

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

vs.

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.,

Respondents.

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Supreme Court No. 79116

District Court Case No. A750520

**APPELLANTS' APPENDIX
VOLUME II OF II**

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Estate, and Laura Latrenta, individually*

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c)(1)(B), I certify that I am an employee of Kolesar & Leatham and on the 6th day of November, 2019, I submitted the foregoing **APPELLANT’S APPENDIX, VOLUME II OF II** to the Supreme Court of Nevada’s electronic docket for filing and service upon the following:

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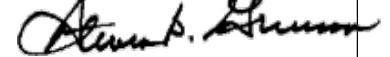
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DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

Plaintiffs,

vs.

26 SAMIR SAXENA, M.D.; ANNABELLE
27 SOCAOCO, N.P.; IPC HEALTHCARE, INC.
28 aka THE HOSPITALIST COMPANY, INC.;
INPATIENT CONSULTANTS OF NEVADA.

CASE NO. A-17-750520-C

DEPT NO. XVII

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

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO
DISMISS/MOTION FOR SUMMARY
JUDGMENT**

Date: July 18, 2018
Time: 8:30 a.m.

KOLESAR & LEATHAM
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INC.; IPC HEALTHCARE SERVICES OF
NEVADA, INC.; HOSPITALISTS OF
NEVADA, INC.; and DOES 51-100,

Defendants.

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS/MOTION
FOR SUMMARY JUDGMENT**

Plaintiffs Estate of MARY CURTIS, deceased; LAURA LATRENTA, as Personal
Representative of the Estate of MARY CURTIS; and LAURA LATRENTA, individually
("Plaintiffs"), by and through their attorneys at the law firms of Kolesar & Leatham and Wilkes
& McHugh, P.A., hereby respond to Defendants' Motion to Dismiss or, in the Alternative, for
Summary Judgment.

DATED this 29th day of June, 2018.

KOLESAR & LEATHAM

By /s/ Michael D. Davidson, Esq.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. ISSUE

An injury's accrual date is a question of fact for the jury. Defendants, parroting Dr.
Saxena's unavailing arguments and unpersuasive evidence of a few months ago, urge the Court
to rule that as a matter of law Laura's claims against Nurse Socaoco accrued at a time when
Laura did not know and could not have known that Nurse Socaoco even existed and when no
available evidence suggested her involvement in Mary's death. Are Defendants entitled to
summary judgment on statute of limitations grounds?

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 Responding to Laura's request to amend her complaint to add as defendants Nurse
3 Practitioner Annabelle Socaoco and the IPC entities, *see* Pls.' Mot. Amend Compl., Defendant
4 Samir Saxena, M.D., in February countermoved for summary judgment. *See* Def. Saxena's
5 Opp'n to Mot. Amend & Countermot. Summ. J. The Court granted the countermotion as to the
6 elder abuse claim but otherwise denied it without prejudice. *See* Order ¶ 10 (Apr. 11, 2018).
7 Nurse Socaoco and the IPC entities now seek summary judgment. *See* Defs.' Mot. Dismiss or in
8 Alt. Summ. J.¹ Their motion regurgitates the arguments and evidence that failed to secure
9 Defendant Saxena summary judgment a few months ago. *Compare* Defs.' Mot. Dismiss or in
10 Alt. Summ. J., *with* Def. Saxena's Opp'n to Mot. Amend & Countermot. Summ. J., *and* Def.
11 Saxena's Reply in Supp. of Countermot. Laura's argument and evidence here are thus perforce
12 largely derivative of her opposition to the countermotion for summary judgment, beginning with
13 this timeline:

- 14 • 7 March 2016: Life Care Center of South Las Vegas administers morphine to
15 Mary Curtis. Ex. 1, Incident Report.
- 16 • 11 March 2016: Mary dies. Ex. 2, Death Cert.
- 17 • 31 March 2016: Mary's toxicology report is completed; it notes a positive finding
18 of morphine. Ex. 3, Toxicology Report.
- 19 • 7 April 2016: Mary's autopsy report is signed; in it, the medical examiner notes,
20 inter alia:
 - 21 ○ "The decedent became excessively sedated, and a physician was called to
22 examine the decedent; and that afternoon the physician administered
23 Narcan and Clonidine, with follow-up physician order for close
24 observation and monitoring every 15 minutes for one hour, and every 4
25 hours thereafter."

27 _____
28 ¹ Defendant Saxena was also among the movants, but the Court has since granted his motion for good faith settlement.

- 1 ○ “The decedent reportedly remained somnolent and was transferred to an
- 2 acute care hospital the following day.”
- 3 ○ “Toxicological examination of blood obtained on admission to the acute
- 4 care hospital, following transfer from the skilled nursing facility, showed
- 5 morphine 20 ng/ml.”
- 6 ○ “It is my opinion that . . . Mary Curtis, died as a result of morphine
- 7 intoxication with the other significant conditions of atherosclerotic and
- 8 hypertensive cardiovascular disease, and dementia.” Ex. 4, Autopsy
- 9 Report.
- 10 • 14 April 2016: The ME leaves a message for Laura asking her to call him back so
- 11 that he can discuss with her his findings; she calls him back either the same or the
- 12 next day, and he informs her of his findings regarding Mary’s cause of death; he
- 13 does not discuss with her any physician or nurse practitioner involvement
- 14 contributing to Mary’s death. Ex. 14, Latrenta Decl. ¶¶ 2–3; Ex. 15, Email from
- 15 Laura Latrenta to Melanie Bossie (Feb. 19, 2018) (reflecting the time of the ME’s
- 16 call and the length of his message).
- 17 • 15 April 2016: The medical examiner signs Mary’s death certificate. Ex. 2, Death
- 18 Cert.
- 19 • 18 April 2016: Mary’s death certificate is issued; it identifies as her immediate
- 20 cause of death morphine intoxication and labels her death an accident. *Id.*
- 21 • 30 June 2016: Laura requests her mother’s complete record from Life Care. Ex. 5,
- 22 Letter from Mary Ellen Spiece to Life Care Center – Paradise Valley (June 30,
- 23 2016).
- 24 • 17 August 2016: Life Care acknowledges Laura’s request and requests payment.
- 25 Ex. 6, Acknowledgement of Req. for Copies & Req. for Payment.
- 26 • 2 February 2017: Laura files suit against Life Care Defendants. Compl. (A-17-
- 27 750520-C).
- 28 • 14 April 2017: Laura files suit against Dr. Saxena. Compl. (A-17-754013-C).

- 1 • 17 May 2017: Laura's counsel sends a letter to Life Care's counsel requesting that
2 Life Care produce, inter alia, incident reports. Ex. 7, Letter from Melanie L.
3 Bossie to S. Brent Vogel & Amanda Brookhyser 2 (May 17, 2017).
- 4 • 9 August 2017: Laura serves on Life Care her first set of production requests,
5 including a request for incident/accident reports. Ex. 8, Pls.' 1st Set of Reqs. for
6 Produc. to Life Care Defs. 3.
- 7 • 25 September 2017: Laura's counsel via letter meets and confers with Life Care's
8 counsel regarding outstanding discovery, including incident reports. Ex. 9, Letter
9 from Melanie L. Bossie to S. Brent Vogel & Amanda Brookhyser 2 (Sept. 25,
10 2017).
- 11 • 2 October 2017: Laura serves on Dr. Saxena her first set of production requests,
12 including a request for incident/accident reports. Ex. 10, Pls.' 1st Set of Reqs. for
13 Produc. to Def. Saxena 3.
- 14 • 24 October 2017: Laura's counsel discusses outstanding discovery with Life
15 Care's counsel; Life Care refuses to produce incident reports without a protective
16 order. Ex. 11, Letter from Melanie L. Bossie to Amanda Brookhyser 1 (Oct. 25,
17 2017).
- 18 • 8 November 2017: Laura files a motion to compel requesting that Life Care be
19 ordered to produce, inter alia, incident reports. *See* Pls.' Mot. Compel Further
20 Responses 5.
- 21 • 4 December 2017: Laura's counsel, via email, tells Life Care's counsel that she
22 needs Mary's incident reports for depositions taking place that week and offers to
23 treat them as confidential until the following week's hearing on the motion to
24 compel. Ex. 12, Letter from Melanie L. Bossie to Amanda Brookhyser (Dec. 4,
25 2017).
- 26 • 6 December 2017: Laura's counsel deposes Cecilia Sansome, a nurse formerly
27 employed at Life Care Center of South Las Vegas. Ex. 18, Sansome Dep. She
28 testifies as follows:

- 1 ○ Annabelle Socaoco is a nurse practitioner, *id.* at 86:2–4, 104:8–11;
- 2 ○ upon Ms. Sansome’s entering the facility a staff member approached her
- 3 and told her that Mary had been given the wrong medication, *id.* at 45:18–
- 4 46:3;
- 5 ○ Ms. Sansome, having asked whether the physician had been notified, was
- 6 told that he had not been and was asked to make the call, *id.* at 46:7–9;
- 7 ○ Ms. Sansome first assessed Mary, *id.* at 46:10–25;
- 8 ○ having done so, she then called the physician through the answering
- 9 service and was told that Ms. Socaoco would call her back, *id.* at 47:1–4;
- 10 ○ Ms. Socaoco shortly thereafter called and, having been informed about
- 11 Mary, instructed that she be given Narcan and specified the dosage
- 12 thereof, *id.* at 47:4–9;
- 13 ○ Ms. Socaoco arrived in person to the nursing station while Ms. Sansome
- 14 was still writing the order, asking Ms. Sansome if she had given the
- 15 Narcan, *id.* at 47:9–17, 104:12–15;
- 16 ○ Ms. Sansome then took the medication out of the emergency pyxis and
- 17 administered it to Mary, *id.* at 47:18–20; and
- 18 ○ Ms. Sansome did not speak to Dr. Saxena about Mary. *Id.* at 86:18–20.
- 19 • 13 December 2017: The discovery commissioner orders Life Care to produce
- 20 incident reports. *See* Disc. Comm’r’s Report & Recommendation ¶ 2 (Dec. 13,
- 21 2017, 9:00 a.m.).
- 22 • 4 January 2018: Life Care serves its seventh supplemental disclosure, producing
- 23 therewith a medication error incident report identifying Ms. Socaoco as the
- 24 physician/NP notified. Ex. 13, Defs.’ 7th Suppl. to Initial Discl. 43; Ex. 1,
- 25 Incident Report 2.
- 26 • No disclosure statement of any Defendant identified Nurse Socaoco.
- 27 ///
- 28 ///

1 **III. LEGAL ARGUMENT**

2 Defendants argue that determination of the accrual date of Laura's claims against Nurse
3 Socaoco and the IPC entities can be made as a matter of law such that they are entitled to
4 summary judgment on statute of limitations grounds.² That argument will work no better now
5 than it did a few months ago.

6 **A. Whether Laura's Claims Against Nurse Socaoco Are Time-Barred Is for the**
7 **Jury.**

8 "[T]he question of when a claimant discovered or should have discovered the facts
9 constituting a cause of action is one of fact." *Siragusa v. Brown*, 114 Nev. 1384, 1400 (1998). So
10 "[o]nly where uncontroverted evidence proves that the plaintiff discovered or should have
11 discovered the facts giving rise to the claim should such a determination be made as a matter of
12 law." *Id.* at 1401.

13 Whether Laura's claims against Nurse Socaoco (and the IPC entities) are time-barred is a
14 jury question under *Siragusa*.³ In *Siragusa*, wife filed an adversary complaint in bankruptcy
15 court against ex-husband after he defaulted on his debt owed her under their divorce property
16 settlement and filed for bankruptcy before she could enforce her lien against his partnership
17 interest, which interest he claimed to have been forced to terminate before filing for bankruptcy.
18 114 Nev. at 1387–88. Her adversary complaint "referred to [partnership's] counsel on several
19 occasions," alleging that she had told wife's counsel that the partnership's reorganization would
20 not affect wife's interest; raising the issue whether backdated documents had been used in the
21 reorganization; and claiming that wife had discovered evidence of fraud in the addendum
22 prepared by partnership's counsel. *Id.* at 1388. Several months later, one of the partners by
23 affidavit described a scheme masterminded in part by partnership's counsel in which the partners

24 _____
25 ² Strictly speaking, they claim to seek dismissal for failure to state a claim and only in the alternative summary
26 judgment. But the former is a nonstarter. *See Siragusa v. Brown*, 114 Nev. 1384, 1392 n.6 (1998) (rejecting a federal
27 court's holding that a plaintiff relying on delayed discovery to avoid the statute of limitations must plead facts
justifying his action's delayed accrual as "not the law of Nevada"); *see also Addison v. Countrywide Home Loans,*
Inc., No. 2:10-CV-1304, 2011 WL 146516, at *5 (D. Nev. Jan. 14, 2011) (explaining that "a plaintiff must prove,
but need not plead, tolling facts").

28 ³ Laura explained in her previous opposition that *Siragusa* controls. *See* Pls.' Reply in Supp. of Mot. Amend &
Opp'n to Def. Saxena's Countermot. Summ. J. 9–11. Defendants' present motion ignores the case.

1 executed a “paper reorganization” (including using backdated documents) in order to insulate
2 partnership from ex-husband’s liabilities to wife. *Id.* at 1388–89. Wife later sued partnership’s
3 counsel, but the district court granted counsel summary judgment, believing wife’s claims time-
4 barred. *Id.* at 1390. The Nevada Supreme Court reversed. *Id.* at 1402.

5 The supreme court recognized that wife’s awareness by the time that she filed her
6 adversary complaint that partnership’s members had conducted a sham transfer of ex-husband’s
7 interests “did not, as a matter of law, constitute discovery by [wife] of facts constituting the fraud
8 allegedly perpetrated by [counsel].” *Id.* at 1391. It taught that “the policies served by statutes of
9 limitation do not outweigh the equities reflected in the proposition that plaintiffs should not be
10 foreclosed from judicial remedies before they know that they have been injured and can discover
11 the cause of their injuries.” *Id.* at 1392 (citation and italics omitted). Of course, wife’s “mere
12 ignorance of [counsel’s] identity will not delay accrual of even a discovery-based statute of
13 limitations if the fact finder determines that [wife] failed to exercise reasonable diligence in
14 discovering [counsel’s] role in the alleged tortious activities.” *Id.* at 1394. But that was a
15 question for the jury: “such a determination must be made by the trier of fact.” *Id.* at 1402. The
16 supreme court therefore reversed dismissal of wife’s claims and remanded. *Id.*⁴

17 Here, Laura was aware of her mother’s injuries, their causation by Life Care Defendants,
18 and (eventually) their causation by Dr. Saxena. But she was not aware of their causation by
19 Nurse Socaoco: she did not know—and could not have known, given Life Care’s refusal to
20

21 ⁴ See also *Tarnowsky v. Socci*, 856 A.2d 408, 416 (Conn. 2004) (concluding that the statute of limitations “does not
22 begin to run until a plaintiff knows, or reasonably should have known, the identity of the tortfeasor”); *Harrington v.*
23 *Costello*, 7 N.E.3d 449, 455 (Mass. 2014) (“Courts in a number of other States . . . have concluded that for a cause
24 of action to accrue, the identity of the defendant must be known or reasonably knowable.”); *Adams v. Or. State*
25 *Police*, 611 P.2d 1153, 1156 (Or. 1980) (“[T]he period of limitations does not commence to run until plaintiff has a
26 reasonable opportunity to discover his injury and the identity of the party responsible for that injury.”); *Robinson v.*
27 *Morrow*, 99 P.3d 341, 345 (Utah Ct. App. 2004) (“[W]e hold the discovery rule should be applied to situations
28 wherein the plaintiff can show that he . . . did not know the identity of the tortfeasor after conducting a reasonable
investigation.”); *Orear v. Int’l Paint Co.*, 796 P.2d 759, 764 (Wash. Ct. App. 1990) (“We conclude that the statutes
of limitations applicable to Orear’s cause of action against Seaport did not begin to run until he knew or with
reasonable diligence should have known that Seaport may have been a responsible party.”); *Slack v. Kanawha Cty.*
Housing & Redevelopment Auth., 423 S.E.2d 547, 553 (W. Va. 1992) (“[I]n actions where the discovery rule
applies, the statute of limitations does not begin to run until the plaintiff knows, or by the exercise of reasonable
diligence should know, that he has been injured and the identity of the person or persons responsible.”); *Spitler v.*
Dean, 436 N.W.2d 308, 310 (Wis. 1989) (“The public policy justifying the accrual of a cause of action upon the
discovery of the injury and its cause applies equally to the discovery of the identity of the defendant in this case.”).

1 produce its incident report naming her until after the 13 December 2017 hearing on Laura's
2 motion to compel, *see supra* Part II—of Nurse Socaoco's existence, much less her role in her
3 mother's injuries, until Nurse Sansome's 6 December 2017 deposition. *See id.* So her awareness
4 did not as a matter of law constitute discovery of facts constituting Nurse Socaoco's negligence.
5 Nor is this a case of a plaintiff's "mere ignorance of [a defendant's] identity" resulting from
6 failure to exercise reasonable diligence—neither Mary's medical record nor Defendants'
7 disclosures revealed Nurse Socaoco's identity.⁵ (Consider, for example, that the autopsy report
8 of April 2016 records that "a physician was called to examine" Mary and that "the physician
9 administered Narcan and Clonidine, with follow-up physician order." Ex. 4, Autopsy Report.)
10 Under *Siragusa*, then, the accrual date of the causes of action against Nurse Socaoco must be
11 determined by the trier of fact.

12 **B. The IPC Entities Are Subject to the Elder Abuse Statute and to a Three-Year**
13 **Statute of Limitations.**

14 Generally, "if an older person or a vulnerable person suffers a personal injury or death
15 that is caused by abuse or neglect . . . the person who caused the injury, death or loss is liable to
16 the older person or vulnerable person for two times the actual damages incurred." N.R.S. §
17 41.1395(1). A plaintiff has three years in which to bring such a claim once it has been or should
18 have been discovered. *See* § 11.190(3)(a) (establishing a three-year statute of limitations for
19 "[a]n action upon a liability created by statute").

20 Under § 41A.017,

21 "Provider of health care" means a physician licensed pursuant to chapter 630 or
22 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician,
23 optometrist, registered physical therapist, podiatric physician, licensed
24 psychologist, chiropractor, doctor of Oriental medicine, medical laboratory
25 director or technician, licensed dietician or a licensed hospital, clinic, surgery
center, physicians' professional corporation or group practice that employs any
such person and its employees.

26 ⁵ As it turns out, Ms. Socaoco's signature (if it can be called that) does appear on two documents in Mary's record:
27 first, she apparently signed Mary's 7 March 2016 Narcan order, but the attending physician listed on that order is
28 Dr. Saxena—her printed name appears nowhere on it, Ex. 16, Phys. Tel. Orders; second, her signature appears on
Mary's 7 March 2016 post-acute progress note—on this note her last name is printed, but only its first letter is
legible, leading a reasonable reader to think that the name is Dr. Saxena's. Ex. 17, Post Acute Progress Note.

1 For actions against such providers of health care the statute of limitations is typically one year
2 after the injury's discovery. *See* § 41A.097(2).

3 The Court has held that Defendant Saxena, as a provider of health care, is not subject to
4 the elder abuse statute. *See* Order ¶ 10 (Apr. 11, 2018). The law of the case therefore counsels
5 that Nurse Socaoco, who as a licensed nurse is a provider of health care, be considered beyond
6 the statute's reach as well.

7 That result does not, however, follow for the IPC entities. Defendants have not even
8 attempted to show that any of these entities qualifies as a provider of health care under §
9 41A.017. *See* Defs.' Mot. Dismiss or in Alt. Summ. J. 19 (announcing without analysis that
10 "[t]he Amended Complaint still improperly contains an Elder Abuse cause of action against the
11 IPC Defendants"). Two conclusions follow: first, that the IPC entities are subject to liability for
12 elder abuse under § 41.1395; second, that the claims against them enjoy § 11.190(3)(a)'s three-
13 year statute of limitations. The IPC entities are therefore unentitled to summary judgment on
14 Laura's claims against them.

15 **IV. CONCLUSION**

16 Laura requests that the Court deny Defendants' motion for summary judgment.

17 DATED this 29th day of June, 2018.

18 **KOLESAR & LEATHAM**

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

MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

22 -and-

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

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

15333 N. Pima Rd., Ste. 300

25 Scottsdale, Arizona 85260

26 Attorneys for Plaintiffs
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 29th day of June, 2018, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS/MOTION FOR SUMMARY JUDGMENT** in the following manner:

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

/s/ Kristina R. Cole
An Employee of KOLESAR & LEATHAM

EXHIBIT 1



INCIDENT REPORT

LIFE CARE CENTERS OF AMERICA, INC.

Incident Data Archive

Resident's name: Curtis (Last name) Mary (First name) MR # _____

Date and time of incident: 10/10/16 8-7-16

Gender: ☐ Male ☒ Female Room Number: 313A

Type of incident: medication error

Levels of incident: Level 1 ☒ Level 2 ☐ Level 3 ☐ Level 4 ☐

Type of injury: _____

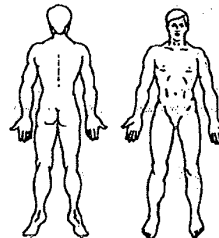
Body part affected: (If resident was injured) _____

Was outside care needed to treat and/or diagnose? ☐ Yes ☒ No

Did incident occur inside or outside the facility? inside

Location of incident: (If inside) 3rd hall - LCC-PV
(include floor, unit, and wing)

Full description of incident: pt was administered wrong pain medication



Was incident witnessed? ☐ Yes ☒ No If witnessed, complete Witness Interview Form.

Name of witness(es): Dunson (Last name) Edwards (First name)

Who discovered the incident? Dunson, Edwards, LCN
(Last name, First name, Title)

Resident's mental condition before incident: ☐ Alert, oriented to surroundings ☒ Alert/confused

☐ Comatose ☐ Confused/disoriented ☐ Sedated ☐ Unknown ☐ Unresponsive

Was resident non-compliant with care or transfers? ☐ Yes ☒ No

Resident's functional mobility before incident: ambulating w/ assist.

Activity at the time of the incident: sitting up in bed.

What resident assistive devices were in use at the time of the incident? none
(walker, wheelchair, cane, etc.)

Were any restraints in use at the time of the incident? (bed rails, trunk restraint, limb restraint, etc.) ☐ Yes ☒ No

Physical restraint type: N/A

Were side rails present? ☒ Yes ☐ No Type of side rails used: ☐ 1 side rail ☒ 1/2 side rails ☐ 2 side rails
☐ other (N/A) for safety

Was height of bed adjustable? ☐ Yes ☐ No If yes, was the bed up or down? ☐ Up ☐ Down

What was the resident's mental condition after the incident? monitored

Resident's V/S immediately after the incident:

97/1
(Temp)

73
(Pulse)

18
(Resp.)

170/48
(B/P)

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Revised 1-5-07

Describe the resident's intensity of pain after the incident. 0-3 0 4-6 _____ 7-10 _____ (on pain scale)

Name of physician/NP notified: Jocasco, Annabell
(Last name) (First name)

Date and time of physician notification: 10³⁰ 3-7-16

Were new orders received? ☒ Yes ☐ No If yes, list new orders Narcan IM 0.4mg x1 NOT.
may repeat in 3 mins #2

Name of family member notified: Lafron Laura
(Last name) (First name)

Relationship of family member notified: daughters

Date of family notification: 3-7-16 Time of family notification: 11⁰⁰

Method of notification: in person

Was any other family member notified? NO Who? _____

Was first aid administered? ☒ Yes ☐ No Type of care/first aid provided Narcan IM (per
NP order)

Who provided the first aid? RN Cecilia
(Name/Title)

Date and time first aid was provided: 3/7/16

Was person involved seen by a physician? ☒ Yes ☐ No Where? den room

Date seen by a physician: 3-7-16 Time seen by a physician: 11³⁰

Was person involved taken to a hospital? ☐ Yes ☒ No Date and time to hospital: _____

Hospital name: NA

What immediate actions were taken to provide safety for resident and/or others? LPN was educated.
(pt. was monitored)

Was an immediate supervisor notified? ☒ Yes ☐ No If yes, who? Adon, OSO, Don
(Last name, First name, Title)

Specific location of incident: 300 hall
(Activity room, hallway, lobby, etc.)

Was an associate involved or providing care at the time of the incident?

☐ Yes ☒ No If yes, who? _____
(Name/Title)

How is resident now? ☐ Returned to prior level of functioning ☒ Stable and improving ☐ Declined
☐ ER visit ☐ Hospital admission ☐ Refused treatment ☐ Expired

Primary diagnosis: _____

Was resident on any of the following medications?

☐ Anti-coagulants ☐ Antipsychotics ☐ Hypertension agents ☐ Antianxiety ☐ Benzodiazepines
☐ Antidepressants ☐ Hypnotics ☐ Diuretics ☐ Other _____

List any drugs started in the last 14 days: _____

Signature and title of person preparing report: Adon LPN

Date completed: 3-7-16

Were new TX orders given? ☐ Yes ☒ No

Describe skin injury/bruise: _____

Date you reviewed and updated the resident's care plan following the incident: _____

Date alert charting initiated: _____

MEDICATION ERROR

Medication type: Disphine

What was the discrepancy? _____

Was there any adverse reaction? ☒ Yes ☐ No If yes, describe increased BP, lethargic

Date you reviewed and updated the resident's care plan following the incident: _____

Date alert charting initiated: 3.7.16

SUICIDE/SUICIDE ATTEMPT

What psychiatric intervention was provided? N/A

What type of interventions were provided? _____

If resident survived, what was discharge disposition? _____
(acute care plan)

Date you reviewed and updated the resident's care plan following the incident: _____

Date alert charting initiated: _____

TRANSFER INJURY

Transfer from N/A Transfer to _____

Obstacles: ☐ Bathroom handrails not stable ☐ Bed casters not locked ☐ Bed too high

☐ Limited space ☐ Other ☐ Resident too heavy ☐ Wet floor

☐ Wheelchair brakes not applied ☐ Wheelchair footrest not removed

Was a gait belt used? ☐ Yes ☐ No

What transfer technique utilized? _____

Was a lift utilized? ☐ Yes ☐ No What type of lift was used? _____

How many associates were involved in the transfer? _____

Date you reviewed and updated the resident's care plan following the incident: _____

Date alert charting initiated: _____

TUBE MISPLACEMENT - (TRACH _____ NGT _____ GT _____ Foley _____ Other N/A)

What interventions were provided? _____

Date you reviewed and updated the resident's care plan following the incident: _____

Date alert charting initiated: _____

EXHIBIT 2

STATE OF NEVADA

CERTIFICATION OF VITAL RECORD

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
VITAL STATISTICS

CERTIFICATE OF DEATH

CASE FILE NO. 3883678

2016006866

STATE FILE NUMBER

TYPE OR
PRINT IN
PERMANENT
BLACK INK

DECEDENT

IF DEATH
OCCURRED IN
INSTITUTION SEE
HANDBOOK
REGARDING
COMPLETION OF
RESIDENCE
ITEMS

PARENTS

DISPOSITION

TRADE CALL

CERTIFIER

REGISTRAR

CAUSE OF
DEATHCONDITIONS IF
ANY WHICH
GAVE RISE TO
IMMEDIATE
CAUSE
STATING THE
UNDERLYING
CAUSE LAST

1a. DECEASED-NAME (FIRST,MIDDLE, LAST,SUFFIX) Mary Therese CURTIS		2. DATE OF DEATH (Mo/Day/Year) March 11, 2016		3a. COUNTY OF DEATH Clark	
3b. CITY, TOWN, OR LOCATION OF DEATH Las Vegas		3c. HOSPITAL OR OTHER INSTITUTION-Name (If not either, give street or Inpatient (Specify) Nathan Adelson Hospice Hospice Facility (HFS)		4. SEX Female	
5. RACE White (Specify)		6. Hispanic Origin? Specify No - Non-Hispanic		7a. AGE-Last birthday (Years) 89	
7b. UNDER 1 YEAR MOS DAYS HOURS MINS		7c. UNDER 1 DAY		8. DATE OF BIRTH (Mo/Day/Yr) December 19, 1926	
9a. STATE OF BIRTH (If not US/CA, name country) New York		9b. CITIZEN OF WHAT COUNTRY United States		10. EDUCATION 11	
11. MARITAL STATUS (Specify) Widowed		12. SURVIVING SPOUSE'S NAME (Last name prior to first marriage)			
13. SOCIAL SECURITY NUMBER 132-14-1745		14a. USUAL OCCUPATION (Give Kind of Work Done During Most of Homemaker		14b. KIND OF BUSINESS OR INDUSTRY Own Home	
15a. RESIDENCE - STATE Nevada		15b. COUNTY Clark		15c. CITY, TOWN OR LOCATION Las Vegas	
15d. STREET AND NUMBER 1055 E Flamingo Rd #1024		15e. INSIDE CITY LIMITS (Specify Yes or No) Yes			
16. FATHER/PARENT - NAME (First Middle Last Suffix) Jack DI CHIARA		17. MOTHER/PARENT - NAME (First Middle Last Suffix) Rose VALENTINO			
18a. INFORMANT- NAME (Type or Print) Laura LATRENTA		18b. MAILING ADDRESS (Street or R.F.D. No, City or Town, State, Zip) 45 Greenway Harrington Park, New Jersey 07640			
19a. BURIAL, CREMATION, REMOVAL, OTHER (Specify) Entombment		19b. CEMETERY OR CREMATORY - NAME Palm Valley View Cemetery		19c. LOCATION City or Town State Las Vegas Nevada 89123	
20a. FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such) CELENA DILULLO SIGNATURE AUTHENTICATED		20b. FUNERAL DIRECTOR LICENSE NUMBER FD862		20c. NAME AND ADDRESS OF FACILITY Palm Mortuary-Eastern 7600 S Eastern Las Vegas NV 89123	
TRADE CALL - NAME AND ADDRESS					
21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title) 21b. DATE SIGNED (Mo/Day/Yr) 21c. HOUR OF DEATH 21d. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)		22a. On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title) TIMOTHY DUTRA M.D. SIGNATURE AUTHENTICATED 22b. DATE SIGNED (Mo/Day/Yr) April 15, 2016 22c. HOUR OF DEATH 14:58 22d. PRONOUNCED DEAD (Mo/Day/Yr) March 11, 2016 22e. PRONOUNCED DEAD AT (Hour) 14:58			
23a. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print) Timothy Dutra M.D. 1704 Pinto Lane Las Vegas, NV 89106		23b. LICENSE NUMBER 13502			
24a. REGISTRAR (Signature) NANCY BARRY SIGNATURE AUTHENTICATED		24b. DATE RECEIVED BY REGISTRAR (Mo/Day/Yr) April 18, 2016		24c. DEATH DUE TO COMMUNICABLE DISEASE YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
25. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c).) PART I (a) Morphine Intoxication DUE TO, OR AS A CONSEQUENCE OF: (b) DUE TO, OR AS A CONSEQUENCE OF: (c) DUE TO, OR AS A CONSEQUENCE OF: (d)		Interval between onset and death		Interval between onset and death	
PART II OTHER SIGNIFICANT CONDITIONS-Conditions contributing to death but not resulting in the underlying cause given in Part I. Atherosclerotic And Hypertensive Cardiovascular Disease, Dementia		26. AUTOPSY (Specify Yes or No) Yes		27. WAS CASE REFERRED TO CORONER (Specify Yes or No) Yes	
28a. ACC. SUICIDE, HOMICIDE, UNDETERMINED OR PENDING INVEST. (Specify) ACCIDENT		28b. DATE OF INJURY (Mo/Day/Yr) March 07, 2016		28c. HOUR OF INJURY 0800	
28d. DESCRIBE HOW INJURY OCCURRED Ingestion Of Morphine		28e. INJURY AT WORK (Specify Yes or No) No		28f. PLACE OF INJURY- At home, farm, street, factory, office building, etc. (Specify) Care Center	
28g. LOCATION STREET OR R.F.D. No. 2325 E Harmon Ave		CITY OR TOWN Las Vegas		STATE Nevada	

LOCAL REGISTRAR

"CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Southern Nevada Health District from State certified documents authorized by state Board of Health pursuant to NRS 440.175.

VR6-Rev-20120523a



254877

DATE ISSUED:

APR 18 2016

Registrar of Vital Statistics

By: *Nancy Barry*

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SOUTHERN NEVADA HEALTH DISTRICT • P.O. Box 3902 • Las Vegas, NV 89127 • 702-759-1010 • Tax ID # 88-0151573



APP0255

EXHIBIT 3

**NMS Labs**

3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

CONFIDENTIAL**Toxicology Report****Report issued** 03/31/2016 22:00

To: 10294
Clark County Coroner's Office
Attn: Bill Gazza
1704 Pinto Lane
Las Vegas, NV 89106

Patient Name CURTIS, MARY
Patient ID 16-02610
Chain 11961260
Age 89 Y **DOB** Not Given
Gender Female
Workorder 16060660

Page 1 of 3

Positive Findings:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Morphine - Free	20	ng/mL	001 - Serum or Plasma

See Detailed Findings section for additional information

Testing Requested:

<u>Analysis Code</u>	<u>Description</u>
8051SP	Postmortem Toxicology - Basic, Serum/Plasma (Forensic)

Specimens Received:

<u>ID</u>	<u>Tube/Container</u>	<u>Volume/ Mass</u>	<u>Collection Date/Time</u>	<u>Matrix Source</u>	<u>Miscellaneous Information</u>
001	Green Vial	2 mL	03/08/2016 15:05	Serum or Plasma	SUNRISE ; C
002	Green Vial	1 mL	03/08/2016 15:05	Serum or Plasma	SUNRISE ; B
003	Green Vial	0.4 mL	03/08/2016	Serum or Plasma	SUNRISE ; A. TIME ON SAMPLE: 13:27

All sample volumes/weights are approximations.

Specimens received on 03/15/2016.



CONFIDENTIAL

Workorder 16080880
Chain 11961260
Patient ID 16-02610

Page 2 of 3

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Morphine - Free	20	ng/mL	10	001 - Serum or Plasma	LC-MS/MS

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Morphine - Free (Codeine Metabolite) - Serum or Plasma:

Morphine is a DEA Schedule II narcotic analgesic. In analgesic therapy, it is usually encountered as the parent compound, however, it is also commonly found as the metabolite of codeine and heroin. In illicit preparations from which morphine may arise, codeine may be present as a contaminant. A large portion of the morphine is bound to the blood proteins or is conjugated; that which is not bound or conjugated is termed 'free morphine'. Hydromorphone is a reported metabolite of morphine.

In general, free morphine is the active biologic agent. Morphine has diverse effects that may include analgesia, drowsiness, nausea and respiratory depression. 6-monoacetylmorphine (6-MAM) is the 6-monoacetylated form of morphine, which is pharmacologically active. It is commonly found as the result of heroin use.

Peak serum concentrations occur within 10 to 20 minutes of a 10 mg/70 kg intramuscular dose, with an average concentration of 60 ng/mL 30 minutes following administration. IV administration of the same dose resulted in an average concentration of 80 ng/mL after 30 minutes. Chronic pain patients receiving an average of 90 mg (range 20 - 1460) daily oral morphine had average serum concentrations of 73 ng/mL (range 13 - 710) morphine. In 15 cases where cause of death was attributed to opiate toxicity (heroin, morphine or both), free morphine concentrations were 0 - 3700 ng/mL (mean = 420 +/- 940). In comparison, in cases where COD was unrelated to opiates (n=20) free morphine was 0 - 850 ng/mL (mean = 90 +/- 200). The ratio of whole blood concentration to serum or plasma concentration is approximately one.

Sample Comments:

001 Physician/Pathologist Name: DUTRA

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded thirteen (13) months from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed. Chain of custody documentation has been maintained for the analyses performed by NMS Labs.

Workorder 16080880 was electronically
signed on 03/31/2016 21:09 by:

William H. Anderson, Ph.D., F-ABFT
Forensic Toxicologist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

Acode 50016SP - Opiates - Free (Unconjugated) Confirmation, Serum/Plasma (Forensic)

-Analysis by High Performance Liquid Chromatography/
Tandem Mass Spectrometry (LC-MS/MS) for:

v.16

APP0258



CONFIDENTIAL

Workorder 16080880
Chain 11961260
Patient ID 16-02610

Page 3 of 3

Analysis Summary and Reporting Limits:

<u>Compound</u>	<u>Rpt. Limit</u>	<u>Compound</u>	<u>Rpt. Limit</u>
6-MAM - Free	1.0 ng/mL	Hydromorphone - Free	1.0 ng/mL
Codeine - Free	5.0 ng/mL	Morphine - Free	10 ng/mL
Dihydrocodeine / Hydrocodol - Free	5.0 ng/mL	Oxycodone - Free	5.0 ng/mL
Hydrocodone - Free	5.0 ng/mL	Oxymorphone - Free	1.0 ng/mL

Acode 8051SP - Postmortem Toxicology - Basic, Serum/Plasma (Forensic)

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

<u>Compound</u>	<u>Rpt. Limit</u>	<u>Compound</u>	<u>Rpt. Limit</u>
Amphetamines	20 ng/mL	Methadone / Metabolite	25 ng/mL
Barbiturates	0.040 mcg/mL	Methamphetamine / MDMA	20 ng/mL
Benzodiazepines	100 ng/mL	Opiates	20 ng/mL
Buprenorphine / Metabolite	0.50 ng/mL	Oxycodone / Oxymorphone	10 ng/mL
Cannabinoids	10 ng/mL	Phencyclidine	10 ng/mL
Cocaine / Metabolites	20 ng/mL		

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

<u>Compound</u>	<u>Rpt. Limit</u>	<u>Compound</u>	<u>Rpt. Limit</u>
Fentanyl / Metabolite	0.50 ng/mL		

-Analysis by Headspace Gas Chromatography (GC) for:

<u>Compound</u>	<u>Rpt. Limit</u>	<u>Compound</u>	<u>Rpt. Limit</u>
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

EXHIBIT 4

Clark County Coroner/Medical Examiner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210



REPORT OF INVESTIGATION
Coroner Case

CALL INFO	NAME OF DECEASED (LAST, FIRST MIDDLE) Curtis, Mary		AKA		CASE NUMBER 16-02610	
	INVESTIGATOR Echo Delargy	REPORTED BY Andrea, RN	REPORTING AGENCY Nathan Adelson Hospice		REFERENCE NUMBER P68393	
	CALL DATE AND TIME 3/11/2016 4:00:00 PM	DISPATCH DATE AND TIME 3/11/2016 5:05:00 PM	ARRIVAL DATE AND TIME 3/11/2016 5:25:00 PM		RETURN DATE AND TIME 3/11/2016 7:15:00 PM	
DECEDENT	DATE AND TIME OF DEATH 3/11/2016 2:58:00 PM	AGE 89 Yrs	GENDER Female	RACE Caucasian	VET? <input type="checkbox"/>	
	RESIDENT COUNTY Clark	TELEPHONE NO. (201) 370-4394	DATE OF BIRTH 12/19/1926			
	SOCIAL SECURITY NO. 132-14-1745	DRIVER'S LIC. NO. AND STATE	OCCUPATION		EMPLOYER	
	MARITAL STATUS Widowed	HEIGHT 62	WEIGHT 122	EYE COLOR	HAIR COLOR Gray	
	CLOTHING			SCARS/TATTOOS/MARKS //		
	LOCATION OF DEATH Nathan Adelson Hospice AT RESIDENCE <input type="checkbox"/>					
	ADDRESS (STREET, CITY, STATE, ZIP) 4141 S. Swenson St. Las Vegas, NV 89119 COUNTY Clark					
DEATH	<input checked="" type="checkbox"/> PRONOUNCED BY Andrea Bartholomew, RN		AGENCY Nathan Adelson Hospice			
	LOCATION OF INCIDENT Hospice room AT WORK <input type="checkbox"/>					
	ADDRESS (STREET, CITY, STATE, ZIP) 4141 S. Swenson St. Las Vegas, NV 89119 COUNTY Clark					
INCIDENT	DATE AND TIME OF INCIDENT 3/11/2016 5:00:00 PM		INVESTIGATING AGENCY		OFFICERS	
	LEGAL NEXT OF KIN Laura Latrenta		RELATIONSHIP Daughter		TELEPHONE NO. (201) 370-4394	
	NOTIFIED BY Echo Delargy		METHOD In Person		DATE AND TIME 3/11/2016 5:30:00 PM	
NOTIFICATION	NAME OF PERSON NOTIFIED Laura Latrenta		RELATIONSHIP Daughter		TELEPHONE NO. (201) 370-4394	
	IDENTIFIED BY Laura Latrenta		METHOD Viewing		DATE AND TIME 3/11/2016 5:35:00 PM	
	TRANSPORTED TO MORGUE BY Palm Mortuary		TRANSPORTED TO MORTUARY BY Palm Mortuary			
DISP	FUNERAL HOME		CLOTHING RELEASED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
	TYPE OF EXAM Autopsy		EXAM BY Timothy Dutra, MD, PhD			
	DECEASED WAS <input type="checkbox"/> Pedestrian <input type="checkbox"/> Driver <input type="checkbox"/> Passenger <input type="checkbox"/> Bicyclist <input type="checkbox"/> Motorcyclist <input type="checkbox"/> Skateboard <input type="checkbox"/> Motorized Wheelchair					
VEHICULAR	VEHICLE		LICENSE NUMBER		STATE	
	OCCURRED ON PRIVATE PROPERTY		DECEASED WEARING SEATBELT?		SEAT POSITION	
					DECEASED WEARING CRASH HELMET?	

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210



REPORT OF INVESTIGATION

Case Number: 16-02610

DECEDENT NAME: Mary Curtis
ALSO KNOWN AS:
LOCATION OF DEATH: Nathan Adelson Hospice
DATE OF DEATH: 03/11/2016

DATE OF BIRTH: 12/19/1926
AGE: 89
SSN: 132-14-1745
TIME OF DEATH: 2:58PM

SUMMARY OF INVESTIGATION

Reason for Coroner Jurisdiction:

Possible overdose. Referencing Nathan Adelson Hospice (NAH) Medical Records #P68393

Circumstances of Death:

The decedent was a patient at Life Care Center of Paradise Valley for declining health. On 3/7/16 while at Life Care, the decedent's daughter was notified by the charge nurse that the decedent was given a dose of 120 or 133 mg of morphine, intended for another patient. She was told that the decedent would be monitored and given an injection to flush out the morphine. On 3/8/16, the decedent's daughter went to see the decedent and found her to be "out of it" and she couldn't wake her. Life Care staff called 911 and the decedent was transported to Sunrise Hospital in an unresponsive state. The decedent was diagnosed with anoxic brain encephalopathy and transferred to Nathan Adelson Hospice on 3/11/16. Her condition declined and death was pronounced at 1458 hours by Andrea Bartholomew, RN.

Medical History:

Per the decedent's daughter, the decedent had a medical history of dementia, urinary tract infections, hypertension, chronic kidney disease, and COPD. The decedent was hospitalized at Desert Springs Hospital from 2/27/16 to 3/2/16. She was transferred to Life Care Center of Paradise Valley on 3/2/16 for rehabilitation. She was admitted to Sunrise Hospital on 3/8/16 and then transferred to Nathan Adelson Hospice on 3/11/16.

Scene:

The incident occurred at Life Care Center of Paradise Valley, located at 2325 E. Harmon Avenue, Las Vegas, NV 89119.

The decedent was pronounced deceased at Nathan Adelson Hospice, located at 4141 Swenson Street, Las Vegas, NV 89119.

Body:

On 3/11/16 at approximately 1730 hours I viewed the body of an 89 year-old Caucasian female lying supine in a standard hospital bed. She was clad in a green hospital gown. There was no rigor mortis or lividity present. No crepitus or obvious masses were noted to the head upon palpation. The eyes were clear. No signs of life were present. Death was pronounced by Andrea Bartholomew, RN at 1458 hours.

*Dissemination is restricted.
Secondary dissemination of this document is prohibited.*

Signature: Echo Delargy
Echo Delargy, Coroner Investigator

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210



REPORT OF INVESTIGATION

Case Number: 16-02610

Property:

Inventory of Personal Effects Form #170407 indicates that no property was impounded.

Forensic Issues and Reasons for Seal:

- No obvious trauma noted
- Medical records obtained from Nathan Adelson Hospice, Sunrise Hospital, and Life Care Center of Paradise Valley
- Medical records requested from Desert Springs Hospital
- Decedent was reportedly given the wrong medication at Life Care Center of Paradise Valley

Witnesses and Information Sources:

Andrea Bartholomew, RN – Nathan Adelson Hospice
Laura Latrenta, daughter

Narrative:

On 3/11/16 at approximately 1600 hours, Andrea Bartholomew, RN at Nathan Adelson Hospice advised the Clark County Office of the Coroner/Medical Examiner (CCOCME) of a death located at 4141 Swenson Street, Las Vegas, NV 89119.

Upon my arrival at approximately 1725 hours, Andrea Bartholomew, RN, advised me of the above mentioned circumstances.

Palm Mortuary was contacted per family request and attendant J. Meredith arrived at approximately 1800 hours. The decedent was wrapped in a clean white sheet, placed in a body bag, and transported to Clark County Office of the Coroner/Medical Examiner (CCOCME), arriving at approximately 1900 hours.

Special Requests:

The decedent's daughter requested that she be contacted in the event that an autopsy is deemed necessary.

Tissue/Organ Donation:

Nevada Donor Network (NDN) protocol was followed.

JB

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Secondary dissemination of this document is prohibited.*

Signature: Echo Delargy
Echo Delargy, Coroner Investigator

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210



AUTOPSY REPORT

Case Number: 16-02610

March 12, 2016

AUTOPSY REPORT

PATHOLOGIC EXAMINATION ON THE BODY OF

MARY CURTIS

SIGNIFICANT ANATOMIC FINDINGS

- I. Respiratory system:
 - A. Bilateral pulmonary congestion and edema.
 - 1. Right pleural effusion.
- II. Cardiovascular system:
 - A. Cardiac enlargement with right ventricular greater than left ventricular hypertrophy, and mild four chamber dilatation.
 - B. Moderate coronary atherosclerosis.
 - C. Moderately severe aortic atherosclerosis.
 - 1. Small abdominal aortic aneurysm.
- III. Urinary system:
 - A. Bilateral renal cortical atrophy, and cortical granularity, consistent with arteriolonephrosclerosis.
- IV. Hepatobiliary system:
 - A. Cholelithiasis.
- V. Female genital system:
 - A. Status post hysterectomy and bilateral salpingo-oophorectomy (remote).
- VI. Gastrointestinal system:
 - A. Status post appendectomy (remote).
- VII. Central Nervous System:
 - A. Clinical history of dementia.
 - B. Meningioma of crista galli.

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APP0264

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210



AUTOPSY REPORT

Case Number: 16-02610

OPINION

It is my opinion that this 89-year-old woman, Mary Curtis, died as a result of morphine intoxication with the other significant conditions of atherosclerotic and hypertensive cardiovascular disease, and dementia.

The decedent had been admitted to a local hospital after falling at home, possibly due to a syncopal episode. Doppler examination of the carotid arteries showed no significant stenosis, although the decedent had previously been diagnosed with carotid stenosis. The decedent had been living at home, and it was determined that she was unable to return to her prior living arrangement, which was living alone. The decedent was discharged to a skilled nursing facility. The admission diagnoses to the skilled nursing facility included coronary artery disease, hypertension, chronic obstructive pulmonary disease, chronic renal failure, and dementia. At the skilled nursing facility, at the time of morning medications, there was reportedly one nurse charged with dispensing medications to forty patients. Due to an error, the decedent received an oral dose of 120 mg of morphine, which had been ordered for another patient. The decedent's regular medication orders did not include morphine. The decedent became excessively sedated, and a physician was called to examine the decedent; and that afternoon the physician administered Narcan and Clonidine, with follow-up physician order for close observation and monitoring every 15 minutes for one hour, and every 4 hours thereafter. The decedent reportedly remained somnolent and was transferred to an acute care hospital the following day. On admission to the acute care hospital, while receiving 3 to 4 liters of oxygen, the admitting physician noted that the decedent was responsive to painful stimulus and could communicate with her daughter. She was considered to have a Glasgow coma scale of 7. A CT scan of the head showed no acute intracranial injury. There was moderate atrophy, and an anterior fossa extra-axial mass, consistent with a meningioma. The hospital admission urine toxicology screen was positive for opiates. The decedent's neurological condition did not improve, and following discussion with the family she was made Category 3. She was comatose, with agonal breathing. The decedent was transferred to a hospice, and died a couple of days later. Toxicological examination of blood obtained on admission to the acute care hospital, following transfer from the skilled nursing facility, showed morphine 20 ng/ml.

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APP0265

Clark County Coroner
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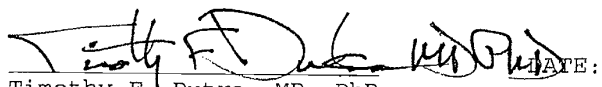


AUTOPSY REPORT

Case Number: 16-02610

CAUSE OF DEATH: It is my opinion that this 89-year-old woman, Mary Curtis, died as a result of morphine intoxication with the other significant conditions of atherosclerotic and hypertensive cardiovascular disease, and dementia.

MANNER OF DEATH: ACCIDENT

 DATE: 4/7/16
Timothy F. Dutra, MD, PhD
Medical Examiner
Clark County, Nevada

TFD/ay/rg

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APP0266

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210



AUTOPSY REPORT

Case Number: 16-02610

March 12, 2016

POSTMORTEM EXAMINATION ON THE BODY OF

Mary Curtis

The examination commences at 9:00 a.m.

IDENTIFICATION: At the time of autopsy, the body is identified by a Clark County Office of the Coroner/Medical Examiner (CCOCME) "toe tag" inscribed with case #16-2610 and the name Curtis, Mary.

EXTERNAL EXAMINATION: The body is clothed in a blue hospital gown. The appearance is that of a woman approximately the stated age of 89 years. The body length is 62 inches. The body weight is 122 pounds. The state of preservation is good in this unembalmed body. Rigor mortis is moderately advanced. Lividity is present and becoming fixed in the dependent areas posteriorly.

The scalp hair is brown-black with gray speckling, and worn moderately long, approximately 4-6 inches in length. This appears to be the natural hair color. The orbital and periorbital tissues are unremarkable. The pupils are round, and the irides are brown. There is bilateral arcus senilis. The conjunctival surfaces are without petechiae. Facial bones are without unusual mobility. The nares are clear. The teeth are in a fair state of repair. The anterior maxillary and mandibular dental arches are intact, but there are missing teeth posteriorly. The gums are well healed where teeth are missing. There are no injuries to the lips or tongue. The external ears are normal. The neck is without unusual mobility.

The chest and back are symmetrical. The breasts are symmetrical and without masses. The abdomen is mildly protuberant. The genitalia are female. The vulva and perineum are without lesions. The anus is normal. Both upper and lower extremities are symmetrical, and without deformity, except for osteoarthritic changes of the hands and feet. There is mild

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AUTOPSY REPORT

Case Number: 16-02610

PAGE TWO

subcutaneous soft tissue edema of the upper and lower extremities.

INVENTORY OF SCARS: There is a vertical scar of the right lower quadrant of the abdomen which is 7 cm in length and up to 1.5 cm in width. There is no underlying palpable facial defect.

INVENTORY OF TATTOOS: None.

INVENTORY OF MEDICAL INTERVENTION: There is an intravascular catheter in the dorsal aspect of the right distal forearm, and another intravascular catheter in the dorsal aspect of the left hand. There is a Foley bladder catheter in place. There is a white band on the left wrist with the name Curtis, Mary and the number #P68393.

INVENTORY OF RADIOGRAPHIC FINDINGS: AP and lateral x-rays of the head and neck show no evidence of recent or remote skeletal injury. The cervical spine is adequately aligned and shows moderate osteoarthritic changes.

AP x-rays of the chest, abdomen and pelvis show no evidence of skeletal injury. Both lungs are expanded. The cardiac shadow is midline. There are mural calcifications of the aortic arch. The abdominal organs shadows are in their usual anatomic positions. The thoracolumbar spine shows moderate osteoarthritic changes. The skeleton is osteoporotic.

INVENTORY OF INJURIES: There is a purple-green ovoid contusion of the left lower quadrant of the abdomen which is up to 4 x 2 cm in size. There are scattered purple-pink and purple-green contusions of the anterior aspects of the lower legs bilaterally. There are no other apparent injuries or fractures present.

BODY CAVITIES: The body is opened with the usual Y-shaped thoracoabdominal incision, and the head is opened with the standard intermastoid incision. The left pleural, pericardial,

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
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AUTOPSY REPORT

Case Number: 16-02610

PAGE THREE

and peritoneal cavities are glistening and contain minimal amounts of clear serous fluid. The right pleural cavity contains approximately 200 ml of watery turbid yellow-brown fluid. The abdominal pannus measures 2-3 cm. The thoracic and abdominal organs lie in their usual anatomic positions.

NECK ORGANS: The soft tissues of the neck are free of hemorrhage. The hyoid bone is intact. The glottis, laryngeal, and tracheal airways are widely patent. The larynx and epiglottis are normal. The thyroid gland is normal.

MEDIASTINUM: The thymus gland is atrophic. The mediastinum is midline.

HEART: The heart weighs 450 gm. The epicardial surface of the heart is smooth and glistening with an abundant amount of subepicardial fat. The heart is enlarged and has a biventricular contour. The left ventricular wall measures 1.3 cm. The interventricular septum measures 1.6 cm, and the right ventricular wall measures 0.6 cm. The endocardium, cardiac valves, and chambers have glistening surfaces. There is focal mural thrombus among the trabeculae carneae of the right ventricle. Measurement of the cardiac valve circumferences shows the tricuspid valve to be 12 cm, the pulmonic valve to be 6 cm, the mitral valve to be 10 cm, and the aortic valve to be 6.5 cm. The valve leaflets are thin, glistening, and pliable. There is mild atherosclerotic rigidity of the cusps of the aortic valve. The interatrial and interventricular septae are without defects. The coronary arteries show mural thickening but are of normal diameter. There are scattered yellow atherosclerotic plaques of both the right and left coronary arteries, mostly proximally. The posterior aspect of the heart is supplied primarily by the right coronary artery. There is focally up to 30-40% atherosclerotic stenosis of the left anterior descending coronary artery and focally up to 40-50% atherosclerotic stenosis of the right coronary artery. No thrombus is seen. The cut surfaces of the myocardium show normal red-brown color and consistency.

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APP0269

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AUTOPSY REPORT

Case Number: 16-02610

PAGE FOUR

VASCULAR SYSTEM: The aorta and arterial system are not remarkable except for scattered yellow focally calcific atherosclerotic plaques of the aortic arch and of the distal abdominal aorta. There is early aneurysm formation of the distal abdominal aorta, which has a diameter of approximately 3-4 cm. The lining of the abdominal aorta shows calcific atherosclerotic plaques with intimal erosion, and there is tan-yellow glistening mural thrombus which is up to 1 cm in thickness. The systemic veins are normal.

LUNGS: The right lung weighs 780 gm, and the left lung weighs 440 gm. The pleural surfaces are purple-pink and glistening. The lung tissues throughout are soft, and there is the appearance of focal friability of the dependent aspect of the upper and lower lobes of the right lung. Cut surfaces are moist, purple-pink tissue. The air passages are lined by pink mucosa. The pulmonary arteries are free of emboli and the pulmonary veins are normal.

LIVER: The liver weighs 1060 gm. The capsule is glistening. Cut surfaces show red-brown hepatic tissue of normal consistency without focal lesion. The gallbladder contains two ovoid yellow-green calculi, each up to 1 cm in diameter. The biliary tract is otherwise normal and free of stones.

PANCREAS: The pancreas is normal in consistency and appearance.

GASTROINTESTINAL TRACT: The entire gastrointestinal tract is examined and found to be normal. The stomach contains minimal amounts of well-digested food, consisting of a thin tan homogenate.

SPLEEN: The spleen weighs 130 gm. The capsule is smooth and glistening and the cut surfaces are purple-red.

LYMPH NODES: The lymph nodes are normal in size.

BONE MARROW: The bone marrow is normal.

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APP0270

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AUTOPSY REPORT

Case Number: 16-02610

PAGE FIVE

ADRENALS: The adrenal cortices are yellow and the medullae are free of hemorrhages.

KIDNEYS: The right kidney weighs 110 gm, and the left kidney weighs 90 gm. The renal capsules strip with ease revealing granular red-brown surfaces. The renal cortices of both kidneys are thin, but without focal lesion. The parenchyma is red-brown and granular. The renal pyramids and papillae are unremarkable. The renal pelves and ureters are unremarkable.

BLADDER: The bladder contains minimal amounts of cloudy yellow fluid. The wall and mucosa are normal.

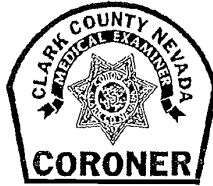
FEMALE GENITAL SYSTEM: The ovaries, fallopian tubes, uterus and cervix are absent from the pelvic basin. The peritoneal attachments of the female genital organs are well healed.

CRANIAL CAVITY: The reflected scalp shows no evidence of contusion, hematoma, or other lesion. The cerebrospinal fluid is clear and colorless. The calvarium and bones at the base of the skull are not remarkable. No fractures or other injuries are seen. The inner and outer surfaces of the dura mater are free of hematoma or organizing membranes. There is a bosselated firm nodule attached to the meninges of the crista galli. Cut sectioning shows this to be pink-tan tough fibrous tissue, consistent with meningioma. The sagittal sinus is patent. The leptomeninges and cisternal spaces are normal in appearance and without hemorrhage. The pituitary gland is grossly normal. The weight of the unfixed brain is 1070 gm. The gyri and sulci are of normal distribution and development. There is no evidence of cingulate, uncal, or tonsillar herniation. No brain injury is detected on careful search. Cut sections of brain substance show symmetry and essentially normal structures, with an intact cortical ribbon, central white matter, and basal ganglia. The ventricles are of normal size. The Circle of Willis and other intracranial vessels are normal. Cut sections of cerebellum and brainstem are unremarkable.

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APP0271

Clark County Coroner
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AUTOPSY REPORT

Case Number: 16-02610

PAGE SIX

SPINAL CORD: The upper spinal cord as viewed from the cranial cavity is not remarkable.

SPECIMENS COLLECTED: Peripheral blood, heart blood, liver tissue and vitreous fluid were collected for toxicological examination. Hospital admission blood was received with the body, and will be given priority for toxicological testing. Samples of organ tissues were retained.

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APP0272

EXHIBIT 5

WILKES & McHUGH, P.A.
ATTORNEYS AT LAW

2355 EAST CAMELBACK ROAD
SUITE 910
PHOENIX, ARIZONA 85016

(602) 553-4552
1-866-553-4552
FAX: (602) 553-4557

June 30, 2016

Life Care Center - Paradise Valley
Attn: Medical Records Department
2325 E Harmon Ave
Las Vegas, NV 89119

RE: Our Client/Patient: Mary Curtis
Social Security #: 132-14-1745
Date of Birth: December 19, 1926

Dear Custodian of Records:

The law firm of Wilkes & McHugh represents the family of the above-referenced party in connection with a civil claim.

This letter provides "Notice" that our client may have a potential claim against **Life Care Center - Paradise Valley**. As a result you should immediately file the necessary report with your insurance carrier regarding this potential claim, within the specified policy period and/or the Extended Reporting Period, pursuant to the terms of your policy.

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Arizona Revised Statutes sections 12-2293(A) and/or 12-2294(B)(8), enclosed please find an Authorization and/or other documents that permit you to release to our office complete and legible copies of documents in your possession, custody or control pertaining to the aforementioned Patient.

Said copies should be made available **within 48 hours** from the receipt of this correspondence or as required by 42 C.F.R. section 483.10(b)(2)(i) and (ii). This includes all medical records as the term "medical records" is defined in Arizona Revised Statutes section 12-2291(4). Your failure to comply within 48 hours, as compelled by the cited Code, shall be met with our immediate request to the Department of Health Services for assistance in compelling your compliance.

REQUEST

Please forward complete and legible copies of all medical records in your possession pertaining to Mary Curtis for treatment rendered to him/her from 03/01/16 to 03/11/16. Please be sure to include Color Copies of Any & All Photos that may have been taken. Said records should include, but are not limited to:

1. Transfer Sheets, e.g., ambulance & EMS reports, hospital & nursing home records
2. Admission Sheets.
3. Hospital Discharge Summary (if any)
4. Physicians' Orders
5. Physicians' Progress Notes
6. Nursing Admission Assessment and Monthly Summaries
7. Discharge Plans and Care Plans
8. Nursing Notes

APP0274

9. Decubitus and/or Skin Reports
10. Medication Sheets, Treatment Sheets, Graphs, I&O Charts, Flow Sheets, ADL/PCR Sheets, etc. (**ALL SIDES & PAGES**)
11. CNA Assignment Sheets
12. Chronological Drug Reviews
13. Nutritional Assessments and Notes; Weight Records
14. Lab and X-Ray reports
15. Restorative Programs and Notes
16. Activity Records
17. Social Service Records
18. Physical Therapy Records
19. Occupational Therapy Records
20. Speech Therapy Records
21. Permits & Releases
22. Arbitration Agreements
23. Duplications of Photographs (**IN COLOR**)
24. Correspondence contained in file/chart
25. **ANY AND ALL INCIDENT/OCCURRENCE REPORTS**

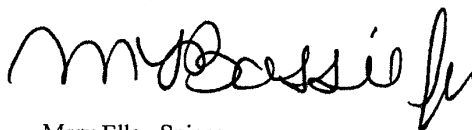
If your facility has electronic capabilities, it is requested that you provide the documents requested herein on CD.

If you require prepayment for your copying costs, please FAX that billing to my attention. Otherwise, we ask that you submit your billing, along with the copies of requested records, and we will remit timely payment to you

IF THE COST FOR COPYING THE RECORDS EXCEEDS \$25.00 PLEASE CALL OUR OFFICE FOR AUTHORITY TO PROCEED IN DUPLICATION

If you have questions, Nancy L Contreras at the number noted above so that there is no delay in the processing of this request. Thank you for your anticipated cooperation.

Very truly yours,



Mary Ellen Spiece

MES:nlc
Enclosure/Authorization

Affidavit of No Records Found

I declare after a diligent search that no records responsive to this request exist.

Signature: _____

Date: _____

Printed Name: _____

Title: _____

PLEASE RETURN A COPY OF THIS CORRESPONDENCE WITH THE REQUESTED ITEMS

EXHIBIT 6



2325 East Harmon Avenue / Las Vegas, Nevada 89119
(702) 798-7990 / FAX (702) 798-9910 / WWW.LCCA.COM

✓ Rec'd
(already
in
pm)
JBE

Acknowledgement of Request for Copies and Request for Payment

Date: August 17, 2016

To: Wilkes & McHugh

From: Life Care Center South Las Vegas

Subject: Acknowledgment of Request for Copies and Request for Payment

Re: Mary Curtis

16-0789
Carrie

Enclosed is your request for copies of health information for the above named resident.

Copy Fees: \$1.00 per page for first 25 pages and \$.25 per page thereafter

Number of copied pages 238

x copy fee= \$ 78.25

Postage Charged \$ -

TOTAL CHARGE \$ 78.25

Please make check payable to: Life Care Center of South Las Vegas
Att: Medical Records

If you have any questions or concerns, please feel free to contact me at 702-795-1123.

Sincerely,

Judy McCallum

APP0277

EXHIBIT 7



Wilkes & McHugh
15333 N. Pima Road, Suite 300
Scottsdale, Arizona 85260
Phone: 602.553.4552
Fax: 602.553.4557
www.wilkesmchugh.com

May 17, 2017

VIA U.S. MAIL

S. Brent Vogel
Amanda Brookhyser
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, NV 89118

Re: Mary Curtis v Life Care Center - Paradise Valley

Dear Amanda:

It was a pleasure meeting you. I hope this letter finds you well. As we discussed, I have attached a copy of the letter I sent to your office last month. Out of an abundance of caution, I've included another CD of the records, photographs, and videos listed on that letter. Furthermore, I have enclosed several recent orders regarding the discoverability of these kinds of documents.

All of the items listed below are relevant and discoverable, and should be produced.

Please identify the following individuals:

- Names of all current and former employees from the time period of Ms. Curtis' residency, and identify position, whether current or former employee, and last known address of the former employees;
- Name of the Administrator, Director of Nursing, Assistant Director of Nursing, MDS Coordinator, Regional and Divisional Representatives during Ms. Curtis' residency;
- Name(s) of the person(s) responsible for ratifying the budget of Life Care Center – Paradise Valley;
- Name of the management company utilized, if any;
- Name(s) of the person(s) on the governing body;
- Name of the owner of Life Care Center – Paradise Valley;
- Name of the licensee of Life Care Center – Paradise Valley;
- Name of any outside consultants used by Life Care Center – Paradise Valley;
- Names of employment agencies used by Life Care Center – Paradise Valley, if used;
- Name of the person most knowledgeable regarding Life Care Center – Paradise Valley's operating budget;

- The domain name suffix for the email used by the Defendants (ie @lcca.com);
- The name of any IT company used by the Defendants during Ms. Curtis' residency.

Please produce documents during Ms. Curtis' residency at Life Care Center - Paradise Valley related to all of the following categories:

- Any and all insurance policies related that afford or may potentially render any coverage, including excess and umbrella, to the instant cause of action for all Life Care Defendants;
- A color copy of all medical records in Defendants' possession regarding Ms. Curtis, including audit trails for electronic medical records;
- Incident reports regarding Ms. Curtis;
- Incident reports regarding medication errors for the time period of Ms. Curtis' residency, six months before, and one month after (all other residents' names can be redacted);
- Medication error reports for the time period of Ms. Curtis' residency, six months before, and one month after (all other residents' names can be redacted);
- Medical chart of the patient originally scheduled to have the morphine administered to Ms. Curtis (with the patient name redacted);
- Billing records in Defendants' possession regarding Ms. Curtis;
- Any and all consultant pharmacy reports /in-house audits and reviews including, but not limited to, Monthly Drug Regimen Review, Controlled Substance Destruction Review, Controlled Substance Audits, Medication Administration Audits, Psychoactive Medication Reviews, and Medication Utilization Reports;
- Resident council meeting minutes (Defendants may redact the names of other residents) for six months prior, during, and one month after Ms. Curtis' residency;
- Policies and Procedures, or in the alternative, the Table of Contents for the Policies and Procedures in effect during the relevant time period, so Plaintiff may narrow her request;
- Copies of employee files for all staff working at Life Care Center - Paradise Valley during Ms. Curtis' residency, specifically including applications, documents that contain discipline information regarding the employee, complaints registered by the employee, performance evaluations, letters or documents relating to the termination of the employee's service, documents regarding exit interviews or employee questionnaires which are completed when employees leave the Defendants' employment for any reason, and documents regarding employee satisfaction;
- Job descriptions for the employees of Life Care Center - Paradise Valley;
- In-service documentation including documents that were distributed at staff education and/or in-service meetings;
- Employee handbooks;
- Any and all reports reflecting staffing level ratios for the nursing home and the unit in which Ms. Curtis resided for six months prior, during, and one month after Ms. Curtis' residency;
- Daily assignment sheets and schedules for employees who worked in the facility during Ms. Curtis' residency;
- Daily sign-in sheets for employees who worked on the unit on which Ms. Curtis resided;
- Time cards/electronic punch detail reports for employees who worked at the facility during Ms. Curtis' residency;

- Documents or reports that reflect nursing hours PPD (per patient day) for the nursing home and for the unit on which Ms. Curtis resided for six months prior, during, and one month after Ms. Curtis' residency;
- An employee roster containing the names of employees who worked at Life Care Center - Paradise Valley during Ms. Curtis' residency;
- Any and all census records or reports which show the daily census for the nursing home and for the unit on which Ms. Curtis resided for six months prior, during, and one month after Ms. Curtis' residency;
- Any and all documents which show the actual monthly revenue generated from the census for 2016;
- Any and all documents which show the actual monthly expenses for nursing staff, nursing supplies (i.e. dressings, etc.), and nursing equipment (i.e. bed alarms, etc.) for Life Care Center - Paradise Valley for 2016;
- Any and all budgets and budget worksheets, including all amendments to budgets, and all (weekly, monthly, or yearly) Budget Variance Reports, or monthly profit and loss statements, prepared for the operation of Life Care Center - Paradise Valley for the calendar year of 2016;
- The audited and unaudited financial statement of Defendants from 2016 to present;
- Income tax returns for Defendants from 2016 to present;
- Minutes of the governing body of Life Care Center - Paradise Valley prepared during Ms. Curtis' residency and for the six-month period prior to the beginning of her residency;
- Any and all emails or other electronic communications to and from the following users during the timeframe encompassing the Ms. Curtis' residency, and six months prior to and one month following the Ms. Curtis' residency: Administrator, Director of Nursing, Regional Director of Operations, or Area Vice President, including other persons whose titles/responsibilities are similar to those listed here. This request shall include emails containing the following terms and/or derivations thereof: fall, bounce back, medication error, charting errors, "Mary Curtis", staff, budget, PPD, labor, census, acuity, survey deficiencies, "LOS", length of stay, Gatekeeper, neglect, and abuse; Plaintiff reserves the right to request other user name boxes to be searched as well as other search terms after the initial disclosure of emails are produced;
- Charts and tables of organization that describe the lines of authority and communication at Life Care Center - Paradise Valley and between and among the Defendants during Ms. Curtis' residency;
- Any and all contracts between Life Care Center - Paradise Valley and any administrative or management company responsible in any way for the administration, management, or operation of Life Care Center - Paradise Valley during Ms. Curtis' residency;
- A copy of any contract between Life Care Center - Paradise Valley and any outside consultants and the medical director, and/or any medical doctor;
- Any and all reports, correspondence, or other writings including e-mail or electronic correspondence generated by or on behalf of any management company of, or consultant to the nursing home concerning the care and treatment of residents during Ms. Curtis' residency;
- A floor plan of Life Care Center - Paradise Valley;
- Any and all advertisements, descriptive brochures and pamphlets employed by Defendants to advertise the facility, or to inform or educate the general public, hospitals, doctors, or others of the services offered at the facility for the calendar year 2016;
- Any and all documents reflecting, evidencing and/or consisting of any questionnaires, inquiries and/or surveys of residents and/or family members of residents referencing,

relating to and/or memorializing satisfaction relating to any aspect of care provided at Life Care Center - Paradise Valley for 2016;

- Any and all Facility Quality Indicator Reports and/or CASPAR Reports for 2016;
- DHS Form HCFA-671, titled, Facility Staffing;
- DHS Form HCFA-672, titled, Resident Census and Condition of Residents;
- Any and all documents, surveys, complaints, statements of deficiencies, investigations, and correspondence from any licensing body, including Federal or State agencies to or from Defendants concerning Life Care Center - Paradise Valley for 2013-current;
- Key Factor Reports for the time period of Ms. Curtis' residency, six months before, and one month after;
- Labor reports for the time period of Ms. Curtis' residency, six months before, and one month after;
- Census reports for the time period of Ms. Curtis' residency, six months before, and one month after;
- Customer base reports for the time period of Ms. Curtis' residency, six months before, and one month after;
- Discharge reports and/or Length of Stay (LOS) reports for the time period of Ms. Curtis' residency, six months before, and one month after.

If you have any questions, please do not hesitate to call.

Very truly yours,



Melanie L. Bossie, Esq.

MLB/lrb

Enclosed: As stated above

cc: Michael D. Davidson, with enclosures

EXHIBIT 8

KOLESAR & LEATHAM

400 S. Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Tel: (702) 362-7800 / Fax: (702) 362-9472

1 NLWD

MICHAEL D. DAVIDSON, ESQ.

2 Nevada Bar No. 000878

KOLESAR & LEATHAM

3 400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

4 Telephone: (702) 362-7800

Facsimile: (702) 362-9472

5 E-Mail: mdavidson@klnevada.com

6 -and-

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

WILKES & MCHUGH, P.A.

8 15333 N. Pima Rd., Ste. 300

Scottsdale, Arizona 85260

9 Telephone: (602) 553-4552

Facsimile: (602) 553-4557

10 E-Mail: Melanie@wilkesmchugh.com

11 Attorneys for Plaintiffs

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 * * *

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

18 Plaintiffs,

19 vs.

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

24 Defendants.

CASE NO. A-17-750520-C

DEPT NO. XXIII

**PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO LIFE CARE
DEFENDANTS**

25 **PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

26 Plaintiff, by and through her attorneys of the law firm of KOLESAR & LEATHAM and
27 the law firm WILKES & MCHUGH, P.A., hereby serve upon you the following Requests for
28

1 Production, which you are directed to respond to fully, pursuant to Rule 34, Nevada Civil Rules
2 of Procedure. A true copy of the requested documents and any objections you may have to these
3 Requests must be served on the undersigned attorney within thirty (30) days after service of these
4 Requests:

5 DEFINITIONS

6 1. The terms "**YOU**" and "**YOUR**" refer, individually and collectively, to the
7 individual, partnership, or corporate defendant to whom this request is addressed, all
8 predecessors and affiliates of said defendant, all agents, employees, partners, officers, directors
and all persons acting or purporting to act on the behalf of said defendant or its predecessors and
affiliates.

9 2. The terms "**DOCUMENT(S)**" and/or "**DOCUMENTATION**" mean and
10 include all written, graphic or otherwise recorded matter however produced or reproduced,
11 including the originals (or any copies when originals are not available) and non-identical copies
(where different from the original because notes were made on such copies or because said copies
12 may have been sent to different individuals than originals, or for any other reason) and
13 preliminary or final drafts of writings, records, and recordings of every kind and description,
14 whether inscribed by hand or by mechanical, electronic, microfilm, photographic or other means,
15 as well as phonic (such as tape recordings) or visual reproductions of all statements,
16 conversations or events and including, without limitation, correspondence, teletype messages,
17 notes, reports, compilations, schedules, studies, tabulations, tallies, maps, charts, diagrams,
18 drawings, plans, pictures, computer runs, advertising and promotional material, press releases,
19 minutes and records of any memoranda of all press releases, minutes and records of any
memoranda of all types, inter-office and intra-office communications, notes of conversations,
vouchers, financial calculations and statements, working papers, statistical analyses, invoices,
purchase orders, expense account records, stenographers, notebooks, desk calendars,
appointment books, diaries, manuals, pamphlets, brochures, escrow instructions, contracts,
deeds, agreements, title reports, listings, authorizations, and any abstracts, summaries and
analyses of the above, and all other recorded matter of every nature and kind.

20 3. The term "**DEFENDANTS**" refers to Defendants SOUTH LAS VEGAS
21 MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH LAS VEGAS f/k/a LIFE
22 CARE CENTER OF PARADISE VALLEY; SOUTH LAS VEGAS INVESTORS LIMITED
PARTNERSHIP; LIFE CARE CENTERS OF AMERICA, INC.; and CARL WAGNER,
Administrator.

23 4. The term "**PLAINTIFF**" refers to Mary Curtis.

24 5. The term "**NURSING HOME**" means South Las Vegas Medical Investors, LLC,
25 dba Life Care Center of South Las Vegas, fka Life Care Center of Paradise Valley, where
26 "**PLAINTIFF**" was a resident.

27 6. The term "**RELEVANT TIME PERIOD**" means March 2, 2016, through March
28 8, 2016.

1 **DEMAND FOR PRESERVATION**

2 *Plaintiff hereby demands that all writings, documents, emails and other electronic*
3 *information that is responsive to the requests herein be preserved, maintained, placed on a*
4 *"litigation hold", and kept safe from loss or destruction until the final conclusion of this*
5 *litigation.*

6 **REQUESTED DOCUMENTS**

7
8 **Request for Production No. 1:** Please produce any and all insurance agreements and
9 policies that afford or may potentially render any coverage, including excess and umbrella, to
10 the cause of action for each and any responding **DEFENDANTS**, or its agents, employees, or
11 officers, for any conduct alleged against them by the **PLAINTIFF** in this matter, or alternatively,
12 the last policy and agreement that afforded this **DEFENDANTS'** facility with insurance
13 coverage.

14 **Request for Production No. 2:** Please produce any and all **DOCUMENTS**, notes,
15 statements, or reports **DEFENDANTS** may use as exhibits at trial for this case, including:

- 16 a) A color laser copy of **PLAINTIFF'S ORIGINAL** medical chart or any document(s)
17 referencing care or services provided to **PLAINTIFF** including but not limited to any
18 and all clinical records, incident/accident reports, weekly wound care reports, weekly
19 dietary reports, assessments, dietary records, controlled narcotics logs, pharmacy
20 consulting records, x-ray reports, charts, input/output records, business office records, all
21 admission documents/forms, statements of account and/or billings (including, but not
22 limited to name(s) of insurance company(ies) that were billed [Medicare, Medicaid,
23 Other Insurer] with policy numbers, diagnosis codes billed to each insurer/Coding
24 Summary, amounts of any/all insurance company payments, all billing adjustments as a
25 result of insurance payments and all UB-92 forms), and laser photographic copies of any
26 and all photographs that were taken of **PLAINTIFF** during her residency. If necessary,
27 Plaintiff will agree to pay for color copies;
- 28 b) Any and all consultant pharmacy reports /in-house audits and reviews including, but not
limited to, Monthly Drug Regimen Review, Controlled Substance Destruction Review,
Controlled Substance Audits, Medication Administration Audits, Psychoactive
Medication Reviews, and Medication Utilization Reports during the **RELEVANT TIME**
PERIOD;

Request for Production No. 3: All electronic charting or documentation that relates to the

1 **PLAINTIFF** in any way, including but not limited to all entries in the facility's RITA system,
2 CareTracker, or similar system.

3
4 **Request for Production No. 4:** If any portion of the clinical record is in electronic format,
5 please produce an audit trail or other documentation of all times that the facility's electronic
6 medical records on the resident have been accessed, including:

- 7 a. the name of the person accessing the records;
8 b. the date and time that each person accessed the records; and,
9 c. an indication of what functions were performed during each person's access
10 (i.e., entering new charting, deleting charting, editing charting, printing
11 charting, etc.).

12 **Request for Production No. 5:** All draft and/or deleted electronic chart entries regarding
13 the **PLAINTIFF**, to the extent not already provided.

14 **Request for Production No. 6:** Please produce all RITA documents regarding
15 **PLAINTIFF**, including but not limited to:

- 16 a) Activities of Daily Living (ADLs);
17 b) End of shift reports;
18 c) List/recording of AccuNurse Silent Paging requests;
19 d) Real time flow sheets and CNA progress reports;
20 e) Proactive Data Push screenshots and/or lists;
21 f) Welcome messages delivered to staff at the beginning of each shift for the
22 **RELEVANT TIME PERIOD**;
23 g) Weight and vital signs records;
24 h) Change of condition notifications;
25 i) Care Alerts; and
26 j) Recordings, records, spreadsheets, reports and documents of any kind created by the
27 AccuNurse system.

28 **Request for Production No. 7:** All 24-hour reports (a/k/a shift change reports) that

1 reference or relate to **PLAINTIFF** in any way.

2
3 **Request for Production No. 8:** Please provide the facility's policies and procedures
4 effective during **PLAINTIFF'S** residency, including but not limited to:

- 5 a) Nursing services;
- 6 b) Staff education;
- 7 c) Dietary services;
- 8 d) Medication administration;
- 9 e) Medication errors;
- 10 f) Falls;
- 11 g) Medical records;
- 12 h) Consultant services;
- 13 i) Documentation;
- 14 j) Resident care planning;
- 15 k) Resident's rights;
- 16 l) The reporting of accidents or unusual incidents involving any resident;
- 17 m) Retention of medical records and facility records;
- 18 n) Resident Change of Condition.

19
20 **Request for Production No. 9:** Please produce all documentation maintained by
21 **DEFENDANTS** for each employee of **DEFENDANTS** who provided any care or service to
22 **PLAINTIFF** at the **NURSING HOME**, including but not limited to the following information:

- 23 a) Any and all applications for employment;
- 24 b) Any and all documents which would contain disciplinary information of the
25 employee by the nursing home, including letters of reprimand, or complaints by
26 outside persons, Nevada Board of Nursing verification documentation;
- 27 c) Any and all documents submitted by the employee or recorded by the facility,
28 concerning complaints registered by the employee;
- 29 d) Any and all performance evaluations completed for the employee for the year before
30 the **RELEVANT TIME PERIOD**, the **RELEVANT TIME PERIOD**, and the
31 year after the **RELEVANT TIME PERIOD**;
- 32 e) Any and all forms, letters, or notes relating to termination of the employee's service
33 at the **NURSING HOME**, including writings completed by the employee or any
34 other member of the nursing home's staff or administration;
- 35 f) All exit interviews or employee questionnaires which are completed when
36 employees are terminated, transferred, or when they leave the **DEFENDANTS'**
37 employment for any reason;
- 38 g) Please provide all **DOCUMENTS** reflecting, evidencing and/or consisting of any
39 questionnaires, inquiries and/or surveys relating to and/or memorializing
40 **DEFENDANTS'** employees' satisfaction relating to any aspect of employment
41 and of care provided at the **NURSING HOME** during the **RELEVANT TIME**
42 **PERIOD**;
- 43 h) Job descriptions for the employees of **DEFENDANTS**.

1 **Request for Production No. 10:** All statements Defendants or their counsel have received
2 from any of Defendants' former or current employees regarding this matter.

3
4 **Request for Production No. 11:** All letters and/or emails, including all attachments and
5 enclosures, sent by Defendants to any former or current employee regarding the **PLAINTIFF**
6 and/or this matter.

7 **Request for Production No. 12:** All letters and/or emails, including all attachments and
8 enclosures, sent by Defendants' counsel to any of Defendants' former employees regarding the
9 **PLAINTIFF** and/or this matter.

10 **Request for Production No. 13:** Please produce any and all documents that contain a
11 schedule of in-service education or training classes and documents that were distributed at staff
12 education and/or in-service meetings conducted at the **NURSING HOME** for employees having
13 responsibility for any aspect of resident care during the **RELEVANT TIME PERIOD**.

14 **Request for Production No. 14:** Please produce any and all employee/associate handbooks
15 which were in effect during the **RELEVANT TIME PERIOD**.

16
17 **Request for Production No. 15:** For the facility's Regional Director of Operations,
18 Regional/Corporate/Clinical Nurse Consultant, Administrator, Director of Nursing, and MDS
19 Coordinator who served in those roles at any time during the **RELEVANT TIME PERIOD**:

- 20 a. the most recent resume or CV in the individual's or Defendants' possession;
- 21 b. employment application(s);
- 22 c. all performance evaluations;
- 23 d. all disciplinary actions;
- 24 e. all termination and/or resignation letters;
- 25 f. all written complaints by or about such individuals
- 26 g. all separation agreements and/or similar agreements; and, all exit interview
documents.

27 **Request for Production No. 16:** Please produce any and all reports reflecting the staffing
28 level ratios for the **NURSING HOME** and the unit(s) in which **PLAINTIFF** resided at the

1 NURSING HOME during the RELEVANT TIME PERIOD.

2
3 Request for Production No. 17: Please produce all internal memoranda, e-mails, or any
4 other documents that reflect discussions of staffing issues at the facility during the RELEVANT
5 TIME PERIOD and the three months prior to the RELEVANT TIME PERIOD.

6 Request for Production No. 18: Please produce any and all daily assignment sheets and
7 schedules for employees of DEFENDANTS' NURSING HOME who were assigned to the
8 nursing services department for the unit(s) in which PLAINTIFF resided during the
9 RELEVANT TIME PERIOD.

10 Request for Production No. 19: Please produce any and all employee rosters used by the
11 NURSING HOME during the RELEVANT TIME PERIOD.

12
13 Request for Production No. 20: Please produce any and all daily sign-in sheets in
14 existence, which reflect the names or signatures of employees of DEFENDANTS' NURSING
15 HOME who worked on the unit(s) in which PLAINTIFF resided during the RELEVANT
16 TIME PERIOD.

17 Request for Production No. 21: Please produce any and all time cards, payroll journals, and
18 electronic punch detail records for the employees who worked on the unit(s) in which
19 PLAINTIFF resided at the NURSING HOME during the RELEVANT TIME PERIOD.

20
21 Request for Production No. 22: Please produce any and all documents which indicate the
22 nursing hours per patient per day for the NURSING HOME and the unit(s) in which
23 PLAINTIFF resided at the NURSING HOME during the RELEVANT TIME PERIOD.

24 Request for Production No. 23: Any and all emails or other electronic communications to
25 and from the following users during the timeframe encompassing the Ms. Curtis' residency, and six
26 months prior to and one month following the Ms. Curtis' residency: Administrator, Director of
27 Nursing, Regional Director of Operations, or Area Vice President, including other persons whose
28 titles/responsibilities are similar to those listed here. This request shall include emails containing

1 the following terms and/or derivations thereof: fall, bounce back, medication error, charting errors,
2 "Mary Curtis", staff, budget, PPD, labor, census, acuity, survey deficiencies, "LOS", length of stay,
3 Gatekeeper, neglect, and abuse; Plaintiff reserves the right to request other user name boxes to be
4 searched as well as other search terms after the initial disclosure of emails are produced.

5 **Request for Production No. 24:** The results of all mock surveys performed at the facility
6 during the **RELEVANT TIME PERIOD** and on year prior.

7
8 **Request for Production No. 25:** All documentation of calls to the Defendants' complaint
9 hotline and investigations into such calls, as well as any written complaints or grievances
10 received by the Defendants during the **RELEVANT TIME PERIOD** and six months prior,
11 pertaining to:

- 12 a. The facility's staffing levels;
- 13 b. Medication errors;
- 14 c. Call light response times and/or lack of response; and,
- 15 d. The **PLAINTIFF**.

16 **Request for Production No. 26:** The bonus or incentive program/criteria in effect for
17 Defendants' officers, directors, Regional staff in the region which included the **NURSING**
18 **HOME**, and employees during the **RELEVANT TIME PERIOD**.

19 **Request for Production No. 27:** Please produce the bonus criteria for the Administrator,
20 DON, Regional Director of Operations, and Regional Director of Clinical Services in effect
21 during the **RELEVANT TIME PERIOD**.

22 **Request for Production No. 28:** All separation agreements by and between any of the
23 Defendants and:

- 24 a. Any of the **PLAINTIFF'S** caregivers at the facility;
- 25 b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;
- 26 c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;
- 27 d. The Regional Director(s) of Operations whose territory included the facility
28 during the **RELEVANT TIME PERIOD**;

- 1 e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included
2 the facility during the **RELEVANT TIME PERIOD**; and
3 f. Any other individual identified as a witness in this matter or who Defendants
4 reasonably suspect may be called to testify in this matter.

5 **Request for Production No. 29:** All contracts, agreements or other writings containing anti-
6 disparagement provisions, and/or non-disclosure clauses or language, by and between any of the
7 Defendants and:

- 8 a. Any of the **PLAINTIFF'S** caregivers at the facility;
9 b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;
10 c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;
11 d. The Regional Director(s) of Operations whose territory included the facility
12 during the **RELEVANT TIME PERIOD**;
13 e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included
14 the facility during the **RELEVANT TIME PERIOD**; and
15 f. Any other individual identified as a witness in this matter or who Defendants
16 reasonably suspect may be called to testify in this matter.

17 **Request for Production No. 30:** All Complaints filed in any litigation and/or administrative
18 proceedings by and between any of the Defendants and:

- 19 a. Any of the **PLAINTIFF'S** caregivers at the facility;
20 b. The facility's Administrator(s) during the **RELEVANT TIME PERIOD**;
21 c. The facility's Director of Nursing(s) during the **RELEVANT TIME PERIOD**;
22 d. The Regional Director(s) of Operations whose territory included the facility
23 during the **RELEVANT TIME PERIOD**;
24 e. The Regional/Corporate/Clinical Nurse Consultant(s) whose territory included
25 the facility during the **RELEVANT TIME PERIOD**; and
26 f. Any other individual identified as a witness in this matter or who Defendants
27 reasonably suspect may be called to testify in this matter.

28 **Request for Production No. 31:** Please produce all provider agreements between
Defendants and the State of Nevada for the period of the **RELEVANT TIME PERIOD**.

1
2 **Request for Production No. 32:** Please produce all provider agreements between
3 Defendants and the federal government for the period of the **RELEVANT TIME PERIOD**.

4 **Request for Production No. 33:** Please produce all agreements and/or contracts between
5 Defendants and the medical director for the **NURSING HOME** for the period of the
6 **RELEVANT TIME PERIOD**.

7
8 **Request for Production No. 34:** Please produce all written job descriptions for all of the
9 managing members of Life Care in effect during the **RELEVANT TIME PERIOD**.

10 **Request for Production No. 35:** Please produce all written job descriptions for all of the
11 governing body members of Life Care in effect during the **RELEVANT TIME PERIOD**.

12
13 **Request for Production No. 36:** Please produce any and all surveys, mock surveys, nurse
14 consultant reports, documents, reports, and tools, applicable to the **RELEVANT TIME**
15 **PERIOD**, generated at the facility for the duration of the **RELEVANT TIME PERIOD**, and
16 one (1) year prior, and six (6) months subsequent, which memorialize Defendants' evaluation
17 and monitoring of the facility's compliance with mandatory regulations, policies and procedures,
18 and care given to the residents.

19 **Request for Production No. 37:** Please produce all documents that reflect or are related to
20 maintaining the budget at the facility, including but not limited to, budget, budget variance,
21 budget fluctuation, and/or profit/loss statements and reports, inter-company memoranda,
22 correspondence, handwritten notes and e-mails during the **RELEVANT TIME PERIOD** and
23 the three months prior to the **RELEVANT TIME PERIOD**.

24 **Request for Production No. 38:** Please produce all documentation and/or reports from any
25 consultant or management personnel hired to evaluate the adequacy of care rendered to residents
26 of all Life Care facilities in Nevada for the duration of the **RELEVANT TIME PERIOD**, and
27 one (1) year prior, and six (6) months subsequent.

1 **Request for Production No. 39:** Please produce all reports or documents that reflect or
2 trend survey deficiencies for Defendants' nursing home operations in Nevada during the
3 **RELEVANT TIME PERIOD** and the three months prior to the **RELEVANT TIME**
4 **PERIOD**.

5 **Request for Production No. 40:** Produce any and all minutes of the Governing Body of the
6 **NURSING HOME** prepared during the **RELEVANT TIME PERIOD** and for the six-month
7 period prior to the beginning of such time period.

8
9 **Request for Production No. 41:** Please produce all charts and tables of organization
10 including tables of organization that describe the lines of authority and communication at the
11 **NURSING HOME** and between and among the **DEFENDANTS** during the **RELEVANT TIME**
12 **PERIOD**.

13 **Request for Production No. 42:** Produce a complete floor plan of the **NURSING HOME**.

14
15 **Request for Production No. 43:** Any and all **DOCUMENTS** reflecting, evidencing and/or
16 consisting of any questionnaires, inquiries and/or surveys of residents and/or family members
17 concerning the **NURSING HOME**, which reference, relate to and/or memorialize satisfaction
18 relating to any aspect of care provided at the **NURSING HOME** during the **RELEVANT TIME**
19 **PERIOD**.

20 **Request for Production No. 44:** Please produce the written minutes of all resident council
21 meetings of the **NURSING HOME** that occurred at any time during the **RELEVANT TIME**
22 **PERIOD**. Plaintiff has no objection to the redaction of private information related to other
23 residents if so required.

24
25 **Request for Production No. 45:** Please produce all advertisements, descriptive brochures
26 and pamphlets employed by **DEFENDANTS** to advertise the facility, or to inform or educate
27 the general public, hospitals, doctors, or others of the services offered at the facility for the
28 calendar year of 2016.

1 **Request for Production No. 46:** Please produce all **FACILITY QUALITY INDICATOR**
2 **REPORT** for the year(s) included in the **RELEVANT TIME PERIOD**.

3
4 **Request for Production No. 47:** Please produce any and all census records or other reports
5 which show the daily census for the **NURSING HOME** and for the unit(s) on which
6 **PLAINTIFF** resided at the **NURSING HOME** during the **RELEVANT TIME PERIOD**.

7 **Request for Production No. 48:** Please produce all reports or documents that reflect or
8 trend the census mix for Nevada during the **RELEVANT TIME PERIOD** and for three months
9 prior to the **RELEVANT TIME PERIOD**.

10
11 **Request for Production No. 49:** Please produce all reports or data compilations that
12 concern the status or condition of residents at the facility that were reviewed by Defendants'
13 corporate offices; management entity; and/or consultants for the duration of the **RELEVANT**
14 **TIME PERIOD**, and one (1) year prior, and six (6) months subsequent. This request includes
but is not limited to any and all of the following:

- 15 a) Standard of Care Reports (for the Region that included the **NURSING**
16 **HOME**)
- 17 b) Quality Indicator Reports (as they existed, with no redactions)
- 18 c) Weight Reports
- 19 d) Medication Error Reports
- e) Change of Condition Reports
- f) Falls Reports

20 **Request for Production No. 50:** Please produce a copy of the Bylaws outlining the duties
21 and responsibilities of the Board of Directors of each of the Defendants in effect for the
22 **RELEVANT TIME PERIOD**.

23
24 **Request for Production No. 51:** Please produce a copy of all documents, treatises,
25 authoritative publications, etc. upon which any of the experts you plan on using at trial in this
26 case have relied.

27 **Request for Production No. 52:** Please produce all reports based upon tests, examinations,
28 and analysis of documents that any of your testifying experts in this case have provided.

1 **Request for Production No. 53:** Please produce a complete list of all documents,
2 depositions, exhibits, plans, drawings, ordinances or statutes which each testifying expert has
3 used in developing his/her opinion.

4 **Request for Production No. 54:** Please produce all clinical reviews/Regional Nurse
5 reviews and the associated plans of correction for the facility for the duration of the **RELEVANT**
6 **TIME PERIOD**, one (1) year prior, and six (6) months subsequent.

7
8 **Request for Production No. 55:** Please produce Corporate Reports generated by the
9 Administrator for the **RELEVANT TIME PERIOD**, one (1) year prior, and six (6) months
10 subsequent.

11 **Request for Production No. 56:** Please produce all admissions/discharge reports with
12 associated explanations for the Facility and the **RELEVANT TIME PERIOD**, one (1) year prior,
13 and six (6) months subsequent.

14
15 **Request for Production No. 57:** Please produce all "report on visit" reports/emails with
16 associated plans of correction or corrective actions taken for the period of the one (1) year prior,
17 and six (6) months subsequent to the **RELEVANT TIME PERIOD**.

18 **Request for Production No. 58:** Please produce a copy of the contract in place during the
19 **RELEVANT TIME PERIOD** for mobile x-ray services.

20
21 **Request for Production No. 59:** Please produce the grievance logs for the **RELEVANT**
22 **TIME PERIOD**, one (1) year prior, and six (6) months subsequent.

23
24 **Request for Production No. 60:** Please produce any and all consultant pharmacy reports
25 /in-house audits and reviews including, but not limited to, Monthly Drug Regimen Review,
26 Controlled Substance Destruction Review, Controlled Substance Audits, Medication
27 Administration Audits, Psychoactive Medication Reviews, and Medication Utilization Reports
28 during the **RELEVANT TIME PERIOD**.

1 **Request for Production No. 61:** Any and all contracts between **DEFENDANTS'**
2 **NURSING HOME** and any administrative or management company responsible in any way for
3 the administration, management, or operation of **DEFENDANTS' NURSING HOME** during the
4 **RELEVANT TIME PERIOD.**

5 **Request for Production No. 62:** Please produce any and all records, specifically including
6 but not limited to medical and billing records, regarding **PLAINTIFF** in **DEFENDANTS'**
7 possession, not previously requested in Request for Production No. 2, throughout the course of
8 this litigation.

9
10 **Request for Production No. 63:** Please produce any medication error and/or fall tracking
11 logs or reports for **DEFENDANTS' NURSING HOME** for the **RELEVANT TIME PERIOD.**
12 (Defendants may redact the names of other residents.)

13 **Request for Production No. 64:** Please produce any and all documents or summary reports
14 which compare the amount of medication errors within **DEFENDANTS' NURSING HOME**
15 and other resident care issues with **DEFENDANTS'** national average for the six (6) months
16 prior to, and including, the **RELEVANT TIME PERIOD.** (Defendants may redact the names
17 of the other residents.)

18 **Request for Production No. 65:** Please produce all documents that concern **PLAINTIFF**
19 in any way that have not been produced in response to any request for production above.
20

21 **Request for Production No. 66:** Please produce all Key Factor Reports for the **NURSING**
22 **HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

23
24 **Request for Production No. 67:** Please produce all Labor Reports for the **NURSING**
25 **HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.

26 **Request for Production No. 68:** Please produce all Census Reports for the **NURSING**
27 **HOME** during the **RELEVANT TIME PERIOD**, six months before, and one month after.
28

1 **Request for Production No. 69:** Please produce all Customer Base Reports for the
2 NURSING HOME during the RELEVANT TIME PERIOD, six months before, and one
3 month after.

4 **Request for Production No. 70:** Please produce all Discharge Reports and/or Length of
5 Stay (LOS) Reports for the NURSING HOME during the RELEVANT TIME PERIOD, six
6 months before, and one month after.

7
8 **Request for Production No. 71:** Please produce any and all incident reports that reference
9 PLAINTIFF. Other residents' names may be redacted.

10
11 **Request for Production No. 72:** Please produce any and all incident reports regarding
12 medication errors for the time period of the RELEVANT TIME PERIOD, six months before,
13 and one month after. All other residents' names can be redacted.

14 **Request for Production No. 73:** Please produce any and all medication error reports for the
15 RELEVANT TIME PERIOD, six months before, and one month after. All other residents'
16 names can be redacted.

17
18 **Request for Production No. 74:** Please produce the medical chart of the patient originally
19 scheduled to have the morphine administered to PLAINTIFF, with the patient name redacted.

20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 Request is hereby made for such timely supplementation of these Responses throughout
2 the pendency of the case.

3
4 DATED this 9th day of August, 2017.

5 KOLESAR & LEATHAM

6 By Melanie Bossie

7 MICHAEL D. DAVIDSON, ESQ.

8 Nevada Bar No. 000878

9 400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

-and-

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

11 WILKES & MCHUGH, P.A.

12 15333 N. Pima Rd., Ste. 300

13 Scottsdale, Arizona 85260

14 *Attorneys for Plaintiffs*

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Wilkes & McHugh, PA, and that on the 8th day of August, 2017, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO LIFE CARE DEFENDANTS** in the following manner:

(U.S. MAIL) By depositing a copy of same in the United States mail, Scottsdale, Arizona, postage fully prepaid, and addressed to the following to those parties listed on the Court's Master Service List.

Lynnda Britt
An Employee of WILKES & MCHUGH, PA

EXHIBIT 9



Wilkes & McHugh
15333 N. Pima Road, Suite 300
Scottsdale, Arizona 85260
Phone: 602.553.4552
Fax: 602.553.4557
www.wilkesmchugh.com

September 25, 2017

VIA EMAIL & U.S. MAIL

S. Brent Vogel
Amanda Brookhyser
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, NV 89118

Re: Mary Curtis v Life Care Center - Paradise Valley et al

Dear Counsel:

Please consider this letter as Plaintiff's good faith effort to meet and confer regarding Defendants' recent responses to Plaintiff's Uniform Interrogatories and Request for Production of Documents in this case. We have reviewed the responses and documents that you have produced and believe that there are several interrogatories and requests that have not been fully answered or produced.

INTERROGATORIES

Interrogatory No. 1 requested Defendants fully identify all individuals, whether current or former employees, who were employed at Life Care Center - Paradise Valley during Ms. Curtis's residency and their current or last known address and job title.

Plaintiff is entitled to discover the identity and ultimately the observations of these individuals as it concerned the care, or lack thereof, that was rendered to Ms. Curtis. In addition, Plaintiff is allowed to question these individuals about the general condition of the residents at the nursing home, staffing and training issues, the implementation of policies and procedures, the effect that the implementation of these policies and procedures had on resident care as well as their overall impressions with regards to the general operations of the nursing home.

Plaintiff wishes to interview these former employees who while not having provided direct care to Ms. Curtis, may nevertheless have made observations or might have knowledge of staffing shortages, care deficiencies, false charting, staffing in advance of a state survey, charting errors or other conditions at the nursing home. The observations of these former employees, whom are essentially percipient witnesses, are relevant and admissible as their observations of the conditions at the nursing home directly relate to Plaintiff's allegations of elder abuse and neglect.

Interrogatory No. 2 requested the names of the Directors of Nursing, Administrators, MDS Coordinators, and Regional and Divisional Representatives for the facility during Ms. Curtis's residency period. Defendants' response included the names of the Administrator, DON, and MDS Coordinator, but did not provide the name of the Regional or Divisional Representatives for the facility during the relevant

time period. Please supplement the response with these names. Furthermore, in Interrogatory No. 6, Plaintiff requested the identities of the members of the governing body. Defendants responded with: Executive Director, Director of Nursing, Regional Vice President. Please provide the name of the Regional Vice President.

Interrogatory No. 4 sought the identity of the person responsible for establishing/ratifying the facility operating budget. Defendants object that this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff is only asking for Defendants to identify the name of the person or persons who were responsible (accountable) for establishing and/or approving Life Care Center - Paradise Valley's budget during the relevant time period. Due to the allegations in this matter, Plaintiff alleges that Defendants placed profits over people and Plaintiff's counsel may want to depose this person. Please supplement this response.

Interrogatory No. 11 Plaintiff, via this interrogatory, is not seeking to obtain sensitive financial information or the financial condition of Life Care Center - Paradise Valley. This interrogatory simply requests the *name and address* of the person most knowledgeable about the financial matters and net worth of Life Care Center - Paradise Valley. Please supplement your response to this non-uniform interrogatory by providing us with the name and address of the individual most knowledgeable about your client's financial matters and net worth.

REQUEST FOR PRODUCTION

Request for Production No. 1 requested all insurance agreements and policies that afford coverage to the Defendants or its agents, employees, or officers for any conduct alleged against them by Plaintiff in this matter. Defendants have produced the declaration page only. Insurance policies are not privileged documents and, therefore, not protected. Pursuant to *Nev.R.Civ.P.*, Rule 16.1(a)(1)(D), Defendants are required to allow for inspection and copying of any insurance agreement which will satisfy part or all of a judgment which may be entered in the action. Defendants are required to produce any and all insurance policies that will be available to satisfy a judgment in this matter. Plaintiff requests the entire policy as it would indicate Defendants' coverage and whether or not there were any restrictions, exclusions, or excess coverage. Additionally, the entire policy would indicate the limits of the excess coverage and identify the facilities covered by the policy. This just lists a few of the categories that the entire policy would address. Please supplement this response with the entire policy.

Request for Production No. 2(a) requested Ms. Curtis's medical records, including any incident reports. Defendants objected by stating that the information is protected by the attorney-client privilege, the work product doctrine, and peer review/quality assurance statutes and case law. First of all, please let me know if an incident report was created and provide a privilege log. I do not want to bother the Court with a motion to compel on this issue if there is not one.

These documents are clearly relevant as they will show the type of care being provided by the staff at Life Care Center - Paradise Valley. Incident reports usually contain the description of the event that is gleaned from witnesses after an investigation is completed regarding the circumstances of the incident. The incident report indicates the person or persons who were there and either witnessed the incident or responded to the incident as well as state what was done in response to the incident. Further, CFR 483.10 (b)(2)(i) requires that the facility, upon request from the resident or the resident's legal representative, to access all records pertaining to the resident. If any incident reports exist relating to Ms. Curtis, it would contain relevant and discoverable information for her while she was a resident at Life Care Center - Paradise Valley. If there is any information relating to another resident in an incident report for

Ms. Curtis, that information could be redacted. Plaintiff is entitled to the information included in the incident report as well as the identification of those individuals who observed any incident involving Ms. Curtis.

Plaintiff's **Request for Production 2(b)** included the production of any controlled narcotics logs, which were not included in Ms. Curtis's records. During Ms. Curtis's residency, she was prescribed controlled narcotics, including but not limited to Percocet. The standard of care regarding narcotics requires that controlled narcotics be administered appropriately. The nursing home is required to maintain a narcotics log. Controlled narcotics that are removed from a locked cabinet are logged out. The entries in the narcotics log must match the patient's medication administration sheet contained within the chart. This information is relevant to determine whether the nursing home's staff handled the controlled narcotics administered to Ms. Curtis in an appropriate manner. As the staff administered morphine that Ms. Curtis was not prescribed, this information is relevant.

Request for Production No. 4 requested the audit trail for electronic clinical records. Electronic records like the RITA system keep track of the entries that get changed or deleted, as well as the identity of anyone who accessed the record. Any change in Ms. Curtis' record is relevant and discoverable in this case, and would be part of her clinical record. Please supplement your response with the audit trail.

Request for Production No. 6 requested the RITA documents regarding Ms. Curtis. Defendants stated that they were gathering responsive documents and will supplement. Please supplement your response with the remaining RITA documentation regarding Ms. Curtis.

Request for Production No. 7 sought the 24-Hour reports (aka shift changes reports). Defendants stated that they were gathering responsive documents and will supplement. Please supplement your response with the 24-Hour reports regarding Ms. Curtis.

Request for Production No. 8 asked Defendants for the relevant Policies and Procedures. Policies & Procedures are both discoverable and admissible. They are also based on well-known Federal regulations, and Defendants have shown no evidence that Life Care Center - Paradise Valley's Policies and Procedures are either private or proprietary. These documents are relevant because they detail the procedures laid out by the facility for certain areas of operation. 42 C.F.R. § 483.75(d)(1) mandates that the governing body of a nursing home create policies and procedures regarding the management and operation of the facility. Plaintiff seeks the Policies and Procedures utilized by the nursing home during the time Ms. Curtis was a resident to determine whether Life Care Center - Paradise Valley's staff was complying with their own Policies and Procedures in the care and treatment of Ms. Curtis.

If Defendants will produce the Table of Contents to their Policies and Procedures, Plaintiff will narrow her request to specific Policies and Procedures and tailor it specifically to the issues and facts of this matter. Plaintiff will not agree that these Policies and Procedures need to be under a protective order, since we have received the Policies and Procedures from this Defendant without a protective order numerous times before.

Request for Production Nos. 9 and 15 sought the employee files of the people who worked at the facility during Ms. Curtis' residency or were regional administrators of the facility. Code of Federal Regulations § 483.75 mandates how a skilled nursing facility shall be administered and sets forth specifically issues of hiring, training and maintaining the nursing staff. Each of Plaintiff's specific requests listed in this request reflects some part of the nursing home's duties and obligations under this federal regulation. The information related to the qualifications of these employees is both relevant and

discoverable. Plaintiff can determine the extent of the Defendants' knowledge of its employees' qualifications based upon their performance evaluations.

~~Furthermore, Plaintiff is entitled to learn if any of Ms. Curtis's caretakers were ever disciplined as~~
it concerned their failure to provide adequate care to the residents in their care. Similarly, disciplinary write-ups provide relevant evidence of notice and knowledge on the part of the Defendants of failures to provide adequate care and services to residents, including Ms. Curtis. Therefore, at this time, Plaintiff is
~~limiting her request to excerpts of the documentation maintained within the employee files of any and all~~
caregivers that provided care to Ms. Curtis, as well as the Administrators/Executive Directors, Directors of Nursing, and Regional Vice Presidents.

Request for Production No. 10 sought all statements Defendants have received from any of Defendants' former or current employees regarding Ms. Curtis. Defendants objected to this request, stating it invaded the attorney-client privilege and seeks protected attorney work-product. First, any formal written statements that Defendants received from their employees is the best, most accurate recollection of what happened and how it happened that Ms. Curtis was overdosed. In addition, such communications, if any, are relevant to show any potential bias or influence on witnesses based on what information was provided to them and instructions given by Defendants or their counsel.

Request for Production No. 13 sought the in-service documentation from the facility. If the facility in-serviced the staff on medication administration before or after Ms. Curtis was at the facility, or during her residency, those documents would be relevant and discoverable. These documents are not privileged or confidential, so they would not need a protective order.

Request for Production No. 14 requested the employee handbook that was in effect during Ms. Curtis' residency. These handbooks are relevant to show what information was provided to the Defendants' employees regarding their employment, their duties, employee expectations and required job performance standards. In addition it would indicate by which employer the employee was employed. Plaintiff will not agree to a protective order. I have received this handbook multiple times in the last few years from Life Care Defendants, and nothing in it is proprietary or confidential.

Request for Production No. 16 sought the staffing level ratio reports. Defendants responded that the information was in the census information disclosed. However, there is no staffing level ratio provided on that document. Please supplement your response with the reports regarding staffing level ratios during Ms. Curtis' residency. The document is also known as the Key Factor Report which gives the daily PPD report for the facility.

Request for Production No. 17 requested documents that reflect discussions of staffing issues at the facility. One of Plaintiff's allegations in this case is that the facility was understaffed, which resulted in injuries to Ms. Curtis. Communications regarding staffing issues is clearly relevant to show Defendants' notice and knowledge of such issues and what actions, if any, were taken to address them.

Request for Production No. 19 sought the employee roster used by the facility during Ms. Curtis' residency. Employee rosters are very basic business documents that list the employees of a facility/company and that should not contain any protected personal information, but which will very easily identify to Plaintiff who was working at the facility during the relevant time period, and who could have been a witness to the situations of the facility and the care provided to Ms. Curtis. Please produce Life Care Center – Paradise Valley's employee roster during the relevant time period with the last known address of the former employees.

Request for Production No. 20 requested daily sign-in sheets and assignment sheets. Sign-in sheets are also used to verify the staffing. These documents are also important in identifying staff, by ~~name and category, in the medical records and discovery process. The sign-in sheets will indicate which~~ specific staff member was assigned to Ms. Curtis during the relevant time period. Thus, Plaintiff will be able to identify each and every individual charged with providing care to her. In addition, the sign-in sheets will assist Plaintiff in confirming whether members of the nursing staff did or did not work on days ~~that they charted providing care to Ms. Curtis.~~

Request for Production No. 21 sought time cards and/or punch detail reports. The requested payroll documentation is relevant to show which and how many hours caregivers worked each day of Ms. Curtis' residency period. Time cards are the most accurate manner to determine if a particular staff member was in fact working on a particular day. Furthermore, it is relevant to determine if the caregivers who are signing off that they were providing care to Ms. Curtis were actually working on those respective days.

Request for Production No. 22 requested documents that indicate the nursing hours per patient per day for the nursing home and the unit(s) in which Ms. Curtis resided. These documents are relevant to show the number and type of personnel available to provide care to the residents of Life Care Center - Paradise Valley, including Ms. Curtis. See also Request for Production No. 16, above.

Request for Production No. 23 requested emails. Plaintiff narrows this request as follows:

All emails, email conversations and email strings, in native and/or electronic format and/or PDF format without withholding any emails, or attachments to emails, that were authored and/or received by the facility's Regional Director of Operations, Regional/Corporate/Clinical Nurse Consultant, Administrator, Director of Nursing, and Divisional V.P./Directors of Operations limited to emails written during the relevant time period and six months prior and one month after the relevant time period that relate to the following categories:

- Staffing, labor, PPD;
- Budget;
- Census;
- Fall(s)
- Medication error;
- Dehydration;

Please note that Plaintiff is reserving the right to request additional search terms and email accounts after the modified search above is completed.

Requests for Production No. 24, 36, and 38 requested mock surveys and other documents which memorialize Defendants' evaluation and monitoring of the facility's compliance with regulations, policies/procedures, and resident care. These documents are relevant to show Defendants notice and knowledge of identified issues with resident care and what actions, if any, were taken to address them.

Request for Production No. 25 requested documentation of calls to Defendants' complaint hotline and written complaints/grievance. Defendants responded that a review of a summary of calls made to a complaint line, but was silent regarding written complaints/grievances. Please supplement Defendants' response to address whether any written complaints/grievances exist and whether they will be produced. Such documents, along with **Request for Production No. 43** which requested resident/family satisfaction surveys, are relevant to show the care issues brought to the attention of Defendants.

Requests for Production Nos. 26 and 27 requested the bonus/incentive program/criteria in effect for various individuals. Plaintiff alleges that the facility was understaffed in an effort to maximize profits to the detriment of resident care. The bonus/incentive program criteria is relevant to show that facility and corporate individuals were incentivized to increase census while decreasing costs, namely, nursing staff.

Requests for Production Nos. 28 and 29 sought all separation agreements between any of the Defendants, and all contracts and agreements that contain anti-disparagement provisions and/or nondisclosure language by and between any of the Defendants. These kinds of agreements are relevant to show if the Defendants have instructed former employees to not share relevant and discoverable information.

Request for Production No. 30 requested all complaints filed in litigation or administrative proceedings by and between Defendants and caregivers, Administrator, Director of Nursing, Regional Director of Operations, Regional/Corporate/Clinical Nurse Consultant, and any other witness in this matter. Defendants objected and stated that these records are publically available, and accessible to Plaintiff already. These documents are already in Defendants' possession, and the administrative proceedings may not have been public record. Please produce the responsive documents.

Request for Production Nos. 31 and 32 sought the provider agreements between the Defendants and Nevada (31) and the federal government (32). These agreements are relevant to show the responsibilities the facility Defendants had in their care for residents, including Ms. Curtis. These documents should be in Defendants' possession and should be produced.

Request for Production Nos. 34 and 35 sought the job descriptions for managing members and all governing body members. These documents are relevant to show the duty and responsibility that each member has to the facility.

Request for Production No. 37 requested various financial documents. At this time, Plaintiff limits her request to budget and budget variance (key factor reports), but reserves the right to request additional financial documents at a later time. Budget information does not reveal the financial net worth or condition of Defendants. It only shows what was budgeted for certain items, such as nursing staff, and what was actually spent.

Request for Production No. 39 sought the reports and documents that reflect/trend survey deficiencies in the Defendants' nursing home operations in Nevada. These documents will show notice and knowledge of deficiencies for these Defendants and the pattern and trend of these deficiencies, reflecting inadequate care to Nevada residents.

Request for Production No. 40 requested minutes of the governing body. Nursing homes are required to have a governing body/governing authority in place that is not only responsible for establishing and implementing policies regarding the management and operation of the nursing home, but is also responsible for ensuring that they are complying with all applicable laws governing their operations as a nursing care institution. Minutes of the governing body are relevant to show notice and knowledge regarding resident care issues and what actions, if any, were taken in response to them. Defendants responded that these are not in their possession. Please identify who has possession of these documents.

Request for Production No. 41 sought the charts of tables of organization of authority and communication between the Life Care Defendants including tables of organization that describe the lines of authority and communication at Life Care Center - Paradise Valley and between the Defendants during the relevant time period. Plaintiff is entitled to discover the lines of authority and communication between and among the Defendants. Charts and tables of organization are relevant to show both the chain of command and the process by which issues are addressed by those running the facility.

In **Request for Production No. 43**, Plaintiff's requested documents consisting of any questionnaires, inquiries, surveys of residents and their family members of the nursing home which reference, relate, and/or memorialize their satisfaction relating to any aspect of care provided at Life Care Center - Paradise Valley during Ms. Curtis' residency. It is relevant as it indicates that Life Care Center - Paradise Valley may have been on notice of any issues relating to the care and treatment of all residents, including Ms. Curtis. These documents are kept as part of the ordinary course of business in the operation of a long-term care facility. These satisfaction surveys are directly relevant to the issues in this case, as these questionnaires and surveys support evidence of notice and knowledge on the part of the nursing staff and management of conditions and concerns of residents and family members.

Request for Production No. 45 requested advertisements, descriptive brochures, and pamphlets that were used by the Defendants to advertise the nursing home, or to inform or educate the general public, hospitals, doctors, or others of the services offered at the nursing home. These advertisements are relevant to show how the nursing home described the services provided as well as whether the services they claim to provide actually were provided to Ms. Curtis. Defendants stated that they would supplement.

Request for Production No. 46 requested all facility quality indicator reports for the relevant time period from Life Care Center - Paradise Valley. These documents are important to indicate the quality of the services at Life Care Center - Paradise Valley while Ms. Curtis was a resident. These reports are relevant to show the prevalence of conditions such as falls, pressure sores and infections occurring in the facility. Falls are a direct issue in this case and this information is thereby pertinent to this matter and the prevalence of these conditions at the facility. Also this information is required to be provided to CMS and therefore is not privileged.

Request for Production Nos. 47 and 48 requested documents that show the census mix for the facility and for Nevada. Defendants have only produced a page of census for the facility. They have not produced anything regarding the mix or the census for the unit on which Ms. Curtis resided. Please produce the responsive documents.

Request for Production No. 49 requested reports that the status/condition of residents that were reviewed by Defendants' corporate offices. These documents are relevant to show the general conditions of the facility, and Defendants' notice and knowledge of resident care issues.

Request for Production No. 54 requested clinical reviews and associated plans of correction for the facility. **Request for Production No. 57** requested "report on visit" reports/emails with associated plans of correction or corrective actions taken. These documents are relevant to show resident care issues at the facility, Defendants' notice and knowledge thereof, and whether any steps were taken to address the issues.

Request for Production No. 55 requested corporate reports generated by the administrator. These documents are relevant to show the condition of the facility and its residents. They are also relevant to show who has an interest in the operation of the facility, who is providing input into the operation of the facility, and who and what the administrator was reporting to, his supervisors.

Request for Production No. 56 sought the admission and discharge reports. These reports will show the incentive of the facility to maintain Ms. Curtis at the nursing home instead of her being sent to an acute care hospital. A resident discharged from a skilled nursing facility to an acute care hospital within thirty days of their discharge from the hospital may lead to financial penalties.

Request for Production No. 59 requested grievance logs. In 42 *Code of Federal Regulations* § 483.15(c), the facility must respond to "the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility." By way of this request, Plaintiff seeks to know these "grievances and recommendations" because the grievances would provide

management with notice and knowledge as to the complaints that were raised by the residents. For example, by way of these grievance logs, Plaintiff can discover whether the residents ever complained about understaffing and/or nursing staff's failure to respond to call lights or other issues. Therefore, these logs can produce relevant information. You may redact any of the residents' names to protect their identities.

Request for Production Nos. 63 and 64 requested medication errors and fall tracking logs and summary reports regarding medication errors. Ms. Curtis suffered from medication errors and falls during her residency at Life Care Center – Paradise Valley. These reports and logs would show notice and knowledge of the facility that Defendants were aware there was a problem. Please produce any responsive documents.

Request for Production Nos. 66, 68, 69, 70, and 73 sought several different kinds of reports that Life Care typically keeps, including Key Factor Reports, Census Reports, Customer Base Reports, Discharge/LOS Reports, and reports showing medication errors. These are discoverable documents that will show, among other things, PPD levels at the facility. As Plaintiff has claimed that understaffing at the facility led to Ms. Curtis' injuries, these reports would be relevant. Please produce these reports.

Request for Production Nos. 71 and 72 requested incident reports, including any regarding Ms. Curtis and any regarding medication errors (with patient name redacted if regarding anyone other than Ms. Curtis. As stated above, these are both relevant and discoverable.

Request for Production No. 74 sought the medical chart of the patient originally scheduled to have the morphine that was administered to Ms. Curtis. If the patient's name is redacted, there shouldn't be any issue regarding HIPAA. This is relevant to determine how a nurse could confuse two different residents and provide a fatal dose of morphine to Ms. Curtis.

Finally, Life Care is aware that judges have been consistently ruling for years that the documents requested in Plaintiff's Requests for Production of Documents are relevant, and do not need a protective order. See attached minute entries from *Washington v Life Care* (2017), *Dailey v Life Care* (2017), *Larsen/Drury v Life Care* (2016), *Aspeitia/Duenas v Life Care* (2015), *Sasse/Whinery v Life Care* (2015), *VanZandt-Lovett/Lovett v Life Care* (2015), *York/Gibbons v Life Care* (2006).

Please supplement your responses to these discovery requests on or before October 5th, 2017.

Very truly yours,



Melanie L. Bossie, Esq.

MLB/lrb

cc: Michael D. Davidson

EXHIBIT 10

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NLWD

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-and-

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Facsimile: (602) 553-4557

E-Mail: Melanie@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; SAMIR S. SAXENA, M.D., and
DOES 1-50, inclusive,

Defendants.

CASE NO. A-17-750520-C

DEPT NO. XVII

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

**PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT
SAXENA**

1 **PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO**
2 **DEFENDANT SAXENA**

3 Plaintiff, by and through her attorneys of the law firm of KOLESAR & LEATHAM and
4 the law firm WILKES & McHUGH, P.A., hereby serve upon you the following Requests for
5 Production, which you are directed to respond to fully, pursuant to Rule 34, Nevada Civil Rules
6 of Procedure. A true copy of the requested documents and any objections you may have to these
7 Requests must be served on the undersigned attorney within thirty (30) days after service of these
8 Requests:

9 **DEFINITIONS**

10 1. The terms "**YOU**" and "**YOUR**" refer, individually and collectively, to the
11 individual, partnership, or corporate defendant to whom this request is addressed, all
12 predecessors and affiliates of said defendant, all agents, employees, partners, officers, directors
and all persons acting or purporting to act on the behalf of said defendant or its predecessors and
affiliates.

13 2. The terms "**DOCUMENT(S)**" and/or "**DOCUMENTATION**" mean and
14 include all written, graphic or otherwise recorded matter however produced or reproduced,
15 including the originals (or any copies when originals are not available) and non-identical copies
(where different from the original because notes were made on such copies or because said copies
16 may have been sent to different individuals than originals, or for any other reason) and
17 preliminary or final drafts of writings, records, and recordings of every kind and description,
whether inscribed by hand or by mechanical, electronic, microfilm, photographic or other means,
18 as well as phonic (such as tape recordings) or visual reproductions of all statements,
conversations or events and including, without limitation, correspondence, teletype messages,
19 notes, reports, compilations, schedules, studies, tabulations, tallies, maps, charts, diagrams,
drawings, plans, pictures, computer runs, advertising and promotional material, press releases,
20 minutes and records of any memoranda of all press releases, minutes and records of any
memoranda of all types, inter-office and intra-office communications, notes of conversations,
21 vouchers, financial calculations and statements, working papers, statistical analyses, invoices,
purchase orders, expense account records, stenographers, notebooks, desk calendars,
22 appointment books, diaries, manuals, pamphlets, brochures, escrow instructions, contracts,
deeds, agreements, title reports, listings, authorizations, and any abstracts, summaries and
23 analyses of the above, and all other recorded matter of every nature and kind.

24 3. The term "**DEFENDANT**" refers to Defendant Samir Saxena, MD.

25 4. The term "**PLAINTIFF**" refers to Mary Curtis.

26 5. The term "**NURSING HOME**" means South Las Vegas Medical Investors, LLC,
27 dba Life Care Center of South Las Vegas, fka Life Care Center of Paradise Valley, where
28 "**PLAINTIFF**" was a resident.

6. The term “**E-MAIL(S)**” means any and all electronic mail as that term is commonly referred to and used.

7. The term “**RELEVANT TIME PERIOD**” means March 2, 2016, through March
8, 2016.

DEMAND FOR PRESERVATION

Plaintiff hereby demands that all writings, documents, emails and other electronic information that is responsive to the requests herein be preserved, maintained, placed on a “litigation hold”, and kept safe from loss or destruction until the final conclusion of this litigation.

REQUESTED DOCUMENTS

Request for Production No. 1: Please provide all insurance agreements and policies including any excess coverage which afford coverage to the responding **DEFENDANT** or his agent, employee, or officer for any conduct alleged against him by the **PLAINTIFF** in this matter.

Request for Production No. 2: Please provide a color laser copy of **PLAINTIFF'S ORIGINAL** medical chart or any document(s) referencing care or services provided to **PLAINTIFF** including but not limited to any and all clinical records, incident/accident reports, x-ray and reports, charts, business office records, admission agreements, bills, statements of account, and/or requests for payment, and laser photographic copies of any and all photographs that were taken of **PLAINTIFF** during her residency in **DEFENDANT'S** possession.

Request for Production No. 3: Please provide all reports, correspondence, or other writings generated by or on behalf of **DEFENDANT** concerning the care and treatment of **PLAINTIFF** during the **RELEVANT TIME PERIOD**.

Request for Production No. 4: Please provide **DEFENDANT'S** curriculum vitae.

1 **Request for Production No. 5:** Please provide any and all licensure documents relating to
2 **DEFENDANT.**

3
4 **Request for Production No. 6:** Please provide all **DOCUMENTS** reflecting any contracts
5 and/or agreements and/or **DOCUMENTS** between the **DEFENDANT** and any of the other
6 Defendants in this case during the **RELEVANT TIME PERIOD.**

7 **Request for Production No. 7:** Please provide a copy of any and all **E-MAILS** to or from
8 **DEFENDANT** pertaining to and/or in any way relating to the **PLAINTIFF.**

9
10 **Request for Production No. 8:** Please provide a copy of any and all **E-MAILS** between
11 **DEFENDANT** Saxena and any of the other Defendants in this matter (specifically any employee
12 or agent of South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas
13 fka Life Care Center – Paradise Valley; South Las Vegas Investors LP; Life Care Centers of
14 America, Inc.; and/or Carl Wagner, Administrator) containing the following terms and/or
15 derivations thereof: Mary Curtis, resident care, staffing, budget, LOS, length of stay, bounce
16 back, rehospitalization, medication error, and survey.

17 **Request for Production No. 9:** Please provide copies of any complaints or pleadings that
18 have been filed in any Court in which the Defendant has been a party or any complaint
19 documentation filed or provided to the Nevada State Board of Medical Examiners pertaining to
20 Defendant.

21 Request is hereby made for such timely supplementation of these Responses throughout
22 the pendency of the case.

23
24 DATED this 2 day of October, 2017.

25 **WILKES & MCHUGH, PA**

26 By 

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

28 **WILKES & MCHUGH, P.A.**
15333 N. Pima Rd., Ste. 300
Scottsdale, Arizona 85260

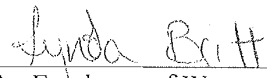
MICHAEL D. DAVIDSON, ESQ.
Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

Attorneys for Plaintiffs

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of Wilkes & McHugh, PA, and that on the 17th
3 day of October, 2017, I caused to be served a true and correct copy of foregoing **PLAINTIFFS'**
4 **FIRST SET OF REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT**
5 **SAXENA** in the following manner:

6 (U.S. MAIL) By depositing a copy of same in the United States mail, Scottsdale, Arizona,
7 postage fully prepaid, and addressed to the following, to those parties listed on the Court's Master
8 Service List.

9 
10 An Employee of WILKES & MCHUGH, PA

11 AMANDA J. BROOKHYSER, ESQ.
12 6385 S. Rainbow Boulevard, Suite 600
13 Las Vegas, Nevada 89118
14 *Attorneys for Life Care Defendants*

15 VINCENT J. VITATOE, ESQ
16 7900 West Sahara Avenue, Suite 200
17 Las Vegas, Nevada 89117
18 *Attorneys for Defendant Samir Saxena, M.D.*

19 MICHAEL D. DAVIDSON, ESQ.
20 400 South Rampart Boulevard, Suite 400
21 Las Vegas, Nevada 89145
22 *Co-Counsel for Plaintiff*
23
24
25
26
27
28

EXHIBIT 11



Wilkes & McHugh
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Phone: 602.553.4552
Fax: 602.553.4557
www.wilkesmchugh.com

October 25, 2017

VIA EMAIL & U.S. MAIL

Amanda Brookhyser
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, NV 89118

Re: Mary Curtis v Life Care Center - Paradise Valley et al

Dear Amanda:

It was a pleasure speaking with you yesterday. Pursuant to our recent discussion regarding Defendants' responses to Plaintiff's interrogatories and requests for production, Defendants have agreed to produce certain documents and answers, will stand on their objections on some responses, and will need to check with their client on some other responses. Please let me know immediately if you disagree with anything represented in this letter.

Defendants will agree to produce:

- RFP 2a: Narcotics logs for Ms. Curtis;
- RFP 6: RITA documents regarding Ms. Curtis not yet produced;
- RFP 20: sign-in sheets if found;
- RFP 30: list of cases against the Defendant facility in the last five years;
- RFP 41: chart/tables of organization for Defendants;
- RFP 45: advertisements or brochures;
- Interrogatory 1: last known addresses for nursing department employees, identification of who is current/former, and the last known addresses for the former employees.

Defendants stand on their objections and will not produce:

- RFP 1: relevant insurance policies without a protective order;
- RFP 2a and 72: incident reports regarding Ms. Curtis without a protective order;
- RFP 2b and 73: medication error reports regarding Ms. Curtis without a protective order;
- RFP 8: policies and procedures without a protective order;
- RFP 9 and 15: employee files without a protective order;
- RFP 13: schedule of in-service training without a protective order;
- RFP 14: employee handbook without a protective order;
- RFP 17 and 23: emails;
- RFP 24 and 36: mock survey results and nurse consultant reports;
- RFP 25: calls to Life Care's complaint hotline and investigations;
- RFP 26 and 27: bonus criteria for regional and facility employees;
- RFP 63 and 64: logs and summary reports regarding medication errors or falls;

- RFP 69 and 70: Life Care reports for the facility for customer base and/or discharge/Length of Stay reports;
- RFP 72: all incident reports regarding medication errors, as limited by Plaintiff's Request;
- RFP 74: redacted MARs and pain assessments from the medical chart of the patient originally scheduled to have the morphine that was administered to Ms. Curtis without a protective order;
- Interrogatory 4: name of the person responsible for ratifying the budget;
- Interrogatory 9: identity of consultants used by the facility; and
- Interrogatory 11: the identity of the person most knowledgeable regarding the Life Care Defendants' financial matters and net worth.

You will check with your client on the following responses and let me know if Defendants will supplement their responses on:

- RFP 16, 22 and 66: Key Factor Reports;
- RFP 21: time cards/punch detail reports;
- RFP 37: documents regarding maintaining the budget at the facility, including "Forecast" reports, "SWOT" reports, documents showing how the facility expects to or is meeting budget;
- RFP 43: Resident/family satisfaction surveys;
- RFP 46: January-March facility quality indicator reports; and
- RFP 55: corporate reports generated by the administrator like the SWOT reports.

Once again, please consider this letter as my attempt to meet and confer with regards to these deficient responses. Please supplement your responses to these discovery requests on or before November 3rd, 2017. If we do not receive further responses we will have no other alternative but to seek the assistance of the Court.

Of course, should you wish to discuss any of the matters contained within this letter, please do not hesitate to contact me.

Very truly yours,



Melanie L. Bossie, Esq.

MLB/lrb

cc: Michael D. Davidson

EXHIBIT 12



Wilkes & McHugh
15333 N. Pima Road, Suite 300
Scottsdale, Arizona 85260
Phone: 602.553.4552
Fax: 602.553.4557
www.wilkesmchugh.com

December 4, 2017

VIA EMAIL ONLY

Amanda Brookhyser
Lewis Brisbois Bisgaard & Smith LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, NV 89118

Re: Mary Curtis v Life Care Center - Paradise Valley

Dear Amanda:

Defendants have agreed that the incident reports in this case are discoverable, but wish them to remain under protective order. I will need the incident reports for the depositions this week, as there are some facts regarding the incident where morphine was improperly provided to Ms. Curtis that are not in the clinical records. At this point and with only her clinical record to review, Plaintiff is not even aware of the time the morphine was provided to Ms. Curtis.

Would Defendants agree to produce the incident reports in advance of next week's Motion to Compel hearing, where the issue regarding the protective order will be decided? Plaintiff will temporarily agree not to provide or otherwise make available these incident reports to any person not working on this case. Please let me know immediately if Defendants will agree to my proposal.

If Defendants agree, please electronically provide the requested incident reports no later than 5 PM, December 5, 2017.

Very truly yours,

Melanie L. Bossie, Esq.

MLB/lrb

cc: Michael D. Davidson (via e-mail)

EXHIBIT 13

1 S. BRENT VOGEL
Nevada Bar No. 006858
2 Brent.Vogel@lewisbrisbois.com
AMANDA J. BROOKHYSER
3 Nevada Bar No. 11526
Amanda.Brookhyser@lewisbrisbois.com
4 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
5 Las Vegas, Nevada 89118
702.893.3383
6 FAX: 702.893.3789
*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., and Carl Wagner*
9

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

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

25 Plaintiffs,

26 vs.

27 SAMIR S. SAXENA, M.D.,
28 Defendant.

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

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

**DEFENDANTS' SEVENTH
SUPPLEMENT TO INITIAL
DISCLOSURE OF WITNESSES AND
DOCUMENTS PURSUANT TO NRCP 16.1**

LEWIS
BRISBOIS

4849-6495-9578.1

Case Number: A-17-750520-C

APP0323

1 Sixth Supplement

- 2 33. Life Care Center Facility Structure, Bates Nos. (LCC-FS-00001);
- 3 34. Nevada Department of Health Services Licensure file for Life Care Center –
- 4 Paradise Valley, nka Life Care Center of South Las Vegas, Surveys,
- 5 previously in plaintiff's first supplement to initial witness list and
- documents disclosure;

6 Seventh Supplement

- 7 35. **Hand written statement by Dawson, LPN Bates Nos. (LCC DAWSON**
- 8 **STMT-00001);**
- 9 36. **Medication Error Incident Report, Bates Nos. (LCC Med Incident Rpt-**
- 10 **00001-00003);**
- 11 37. **Volume I of Life Care Center's Policy & Procedures Chapters 1-21,**
- 12 **Bates Nos. (LCC P&P-00001-00088);**
38. **Volume II of Life Care Center's Policy & Procedures Chapters 2-22,**
- Bates Nos. (LCC P&P-000089-00146);**

13 Discovery is ongoing the Defendants reserve the right to identify additional items of

14 evidence as they become known, which may include but are not limited to:

15 1. Any of Mary Curtis's medical records, including radiographs, to the extent that

16 they demonstrate physical and/or emotional conditions prior, during, or subsequent to the events at

17 issue in the Complaint, whether they have already been or are yet to be disclosed, including but

18 not limited to the records of those medical care providers identified as witnesses above, or

19 additional care providers who may become known through the course of discovery.

20 2. Any evidence of collateral benefits or other insurance benefits provided to

21 Plaintiffs for the purpose of determining the amount of any offset to damages pursuant to NRS

22 42.021.

23 3. Business records, tax returns, and other information demonstrating Mary Curtis's

24 pre- and post-injury income levels.

25 4. Depositions and/or statements of any witness and any exhibit attached to any

26 deposition and/or statement;

27 5. All records produced by Plaintiff in response to requests for production;

28 6. Any party's experts' files, curricula vitae, billing statements, models, charts,

EXHIBIT 14

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

1 RMAC

MICHAEL D. DAVIDSON, ESQ.

2 Nevada Bar No. 000878

3 KOLESAR & LEATHAM

400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

4 Telephone: (702) 362-7800

Facsimile: (702) 362-9472

5 E-Mail: mdavidson@klnevada.com

6 -and-

7 MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice***8 WILKES & MCHUGH, P.A.**

15333 N. Pima Rd., Ste. 300

Scottsdale, Arizona 85260

9 Telephone: (602) 553-4552

Facsimile: (602) 553-4557

10 E-Mail: Melanie@wilkesmchugh.com

11 Attorneys for Plaintiffs

12 DISTRICT COURT**13 CLARK COUNTY, NEVADA**

14 * * *

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

18 Plaintiffs,

19 vs.

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

Defendants.

CASE NO. A-17-754013-C

DEPT NO. XIII

Consolidated with:

CASE NO. A-17-754013-C

**DECLARATON OF LAURA
 LATRENTA IN SUPPORT OF
 PLAINTIFFS' REPLY IN SUPPORT
 OF MOTION TO AMEND
 COMPLAINT**

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

4 Plaintiffs,

5 SAMIR SAXENA, M.D.,

6 Defendant.
7

8 I, Laura Latrenta, make the following declaration under penalty of perjury:

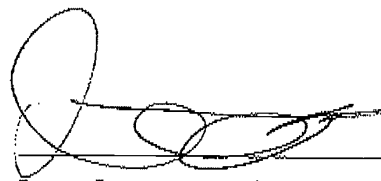
9 1. I am Mary Curtis's daughter and her estate's personal representative. I have personal
10 knowledge of the facts stated herein and if called as a witness could and would testify
11 competently to them.

12 2. The medical examiner called and left a message for me on 14 April 2016 asking me to
13 call him back so that he could discuss his findings with me.

14 3. I returned the ME's call on either the same day or the next day and he informed me of his
15 decision regarding my mother's cause of death; he did not discuss with me any involvement by a
16 physician or nurse practitioner that contributed to my mother's death.

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

19 Executed on February 20th, 2018.

20
21
22 
Laura Latrenta, Declarant

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

EXHIBIT 15

Melanie Bossie

From: Laura Latrenta <llatrenta@aol.com>
Sent: Monday, February 19, 2018 2:00 PM
To: Melanie Bossie
Subject: Showing the Dr Dutra's call came in April 14th 2016. I was in NJ

(702) 455-3210

(702) 455-3210

(201) 370-4394

04/14/16 11:30
AM
65 sec

Laura Latrenta ~ Realtor, ABR

cell ~ 201-370-4394

fax ~ 201-581-0288

visit ~ www.lauralatrenta.com

For great up to date Real Estate info *like* my facebook page at Laura Latrenta Homes!

<https://www.facebook.com/pages/Laura-Latrenta-Homes/131742316910767>

Weichert Realtors

13. W. Railroad Ave.

Tenafly, NJ

EXHIBIT 16

ATTACH ORIGINAL SIGNED COPY WHEN RECEIVED

Facility Name UCCPV		Address LV NV		Signature of Nurse Receiving Order [Signature]		Date/Time 3/11/16 13:20	
Family Name Curtis Mary		Admission Number 313A		Attending Physician J. Sanchez		Patient's Name [Signature]	
Date Ordered 3/7/16	Time Ordered 12:00	Date DC'd	MEDICATION Order NARCAN IM 0.4mg		Dose & Form in 2 minutes #2	Route XI	Schedule Nas
INDICATION - DX Respiratory			STAT				
Physician/Prescriber Signature [Signature]			Title [Signature]		Date 3/10/16		
<input type="checkbox"/> Resident <input checked="" type="checkbox"/> Family has been notified of the above treatment change. Date notified Name of person contacted [Signature] (last initials, name)			<input type="checkbox"/> Resident <input checked="" type="checkbox"/> Family has been notified of the above treatment change. Date notified Name of person contacted [Signature] (last initials, name)				
Pharmacy <input type="checkbox"/> Courier <input checked="" type="checkbox"/> Faxed (Fax Original) <input type="checkbox"/> Phone		On Physician's Order Sheet	Med Sheet	TX Sheet	Nurse's Notes	Patient Care Plan	ADL/Frm
Signed [Signature]		Signed [Signature]					

Telephone Orders		Facility Name <u>Leach</u>		Address		Signature of Nurse Receiving Order <u>[Signature]</u>		Date/Time <u>3/7/10</u>	
Family Name <u>Curtis / Mary</u>		First Name		Admission Number <u>513.1</u>		Attending Physician <u>[Signature]</u>		Date/Time	
State <u>GA</u>		Date <u>3/7/10</u>		MEDICATION/ORDER		Dose & Form		Route	
3/7/10		3/7/10		Clonidine 0.2mg X 1		1 tab PO Q6°		INDICATION - DX <u>FBP</u>	
				Clonidine 0.1mg 1 tab PO Q6°		1 tab PO Q6°		FBP	
				Continue to admit for V/S Q4°		call me for any Δ.			
Physician/Prescriber Signature <u>[Signature]</u>		Title		Date		<input type="checkbox"/> Resident <input type="checkbox"/> Family has been notified of the above treatment change. Date notified Name of person contacted If no contact, reason			
Pharmacy		<input type="checkbox"/> Courier <input type="checkbox"/> Faxed (Fax Original) <input type="checkbox"/> Phone		On Physician's Order Sheet		Med Sheet		TX Sheet	
						Nurse's Notes		Patient Care Plan	
						Signed		Date/Time <u>3/7/10</u>	



3 PHYSICIAN/PRESCRIBER
PLEASE SIGN AND RETURN

☐ Send NO MEDS ☐ Send ★ MEDS ONLY
☐ Send ALL MEDS ☐ _____ Doses taken from Emergency/Backup Stock

[illegible]

These colors (Teal and Pink) are a trademark of MED-PASS, Inc.

EXHIBIT 17

BPC

POST ACUTE PROGRESS NOTE

IPC

Date: 3/7/16 Time: 1830 AM/PM Facility: LCPV

REASON FOR VISIT:

Flu activity

Name: Curtis, Mary DOB: 12/19/26 Age: 89 Gender: M (F)

Advanced Directives:

Medications and Allergies Reviewed

REVIEW OF SYSTEMS: Marked System Reviewed; Normal unless indicated

- ☐ GEN: st change, fatigue, weakness, wt. loss/gain
☐ Resp: cough, wheezing, trach O2
☐ Skin: bruising, pruritus, rash, intact, pressure ulcer
☐ Cardio: c/p, palp, fatigue, dyspnea, pacer
☐ Endocrine: heat/cold intolerance, wt. change
☐ Head: headache, dizziness, syncope
☐ Heme: bleeding, bruising, leukemia
☐ GI: n/v, heartburn, constipation, anorexia, diarrhea, feeding tube
- ☐ HEENT: double vision, pain, tinnitus; dentures, glasses, hearing loss
☐ GU: dysuria, freq, urgency, pain, retention, Foley
☐ Musc: joint pain, stiff, deformity, falls, amputation
☐ Neuro: seizure, tremor, weak, dysphagia, hemiplegia, numbness, parathesia
☐ Psych: anxiety, depression, confusion, delirium, agitation
☐ Vascular: DVT, PVD, edema

INTERVAL HISTORY:

Patient is stable, V/S stable, daughter @ bedside, Narcan given to deceased reaction. Was given by nurse (nurse) - incident report made. PBP this afternoon bet 190-200 clonidine 0.2mg pain.

LABORATORY / STUDIES:

VITAL SIGNS: BP: 17/14 T: 98.5 P: 77 R: 20 Wt: O2 Sat: 97% ☐ Room Air ☐ O2 @ L/Min

Pain (0-10): Site: Other:

Exam

General Appearance ☒ Well Nourished ☐ NAD

Skin ☒ Neg ☐ Rashes ☐ Decubitus ☐ Burns ☐ Wounds

ENT ☒ Neg ☐ Own teeth ☐ Dentures
☐ Mucous membranes moist

Head ☒ Neg

Eyes ☒ Neg ☐ PERRLA

Neck ☒ Neg ☐ Bruits ☐ JVD ☐ thyroidmegaly ☐ node

Heart/CV ☐ BRR ☐ IRIR ☐ murmur ☐ distal pulses ☐ S3 ☐ S4

Lungs/Chest ☒ Neg ☐ CTA ☐ crackles ☐ rhonchi ☐ wheeze

Abdomen ☐ Neg ☐ Bowel sounds ☐ +/ - ☐ Guarding ☐ Rigidity
☐ Tenderness ☐ Hemia ☐ Mass

Psychological ☐ Neg ☐ DA & OX ☐ Confused
☐ Anxiety ☐ Depression

Musculoskeletal ☐ Neg ☐ Edema ☐ Contractures ☐ Amputations ☐ OA ☐ RA

Ambulation ☐ Unassisted ☐ Wheelchair ☐ walker ☐ Cane
☐ Unable to walk/bed ridden

Neuro ☒ Neg ☐ Tremors ☐ Hemiparesis R/L

Notes

Continue to monitor
 PT - clear night
 take V/S Q4 for 1 hr.
 then Q4

POC

Assessment / Plan:

Administered wrong meds to Patient - Narcan given
 continue to monitor PT.

Physical Rehabilitation - PT 10T
 Syncope / Fall - PT 10T
 COPD - 2L O2; stable sat.
 Cognitive disorder - Ckd Stage 3
 HTN - misdiagnosed, labile 1
 Anemia - conf. w/ lab 11/14

Pain - Pyralol
 Supplement - Guelbrot
 Hyperkalemia - Hlorostatin
 DVT prophylaxis - 95%
 Bone pain? -
 DVT - 95%
 3/7/16

Discussed with ☐ Patient/Resident ☐ Family ☐ DPOA

Signature

Print Last Name

Date

EXHIBIT 18

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.)

Case No.
A-17-750520-C

SOUTH LAS VEGAS MEDICAL)
INVESTORS, LLC dba LIFE CARE)
CENTERS OF SOUTH LAS VEGAS)
f/k/a LIFE CARE CENTER OF)
PARADISE VALLEY; SOUTH LAS)
VEGAS INVESTORS LIMITED)
PARTNERSHIP; et al.,)

Defendants.)
-----)

DEPOSITION OF CECILIA SANSOME
WEDNESDAY, DECEMBER 6, 2017
LAS VEGAS, NEVADA

REPORTED BY:
KENDALL D. HEATH
NEV. CCR NO. 475
CALIF. CSR NO. 11861
JOB NO.: 2759308
PAGES 1 - 119

1 building and check their admission orders and stuff to
2 make sure that they're okay.

3 Q Okay. So I take it, first of all, like your
4 time card would indicate if you were coming in at noon
5 on this day versus at 6:00 in the morning; is that
6 fair?

7 A Yes.

8 Q From your testimony, you were not the shift
9 supervisor for March 7th or March 8th of 2016?

10 A As far as I could recall, no.

11 Q Just quick question: Do you know why Life
12 Care Center of America on a skilled unit was having
13 LPNs instead of RNs working on that unit?

14 MS. BROOKHYSER: Foundation; calls for
15 speculation.

16 THE WITNESS: Actually, there is an RN that
17 is assigned to that unit, which is, I believe, at that
18 time were the two ADONs.

19 BY MS. BOSSIE:

20 Q But under the assistant director of nursing,
21 they would have LPNs work the skilled unit?

22 A The LPNs are working on the floor, and I'm
23 not sure what day of the week it is, but Maskeren is
24 now an RN, but I'm not sure if she was an RN at that
25 time.

1 Q M-a-s-k-e-r-e-n.

2 A Maskeren is an LPN that I could recall, but
3 she passed her RN sometime when I was there.

4 Q And just going on, and I'm referring to the
5 March 7th staffing document, do you remember a nurse
6 Florence?

7 A I could not remember Florence, but I could
8 remember Regina and Ersheila.

9 Q And is Regina just a licensed practical
10 nurse?

11 A Yes, she mostly worked on the 400 unit.

12 Q And Ersheila?

13 A Ersheila, she floats around between the --
14 you know, depending on what floor needs help.

15 Q And Ersheila is just a licensed practical
16 nurse?

17 A Yes.

18 Q And I take it through your experience not
19 only as a registered nurse but as a director of
20 nursing, is it cheaper to hire and retain licensed
21 practical nurses than registered nurses?

22 MS. BROOKHYSER: Foundation; calls for
23 speculation.

24 THE WITNESS: Well, technically, yes, because
25 LPNs gets paid less than the RNs.

1 BY MS. BOSSIE:

2 Q Now, licensed practical nurses cannot do
3 assessments; am I correct?

4 A They can, but they have to be with a
5 registered nurse. Their assessment has to be
6 countersigned by a registered nurse.

7 Q Which, in essence, means that the registered
8 nurse would be the one that would be overseeing the
9 assessment?

10 A Yes.

11 Q The LPN can just, in essence, collect data?

12 A They can give -- yes. They can feed the
13 information. The RN will make sure the information
14 that they got was correct.

15 Q And I believe I may have asked, but I just
16 want to make sure, that if you were not the shift
17 supervisor for March 7th and March 8th, do you know
18 who would be filling that role?

19 A I am not sure. Like I said, I come in the
20 middle of the day.

21 Q First, I just want to go through some general
22 questions with you, if you don't mind.

23 Are you familiar with the rules and
24 regulations that govern skilled nursing in long-term
25 care?

1 A Yes.

2 Q I take it that those are rules and
3 regulations that the facility, through their
4 employees, are required to follow?

5 A Well, the rules and regulations actually are
6 done by the board of nursing, then the facility has
7 their policies and procedures that you have to follow,
8 according to the rules that the state board of nursing
9 wants done.

10 Q In nursing, though, what's the purpose of
11 having policies and procedures?

12 A So that you know what you will be doing the
13 right way. That's just what it is. This is the
14 policy, this is the procedure, this is how you're
15 going to do it.

16 Q And just from your recollection, are the
17 policies and procedures in line with the standard of
18 care in nursing to ensure that that standard is met?

19 MS. BROOKHYSER: Foundation.

20 BY MS. BOSSIE:

21 Q Do you want me to repeat it?

22 A Yeah.

23 Q When you make the face, that means you
24 don't --

25 A Yeah.

1 Q The policies and procedures in nursing when
2 you worked at Life Care Center --

3 A Uh-huh.

4 Q -- were they in place to ensure that there
5 was a certain standard of care being met in nursing
6 practice?

7 A Yeah --

8 MS. BROOKHYSER: Foundation; calls for
9 speculation.

10 THE WITNESS: -- we have several policies --
11 we have policies and procedures that we follow.

12 BY MS. BOSSIE:

13 Q And I'll get to it in a little bit, but I
14 take it that there would be policies and procedures
15 regarding medication administration?

16 A Yes.

17 Q And there's certain standards of care in
18 medication administration that would need to be
19 adhered to?

20 A Yes.

21 Q Going back just for a moment to the
22 regulations. One, are you familiar with the
23 regulation regarding quality of care that each
24 resident must receive and the facility must provide
25 the necessary care and services to attain or maintain

1 the highest practical physical, mental and
2 psychosocial well-being?

3 A Yes.

4 Q And I take it that that rule and regulation
5 is carried out by employees of Life Care Center of
6 Paradise Valley?

7 A Yes.

8 Q And one of the requirements of that rule and
9 regulation for quality of care is to only provide
10 residents with medications that are meant for that
11 resident, true?

12 A Yes.

13 Q And this rule and regulation is in place to
14 ensure that a resident receives the necessary care and
15 services for that person's safety and well-being?

16 MS. BROOKHYSER: Foundation; calls for
17 speculation.

18 BY MS. BOSSIE:

19 Q Am I correct?

20 A Repeat that again.

21 Q Sure. This rule and regulation is in place
22 in order to ensure residents receive the necessary
23 care and services to maintain their safety and
24 well-being?

25 MS. BROOKHYSER: Foundation; calls for

1 speculation.

2 THE WITNESS: Yes.

3 BY MS. BOSSIE:

4 Q Are you also familiar with the rule and the
5 regulation that the facility in this case, being Life
6 Care Center of Paradise Valley, must ensure that a
7 resident's environment remains as free of accident
8 hazards as is possible and that each resident receives
9 adequate supervision in assistive devices to prevent
10 accidents?

11 A Yes.

12 Q And, again, that's a duty and requirement by
13 the staff members at Life Care Center of Paradise
14 Valley that they would need to ensure to provide to
15 residents to prevent accidents?

16 A Yes.

17 Q Are you also familiar with the rule and the
18 requirement that each resident's drug regimen must be
19 free from unnecessary drugs?

20 A Yes.

21 Q That's a very important rule and regulation,
22 is it not?

23 MS. BROOKHYSER: Foundation.

24 THE WITNESS: Yes.

25 ///

1 BY MS. BOSSIE:

2 Q And I would also take it that it would be the
3 standard of care in nursing to also ensure that a
4 resident is free from unnecessary drugs or
5 medications?

6 A Well, we try to do that, but, you know, it's
7 the doctor's orders. We nurses could not alter or
8 change any orders without the doctor's order.

9 Q But the standard of care in nursing would be
10 for only the nurse to be giving the medications that
11 have been prescribed for that particular resident?

12 A Yes.

13 Q And there's certain rules that are in place
14 to ensure that the appropriate medications are given
15 to the appropriate resident?

16 MS. BROOKHYSER: Foundation.

17 THE WITNESS: Yes.

18 BY MS. BOSSIE:

19 Q And that's very important to follow those
20 rules so you don't give the wrong medication to the
21 wrong resident?

22 A Yes.

23 MS. BROOKHYSER: Foundation; calls for
24 speculation.

25 ///

1 BY MS. BOSSIE:

2 Q Now, I take it, are you familiar with what's
3 known as the Five Rights of Medication?

4 A Yes.

5 Q And I believe they've added a few rights to
6 it, and now it's also known as the Eight Rights of
7 Medication?

8 A I think it's seven.

9 Q Seven. Now, I'm going to call it the Rights
10 of Medication, whether it's five, seven or eight. Is
11 that something that's taught and trained to nurses
12 from nursing school and throughout the nursing
13 practice?

14 A During my nursing school it was only five
15 rights. It was only recently that they added the two
16 rights, and we have been getting in-services every now
17 and then from pharmacy, I.V. nurses, and stuff like
18 that, drug companies and our nurse consultants about
19 the additional rights that was -- you know, what we
20 learned in school with the five rights.

21 Q So any reasonably trained nurse would need to
22 be aware of the Five Rights or Seven Rights of
23 Medication Administration in order for them to
24 appropriately do their jobs?

25 MS. BROOKHYSER: Foundation; calls for

1 speculation.

2 THE WITNESS: Okay. Can you repeat that?

3 BY MS. BOSSIE:

4 Q Sure. No problem. That any practicing nurse
5 would need to be aware of what the Five Rights of
6 Medication Administration would be for them to meet
7 the standard of care in nursing?

8 A Yes.

9 MS. BROOKHYSER: Foundation; calls for
10 speculation.

11 BY MS. BOSSIE:

12 Q And that's something that we talked about
13 that was trained to nurses in nursing school?

14 A Yes.

15 Q And it's part of the policies and procedures
16 at Life Care Center Paradise Valley on how to
17 administer medications?

18 A Yes.

19 Q And it's ongoing training for nurses at Life
20 Care Center of Paradise Valley on instilling the
21 importance of following those Rights of Medication
22 Administration?

23 MS. BROOKHYSER: Foundation; calls for
24 speculation.

25 THE WITNESS: Yes, and, you know, through my

1 experience when I was working over there, I have
2 received and attended in-services given by the nurse
3 consultants and the pharmacy consultants and some
4 vendors regarding these additional rights.

5 BY MS. BOSSIE:

6 Q Do you recall approximately when the
7 additional rights, being six and seven, came into
8 play, THE time frame? Has it been since -- for the
9 last couple of years since 2015?

10 A No, actually, I've attended several
11 in-services even before that.

12 Q Okay. So even before March of 2016, we know
13 there is the Five Rights of Medication Administration,
14 but then there's also two additional rights that have
15 been part of the training?

16 A Yes.

17 Q I just want to talk to you about them for a
18 moment, if you don't mind. First, I want to just talk
19 about the purpose behind having the Rights of
20 Medication Administration is to ensure patient safety?

21 MS. BROOKHYSER: Foundation; calls for
22 speculation.

23 THE WITNESS: Yes.

24 BY MS. BOSSIE:

25 Q Were you trained on that?

1 A Yes.

2 Q Because I take it that giving a medication to
3 a resident who is not supposed to receive that
4 medication could potentially not only injure that
5 person, but also could potentially be fatal?

6 MS. BROOKHYSER: Foundation; speculation;
7 incomplete hypothetical.

8 THE WITNESS: It depends on what medication
9 was given. If they are allergic to the medication,
10 then it could be an injury, even death.

11 BY MS. BOSSIE:

12 Q And I do agree it depends on which medication
13 you're given. For instance, if you're just giving
14 someone Prilosec, that may not injure or kill that
15 person, fair?

16 A They will have some kind of reaction maybe or
17 some people don't even show any reaction.

18 Q But then there's certain medications, for
19 instance morphine, that if you give a certain amount
20 to a resident who it was not meant for, that could
21 potentially injure that person or potentially be
22 fatal; am I correct?

23 MS. BROOKHYSER: Foundation; speculation;
24 incomplete hypothetical.

25 MR. VITATOE: Join.

1 THE WITNESS: It could be, but depending on
2 their diagnosis, if that is the cause of death.

3 BY MS. BOSSIE:

4 Q Let's go through for a moment just the Rights
5 of Medication Administration that every nurse would be
6 or should be familiar with, the first right being the
7 right patient?

8 A Correct.

9 Q Take me through what the standard of care
10 would be in order for a nurse to ensure that it's the
11 right patient.

12 MS. BROOKHYSER: Foundation.

13 THE WITNESS: You want me to say how will I
14 be able to identify this patient? Is that what you're
15 trying to say?

16 BY MS. BOSSIE:

17 Q Let me ask it a little differently. If you
18 don't personally know that resident, and you need to
19 ensure you're giving the medication to the right
20 patient, there's certain steps that can be done; am I
21 correct?

22 A Yes.

23 Q And one step is to?

24 A Check the arm band.

25 Q So that would be the first checks and

1 balances, if you're giving a medication is to check
2 the arm band to make sure who that resident is you're
3 giving the medication to?

4 A Correct.

5 Q And every nurse should do that before
6 administering medications?

7 A Correct.

8 MS. BROOKHYSER: Foundation.

9 BY MS. BOSSIE:

10 Q And every nurse working at Life Care Center
11 Paradise Valley knows the first thing you need to do
12 is look at the arm band to ensure who that person
13 you're providing medications to?

14 MS. BROOKHYSER: Foundation; calls for
15 speculation.

16 THE WITNESS: Right.

17 BY MS. BOSSIE:

18 Q From you working at Life Care Center of
19 Paradise Valley, was that the procedure that should be
20 followed in that you were trained on to, first and
21 foremost, check the arm band of the resident prior to
22 providing any medication to them?

23 A Yes.

24 Q Now, it also indicates for the right patient
25 is to use two identifiers?

1 A Use two identifiers. Some facilities I work
2 for there are patients that will take off their arm
3 band, so we take pictures of them. This is updated
4 like every three months because they change.
5 Secondly, if there's no picture, I'll ask the resident
6 what is your name or maybe get another nurse that is
7 familiar with the looks of the patient, is this the
8 right patient.

9 Q So just to recap, in order to ensure the
10 right resident, there's at least four different checks
11 and balances that can be done, one being check the arm
12 band; am I correct?

13 A Yes.

14 Q Another being see if there's a picture?

15 A Yes.

16 Q Another being talk to the resident, what is
17 your name?

18 A Yeah.

19 Q The fourth being ask another nurse who the
20 resident is?

21 A Yes.

22 Q Now, I believe the second Right of Medication
23 Administration is making sure you have the right
24 medication; am I correct?

25 A Yes.

1 Q And as a nurse were you also trained that
2 overdosing a person on morphine could potentially be
3 fatal?

4 A It could be if they're allergic to it.

5 Q Even if they are not allergic to it, were you
6 trained that an overdose of morphine --

7 A Never had an experience.

8 Q Let me just finish the question. I'll strike
9 that and kind of back up.

10 As part of your training as a nurse, if a
11 resident is overdosed on morphine, were you trained
12 that that potentially could be fatal?

13 A Yes.

14 Q Do you have an independent recollection of a
15 resident that stayed at Life Care Center of Paradise
16 Valley by the name of Mary Curtis?

17 A I remember that incident.

18 Q And by the "incident," you remember when
19 Mary, being the resident, was given morphine that was
20 not meant for her?

21 MS. BROOKHYSER: Foundation.

22 THE WITNESS: I was informed when I just
23 barely walked into the building.

24 BY MS. BOSSIE:

25 Q Ms. Sansome, first of all, what were you

1 informed and who informed you?

2 A Okay. Thelma came to me and she told me that
3 Ms. Curtis apparently was given the wrong medication.
4 She had already assessed the resident that she was
5 okay, but kind of drowsy or something like that. So
6 she just barely got out of the meeting, and I just
7 barely walked into the building. So I told her has
8 the doctor been notified, and she said, no, if you
9 could please give her a call and get an order.

10 So I picked up the phone -- well, before I
11 picked up the phone, I went to see Ms. Curtis. She
12 was responding to me, but a little bit groggy, so I
13 said, Are you having any difficulty of breathing and,
14 she said, no, I'm fine. I believe we checked the
15 oxygen saturation. I cannot recall numbers, but it
16 was not something that she was in respiratory
17 distress. So I says how you doing right now, I'm
18 okay.

19 And I said do you know your name, she said,
20 yes, I know my name. What is your name, she said
21 Mary. What is your last name, Curtis, she said. And
22 I said do you have any siblings? No, I don't remember
23 that. I said, do you have a daughter? She said, yes,
24 her name is Laura. Are you okay right now, and she
25 said, yes, I'm fine, but groggy.

1 So after my assessments and everything, I
2 went to the phone and called the doctor through the
3 answering service, and they said it was Annabel who's
4 the person that will be giving me a call back. So in
5 about less than five minutes, she gave me a call. I
6 told her what had happened and she said give Narcan,
7 N-a-r-c-a-n.

8 She gave me the dosage and everything, and I
9 wrote the order. I was in the process of writing the
10 order and I see her coming into the nursing station.
11 She says have you given the Narcan, and no, I just
12 barely wrote the order because I just got off the
13 phone with you. So I took the order, and another
14 physician assistant was there, you know, and she
15 basically is the physician assistant for the pain
16 doctor, and she agreed to what Annabel had me an order
17 for.

18 So I took the medication out of the emergency
19 Pyxis, and I was the one that administered the
20 medication to Ms. Curtis. Before the administration,
21 I again asked her questions, you know, checking her
22 dictation and her respiratory assessment and stuff
23 like that.

24 So we gave the medication, and I told the
25 nurse that I gave -- I wrote the orders on the

1 follow-ups on their patients.

2 Q And by the "nurse practitioner," that's
3 Annabel?

4 A Yes. There's other nurse practitioners too
5 because they have big group. They have different
6 nurse practitioners that come in, whoever is on duty
7 in that area of the hospital.

8 Q I guess, why did you call Annabel versus
9 calling Dr. Saxena?

10 A I didn't call Annabel, I called the answering
11 service.

12 Q Got it. So you called the answering service
13 and left a message?

14 A And they told me Annabel would be the one
15 calling me back.

16 Q Did you talk yourself with Dr. Saxena?

17 A Not at that time.

18 Q Did you talk with Dr. Saxena regarding
19 Mary?

20 A No.

21 Q And you indicated "not at that time." At
22 some point in time did you talk with Dr. Saxena
23 pertaining to Mary?

24 A No. I talked to him about other patients,
25 but not particularly Mary.

1 Ersheila to continue to monitor Ms. Curtis; is that
2 correct?

3 A That's correct.

4 Q In your experience, do physicians rely on
5 nurses to provide them with updates regarding changes
6 in condition?

7 A Yes.

8 Q Jumping back a bit. You mentioned after you
9 received the call back from the answering service, who
10 did you speak to?

11 A Annabel Socaoco.

12 Q And immediately after that telephone call,
13 it's your testimony that she was present physically?

14 A Yes, she was coming into the building. When
15 I was going to go ahead and write the order, I seen
16 her coming towards the nursing station.

17 Q And also present was another PA?

18 A Yeah, that's Sylvia.

19 Q Do you know how many nurses were monitoring
20 Ms. Curtis?

21 A How many nurses --

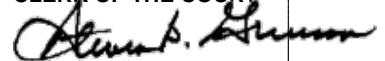
22 Q Strike that.

23 Do you know the shift that Ersheila was
24 working, how long was her shift?

25 A They work 12-hour shifts.

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Steven D. Grierson
CLERK OF THE COURT



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7 *Attorneys for IPC Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

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

13 Plaintiffs,

14 vs.

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

20 Defendants.

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

23 Plaintiffs,

24 vs.

25 SAMIR SAXENA, M.D.; ANNABELLE
SOCOOCO, N.P.; IPC HEALTHCARE, INC.
26 aka THE HOSPITALIST COMPANY, INC.;
INPATIENT CONSULTANTS OF NEVADA,
27 INC.; IPC HEALTHCARE SERVICES OF
NEVADA, INC.; HOSPITALISTS OF
28

CASE NO. A-17-750520-C

DEPT NO. XVII

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

**ORDER GRANTING IN PART AND
DENYING IN PART IPC
DEFENDANTS' MOTION TO
DISMISS, OR, IN THE
ALTERNATIVE, FOR SUMMARY
JUDGMENT**

John H. Cotton & Associates, Ltd.
7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

RECEIVED
DEPT 17 ON
OCT 9 2018

NEVADA, INC.; and DOES 51–100,
Defendants.

This matter having come before the Court at 8:30am on August 1, 2018 with Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., appearing on behalf of 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 (“IPC Defendants”)¹, Melanie Bossie, Esq., of Wilkes & McHugh, P.A., appearing on behalf of the Plaintiffs, and Amanda J. Brookhyser, Esq. of Lewis Brisbois Bisgaard & Smith LLP, appearing on behalf of the Life Care Defendants. The Court, having considered the pleadings, Motion, Opposition, and Reply together with arguments presented at the hearing on this matter and good cause appearing finds the following:

1. The Court hereby adopts its previous ruling via minute order dated March 21, 2018 and entered April 12, 2018.
2. The Court FINDS that Plaintiffs’ Complaint against IPC Defendants is for professional negligence against health care providers, and, therefore NRS 41A governs.
3. The Court FINDS that it was not the legislative intent in enacting to cause NRS 41.1395 to supersede the caps set forth in NRS 41A.035;
4. The Court FINDS there is neither legislative purpose nor intent to carve out an exception for elderly patients for negligent conduct covered by NRS 41A .
5. The Court FINDS the reasoning of Brown v. Mt. General Hospital, 2013 WL 4523488 (D. Nev. 2013) to be persuasive as related to causes of action brought pursuant to NRS 41.1395 and NRS 41A when both causes of action are premised upon the provision of health care by a provider of health care.

¹ This Court granted Defendant Samir S. Saxena’s Motion for Good Faith Settlement on June 13, 2018, and, therefore, this present Order applies only to the remaining IPC Defendants.

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

- 1 6. NRS 41A.017 provides the definition of provider of health care.
- 2 7. The Court FINDS IPC Defendants fall within this definition, and, therefore, the elder
- 3 abuse causes of action are improper in the instant matter against IPC Defendants.
- 4 8. The statute of limitations accrual date is a question of law only if the facts are
- 5 uncontroverted. Winn v. Sunrise Hospital and Medical Center, 128 Nev. 246, 252-253
- 6 (2012) (citing Day v. Zubel, 112 Nev. 972, 977 (1996)).
- 7 9. The Court FINDS a question of fact remains as to the date of inquiry as to the identity of
- 8 the IPC Defendants in this matter.
- 9 10. Consequently, the Court hereby ORDERS IPC Defendants' Motion is GRANTED IN
- 10 PART and DENIED IN PART as follows:
- 11 a. The IPC Defendants' Motion is GRANTED and Plaintiffs' First Cause of Action
- 12 for Abuse/Neglect of an Older Person is hereby dismissed.
- 13 b. The IPC Defendants' Motion is DENIED as to IPC Defendants' motion to dismiss
- 14 based upon the statute of limitations because the date of inquiry as to the identity
- 15 of the IPC Defendants is a question of fact.

16 DATED this 5 day of October, 2018.

17 
DISTRICT JUDGE

18 Respectfully submitted by:

19 JOHN H. COTTON & ASSOCIATES, LTD. 

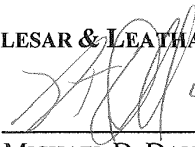
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1 Approved as to form and content:

2 DATED this 16 day of October, 2018

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14 *Attorneys for Plaintiffs*

DATED this ___ day of October, 2018

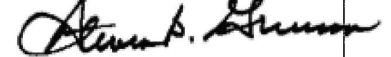
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2 DATED this ___ day of October, 2018
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7 *Attorneys for IPC Defendants*

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

10 * * *

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

13 Plaintiffs,

14 vs.

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

20 Defendants.

21 Estate of MARY CURTIS, deceased; LAURA
LATRENTA, as Personal Representative of the
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24 vs.

25 SAMIR SAXENA, M.D.; ANNABELLE
SOCAOCO, N.P.; IPC HEALTHCARE, INC.
26 aka THE HOSPITALIST COMPANY, INC.;
INPATIENT CONSULTANTS OF NEVADA,
27 INC.; IPC HEALTHCARE SERVICES OF
NEVADA, INC.; HOSPITALISTS OF
28

CASE NO. A-17-750520-C

DEPT NO. XVII

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

IPC DEFENDANTS' MOTION FOR
RECONSIDERATION

John H. Cotton & Associates, Ltd.
7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

NEVADA, INC.; and DOES 51-100,
Defendants.

COMES NOW 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. (hereinafter "NP Socaoco" or, collectively, "IPC Defendants") by and through their attorneys of record, John H. Cotton, Esq. and Vincent J. Vitatoe, Esq., of the law firm of the law firm JOHN H. COTTON & ASSOCIATES, LTD., hereby submits this Motion for Reconsideration

This Motion is made and based upon the papers, pleadings, and records on file herein, the attached Memorandum of Points and Authorities, and any oral argument this Court may allow at the time of the hearing on this matter.

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES AND/OR THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that the undersigned will bring the foregoing
Defendants' Motion or Reconsideration for hearing in the above entitled Court on the
02 day of January, 2019, ^{In Chambers} ~~2018~~ in Dept. 17, at the hour of _____ a.m./p.m. or as
soon thereafter as counsel may be heard.

DATED this 26th day of November, 2018.

JOHN H. COTTON & ASSOCIATES, LTD.

/s/ Vincent J. Vitatoe

JOHN H. COTTON, ESQ.
VINCENT J. VITATOE, ESQ.

1 **I. BACKGROUND.**

2 This Motion seeks rehearing on this Court's Order on IPC Defendants' Motion to
3 Dismiss, or, in the alternative, for Summary Judgment. Notice of Entry of this Court's Order was
4 filed November 7, 2018 (collectively the "Order"). In its Order, this Court determined that NRS
5 41A.097(2)'s one (1) year statute of limitations did not apply because "a question of fact remains
6 as to the date of inquiry as to the identity of the IPC Defendants in this matter." See Order 3:7-8.
7

8 IPC Defendants restate and reincorporate the factual and procedural background set forth
9 in the underlying (a) Motion to Dismiss, or, in the alternative, for Summary Judgment and (b)
10 Reply in support thereof. To the extent certain facts and evidence are stated in this Motion, they
11 will be specifically cited and supported for ease of reference.

12 **I. SUMMARY OF ISSUES PRESENTED FOR RECONSIDERATION.**

13 **(1) Is it an error of law to maintain that an issue of fact exists regarding commencement**
14 **of inquiry notice for purposes of a statute of limitations analysis in a professional**
15 **negligence case involving *substituted* parties (IPC Defendants) when the underlying**
16 **Complaint against the initial party (Dr. Saxena) is itself untimely and the purportedly**
negligent conduct identical?

17 **Brief Answer:** Yes, it is erroneous to toll or otherwise apply a different statute of limitations
18 analysis to IPC Defendants as compared to Dr. Saxena because the underlying conduct is
19 exactly the same as admitted by Plaintiffs and the Complaint against Dr. Saxena is untimely.

20 **(2) Is it an error of law to conclude an issue of fact exists regarding commencement of**
21 **inquiry notice when a plaintiff admits her subject knowledge of the facts giving rise to**
22 **the suit, admits inquiry notice commenced against one co-defendant, Life Care, and**
admits the relevant facts giving rise to the suit against Life Care are the "same" as the
facts giving rise to the suit against Dr. Saxena/IPC Defendants?

23 **Brief Answer:** Yes, Courts in this State can and should adjudicate statute of limitations
24 issues when the facts are irrefutable—such as when they are admitted—and application of
25 the admitted facts conclusively demonstrate the lawsuit is barred.
26
27
28

1 **II. INTRODUCTION.**

2 The issue involving the application of the statute of limitations to the IPC Defendants
3 warrants reconsideration as clear law, coupled with clear admissions, necessarily mandate
4 dismissal of the untimely Complaint. Previously, this question was muddled by other important
5 legal issues, but a singular focus on the statute of limitations, the evidence presented, a recent
6 decision of this Court, and the completely inconsistent position of Plaintiffs demonstrates that
7 this Court can correct the Order to conform with Nevada law.
8

9 First, it is critical for this Court to focus on the *binding* Nevada Supreme Court precedent
10 which *specifically* addresses *professional* negligence (as opposed to other torts). This case law
11 unequivocally demands that the statute of limitations commences upon “the plaintiff’s general
12 belief that **someone’s** negligence may have caused his or her injury.”
13

14 Second, this Court can conclusively know Plaintiffs had the requisite general belief
15 because Plaintiffs admitted such repeatedly. Plaintiff admitted in no uncertain terms that the
16 statute of limitations commenced no later than March 11, 2018 as related to their lawsuit against
17 co-defendant, Life Care. **This is a significant admission because this Court recently ruled**
18 **that Life Care is subject to NRS 41A meaning that Plaintiffs’ suit against Life Care also**
19 **sounds in professional negligence.** As this Court recalls, Plaintiffs represented that the case
20 against both IPC Defendants and Life Care arose from the same facts, which was the Plaintiffs
21 basis for consolidating the two cases. Taken together, there is absolutely no legal basis for
22 Plaintiffs to claim that the statute of limitations applicable to professional negligence cases must
23 be applied in piecemeal fashion against two different providers of health care based upon the
24 same facts and circumstances.
25

26 In light of this Court’s recent ruling and reevaluating this issue, this Motion becomes
27 necessary to correct an error of law. The statute of limitations applies to IPC Defendants and bars
28

1 Plaintiffs' Complaint (and Amended Complaint).

2 **III. LEGAL ARUGMENT**

3 **A. General Legal Standard.**

4 A party may seek reconsideration within ten (10) days of notice of entry of an order.
5 EDCR 2.24(b). A district court may consider a motion for reconsideration concerning a
6 previously decided issue if the decision was clearly erroneous. Masonry and Tile v. Jolley, Urga
7 & Wirth, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). Here the Order was entered November 7,
8 2018 making the instant Motion timely when factoring in non-judicial court days.

9 **B. Guiding Principle: The Initial Complaint Against Dr. Saxena Was**
10 **Untimely—Any Relation Back Of The Amended Complaint Is**
11 **Unavailing.**

12 Probably the two most important facts to keep in mind when analyzing this issue is (1)
13 recognizing that the *initial* Complaint filed against Dr. Saxena was itself untimely as it was filed
14 more than a year after March 11, 2016, the date whereby Plaintiffs unequivocally and admittedly
15 had facts before them which commenced inquiry notice, and (2) the factual basis for the
16 professional negligence claim against Dr. Saxena *is identical* to the factual basis for the
17 professional negligence claim against IPC Defendants: there was a supposed failure to transport
18 Curtis to a hospital and administer a Narcan IV drip. Focusing on these two realities avoids the
19 confusion Plaintiffs present by arguing that they just did not know about the person of NP
20 Socaoco until sometime during discovery.
21

22 The bottom line is that substituting NP Socaoco into the lawsuit via an Amended
23 Complaint invokes the relation back doctrine of NRCP 15(c) and therefore brings the critical
24 question front and center: was the initial Complaint itself timely? The answer: No, the
25 purportedly negligent conduct occurred in March 2016 and Plaintiffs failed to file suit against
26 Dr. Saxena until April 2016, more than a year later.
27
28

1 If the initial suit against Dr. Saxena was untimely, then relation back to an untimely
2 complaint leads to the same outcome: it's barred by the statute of limitations set forth in NRS
3 41A.097(2). Stated differently, Plaintiffs cannot avoid the one (1) year statute of limitations
4 applicable to the Complaint by filing an Amended Complaint naming/substituting a different
5 defendant when the factual conduct underlying the claims against both parties (Dr. Saxena and
6 NP Socaoco) is identical. This distinction refutes Plaintiffs' entire position and warrants
7 judgment in favor of IPC Defendants.
8

9 **C. Nevada Supreme Court Case Law Clearly Establishes How to Determine**
10 **When Inquiry Notice Commences in Professional Negligence Lawsuits.**

11 Plaintiffs never rebutted or otherwise argued that the binding Nevada Supreme Court case
12 law somehow failed to apply to this case. A close reading of this precedent gives this Court a
13 clear landmark for identifying when inquiry notice commences as a matter of law. The most
14 relevant decision was handed down by the Winn Court which summarized the relevant statute of
15 limitations jurisprudence and elaborated as follows:
16

17 "While difficult to define in concrete terms, a person is put on "inquiry notice"
18 when he or she should have known of facts that 'would lead an ordinarily prudent
19 person to investigate the matter further.' Black's Law Dictionary 1165 (9th ed.
20 2009). We reiterated in Massey that these facts need not pertain to precise legal
21 theories the plaintiff may ultimately pursue, but merely to the plaintiff's general
22 belief that **someone's** negligence may have caused his or her injury. 99 Nev. at
23 728, 669 P.2d at 252. Thus, Winn "discovered" Sedona's injury at a point when he
24 had facts before him that would have led an ordinarily prudent person to
25 investigate further into whether Sedona's injury may have been caused by
26 **someone's** negligence." (Emphasis added). Winn v. Sunrise Hosp. & Med. Ctr.,
27 128 Nev. 246, 252-53, 277 P.3d 458, 462 (2012).
28

23 The citation is important because it makes three key distinctions: (1) the analysis focuses on a
24 *plaintiff's* knowledge, (2) only facts—not precise legal theories—are material to the statute of
25 limitation issue, and (3) the requisite facts are merely those which would cause an ordinarily
26 prudent person to *investigate* whether an injury was caused by "someone's negligence."
27

28 This last distinction is particularly relevant to the instant matter. The use of "someone" is

1 no accident and is actually *perfectly* in line with NRS 41A.071—the statute setting forth the
2 threshold burdens to bring a professional negligence case. Indeed, NRS 41A.071 states the
3 following (emphasis added):

4 **NRS 41A.071 Dismissal of action filed without affidavit of medical expert.** If an
5 action for professional negligence is filed in the district court, the district court shall
dismiss the action, without prejudice, if the action is filed without an affidavit that:

- 6 1. Supports the allegations contained in the action;
- 7 2. Is submitted by a medical expert who practices or has practiced in an area that is
substantially similar to the type of practice engaged in at the time of the alleged
professional negligence;
- 8 3. Identifies by name, or describes by conduct, each provider of health care who is
alleged to be negligent; and
- 9 4. Sets forth factually a specific act or acts of alleged negligence separately as to
each defendant in simple, concise and direct terms.

10
11 Here, again, no accidents occurred in the drafting of NRS 41A.071. Subsection 3 requires a name
12 or a description of the **conduct** which is alleged to be negligent. In other words, professional
13 negligence cases can be (and frequently are) commenced on the basis of the known allegedly
14 negligent conduct even if the specific defendants' name remains unknown. This makes perfect
15 sense given that the statute of limitations is short and frequently dozens of providers of health
16 care can be involved in the care and treatment of a person. When the negligent conduct is known,
17 plaintiffs in this State are obligated to bring suit within one (1) year and are permitted to
18 substitute the proper party as the case unfolds. See NRS 41A.097(2); NRCP 15(a) and (c).
19

20 **D. Plaintiff Actually Knew Someone's Negligence May Have Caused Curtis's**
21 **Injury No Later than March 11, 2016.**

22 The issue before the Court is more straight-forward than most statute of limitations
23 analyses as there is no need to deduce what Plaintiff *should* have known because in this case
24 there is admitted evidence about what Plaintiff *actually* knew. As such, the discovery rule
25 analysis becomes black and white.

26 The Winn Court provided helpful guidance in explaining that the commencement date of
27 inquiry notice *can* be decided as a matter of law if unequivocal evidence exists which conveys
28

1 the date that the operative facts suggesting professional negligence were accessible by a plaintiff.
2 Indeed, in Winn the Court noted that “the evidence does irrefutably demonstrate that Winn
3 discovered Sedona’s injury no later than February 14, 2007” because that is the date when an
4 operative record (which contained the fact—the presence of air—underlying the potential
5 negligence) became accessible. Id. at 463. In short, this Court retains the authority to assess the
6 evidence in this present matter for purposes of the statute of limitations.
7

8 It is irrefutable in this case that Plaintiff Laura Latrenta had access to facts which would
9 put any reasonable person on notice to investigate further into whether Curtis’s injury may have
10 been caused by someone’s negligence **because Latrenta admitted the facts did put her on**
11 **notice in mid-March 2016 that someone’s negligence may have caused Mary Curtis’s**
12 **injuries.** The Court can therefore assess that the evidence as irrefutable because the relevant
13 evidence is Latrenta’s own admissions and representations to this Court. Latrena cannot create
14 issues of fact with her own internally inconsistent statements. Block v. City of Los Angeles, 253
15 F.3d 410 (9th Cir. 2001); Bank of Las Vegas v. Hoopes, 84 Nev. 585, 586, 445 P.2d 937, 938
16 (1968). Without belaboring all the positions previously presented to this Court, the following list
17 accounts for indisputable, irrefutable evidence of Plaintiff Laura Latrenta’s *actual* knowledge
18 that someone’s negligence may have caused injury to Curtis:
19

- 20 • Motion to Consolidate Proves Knowledge of “Common” Facts. On July 7, 2016,
21 Plaintiff filed a Motion to Consolidate and admitted (indeed, *forcefully argued*)
22 that that the case against Dr. Saxena (and now IPC Defendants) arose from the
23 same facts as the case against Life Care:
24
 - 25 ○ “Laura’s two actions implicate the same underlying facts: Mary’s
26 morphine overdose, Defendants’ reaction (or lack thereof) thereto, and her
27 resulting injuries and death. *See supra* Part II. **They therefore involve**
28

1 **common questions of fact.**" (Emphasis added). See Motion to
2 Consolidate at 3:25-27.

3 ○ Plaintiffs reiterated they "brought similar claims against both Life Care
4 and Dr Saxena, i.e., that their negligence concerning her mother's
5 morphine overdose caused her injuries and death." Id. at 4-6.

6 ○ "Laura's actions against **both** Life Care and Dr. Saxena involve common
7 questions of law, e.g., causation of and liability for her mother's injuries
8 and death, and of fact, e.g., her mother's morphine overdose and
9 Defendants' untimely response thereto." (Emphasis added). Id. at 6:8-10.

10 • Plaintiffs Admitted Inquiry Notice Commenced in March of 2016 As Related to
11 Life Care. "Here, Laura [Latrenta] **was aware** of her mother's injuries, [and] their
12 causation by Life Care Defendants..." See Opposition to Motion to
13 Dismiss/Summary Judgment at 8:17. This is buttressed by Latrenta's deposition
14 testimony, previously presented, where she answered "Yes" to the question of
15 whether it was her subjective perception that Life Care acted negligently on
16 March 7 and 8, 2016.

17 • Plaintiff Admitted Her Knowledge As Of March 2016 Regarding The Precise
18 Facts At Issue In Her Lawsuit Against IPC Defendants. Plaintiff admitted in her
19 deposition that no later than March 11, 2016, providers of health care at Sunrise
20 Hospital told her negligent *conduct* occurred regarding the exact two factual bases
21 Plaintiffs upon which Plaintiffs premise their entire lawsuit: (1) the alleged failure
22 to transport Curtis to a hospital and (2) to provide a Narcan IV drip. Latrenta
23 specifically testified that these Sunrise Hospital providers stated "they [IPC
24 Defendants] should have brought her here as soon as this happened, and we could
25 26 27 28

1 have put her on a Narcan drip.” See **Exhibit A** at 77-78.

- 2 • Plaintiff Admitted that NP Socaoco’s Name Is In The Medical Records. Plaintiffs
3 claimed NP Socaoco’s name was not “revealed” in the medical record, but, in a
4 footnote, were forced to admit that NP Socaoco’s name is in, in fact, in the
5 medical record. Yet, Plaintiffs misleadingly claimed it is only present in two
6 locations. See Plaintiffs’ Opposition to Motion at 9:26-28. This claim is
7 demonstrably false. NP Socaoco’s *printed* name or signature appear no less than
8 **five (5) places** in the record. See **Exhibit B**.

9
10 If the operative fact in Winn which trigged inquiry notice was a mere note in a medical
11 record stating air was in the heart, then how much more irrefutable and definitive are the facts in
12 this case? Here, inquiry notice must be triggered as a matter of law when the Plaintiffs actually
13 admit that in March 2016 they (a) subjectively believed negligence occurred regarding the
14 morphine error and follow up care, (b) had providers of health care advise them of the two
15 alleged omissions at the heart of their case (immediate hospital transfer and lack of Narcan IV
16 drip) in March 2016, and (c) argued to this Court that the cases involve the “same” facts
17 regarding the reaction and follow up care in response to the morphine error.

18
19 **E. The Analysis Is Strengthened By This Court’s Recent Ruling That NRC**
20 **41A Applies to Life Care.**

21 While not necessary to the conclusion that inquiry notice commenced against IPC
22 Defendants no later than March 11, 2016, this Court’s ruling that Life Care is at least a de facto
23 provider of health care subject to NRS 41A simply supports the analysis represented in this
24 Motion. Again, the Winn case carefully discerned that facts which a claimant believed (or should
25 have believed) indicated that injury “may have been caused by **someone’s** negligence.”

26
27 Here, Plaintiffs readily admitted that they knew another provider of health care, Life
28 Care, acted in an allegedly negligent way no later than March 11, 2016 concerning *both* the

1 morphine error **and the follow up medical care in the wake of the morphine error**. Once
2 Plaintiffs subjectively and admittedly knew that at least “someone’s negligence” (Life Care and
3 its employee(s)) may have caused injury, Plaintiffs were obligated, as a matter of law, to inquire
4 further beginning on the same date. Putting all the other admissions aside, this one fact disposes
5 of the entire issue and proves the statute of limitations must apply. Plaintiffs offered absolutely
6 no reason as to why they were able to file a lawsuit against Life Care *within* one (1) year but
7 inexplicably delayed months before filing a lawsuit against IPC Defendants *more than* one (1)
8 year after being on inquiry notice.

10 **F. Plaintiffs’ Reliance on 20 Year Old, Non-Professional Negligence Case**
11 **Law is Inapposite.**

12 This Court faces a decision: should a twenty year old case concerning *intentional* torts
13 control the statute of limitations analysis in the present *professional* negligence case or should
14 recent, binding Nevada precedent along with particular statutes specifically addressing
15 professional negligence control? Plaintiffs argue the former. IPC Defendants argue the latter.

16 Plaintiffs rested their entire opposition on the case of Siragusa v. Brown, 114 Nev. 1384,
17 971 P.2d 801 (1998). This is a case involving a lawyer who purportedly was the mastermind
18 behind a scheme to defraud the plaintiff which went undiscovered for several years. Id. at 1388.
19 However, as this Court is well aware, professional negligence torts are treated *much* differently
20 than intentional torts or even other negligence-based torts.

22 An entire chapter of the Nevada Revised Statutes is devoted to these highly specialized
23 professional negligence cases. The Nevada Supreme Court *explicitly* held that NRS 41A takes
24 precedence over more general legal authorities when professional negligence is at issue. Piroozi
25 v. Eighth Judicial Dist. Ct., 131 Nev. Adv. Op. 100, 363 P.3d 1168 (2015).

27 The enactment of NRS 41A itself occurred after the Siragusa case. And the current
28 iteration of NRS 41A.071 (via the 2015 amendments) occurred almost 20 years after the

1 Siragusa case. As cited above, it was the 2015 amendments which further clarified that only the
2 *conduct* (and not the specific defendant name) was sufficient to bring suit. It therefore follows
3 that it is the known *conduct* (and not the specific defendant name) which commences inquiry
4 notice in professional negligence cases. In this regard, the 2015 amendments are in perfect
5 harmony with the 2012 Winn case which announced that, for purposes of a statute of limitations
6 analysis as to inquiry notice, the allegedly negligent *conduct* is the important operative fact(s) as
7 opposed to determining the particular identity of the “someone.” Moreover, Plaintiffs just got the
8 “someone” wrong when they sued Dr. Saxena instead of NP Socaoco, but the actual conduct at
9 issue is identical in both the Complaint and Amended Complaint. Plaintiffs’ position (currently
10 set forth in the Order) transforms *inquiry* notice into actual notice which is completely at odds
11 with Nevada law.
12

13 **G. No Legal Basis to Toll the Statute of Limitations.**
14

15 There is only one statutory basis to toll the statute of limitations in a professional
16 negligence case. This basis is set forth in NRS 41A.097(3) as follows: “this time limitation is
17 tolled for any period during which the provider of health care has **concealed** any act, error or
18 omission upon which the action is based.” (Emphasis added). Plaintiffs’ argument for tolling the
19 statute of limitations is that (a) NP Socaoco’s identity is not “revealed” in “Mary’s medical
20 record” and (b) Plaintiff allegedly had a difficult time getting information from Life Care—a
21 party wholly distinct from the IPC Defendants.
22

23 The first point, as mentioned above, seems difficult to believe when NP Socaoco’s name
24 appears no less than five (5) times in a relatively brief medical record. See Exhibit B.
25 According to Plaintiffs, somehow “A. Socaoco” is easily confused with “S. Saxena” because
26 both last names begin with an “S.” Of course, simple logic and common sense would cause a
27 reasonable person to deduce that entries by in a medical record that had *different* first name
28

1 initials (and obviously different letters in the remainder of their last name) would almost
2 certainly be entries by two *different* individuals. Yet, this attempted point is unsupported by any
3 authority saying it could toll the statute of limitations. And, as demonstrated at length, it was not
4 the medical record which contained the operative fact(s) that *first* put Laura Latrenta on inquiry
5 notice. However this issue produces an important thought experiment that substantiates IPC
6 Defendants' position. Suppose a plaintiff personally witnessed a nurse give medication to
7 plaintiff that plaintiff *knew* was not intended for plaintiff and immediately caused harm. Would
8 *inquiry* notice commence at on that same day, or would it be tolled for months until that plaintiff
9 found out the nurse's specific name? It is the former because seeking would be *part* of the
10 inquiry bound up within "inquiry notice/"

11
12 The second point is specifically refuted by the Winn Court which held that "one
13 defendant's concealment cannot serve as a basis for tolling NRS 41A.097(2)'s statutory limitation
14 periods as to defendants who played no role in the concealment." Winn v. Sunrise Hosp. &
15 Med. Ctr., 128 Nev. 246, 259, 277 P.3d 458, 466, 2012 Nev. LEXIS 61, *24, 128 Nev. Adv.
16 Rep. 23, 2012 WL 1949864. This specific holding of the Nevada Supreme Court renders
17 completely moot Plaintiffs' argument regarding difficulties obtaining information from Life
18 Care. There is zero evidence to support the notion that IPC Defendants played any role in Life
19 Care's conduct in this regard.
20

21
22 In sum, Plaintiffs are left without any viable argument as to why they failed to bring suit
23 against Dr. Saxena within one (1) year which necessarily renders untimely the suit against the
24 substituted IPC Defendants.

25 ///
26
27
28

1 **IV. CONCLUSION.**

2 Analyzing this issue anew is critical to correct an error of law regarding when inquiry
3 notice commenced in this case. Correcting the Order is consistent with Nevada law and this
4 Court's recent ruling determining that Life Care is, in effect, a provider of health care subject to
5 NRS 41A. Plaintiffs repeatedly admitted they knew negligent conduct occurred in March of 2016
6 which involved the follow up health care in the wake of the morphine error. Plaintiffs argued the
7 two separate Complaints initially filed (one timely, one untimely) and then consolidated arose
8 from the "same" facts regarding the follow up care. There is simply no way Plaintiffs' inquiry
9 notice started any time other than on March 11, 2016, the date Mary Curtis passed.
10 Consequently, NRS 41A.097(2) bars Plaintiffs' suit against IPC Defendants.
11

12 Dated this 26th day of November 2018.

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

14 */s/ Vincent J. Vitatoe*

15
16
17 _____
18 JOHN H. COTTON, ESQ.
19 VINCENT J. VITATOE, ESQ.
20
21
22
23
24
25
26
27
28

EXHIBIT A

EXHIBIT A

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3

4 Estate of MARY CURTIS, deceased;)
LAURA LATRENTA, a Personal)
5 Representative of the Estate of) CASE NO. A-17-750520-C
MARY CURTIS; and LAURA LATRENTA,) DEPT NO. XXIII
6 individually,)

7 Plaintiffs,)

8 vs.)

9 SOUTH LAS VEGAS MEDICAL)
INVESTORS, LLC dba LIFE CARE)
10 CENTER OF SOUTH LAS VEGAS fka)
LIFE CARE CENTER OF PARADISE)
11 VALLEY; SOUTH LAS VEGAS INVESTORS)
LIMITED PARTNERSHIP; LIFE CARE)
12 CENTERS OF AMERICA, INC.; BINA)
HRIBIK PORTELLO, Administrator;)
13 CARL WAGNER, Administrator, and)
DOES 1-50, inclusive,)

14 Defendants.)
15

**CERTIFIED
COPY**

16

17

18 DEPOSITION OF LAURA LATRENTA

19 Taken on Wednesday, November 29, 2017

20 At 9:01 a.m.

21 At Kolesar & Leatham

22 400 South Rampart Boulevard, Suite 400

23 Las Vegas, Nevada

24

25 REPORTED BY: CINDY MAGNUSSEN, RDR, CCR NO. 650

1 A. Yes.

2 Q. Okay. So during that time span --

3 A. Oh, not to be admitted. Well, I don't know.

4 She was in that room. And the time, it meshes together
5 now. I went home to sleep and came back. So it had to
6 be at least two days she was in that room.

7 Q. So the first room that you saw her in when you
8 first got to the hospital, she stayed there for about two
9 days?

10 A. I think they moved her to another spot but in
11 that same -- she was in emergency.

12 Q. All right. On that first day when she's there,
13 did you have any conversations with her physicians?

14 A. Not that I remember physicians, but I had
15 conversation with -- I don't know if there were
16 technicians or doctors or what. But the people that were
17 taking care of her.

18 Q. So you just don't know their positions, but you
19 did have conversations with personnel --

20 A. Lots of conversations because I told them what
21 happened.

22 Q. Okay. Did they tell you any kind of diagnosis
23 of what they thought was going on with your mother?

24 A. They -- one gentleman said to me, and I think it
25 was on the second day, that -- because we became -- I

1 know them. I started, you know, Oh, where do you live?
2 And he says, You know what, they should have brought her
3 here as soon as this happened, and we could have put her
4 on a Narcan drip.

5 Q. Okay.

6 A. They said that to me.

7 Q. And do you know who that individual was?

8 A. I think his name was Jason.

9 There were two guys that I talked to. They
10 were both very, very astute. And they gave her
11 excellent care. They were all over her with
12 everything. And then somebody took her also to get, I
13 guess, an X-ray. It could have been a CAT scan. I
14 don't know.

15 They had to take her away. Maybe it was a CAT
16 scan. It was something, either an X-ray or CAT scan.
17 They took her away for that and brought her back.

18 Q. Okay.

19 A. But there was this one gentleman, Jason, and
20 then there was this -- another guy. And I -- Chris. I
21 mean, please don't quote me on this. I don't remember.
22 But they, you know, I would tell everybody who was
23 listening to me what happened because I wanted them to
24 all know what the condition was.

25 And they just were caring for her and taking

EXHIBIT B

EXHIBIT B

0401

POST ACUTE PROGRESS NOTE

IPC

Date: 3/7/16 Time: 1830 AM PM Facility: LCPV

REASON FOR VISIT: Flu activity
Name: Curtis, Mary DOB: Age: 87 Gender: M (F)

Advanced Directives:
☐ Medications and Allergies Reviewed

REVIEW OF SYSTEMS: Marked System Reviewed; Normal unless indicated.
☐ GEN: st change, fatigue, weakness, wt. loss/gain
☐ Resp: cough, wheezing, trach O2
☐ Skin: bruising, pruritus, rash, intact, pressure ulcer
☐ Cardio: clp, palp, fatigue, dyspnea, pacer
☐ Endocrine: heat/cold intolerance, wt. change
☐ Head: headache, dizziness, syncope
☐ Heme: bleeding, bruising, leukemia
☐ GI: n/v, heartburn, constipation, anorexia, diarrhea, feeding tube
☐ HEENT: double vision, pain, tinnitus; dentures, glasses, hearing loss
☐ GU: dysuria, freq, urgency, pain, retention, foley
☐ Musc: joint pain, stiff, deformity, falls, amputation
☐ Neuro: seizure, tremor, weak, dysphagia, hemiplegia, numbness, parathesia
☐ Psych: anxiety, depression, confusion, dementia, agitation
☐ Vascular: DVT, PVD, edema

INTERVAL HISTORY: Patient is stable, V/S stable, dry @ bedside, Nausea given to prevent vomiting. Was given by nurse (nurse) - Incident report made. BP 190-200 Chlorzoxazone 0.25g 3x daily

LABORATORY / STUDIES: M/H T: 98.5 P: 77 R: 20 Wt: O2 Sat: 97% Room Air O2@ L/min
VITAL SIGNS: BP: Site: Other:

Exam	Notes
General Appearance <input checked="" type="checkbox"/> Well Nourished <input type="checkbox"/> NAD	Continue to monitor
Skin <input type="checkbox"/> Neg <input type="checkbox"/> Rashes <input type="checkbox"/> Decubitus <input type="checkbox"/> Burns <input type="checkbox"/> Wounds	PT overnight
ENT <input checked="" type="checkbox"/> Neg <input type="checkbox"/> Own teeth <input type="checkbox"/> Dentures <input type="checkbox"/> Mucous membranes moist	take V/S Q4 for 1 hr.
Head <input checked="" type="checkbox"/> Neg	then Q4
Eyes <input checked="" type="checkbox"/> Neg <input type="checkbox"/> PERLA	
Neck <input checked="" type="checkbox"/> Neg <input type="checkbox"/> Bruits <input type="checkbox"/> JVD <input type="checkbox"/> thyroidmegaly <input type="checkbox"/> node	
Heart/CV <input type="checkbox"/> BRR <input type="checkbox"/> IRIR <input type="checkbox"/> murmur <input type="checkbox"/> distal pulses <input type="checkbox"/> S3 <input type="checkbox"/> S4	
Lungs/Chest <input checked="" type="checkbox"/> Neg <input type="checkbox"/> CTA <input type="checkbox"/> crackles <input type="checkbox"/> rhonchi <input type="checkbox"/> wheeze	
Abdomen <input type="checkbox"/> Neg <input type="checkbox"/> Bowel sounds: +/ - <input type="checkbox"/> Guarding <input type="checkbox"/> Rigidity <input type="checkbox"/> Tenderness <input type="checkbox"/> Hemis <input type="checkbox"/> Mass	POC
Psychological <input type="checkbox"/> Neg <input type="checkbox"/> A & O X <input type="checkbox"/> Confused <input type="checkbox"/> Anxiety <input type="checkbox"/> Depression	
Musculoskeletal <input type="checkbox"/> Neg <input type="checkbox"/> Edema <input type="checkbox"/> Contractures <input type="checkbox"/> Amputations <input type="checkbox"/> OA <input type="checkbox"/> RA	
Ambulation <input type="checkbox"/> Unassisted <input type="checkbox"/> Wheelchair <input type="checkbox"/> walker <input type="checkbox"/> Cane <input type="checkbox"/> Unable to walk/bed ridden	
Neuro <input checked="" type="checkbox"/> Neg <input type="checkbox"/> Tremors <input type="checkbox"/> Hemiparesis R/L	

Assessment / Plan:
Administered wrong meds to patient - Nausea given continue to monitor PT.
Physical Stability - PT 10T
Signs of Fall - PT 10T
COPD - 22 O2; stable sat.
Cognitive disorder - CRO stage 3
HTN - melazipine, Gabapentin
Anemia - cpl. w/iron 11/11
Pain - Pylorol
Supplements - multivitamin
Hypertension - Metoprolol
DVT prophylaxis - Aspirin
Hemorrhoids - hemorrhoids
SIBS - Paracetamol, Cathecol

Discussed with ☐ Patient/Resident ☐ Family ☐ DPOA
Signature: H. Souder Print Last Name: 3/7/16 Date:

ipc

BRU

AM ☐ PM ☒ Facility: Flu Activity

Curtis many

☒ Medications and Allergies Reviewed

REVIEW OF SYSTEMS: Marked System Reviewed; Normal unless indicated

- INTERVAL HISTORY:**

INTERVAL HISTORY: Patient is seen, family members @ bedside, she stated LdL little of PT/OT rec. she was not feeling good, appetite is better. @ PM, @ NN, @ TH

Remund

FB 137185

Pain (0-10) 5 Site: _____ Other: _____

Notes

Skin ☒ Neg. ☐ Rashes ☐ Decubitus ☐ Burns ☐ Wounds

ENT ☒ ~~Neg~~ ☐ Own teeth ☐ Dentures

☐ Mucous membranes moist

Head ☒ Neg

Eyes ~~☒ Neg~~ ☐ PERRLA

Neck ☒ Neg ☐ Bruits ☐ JVD ☐ thyroidmegaly ☐ node

Heart/CV ☒ RRR ☐ IRIR ☐ murmur ☐ distal pulses ☐ S3 ☐ S4

Lungs/Chest ☒ Neg ☐ CTA ☐ crackles ☐ rhonchi ☐ wheeze

Abdomen ☐ Neg Bowel sounds: + / - ☒ Guarding ☐ Rigidity

Abdomen ☐ Neg Bowel sounds: +/ - ☐ Guarding ☐ Rigidity
☐ Tenderness ☐ Bladder -/ +

Psychological ☐ Neg ☐ A & O X ☐ Confused

☐ Neg ☐ A & O X 2

Musculoskeletal ☐ Neg ☐ Edema ☐ Contractures ☐ Amputations ☐ OA ☐ RA

Musculoskeletal ☐ Neg ☐ Edema ☐ Contractures ☐ Amputations

☐ Unable to walk/bed ridden

Assessment / Plan:

Approved Debiting - 10/10/07

Syncope / Fall - 1st of - no cardio

Сурд - 2402

Cognitive distortions

can styl 3

HN - Androgene Tuberkulose

Wm. C. F. Montgomery H H

Sharon - Pa. Ward

Discussed with ☒ Patient/Resident ☐ Family ☐ DPOA

Signature _____

Print Last Name

Date _____

3/1/16
7658

POST ACUTE PROGRESS NOTE

IPC

Date: 3/2/16 Time: 1830 AM PM Facility: LCMV

REASON FOR VISIT: NEW Admitt.

Name: Curtis Mary DOB: Age: 89 Gender: M (F)

Advanced Directives:

Medications and Allergies Reviewed

REVIEW OF SYSTEMS: Marked System Reviewed; Normal unless indicated

- | | |
|---|--|
| <input type="checkbox"/> GEN: st change, fatigue, weakness, wt. loss/gain | <input type="checkbox"/> HEENT: double vision, pain, tinnitus, dentures, glasses, hearing loss |
| <input type="checkbox"/> Resp: cough, wheezing, trach O2 | <input type="checkbox"/> GU: dysuria, freq, urgency, pain, retention, Foley |
| <input type="checkbox"/> Skin: bruising, pruritus, rash, intact, pressure ulcer | <input type="checkbox"/> Musc: joint pain, stiff, deformity, falls, amputation |
| <input type="checkbox"/> Cardio: c/p, palp, fatigue, dyspnea, pacer | <input type="checkbox"/> Neuro: seizure, tremor, weak, dysphagia, hemiplegia, numbness, |
| <input type="checkbox"/> Endocrine: heat/cold intolerance, wt. change | <input type="checkbox"/> parathesia |
| <input type="checkbox"/> Head: headache, dizziness, syncope | <input type="checkbox"/> Psych: anxiety, depression, confusion, dementia, agitation |
| <input type="checkbox"/> Heme: bleeding, bruising, leukemia | <input type="checkbox"/> Vascular: DVT, PVD, edema |
| <input type="checkbox"/> GI: n/v, heartburn, constipation, anorexia, diarrhea, feeding tube | |

INTERVAL HISTORY:

As is seen, ATO X2, POC pt/ot eval to day. Denies
of prior or of her time. V/S stable, appetite good.

LABORATORY / STUDIES:

VITAL SIGNS: BP: 160/69 T: 97.2 P: 98 R: 20 Wt: O2 Sat: 95 % ☐ Room Air ☐ O2@ L/Min

Pain (0-10): Site: Other:

Exam

Notes

General Appearance: ☒ Well Nourished ☐ NAD

Skin: ☒ Neg ☐ Rashes ☐ Decubitus ☐ Burns ☐ Wounds

ENT: ☒ Neg ☐ Own teeth ☐ Dentures

☐ Mucous membranes moist

Head: ☒ Neg

Eyes: ☒ Neg ☐ PERLA

Neck: ☒ Neg ☐ Bruits ☐ JVD ☐ thyromegaly ☐ node

Heart/CV: ☒ RRR ☐ IRIR ☐ murmur ☐ distal pulses ☐ S3 ☐ S4

Lungs/Chest: ☒ Neg ☐ CTA ☐ crackles ☐ rhonchi ☐ wheeze

Abdomen: ☐ Neg ☐ Bowel sounds ☐ Guarding ☐ Rigidity

☐ Tenderness ☐ Hernia ☐ Mass

Psychological: ☒ Neg ☐ A & O X ☐ Confused

☐ Anxiety ☐ Depression

Musculoskeletal: ☐ Neg ☐ Edema ☐ Contractures ☐ Amputations ☐ OA ☐ RA

Ambulation: ☒ Unassisted ☐ Wheelchair ☐ walker ☐ Cane

☐ Unable to walk/bed ridden

Neuro: ☒ Neg ☐ Tremors ☐ Hemiparesis R / L

Assessment / Plan:

Physical Dependency - pt/ot

Syncope / Fall - pt/ot - No episode history

COPD - 2 L O2

Cognitive Disorder

CKD stage 3

HTN - Amlodipine, lisinopril

Anemia

Pain, Keen - Tylenol

Discussed with ☐ Patient/Resident ☐ Family ☐ DPOA

Signature

ASOUMOU
Print Last Name

3/2/16
Date

POC

Supplements - multivit.
Hyperlipidemia - Atorvastatin
DVT prophylaxis - ASA, low-dose
Dementia - Donepezil
SOB - Ipratropium - Albuterol
Dementia - Memantine

ATTACH ORIGINAL SIGNED COPY WHEN RECEIVED

Facility Name <i>UCCPV</i>			Address <i>LV NV</i>		Signature of Nurse Receiving Order <i>[Signature]</i>		Date/Time <i>3/4/16 13:20</i>	
Family Name <i>Curtis Mary</i>			Admission Number <i>313A</i>		Attending Physician <i>J. S. Sosa</i>			
Date Ordered <i>3/7/16</i>	Time Ordered <i>(PMD)</i>	Date DC'd	MEDICATION Order <i>NARCAN 1M 0.4mg XI NOV may exp. in 3 minutes #2</i>		Dose & Form <i>STAT</i>	Route <i>DEPT MS 370/1845</i>	Schedule	INDICATION - DX <i>may exp.</i>
Physician/Prescriber Signature <i>[Signature]</i>			Title		Date <i>3/6/16</i>			
<input type="checkbox"/> Resident <input checked="" type="checkbox"/> Family			has been notified of the above treatment change. Date notified Name of person contacted <i>Laura (Nurse) @ 10:00 AM, 3/6/16</i>					
NURSE: Please Initial The Documentation Record As Performed								
Pharmacy <input type="checkbox"/> Courier <input type="checkbox"/> Faxed (Fax Official) <input type="checkbox"/> Phone	On Physician's Order Sheet	Med Sheet	TX Sheet	Nurse's Notes	Patient Care Plan	ADU Flow	Signed <i>[Signature]</i>	Daily <i>3/4/16</i> Time <i>13:20</i>

Facility Name <i>Leapt</i>		Address		Signature of Nurse Receiving Order <i>[Signature]</i>		Date/Time <i>3/2/16</i>	
Family Name <i>Curtis / Mary</i>		Admission Number <i>213 A</i>		Room Number <i>213 A</i>		Attending Physician <i>[Signature]</i>	
Date Ordered	Time Ordered	Date DC'd	MEDICATION/Order		Dose & Form	Route	Schedule
<i>3/1/16</i>	<i>15</i>		<i>Clonidine 0.2mg X 1</i>		<i>PO</i>	<i>at 1700</i>	<i>T BP > 200</i>
			<i>Clonidine 0.1mg 1 tab PO Q6° PRN</i>				<i>T BP</i>
			<i>to give if SBP > 180</i>				
			<i>continue to monitor V/S Q4° call me for any Δ.</i>				
Physician/Prescriber Signature <i>[Signature]</i>		Title	Date	<input type="checkbox"/> Resident <input type="checkbox"/> Family has been notified of the above treatment change. Date notified _____ Name of person contacted _____ If not contacted, reason _____			
NURSE: Please initial the Documentation Record As Performed							
Pharmacy	<input type="checkbox"/> Courier <input type="checkbox"/> Faxed (Fax Original) <input type="checkbox"/> Phone	On Physician's Order Sheet	Med Sheet	TX Sheet	Nurse's Notes	Patient Care Plan	ADL/Flow
							Signed <i>[Signature]</i> Date/Time <i>3/2/16</i>



3

**PHYSICIAN/PRESCRIBER
PLEASE SIGN AND RETURN**

☐ Send NO MEDS ☐ Send ★ MEDS ONLY
☐ Send ALL MEDS ☐ Doses taken from Emergency/Backup Sto

ORIGINAL COPY

Facility Name
Family Name
First Name

Address
Admission Number

Signature of Nurse Receiving Order
Room Number

Date/Time
☐ RAV

Date Ordered
Time Ordered
Date Rec'd

MEDICATION/Order
Dose & Form
Route
Schedule

INDICATION - DX

Physician/Prescriber Signature **Title** **Date**

☐ Resident ☐ Family has been notified of the above treatment change. Date notified _____ / _____ / _____
 Name of person contacted _____ If not contacted, reason _____

NURSE: Please Initial The Documentation Record As Performed

Pharmacy
☐ Courier
☐ Faxed (Fax Original)
☐ Phone

On Physician's Order Sheet

Med Sheet

TX Sheet

Nurse's Notes

Patient Care Plan

ADL/Flow

Signed

Date

Time

These colors (Teal and Pink) are a trademark of MED-PASS, Inc.

LCC - 00047

APP0384

**Resident: Curtis, Mary T(F) MRN: 7658 Location - 3 313 A****03/04/2016 07:22 PM PST**

Chart Type: Default Charting Type

Category: Nursing Notes

Notes:

Patient is alert and verbally responsive with confusion. Able to make needs known. S/P fall with no ill effects from fall. No change in ROM. No c/o pain. Assisted with all of her needs. Neuro checks in progress. Safety precautions in place. Call light in reach.

E-Signed By: Ramos, Regina S LPN (03/04/2016 07:24:50 PM PST)

03/03/2016 08:34 PM PST

Chart Type: Default Charting Type

Category: Nursing Notes

Notes:

At 2:00pm this writer was called by staff in patient room. This writer came into room ASAP. When entered in patient room found patient laying on left side position in the bathroom. When asked the resident what happened patient stated "I gout out from my bed to go to the bathroom, I lost my balance ,then I fell. Pt. said she hit her head to the wall. Body checked done, no noted at this time, lump or bump on head. ROM + TO ALL EXTREMITIES. Neuro checks initiated. Tab-alarm not in place, patient disconnected tab-alarm. Explained the risk and benefits. Pt. verbalizes understanding. M.d and daughter notified.

E-Signed By: Ramos, Regina S LPN (03/03/2016 08:43:25 PM PST)

03/03/2016 08:15 AM PST

Chart Type: Default Charting Type

Category: Nursing Notes

Notes:

Admitted an 89 y/o female patient, alert with confusion from Desert spring hospital with history of hypertension, COPD, chronic disease anemia. she is under the care of Dr. Samir Saxena. Skin assessment done and performed. Skin is intact, no open areas or wounds. With bruises in her R abdomen, R and L leg and in her L foot. With R hand heplack. Repositioned and made comfortable to bed. Instructed and reminded to use call light whenever needs assistance.

E-Signed By: Elpa, Rowena D Registered Nurse (03/03/2016 08:22:07 AM PST)

03/02/2016 06:49 PM PST

Chart Type: Default Charting Type

Category: Admission, Re-admission

Notes:

Res is alert with confusion came from Desert Spring Hospital at 7AM with a diagnosis of COPD ,HTN ,CKD ,Anemia, has no allergies a patient of DR Saxena ANABEL has been notified meds faxed to pharmacy has a clear speech abdomen soft has a Foley catheter 16FR incontinent of bowel ,bruises In-front of her legs and stomach was oriented to the room on how to use the call light ,Pt verbalize understanding with return demonstration ,in bed resting ate 100% of her meals no distress noted complain of no pain safety precautions in place with call light within reach .

Vital Signs:

Temp	Pulse	Resp. Rate	Blood Pressure
97.2F	98/min	20/min	160/69 mmHg

E-Signed By: Owusu, Abena LPN (03/02/2016 07:05:31 PM PST)

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

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OPPM
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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.

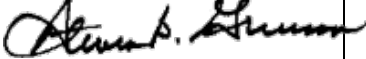
SOUTH LAS VEGAS MEDICAL INVESTORS,
LLC dba LIFE CARE CENTER OF SOUTH
LAS VEGAS f/k/a LIFE CARE CENTER OF
PARADISE VALLEY; SOUTH LAS VEGAS
INVESTORS LIMITED PARTNERSHIP; LIFE
CARE CENTERS OF AMERICA, INC.; BINA
HRIBIK PORTELLO, Administrator; CARL
WAGNER, Administrator; and DOES 1-50,
inclusive,

Defendants.

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

Plaintiffs.

Electronically Filed
12/6/2018 2:03 PM
Steven D. Grierson
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Case No. A-17-750520-C

Dept No. XVII

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

**PLAINTIFFS' OPPOSITION TO IPC
DEFENDANTS' MOTION FOR
RECONSIDERATION**

Date: January 2, 2019
Time: In Chambers

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' OPPOSITION TO IPC DEFENDANTS' MOTION FOR**
11 **RECONSIDERATION**

12 Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of
13 the Estate of Mary Curtis; and Laura Latrenta, individually ("Plaintiffs"), by and through their
14 attorneys at the law firms of Kolesar & Leatham and Wilkes & McHugh, P.A., hereby respond to
15 IPC Defendants' Motion for Reconsideration.

16 DATED this 6th day of December, 2018.

17 **KOLESAR & LEATHAM**

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

19 MICHAEL D. DAVIDSON, ESQ.

20 Nevada Bar No. 000878

21 400 South Rampart Boulevard, Suite 400

22 Las Vegas, Nevada 89145

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

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

25 15333 N. Pima Rd., Ste. 300

26 Scottsdale, Arizona 85260

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

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

One North Dale Mabry Highway, Suite 700

Tampa, FL, 33609

Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

No substantially different evidence has been introduced since the Court's decision that date of accrual is a jury question. Nor was that decision clearly erroneous. Reconsidering the decision would therefore be unjustified.

II. PROCEDURAL HISTORY

Dr. Saxena opposed Laura's motion to amend her Complaint to include Nurse Socaoco and the IPC entities and also countermoved for summary judgment, arguing that the statute of limitations defeated Laura's claims both against him and against the prospective IPC Defendants. *See* Def. Saxena's Opp'n to Pls.' Mot. Amend Compl. & Countermot. Summ. J. 2 ("The statute of limitations and fatal legal flaws preclude all of Plaintiffs' claims as asserted against the parties Plaintiffs seek to add."). The Court denied without prejudice the countermotion as to the statute of limitations issue. *See* Order ¶ 10c (Apr. 11, 2018).

Two months after the Court's order, the IPC Defendants sought summary judgment on statute of limitations grounds. *See* Defs.' Mot. Dismiss or in Alt. for Summ. J. 4 ("The statute of limitations bars Plaintiffs' lawsuit against IPC Defendants."). The Court granted in part and denied in part IPC's motion, holding that "[t]he statute of limitations accrual date is a question of law only if the facts are uncontroverted" and finding that "a question of fact remains as to the date of inquiry as to the names of the tortfeasors in this matter." Court Minutes 2 (Aug. 13, 2018). The corresponding order was filed three months later. *See* Order (Nov. 6, 2018).

The IPC Defendants now seek reconsideration of the statute of limitations issue. *See* IPC Defs.' Mot. Recons.

III. LEGAL ARGUMENT

A. IPC Has Not Satisfied the Standard for Reconsideration.

"A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741 (1997). So "[o]nly in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to

1 the ruling already reached should a motion for rehearing be granted.” *Moore v. City of Las Vegas*,
2 92 Nev. 402, 405 (1976). The *Moore* court accordingly held that the district court had abused its
3 discretion in entertaining a second motion for rehearing that “raised no new issues of law and made
4 reference to no new or additional facts.” *Id.*¹

5 Here, IPC Defendants do not offer substantially different evidence. *See* Defs.’ Mot.
6 Recons. 4 (“IPC Defendants restate and reincorporate the factual and procedural background set
7 forth in the underlying (a) Motion to Dismiss, or, in the alternative, for Summary Judgment and
8 (b) Reply in support thereof.”). Nor do they offer new issues of law to show that the Court’s
9 decision was clearly erroneous. *See id. passim* (regurgitating the arguments of their motion to
10 dismiss and supporting reply).² No cause therefore exists under *Masonry & Tile Contractors* for
11 the Court to reconsider this previously decided issue. Indeed, as IPC raises no new issues of law
12 and refers to no new or additional facts, entertaining their motion for reconsideration would be an
13 abuse of discretion under *Moore*. IPC’s motion is therefore to be rejected.

14 **B. IPC’s Failure Is Understandable and Was Inevitable.**

15 Although relitigating this issue would be wrong (and tedious), a brief reminder of the
16 considerations underlying the Court’s previous ruling seems not out of place here. In short, an
17 injury’s accrual date is a question of fact for the jury except in an exceptional case, and this is not
18 an exceptional case.

19 The statute of limitations for professional negligence actions explicitly incorporates the
20 discovery rule: “an action for injury or death against a provider of health care may not be
21 commenced more than 3 years after the date of injury or 1 year after the plaintiff discovers or
22 through the use of reasonable diligence should have discovered the injury, whichever occurs first.”

23 _____
24 ¹ *See also Achrem v. Expressway Plaza Ltd. P’ship*, 112 Nev. 737, 742 (1996) (“Points or contentions not raised in the original hearing cannot be maintained or considered on rehearing.”).

25 ² For example, they argue that the question of accrual is for some reason treated differently in professional negligence
26 cases than in other tort cases—just as they did in their reply. *Compare* IPC Defs.’ Mot. Recons. 5 (counseling the
27 Court that “it is critical for this Court to focus on the *binding* Nevada Supreme Court precedent which *specifically*
28 addresses *professional* negligence (as opposed to other torts)”), with Defs.’ Reply 6 (“[A]s this Court is well aware, professional negligence torts are treated *much* differently than other negligence-based torts.”). In fact, the discovery rule’s applicability is even clearer in professional negligence cases as the rule is specifically provided for in the statutory language. *Compare* NRS 11.190(4)(e), with NRS 41A.097(2).

1 NRS 41A.097(2). “Injury” here means not “the allegedly negligent act or omission” but rather
2 “legal injury,” i.e., “all essential elements of the malpractice cause of action.” *Massey v. Litton*, 99
3 Nev. 723, 726 (1983). Discovery of this injury “must be of both the fact of damage suffered and
4 the realization that the cause was the health care provider’s negligence.” *Id.* at 727.

5 “[T]he question of when a claimant discovered or should have discovered the facts
6 constituting a cause of action is one of fact.” *Siragusa v. Brown*, 114 Nev. 1384, 1400 (1998). So
7 “[o]nly where uncontroverted evidence proves that the plaintiff discovered or should have
8 discovered the facts giving rise to the claim should such a determination be made as a matter of
9 law.” *Id.* at 1401. It follows that whether a plaintiff exercised due diligence in discovering her
10 cause of action is a jury question. *See Bemis v. Estate of Bemis*, 114 Nev. 1021, 1026 (1998)
11 (“Whether [plaintiffs] exercised due diligence in discovering their cause of action is a question of
12 fact which on remand should be determined by the trier of fact.”).

13 IPC asserts that whether a claim is for professional negligence makes a difference. *See*
14 *Defs.’ Mot. Recons. Section III.F.* But in the medical malpractice case *Winn v. Sunrise Hospital*
15 *& Medical Center* the supreme court taught that “the accrual date for subsection 2’s one-year
16 discovery period ordinarily presents a question of fact to be decided by the jury,” such that “[o]nly
17 when evidence irrefutably demonstrates this accrual date may a district court make such a
18 determination as a matter of law.” 128 Nev. 246, 251 (2012). That is the same rule as in other tort
19 actions.

20 No reason therefore exists to reject reliance on *Siragusa v. Brown*, in which our supreme
21 court, in reversing the district court’s dismissal as time-barred of plaintiff’s claims against a
22 partnership’s counsel who allegedly masterminded a scheme to insulate the partnership from
23 plaintiff, reasoned that plaintiff’s awareness upon filing her complaint that the partnership’s
24 members had conducted a sham transfer “did not, as a matter of law, constitute discovery by
25 [plaintiff] of facts constituting the fraud allegedly perpetrated by counsel.” 114 Nev. 1384, 1391
26 (1998). True, her “mere ignorance of [counsel’s] identity will not delay accrual of even a
27 discovery-based statute of limitations if the fact finder determines that [she] failed to exercise
28

1 reasonable diligence in discovering [counsel's] role in the alleged tortious activities.” *Id.* at 1394.
2 But “such a determination must be made by the trier of fact.” *Id.* at 1402.

3 Here, the jury is entitled to conclude that Laura not only did not know but could not have
4 known that Nurse Socaoco and the IPC entities even existed, much less that they were involved,
5 before Nurse Sansome’s 6 December 2017 deposition. *See* Pls.’ Opp’n to Defs.’ Mot.
6 Dismiss/Mot. Summ. J. Part II (providing the factual background leading to Laura’s discovering
7 these Defendants’ existence and involvement). Recall that at that deposition Nurse Sansome
8 revealed to all the parties Nurse Socaoco’s existence by testifying (for example) that after she
9 attempted to call the physician Nurse Socaoco called her back and (having been informed about
10 Mary) instructed that Mary be given Narcan and specified its dosage, and that Nurse Socaoco
11 herself arrived in person to the nursing station while Nurse Sansome was writing out the order.
12 *See id.* Consider also that Life Care’s incident report identifying Nurse Socaoco as the
13 physician/NP notified was not produced until January 2018. *See id.* Nor did any Defendant—
14 including Dr. Saxena—ever in their disclosures identify Nurse Socaoco. *See id.*

15 Dismissing these Defendants now on statute of limitations grounds would therefore not
16 only usurp the jury’s role but also ignore our supreme court’s teaching that “the policies served by
17 statutes of limitations do not outweigh the equities reflected in the proposition that plaintiffs should
18 not be foreclosed from judicial remedies before they know that they have been injured and can
19 discover the cause of their injuries.” *Petersen v. Bruen*, 106 Nev. 271, 274 (1990).

20 In sum, because IPC has not shown and cannot show substantially different evidence or
21 that the Court’s decision is clearly erroneous, its motion for reconsideration should be denied. But
22 if the Court desires to indulge IPC’s repetitious motion, then Laura requests the right to meet the
23 motion with a full opposition thereto.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **IV. CONCLUSION**

2 Laura requests that the Court deny IPC's motion for reconsideration.

3 DATED this 6th day of December, 2018.

4 **KOLESAR & LEATHAM**

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

6 MICHAEL D. DAVIDSON, ESQ.

7 Nevada Bar No. 000878

8 400 South Rampart Boulevard, Suite 400

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

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12 15333 N. Pima Rd., Ste. 300

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16 One North Dale Mabry Highway, Suite 700

17 Tampa, FL, 33609

18 *Attorneys for Plaintiffs*

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

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 6th day of December, 2018, I caused to be served a true and correct copy of **PLAINTIFFS' OPPOSITION TO IPC DEFENDANTS' MOTION FOR RECONSIDERATION** in the following manner:

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

/s/ Kristina R. Cole

An Employee of KOLESAR & LEATHAM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Other Negligence

COURT MINUTES

January 09, 2019

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

January 09, 2019	3:00 AM	Motion For Reconsideration
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HEARD BY: Holthus, Mary Kay

COURTROOM: Chambers

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Plaintiff s Motion for Reconsideration of the Court s ruling Granting Defendant s Summary Judgement came before this Court on the January 9, 2019 Chamber Calendar. This Court having reviewed the pleadings and papers on file herein, finds as follows:

A District Court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or if the prior decision was clearly erroneous. Masonry & Tile Contractors Ass n of Southern Nevada v. Jolley, Urga & Wirth, Ltd., 113 Nev. 737,741, 941 P.2d 486, 489 (1976). Further a motion to reconsider will not be granted Unless the District Court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in controlling law. Kona Enterprises Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000).

In Plaintiff s Motion for Reconsideration, Plaintiff did not argue any new facts or law and did not introduce any substantially different evidence. Further, this COURT FINDS that the previous Court s Decision Granting Defendant s Motion for Summary Judgement was not clearly erroneous, and therefore DENIES Plaintiff s Motion for Reconsideration.

PRINT DATE: 01/28/2019

Page 1 of 2

Minutes Date: January 09, 2019

A-17-750520-C

Defense Counsel to prepare the Order.

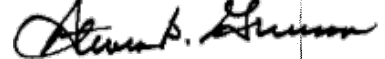
CLERK'S NOTE: Counsel notified via email:

Michael Davidson (mdavidson@klnevada.com)

John Cotton (JHCotton@jhcottonlaw.com)

ORIGINAL

Electronically Filed
4/24/2019 2:19 PM
Steven D. Grierson
CLERK OF THE COURT



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VINCENT J. VITATOE, ESQ.
3 Nevada Bar Number 12888
VVitatoe@jhcottonlaw.com
4 **JOHN H. COTTON & ASSOCIATES, LTD.**
7900 West Sahara Avenue, Suite 200
5 Las Vegas, Nevada 89117
Telephone: (702) 832-5909
6 Facsimile: (702) 832-5910
7 *Attorneys for IPC Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

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

13 Plaintiffs,

14 vs.

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

20 Defendants.

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

23 Plaintiffs,

24 vs.

25 SAMIR SAXENA, M.D.; ANNABELLE
SOCACO, N.P.; IPC HEALTHCARE, INC.
26 aka THE HOSPITALIST COMPANY, INC.;
INPATIENT CONSULTANTS OF NEVADA,
27 INC.; IPC HEALTHCARE SERVICES OF
NEVADA, INC.; HOSPITALISTS OF
28

CASE NO. A-17-750520-C

DEPT NO. XVII

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

**ORDER GRANTING IPC
DEFENDANTS' MOTION FOR
RECONSIDERATION**

John H. Cotton & Associates, Ltd.
7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

1 NEVADA, INC.; and DOES 51-100,

2 Defendants.

3
4 This matter having come before the Court on the January 9, 2019 Chambers Calendar
5 with John H. Cotton, Esq. and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., on
6 behalf of ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE
7 HOSPITALIST COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC
8 HEALTHCARE SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC ("IPC
9 Defendants"), Melanie Bossie, Esq. of Wilkes & McHugh, P.A. and Michael D. Davidson, Esq.
10 of Kolesar & Leatham on behalf of the Plaintiffs. The Court, having considered the documents
11 on file and IPC Defendants' Motion for Reconsideration, Opposition, and Reply with good cause
12 appearing Orders as follows:

- 13 1. On February 2, 2017, Plaintiffs filed a Complaint (Case A-17-750520-C) against SOUTH
14 LAS VEGAS MEDICAL INVESTORS, LLC dba LIFE CARE CENTER OF SOUTH
15 LAS VEGAS f/k/a LIFE CARE CENTER OF PARADISE VALLEY; SOUTH LAS
16 VEGAS INVESTORS LIMITED PARTNERSHIP; LIFE CARE CENTERS OF
17 AMERICA, INC.; BINA HRIBIK PORTELLO, Administrator; CARL WAGNER
18 (collectively, "Life Care Defendants").
- 19 2. Plaintiffs' Complaint in A-17-750520-C ("First Complaint") against Life Care
20 Defendants concerned, *inter alia*, Life Care Defendants' nurses medication error in
21 providing Mary Curtis with another patient's dose of morphine and then failing to take
22 appropriate action thereafter including transfer to a hospital.
- 23 3. These events occurred over the course of March 7 and 8, 2016.
- 24 4. It is undisputed Mary Curtis was transferred to Sunrise Hospital on March 8, 2016 and
25 subsequently passed away on March 11, 2016.
- 26 5. Plaintiffs' First Complaint did not attach an affidavit or declaration from a medical
27 expert.
28

- 1 6. On April 14, 2017, Plaintiffs filed a Complaint in case A-17-754013-C initially naming
- 2 Samir S. Saxena, M.D. ("Second Complaint").
- 3 7. The Second Complaint set forth two factual bases for the alleged professional negligence
- 4 related to a morphine overdose of Mary Curtis: (a) a failure to timely transport Mary
- 5 Curtis to a hospital and (b) failure to administer a Narcan IV drip or ongoing doses of
- 6 Narcan.
- 7 8. On July 6, 2017, Plaintiffs filed a Motion to Consolidate Case A-17-750520-C with Case
- 8 A-17-754013-C.
- 9 9. Plaintiffs' Motion to Consolidate was premised upon the argument that the two actions
- 10 were based upon the same transaction and occurrence.
- 11 10. Specifically, Plaintiffs' Motion stated the following:
- 12 a. the "two actions implicate the same underlying facts: Mary's morphine overdose,
- 13 Defendants' reaction (or lack thereof) thereto, and her resulting injuries and
- 14 death...They therefore involve common questions of fact." (Emphasis added).
- 15 See Motion to Consolidate at 3:25-27; and
- 16 b. the cases "against both Life Care and Dr. Saxena involve common questions of
- 17 law, e.g., causation of and liability for [Mary Curtis's] injuries and death, and of
- 18 fact, e.g., [Mary's] morphine overdose and Defendants' untimely response
- 19 thereto." (Emphasis added). Id. at 6:8-10.
- 20 11. On October 10, 2017, the Court's order granting Plaintiffs' Motion to Consolidate was
- 21 filed.
- 22 12. On May 1, 2018, Plaintiffs filed an Amended Second Complaint in case A-17-754013-C
- 23 (involving the Second Complaint) naming the IPC Defendants.
- 24 13. The Amended Second Complaint contained the identical factual premises as were first
- 25 lodged against Dr. Saxena in the Second Complaint and as set forth in the expert affidavit
- 26 attached thereto.
- 27 14. The medical records in the case contained the name or signature of one of the IPC
- 28 Defendants, ANNABELLE SOCAOCO, N.P.

- 1 15. Plaintiff Laura Latrenta admitted that upon admission to Sunrise Hospital, certain Sunrise
2 Hospital providers stated “they should have brought her here as soon as this happened,
3 and we could have put her on a Narcan drip.” See Latrenta Deposition at 77-78.
- 4 16. IPC Defendants argued that the statute of limitations barred the Second Complaint and,
5 by extension, the Amended Second Complaint.
- 6 17. Plaintiffs argued that the statute of limitations was tolled until Plaintiffs identified IPC
7 Defendants.
- 8 18. IPC Defendants further argued:
- 9 a. Plaintiffs clearly knew of the purportedly negligent *conduct* at issue against both
10 Dr. Saxena and IPC Defendants given the filing of the Second Complaint along
11 with the expert affidavit against Dr. Saxena on April 14, 2017 which specified the
12 purportedly negligent conduct involving (a) failure to transfer to a hospital, and
13 (b) not providing a Narcan IV drip or ongoing doses of Narcan;
- 14 b. The Second Complaint against Dr. Saxena was itself filed more than one (1) year
15 after inquiry notice commenced, at the latest, March 11, 2016;
- 16 c. Amendment of the Second Complaint was therefore to no avail as there could be
17 no valid relation back pursuant to NRCP 15(c) against the IPC Defendants given
18 the initial untimeliness of the Second Complaint; and
- 19 d. The statute of limitations thus barred suit against IPC Defendants.
- 20 19. NRS 41A.097(2) requires a plaintiff to file suit against a statutorily-defined provider of
21 health care within one (1) year “after the plaintiff discovers or through the use of
22 reasonable diligence should have discovered the injury”.
- 23 20. In the context of NRS 41A, the Nevada Supreme Court ruled that a plaintiff “discovers”
24 and is, therefore on inquiry notice when a plaintiff “had facts before him that would have
25 led an ordinarily prudent person to investigate further into whether [plaintiff’s] injury
26 may have been caused by someone’s negligence.” Winn v. Sunrise Hosp. & Med. Ctr.,
27 128 Nev. 246, 252-53, 277 P.3d 458, 462 (2012).
- 28

1 21. This Court is allowed to make a determination as to the accrual date for the purposes of
2 statute of limitations if the facts are uncontroverted. Id.

3 22. The pertinent facts in this case are uncontroverted as a matter of law.

4 23. IPC Defendants are providers of health care pursuant to NRS 41A.017.

5 24. Plaintiffs were on inquiry notice no later than March 11, 2016, the date of Mary Curtis's
6 death, because Plaintiffs admitted that providers of health care at Sunrise Hospital told
7 her negligent *conduct* occurred.

8 25. Moreover, Plaintiffs were on inquiry notice against IPC Defendants at the same time that
9 Plaintiffs were on inquiry notice as related to Life Care Defendants given Plaintiffs'
10 aforementioned arguments in support of their Motion to Consolidate.

11 26. Plaintiffs' argument is without merit regarding the position that the statute of limitations
12 was tolled until Plaintiffs learned the identity of IPC Defendants because:

- 13 a. Plaintiffs never sought to amend the First Complaint to add or otherwise
14 substitute IPC Defendants;
- 15 b. Plaintiffs' Second Complaint was filed more than one (1) year after March 11,
16 2016;
- 17 c. Plaintiffs knew of the purportedly negligent conduct even if Plaintiffs did not
18 know the specific identities of each provider of health care, and
- 19 d. Plaintiffs were in possession of medical records which contained the names of
20 some of the IPC Defendants.

21
22 ///

23
24 ///

25
26 ///

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

27. Consequently, this Court GRANTS IPC Defendants' Motion for Reconsideration and
DISMISSES the case WITH PREJUDICE as it is barred by the one year statute of
limitations set forth in NRS 41A.097(3).

DATED this 9th day of April, 2019.


DISTRICT JUDGE

Respectfully submitted by:

JOHN H. COTTON & ASSOCIATES, LTD.

By: 

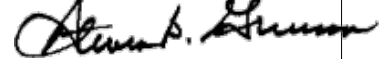
JOHN H. COTTON, ESQ.
Nevada Bar No. 005262
VINCENT J. VITATOE, ESQ.
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Attorneys for IPC Defendants

Approved as to form and content:

KOLESAR & LEATHAM

By: 

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Nevada Bar No. 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
-and-
MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
BOSSIE, REILLY & OH, P.C.
15333 N. Pima Rd., Ste. 300
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Attorneys for Plaintiffs



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5 VINCENT J. VITATOE, ESQ.
6 Nevada Bar Number 12888
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9 7900 West Sahara Avenue, Suite 200
10 Las Vegas, Nevada 89117
11 Telephone: (702) 832-5909
12 Facsimile: (702) 832-5910
13 *Attorneys for IPC Defendants*

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

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

13 Plaintiffs,

14 v.

14 SOUTH LAS VEGAS MEDICAL
15 INVESTORS, LLC dba LIFE CARE CENTER
16 OF SOUTH LAS VEGAS fka LIFE CARE
17 CENTER OF PARADISE VALLEY; SOUTH
18 LAS VEGAS INVESTORS LIMITED
19 PARTNERSHIP; LIFE CARE CENTERS OF
20 AMERICA INC., BINA HRIBIK
21 PROTELLO, Administrator; CARL
22 WAGNER, Administrator; AND does 1-50
23 inclusive,

23 Defendants.

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

22 Plaintiffs,

23 v.

24 SAMIR S. SAXENA, M.D.; ANNABELLE
25 SOCAOCO, N.P.; IPC HEALTHCARE, INC.
26 a/k/a THE HOSPITALISTS COMPANY INC.;
27 INPATIENT CONSULTANTS OF NEVADA
28 INC.; IPC HEALTHCARE SERVICES OF
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**

NOTICE OF ENTRY OF ORDER
GRANTING IPC DEFENDANTS
MOTION FOR RECONSIDERATION

John H. Cotton & Associates, Ltd.
7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

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TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that an Order was entered in
the above entitled matter on the 25th day of April 2019, a copy of which is attached hereto.

Dated this 25th day of November 2018.

JOHN H. COTTON & ASSOCIATES, LTD.
7900 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117

/s/ Vincent J. Vitatoe
JOHN H. COTTON, ESQ.
VINCENT J. VITATOE, ESQ.

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the 25th day of April 2019, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING IPC DEFENDANTS' MOTION FOR RECONSIDERATION** was submitted electronically for filing and/or service with the Eighth Judicial District Court, made in accordance with the E-Service List, to the following individuals:

Michael D. Davidson, Esq.
KOLESAR & LEATHAM
400 South Rampart Blvd., Suite 400
Las Vegas, NV 89145

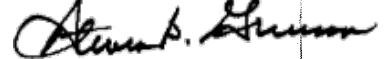
AND
Melanie L. Bossie, Esq.
WILKES & MCHUGH, P.A.
15333 North Pima Road, Suite 300
Scottsdale, Arizona 85260
Attorneys for Plaintiffs

S. Brent Vogel, Esq.
Amanda Brookhyser, Esq.
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6385 S. Rainbow Blvd., Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants,
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, LP, Life Care
Centers of America, Inc. and Carl Wagner

/s/ Terri Bryson
An Employee of John H. Cotton & Associates

ORIGINAL

Electronically Filed
4/24/2019 2:19 PM
Steven D. Grierson
CLERK OF THE COURT



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Telephone: (702) 832-5909
6 Facsimile: (702) 832-5910
7 *Attorneys for IPC Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 * * *

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

13 Plaintiffs,

14 vs.

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

20 Defendants.

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

24 vs.

25 SAMIR SAXENA, M.D.; ANNABELLE
SOCACO, N.P.; IPC HEALTHCARE, INC.
26 aka THE HOSPITALIST COMPANY, INC.;
INPATIENT CONSULTANTS OF NEVADA,
27 INC.; IPC HEALTHCARE SERVICES OF
NEVADA, INC.; HOSPITALISTS OF
28

CASE NO. A-17-750520-C

DEPT NO. XVII

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

**ORDER GRANTING IPC
DEFENDANTS' MOTION FOR
RECONSIDERATION**

John H. Cotton & Associates, Ltd.
7900 West Sahara, Suite 200
Las Vegas, Nevada 89117

NEVADA, INC.; and DOES 51-100,

Defendants.

This matter having come before the Court on the January 9, 2019 Chambers Calendar with John H. Cotton, Esq. and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., on behalf of 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 ("IPC Defendants"), Melanie Bossie, Esq. of Wilkes & McHugh, P.A. and Michael D. Davidson, Esq. of Kolesar & Leatham on behalf of the Plaintiffs. The Court, having considered the documents on file and IPC Defendants' Motion for Reconsideration, Opposition, and Reply with good cause appearing Orders as follows:

1. On February 2, 2017, Plaintiffs filed a Complaint (Case A-17-750520-C) against 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 (collectively, "Life Care Defendants").
2. Plaintiffs' Complaint in A-17-750520-C ("First Complaint") against Life Care Defendants concerned, *inter alia*, Life Care Defendants' nurses medication error in providing Mary Curtis with another patient's dose of morphine and then failing to take appropriate action thereafter including transfer to a hospital.
3. These events occurred over the course of March 7 and 8, 2016.
4. It is undisputed Mary Curtis was transferred to Sunrise Hospital on March 8, 2016 and subsequently passed away on March 11, 2016.
5. Plaintiffs' First Complaint did not attach an affidavit or declaration from a medical expert.

- 1 6. On April 14, 2017, Plaintiffs filed a Complaint in case A-17-754013-C initially naming
- 2 Samir S. Saxena, M.D. ("Second Complaint").
- 3 7. The Second Complaint set forth two factual bases for the alleged professional negligence
- 4 related to a morphine overdose of Mary Curtis: (a) a failure to timely transport Mary
- 5 Curtis to a hospital and (b) failure to administer a Narcan IV drip or ongoing doses of
- 6 Narcan.
- 7 8. On July 6, 2017, Plaintiffs filed a Motion to Consolidate Case A-17-750520-C with Case
- 8 A-17-754013-C.
- 9 9. Plaintiffs' Motion to Consolidate was premised upon the argument that the two actions
- 10 were based upon the same transaction and occurrence.
- 11 10. Specifically, Plaintiffs' Motion stated the following:
- 12 a. the "two actions implicate the same underlying facts: Mary's morphine overdose,
- 13 Defendants' reaction (or lack thereof) thereto, and her resulting injuries and
- 14 death...They therefore involve common questions of fact." (Emphasis added).
- 15 See Motion to Consolidate at 3:25-27; and
- 16 b. the cases "against both Life Care and Dr. Saxena involve common questions of
- 17 law, e.g., causation of and liability for [Mary Curtis's] injuries and death, and of
- 18 fact, e.g., [Mary's] morphine overdose and Defendants' untimely response
- 19 thereto." (Emphasis added). Id. at 6:8-10.
- 20 11. On October 10, 2017, the Court's order granting Plaintiffs' Motion to Consolidate was
- 21 filed.
- 22 12. On May 1, 2018, Plaintiffs filed an Amended Second Complaint in case A-17-754013-C
- 23 (involving the Second Complaint) naming the IPC Defendants.
- 24 13. The Amended Second Complaint contained the identical factual premises as were first
- 25 lodged against Dr. Saxena in the Second Complaint and as set forth in the expert affidavit
- 26 attached thereto.
- 27 14. The medical records in the case contained the name or signature of one of the IPC
- 28 Defendants, ANNABELLE SOCAOCO, N.P.

- 1 15. Plaintiff Laura Latrenta admitted that upon admission to Sunrise Hospital, certain Sunrise
2 Hospital providers stated “they should have brought her here as soon as this happened,
3 and we could have put her on a Narcan drip.” See Latrenta Deposition at 77-78.
- 4 16. IPC Defendants argued that the statute of limitations barred the Second Complaint and,
5 by extension, the Amended Second Complaint.
- 6 17. Plaintiffs argued that the statute of limitations was tolled until Plaintiffs identified IPC
7 Defendants.
- 8 18. IPC Defendants further argued:
 - 9 a. Plaintiffs clearly knew of the purportedly negligent *conduct* at issue against both
10 Dr. Saxena and IPC Defendants given the filing of the Second Complaint along
11 with the expert affidavit against Dr. Saxena on April 14, 2017 which specified the
12 purportedly negligent conduct involving (a) failure to transfer to a hospital, and
13 (b) not providing a Narcan IV drip or ongoing doses of Narcan;
 - 14 b. The Second Complaint against Dr. Saxena was itself filed more than one (1) year
15 after inquiry notice commenced, at the latest, March 11, 2016;
 - 16 c. Amendment of the Second Complaint was therefore to no avail as there could be
17 no valid relation back pursuant to NRCP 15(c) against the IPC Defendants given
18 the initial untimeliness of the Second Complaint; and
 - 19 d. The statute of limitations thus barred suit against IPC Defendants.
- 20 19. NRS 41A.097(2) requires a plaintiff to file suit against a statutorily-defined provider of
21 health care within one (1) year “after the plaintiff discovers or through the use of
22 reasonable diligence should have discovered the injury”.
- 23 20. In the context of NRS 41A, the Nevada Supreme Court ruled that a plaintiff “discovers”
24 and is, therefore on inquiry notice when a plaintiff “had facts before him that would have
25 led an ordinarily prudent person to investigate further into whether [plaintiff’s] injury
26 may have been caused by someone’s negligence.” Winn v. Sunrise Hosp. & Med. Ctr.,
27 128 Nev. 246, 252-53, 277 P.3d 458, 462 (2012).
- 28

1 21. This Court is allowed to make a determination as to the accrual date for the purposes of
2 statute of limitations if the facts are uncontroverted. Id.

3 22. The pertinent facts in this case are uncontroverted as a matter of law.

4 23. IPC Defendants are providers of health care pursuant to NRS 41A.017.

5 24. Plaintiffs were on inquiry notice no later than March 11, 2016, the date of Mary Curtis's
6 death, because Plaintiffs admitted that providers of health care at Sunrise Hospital told
7 her negligent *conduct* occurred.

8 25. Moreover, Plaintiffs were on inquiry notice against IPC Defendants at the same time that
9 Plaintiffs were on inquiry notice as related to Life Care Defendants given Plaintiffs'
10 aforementioned arguments in support of their Motion to Consolidate.

11 26. Plaintiffs' argument is without merit regarding the position that the statute of limitations
12 was tolled until Plaintiffs learned the identity of IPC Defendants because:

- 13 a. Plaintiffs never sought to amend the First Complaint to add or otherwise
14 substitute IPC Defendants;
- 15 b. Plaintiffs' Second Complaint was filed more than one (1) year after March 11,
16 2016;
- 17 c. Plaintiffs knew of the purportedly negligent conduct even if Plaintiffs did not
18 know the specific identities of each provider of health care, and
- 19 d. Plaintiffs were in possession of medical records which contained the names of
20 some of the IPC Defendants.

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26 ///

John H. Cotton & Associates
7900 W. Sahara, Suite 200
Las Vegas, NV 89117

27. Consequently, this Court GRANTS IPC Defendants' Motion for Reconsideration and
DISMISSES the case WITH PREJUDICE as it is barred by the one year statute of
limitations set forth in NRS 41A.097(3).

DATED this 9th day of April, 2019.


DISTRICT JUDGE

Respectfully submitted by:

JOHN H. COTTON & ASSOCIATES, LTD.

By: 

JOHN H. COTTON, ESQ.
Nevada Bar No. 005262
VINCENT J. VITATOE, ESQ.
Nevada Bar No. 012888
7900 West Sahara Avenue, Suite 200
Las Vegas, Nevada 89117
Attorneys for IPC Defendants

Approved as to form and content:

KOLESAR & LEATHAM

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-and-
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Attorneys for Plaintiffs

Steven D. Grierson

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13 Email: bennie@wilkesmchugh.com

14 *Attorneys for Plaintiffs*

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

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

20 Plaintiffs,

21 vs.

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

27 Defendants.
28

Case No. A-17-750520-C

Dept No. XVIII

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

**ORDER DENYING PLAINTIFFS'
MOTION TO RECONSIDER**

**Date: June 5, 2019
Time: 9:00 a.m.**

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

KOLESAR & LEATHAM,
400 South Rampart Boulevard, Suite 400
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1 Estate of MARY CURTIS, deceased; LAURA
2 LATRENTA, as Personal Representative of the
3 Estate of MARY CURTIS; and LAURA
4 LATRENTA, individually,

5 Plaintiffs,

6 vs.

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

14 Defendant.

15 This matter having come before the Court on the June 5, 2019 at 9:00am John H. Cotton,
16 Esq. and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., on behalf of
17 ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST
18 COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE
19 SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC ("IPC Defendants"),
20 Melanie Bossie, Esq, of Bossie, Reilly & Oh, P.C. and Michael D. Davidson, Esq. of Kolesar &
21 Leatham on behalf of the Plaintiffs. The Court, having considered the documents on file,
22 Plaintiffs' Motion for Reconsideration, IPC Defendants' Opposition thereto, and Plaintiffs'
23 Reply, with good cause appearing Orders as follows:

24 1. Plaintiffs' Motion for Reconsideration provides no clear error of law present in
25 this Court's previous Order entered April 24, 2019.

26 ///

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28 ///

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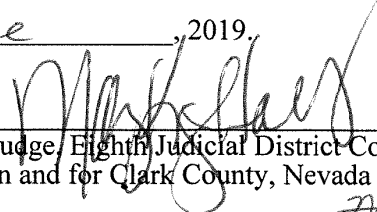
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///

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

2. Consequently, this Court DENIES Plaintiffs' Motion for Reconsideration.

DATED this 26th day of June, 2019.



Judge, Eighth Judicial District Court
In and for Clark County, Nevada

Respectfully submitted by:

Approved as to form and content:

DATED this 21 day of June, 2019.

DATED this 21st day of June, 2019.

KOLESAR & LEATHAM

JOHN H. COTTON & ASSOCIATES, LTD.

By:  for

By: Did not sign

MICHAEL D. DAVIDSON, ESQ.

JOHN H. COTTON, ESQ.

Nevada Bar No. 000878

Nevada Bar Number 5268

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14 *Attorneys for Plaintiffs*

15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 * * *

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

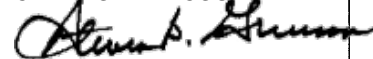
20 Plaintiffs,

21 vs.

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

27 Defendants.
28

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6/27/2019 2:13 PM
Steven D. Grierson
CLERK OF THE COURT



CASE NO. A-17-750520-C

DEPT NO. XVIII

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

NOTICE OF ENTRY OF ORDER

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

NOTICE OF ENTRY OF ORDER

Please take notice that an Order Denying Plaintiffs' Motion to Reconsider was entered with the above court on the 26th day of June, 2019, a copy of which is attached hereto.

DATED this 27 day of June, 2019.

KOLESAR & LEATHAM

By



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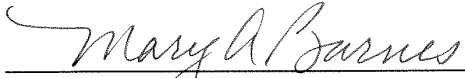
Attorneys for Plaintiffs

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

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 27th day of June, 2019, I caused to be served a true and correct copy of foregoing NOTICE OF ENTRY OF ORDER in the following manner:

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


An Employee of KOLESAR & LEATHAM

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16 Email: bennie@wilkesmchugh.com

14 *Attorneys for Plaintiffs*

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

17 Estate of MARY CURTIS, deceased; LAURA
18 LATRENTA, as Personal Representative of the
19 Estate of MARY CURTIS; and LAURA
20 LATRENTA, individually,

20 Plaintiffs,

21 vs.

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

27 Defendants.

Electronically Filed
6/26/2019 4:04 PM
Steven D. Grierson
CLERK OF THE COURT



Case No. A-17-750520-C

Dept No. XVIII

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

**ORDER DENYING PLAINTIFFS'
MOTION TO RECONSIDER**

Date: June 5, 2019
Time: 9:00 a.m.

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

1 Estate of MARY CURTIS, deceased; LAURA
2 LATRENTA, as Personal Representative of the
3 Estate of MARY CURTIS; and LAURA
4 LATRENTA, individually,

5 Plaintiffs,

6 vs.

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

14 Defendant.

15 This matter having come before the Court on the June 5, 2019 at 9:00am John H. Cotton,
16 Esq. and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., on behalf of
17 ANNABELLE SOCAOCO, N.P.; IPC HEALTHCARE, INC. aka THE HOSPITALIST
18 COMPANY, INC.; INPATIENT CONSULTANTS OF NEVADA, INC.; IPC HEALTHCARE
19 SERVICES OF NEVADA, INC.; HOSPITALISTS OF NEVADA, INC ("IPC Defendants"),
20 Melanie Bossie, Esq. of Bossie, Reilly & Oh, P.C. and Michael D. Davidson, Esq. of Kolesar &
21 Leatham on behalf of the Plaintiffs. The Court, having considered the documents on file,
22 Plaintiffs' Motion for Reconsideration, IPC Defendants' Opposition thereto, and Plaintiffs'
23 Reply, with good cause appearing Orders as follows:

24 1. Plaintiffs' Motion for Reconsideration provides no clear error of law present in
25 this Court's previous Order entered April 24, 2019.

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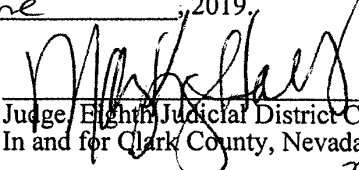
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KOLESAR & LEATHAM,
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

2. Consequently, this Court DENIES Plaintiffs' Motion for Reconsideration.

DATED this 26th day of June, 2019.


Judge, Eighth Judicial District Court
In and for Clark County, Nevada

Respectfully submitted by:

Approved as to form and content:

DATED this 21 day of June, 2019.

DATED this 21st day of June, 2019.

KOLESAR & LEATHAM

JOHN H. COTTON & ASSOCIATES, LTD.

By: 

By: Did not sign

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14 *Attorneys for Plaintiffs*

15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 * * *

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

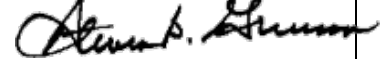
20 Plaintiffs,

21 vs.

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

27 Defendants.
28

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7/1/2019 12:05 PM
Steven D. Grierson
CLERK OF THE COURT



Case No. A-17-750520-C

Dept No. XVIII

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

**PLAINTIFFS' NOTICE OF APPEAL
OF THE ORDER GRANTING IPC
DEFENDANTS' MOTION FOR
RECONSIDERATION**

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

Plaintiffs,

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' NOTICE OF APPEAL OF THE ORDER GRANTING IPC
DEFENDANTS' MOTION FOR RECONSIDERATION**

Notice is hereby given that Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as
Personal Representative of the Estate of Mary Curtis; and Laura Latrenta, individually, by and
through their attorneys at the law firms of Kolesar & Leatham, Bossie, Reilly & Oh, and Wilkes
& McHugh, P.A., hereby appeal to the Supreme Court of Nevada the Order Granting IPC
Defendants' Motion for Reconsideration entered in this action on the 25th day of April, 2019.

DATED this 1st day of July, 2019.

KOLESAR & LEATHAM

By /s/ Michael D. Davidson, Esq.

MICHAEL D. DAVIDSON, ESQ.
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BENNIE LAZZARA, JR., ESQ. - *Pro Hac Vice*
WILKES & MCHUGH, P.A.
One North Dale Mabry Highway, Suite 700
Tampa, Florida 33609

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 1st day of July, 2019, I caused to be served a true and correct copy of **PLAINTIFFS' NOTICE OF APPEAL OF THE ORDER GRANTING IPC DEFENDANTS' MOTION FOR RECONSIDERATION** in the following manner:

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

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Erin E. Jordan, Esq.

LEWIS BRISBOIS BISGAARD & SMITH, L.L.P.
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Life Care Center of South Las Vegas fka Life
Care Center of Paradise Valley, South Las
Vegas Investors, LP, Life Care Centers of
America, Inc., and Carl Wagner*

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John H. Cotton, Esq.

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Nevada, Inc., IPC Healthcare Services of
Nevada, Inc., Hospitalists of Nevada, Inc.*

/s/ Kristina R. Cole

An Employee of KOLESAR & LEATHAM