A claim is grounded in medical malpractice and must adhere to NRS 41A.071 where the facts underlying the claim involve medical diagnosis, treatment, or judgment and the standards of care pertaining to the medical issue require explanation to the jury from a medical expert. *Szymborski* at 1288. This Court finds persuasive the holding in *Brown v. Mt. Grant Gen. Hosp.*, 3:12-CV-00461-LRH, 2013 WL 4523488, (D. Nev. Aug. 26, 2013) which sets forth the following:

Moreover, the Nevada Supreme Court has signaled a disapproval of artful pleading for the purposes of evading the medical malpractice limitations. For example, the Court concluded that medical malpractice claims extend to both intentional and negligence-based actions. *Fierle*, 219 P.2d at 913 n. 8. This means that a plaintiff cannot escape the malpractice statutes' damages or timeliness limitations by pleading an intentional tort battery, say instead of negligence. If the Nevada Supreme Court casts a jaundiced eye on the artful pleading of intentional torts, it is likely to view the artful pleading of elder abuse similarly. In the end, it seems, Nevada courts look to the nature of the grievance to determine the character of the action, not the form of the pleadings. *Egan v. Chambers*, 299 P.3d 364, 366 n. 2 (Nev.2013) (citing *State Farm Mut. Auto. Ins. Co. v. Wharton*, 88 Nev. 183, 495 P.2d 359, 361 (1972)). *Brown* at \*8. Plaintiffs Complaint is grounded in and involves medical treatment and the standard of care (administration of morphine and the failure to monitor). Thus the gravamen of the complaint sounds in professional negligence which requires an affidavit.

Therefore, COURT ORDERED Defendants Motion for Summary Judgment GRANTED. Counsel for Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and be approved as to form and content by all parties.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/13/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**November 13, 2018**

---

A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**November 13, 2018      12:00 AM      Minute Order**

**HEARD BY:** Villani, Michael

**COURTROOM:** Chambers

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner ( Defendants ) Motion for Summary Judgment Regarding Punitive Damages came before this Court on the October 31, 2018 oral calendar. Based on this Court's ruling issued on November 13, 2018 on Defendants Motion for Summary Judgment, this matter is ORDERED OFF CALENDAR as being moot.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/13/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**November 13, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

---

**November 13, 2018      12:00 AM      Minute Order**

**HEARD BY:** Villani, Michael

**COURTROOM:** Chambers

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Plaintiffs Motion for Prima Facie Claim for Punitive Damages came before this Court on the October 31, 2018 oral calendar. Based on this Court s ruling issued on November 13, 2018 on Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas dba Life Care Centers of Paradise Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; and Carl Wagner Motion for Summary Judgment, this matter is ORDERED OFF CALENDAR as being moot.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/13/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**November 14, 2018**

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A-17-750520-C      Estate of Mary Curtis, Plaintiff(s)  
vs.  
South Las Vegas Investors Limited Partnership, Defendant(s)

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**November 14, 2018      8:30 AM**

**All Pending Motions**

**HEARD BY:** Villani, Michael

**COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Olivia Black

**RECORDER:** Cynthia Georgilas

**REPORTER:**

**PARTIES**

**PRESENT:**      Bossie, Melanie L      Attorney  
Davidson, Michael D.      Attorney  
Lazzara, Bennie NMN, Jr.      Attorney  
Vitatoe, Vincent      Attorney

**JOURNAL ENTRIES**

- IPC DEFENDANTS MOTION IN LIMINE NO. 1 TO LIMIT NONECONOMIC DAMAGES ARGUMENT ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 1 TO LIMIT NONECONOMIC DAMAGES ARGUMENT  
COURT ORDERED, Motion OFF CALENDAR.

IPC DEFENDANTS MOTION IN LIMINE NO. 2 TO LIMIT TREATING PHYSICIAN TESTIMONY ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 2 TO LIMIT TREATING PHYSICIAN TESTIMONY  
COURT ORDERED, Motion OFF CALENDAR.

IPC DEFENDANTS MOTION IN LIMINE NO. 3 TO LIMIT PLAINTIFFS CUMULATIVE EXPERT TESTIMONY ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 3 TO LIMIT CUMULATIVE EXPERT TESTIMONY  
COURT ORDERED, Motion OFF CALENDAR.



IPC DEFENDANTS' MOTION IN LIMINE NO 4 TO EXCLUDE IRRELEVANT DEVIATIONS FROM STANDARD OF CARE ... DEFENDANTS' JOINDER TO IPC DEFENDANTS MOTION IN LIMINE NO. 4 TO EXCLUDE IRRELEVANT DEVIATIONS FROM STANDARD OF CARE COURT ORDERED, Motion OFF CALENDAR.

IPC DEFENDANTS MOTION IN LIMINE NO. 5 TO PERMIT COLLATERAL SOURCE EVIDENCE COURT ORDERED, Motion OFF CALENDAR.

Colloquy regarding the 54B language being added to the Court's Order. Court stated if parties agree to add the language to the Order, then they may do so. Court directed counsel to file a Motion for Certification if the parties do not agree.

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

PLAINTIFFS' NOTICE OF APPEAL OF THE ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; PLAINTIFFS' CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; DISTRICT COURT MINUTES

Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal Representative of the Estate of MARY CURTIS; LAURA LATRENTA, individually,

Plaintiff(s),

vs.

SOUTH LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS fka LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER, Administrator,

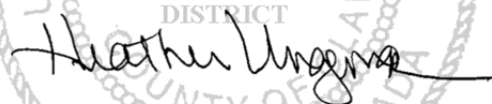
Defendant(s),

Case No: A-17-750520-C  
*Consolidated with A-17-754013-C*  
Dept No: XVII

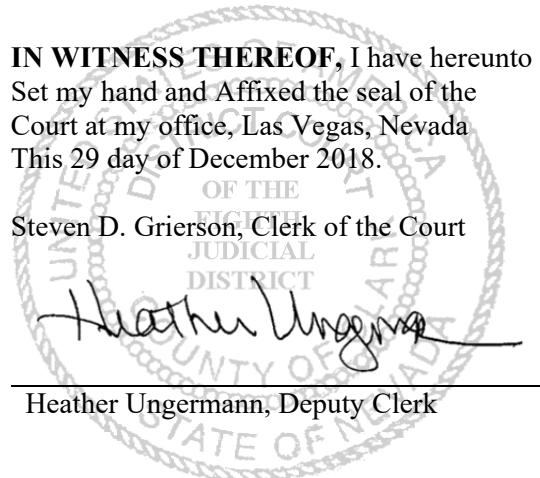
now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 29 day of December 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



**KOLESAR & LEATHAM, CHTD.**

400 S. Rampart Blvd , Suite #400  
Las Vegas, NV, 89145



PACIFIC PREMIER BANK

**5337**

90-8578/3222

*Two Hundred Fifty and No/100 Dollars*-----

DATE

AMOUNT

12/28/2018

\$250.00

PAY  
TO THE  
ORDER  
OF

Clerk, Nevada Supreme Court

VOID AFTER 90 DAYS

\_\_\_\_\_  
  
\_\_\_\_\_  
AUTHORIZED SIGNATURE

⑈005337⑈ ⑆322285781⑆ 201006087⑈