

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

vs.

ANNABELLE SOCAOCO, NP; IPC
HEALTHCARE, INC. a/k/a THE
HOSPITALIST COMPANY, INC.;
INPATIENT CONSULTANTS OF
NEVADA, INC.; IPC HEALTHCARE,
SERVICES OF NEVADA, INC.;
HOSPITALISTS OF NEVADA, INC.,
Respondents.

Electronically Filed
Dec 16 2019 01:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No.: 79116

District Court Case No.: A750520

Consolidated with:

District Court Case No.: A754013

RESPONDENTS' APPENDIX VOLUME I OF II

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Attorneys for Respondents

Appendix Volume I:

No.	Exhibit Description	Volume	Page Nos. RESP
1	Complaint – LifeCare A750520	I	1-9
2	Complaint – Saxena A754013	I	10-32
3	Amended Complaint – Saxena/Curtis	I	33-42
4	Plaintiffs’ Motion to Consolidate	I	43-48
5	Defendant’s Opposition to Motion to Consolidate	I	49-81
6	Plaintiffs’ Response in Support of Motion to Consolidate	I	82-86
7	Order on motion to Consolidate	I	87-90
8	Defendants’ Motion to Dismiss or Summary Judgment	II	91-123
9	Plaintiffs’ Opposition to Motion to Dismiss/Summary Judgment	II	124-134
10	Defendants’ Reply in Support of Motion to Dismiss/Summary Judgment	II	135-150
11	Notice of Entry of Order Denying Defendants Motion to Dismiss/Summary Judgment with Order	II	151-158
12	Defendants’ Motion for Reconsideration	II	159-183
13	Opposition to Defendants’ for Motion for Reconsideration	II	184-191
14	Defendants’ Reply in Support of Motion for Reconsideration	II	192-205
15	Notice of Entry of Order on Defendants’ Motion for Reconsideration with Order	II	206-214
16	Plaintiffs’ Motion for Reconsideration	II	215-236
17	Defendants’ Opposition to Plaintiffs’ Motion for Reconsideration	II	237-254
18	Errata Defendants’ Opposition to Plaintiffs’ Motion for Reconsideration	II	255-274
19	Replay in Support of Plaintiffs’ Motion for Reconsideration	II	275-286
20	Notice of Entry of Order Denying Plaintiffs’ Motion for Reconsideration	II	287-292

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of December 2019 a true and correct copy of the foregoing **RESPONDENTS' ANSWERING BRIEF** pursuant to NRAP 24(c)(1)(B), was served on the following counsel of records as follows:

Michael Davidson, Esq.
KOLESAR & LEATHAM
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AND

Melanie Bossie, Esq.
BOSSIE REILLEY & OH, P.C.
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AND

Bennie Lazzara, Jr., Esq.
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Tampa, Florida 33609

Attorneys for Plaintiffs/Appellants

/s/ Terri Bryson
Employee of John H. Cotton & Associates

DISTRICT COURT CIVIL COVER SHEET

A-17-750520-C

County, Nevada

XXIII

Case No.

(Assigned by Clerk's Office)

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

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

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

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

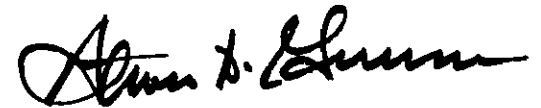
Business Court filings should be filed using the Business Court civil coversheet.

February 2, 2017

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP

MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

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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.

CASE NO. A-17-750520-C

DEPT NO. XXIII

COMPLAINT FOR DAMAGES

1. Abuse/Neglect of an Older Person
2. Wrongful Death by Estate
3. Wrongful Death by Individual
4. Bad Faith Tort

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 of
record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Complaint against

1 Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas
2 f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life
3 Care Centers of America, Inc.; Bina Hribik Portello; Carl Wagner; and Does 1 to 50, inclusive,
4 and allege as follows:

5
GENERAL ALLEGATIONS

6 1. Decedent Mary Curtis suffered significant physical injury while a resident at Life
7 Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and ultimately a
8 painful death. At all times relevant she resided in the city of Las Vegas in the County of Clark,
9 Nevada and was an "older person" under N.R.S. § 41.1395. Ms. Curtis died on March 11, 2016
10 in Las Vegas, Nevada.

11 2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving
12 heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park,
13 New Jersey.

14 3. Plaintiffs are informed and believe and thereon allege that at all relevant times
15 Defendant South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas
16 f/k/a Life Care Center of Paradise Valley was a limited liability company duly authorized,
17 licensed, and doing business in Clark County, Nevada and was at all relevant times in the
18 business of providing care to residents while subject to the requirements of federal and state law,
19 located at 2325 E. Harmon Ave., Las Vegas, NV 89119.

20 4. Plaintiffs are informed and believe and thereon allege that at all relevant times
21 Defendants Life Care Centers of America, Inc.; South Las Vegas Investors Limited Partnership;
22 South Las Vegas Medical Investors, LLC; and Does 1 through 25, and each of them, were and
23 are owners, operators, and managing agents of South Las Vegas Medical Investors, LLC dba
24 Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, such that they
25 controlled the budget for said Defendant which impacted resident care, collected accounts
26 receivable, prepared audited financial statements, contracted with various vendors for services,
27 and provided direct oversight for said Defendants in terms of financial and patient care
28 responsibility.

1 5. Plaintiffs are informed and believe and thereon allege that at all relevant times
2 Defendants Bina Hribik Portello and Carl Wagner were and are administrators of Life Care
3 Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

4 6. Plaintiffs are informed and believe and thereon allege that Defendants Does 26
5 through 50 are other individuals or entities that caused or contributed to injuries suffered by Ms.
6 Curtis as discussed below. (Hereinafter "Defendants" refers to South Las Vegas Medical
7 Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise
8 Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina
9 Hribik Portello; Carl Wagner; and Does 1 through 50.)

10 7. Plaintiffs will ask leave of Court to amend this Complaint to show such true
11 names and capacities of Doe Defendants when the names of such defendants have been
12 ascertained. Plaintiffs are informed and believe and thereon allege that each defendant
13 designated herein as Doe is responsible in some manner and liable herein by reason of
14 negligence and other actionable conduct and by such conduct proximately caused the injuries
15 and damages hereinafter further alleged.

16 8. Plaintiffs are informed and believe and thereon allege that at all relevant times
17 Defendants and each of them were the agents, servants, employees, and partners of their co-
18 Defendants and each of them; and that they were acting within the course and scope of
19 employment. Each Defendant when acting as principal was negligent in the selection, hiring,
20 training, and supervision of each other Defendant as its agent, servant, employee, and partner.

21 9. Every fact, act, omission, event, and circumstance herein mentioned and
22 described occurred in Clark County, Nevada, and each Defendant is a resident of Clark County,
23 has its principal place of business in Clark County, or is legally doing business in Clark County.

24 10. Each Defendant, whether named or designated as Doe, was the agent, servant, or
25 employee of each remaining Defendant. Each Defendant acted within the course and scope of
26 such agency, service, or employment with the permission, consent, and ratification of each co-
27 Defendant in performing the acts hereinafter alleged which gave rise to Ms. Curtis's injuries.

28 ///

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against all Defendants)

11. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though set forth at length herein.

12. Mary Curtis was born on 19 December 1926 and was therefore an “older person” under N.R.S. § 41.1395.

13. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision. Defendants voluntarily assumed responsibility for her care and to provide her food, shelter, clothing, and services necessary to maintain her physical and mental health.

14. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis’s past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27 February 2016; during her hospitalization it was determined that she would not be able to return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing subacute and memory care.

15. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on staff for her basic needs and her activities of daily living.

16. Defendants knew that Ms. Curtis relied on them for her basic needs and that without assistance from them she would be susceptible to injury and death.

17. Despite Defendants’ notice and knowledge of Ms. Curtis’s fall risk they permitted her to fall (causing her injuries) shortly after she entered Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

18. Despite Defendants’ notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on 7 March 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine.

19. Despite Defendants' notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until 8 March 2016.

20. Defendants eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

21. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

22. As a result of Defendants' failures and conscious disregard of Ms. Curtis's life, health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

23. The actions of Defendants and each of them were abuse under N.R.S. § 41.1395(4)(a) and neglect under N.R.S. § 41.1395(4)(c).

24. Defendants' failures were made in conscious disregard for Ms. Curtis's health and safety and they acted with recklessness, oppression, fraud, or malice in commission of their neglect or abuse of Ms. Curtis.

25. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

26. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

27. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for her basic needs and safety, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

28. As a direct and proximate result of Defendants' willful negligence and intentional and unjustified conduct, Ms. Curtis suffered significant injuries and death. Defendants' conduct was a direct consequence of the motive and plans set forth herein, and Defendants are guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against all Defendants)

29. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as though fully set forth herein.

30. Defendants, their staff, and employees, in caring for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of those in good standing in the community.

31. Defendants had a duty to properly train and supervise their staff and employees to act with the level of knowledge, skill, and care of nursing homes in good standing in the community.

32. Defendants and their agents and employees breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

33. As a direct and proximate result of Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

34. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

35. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for her basic needs and safety, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against all Defendants)

36. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

37. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

38. Defendants, their staff, and employees, in caring for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of those in good standing in the community.

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1 **SUMM**
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 4 KOLESAR & LEATHAM
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10 -and-

11 MELANIE L. BOSSIE, ESQ. – *Pro Hac Vice Pending*
 12 **WILKES & MCHUGH, P.A.**
 13 15333 N. Pima Rd., Ste. 300
 14 Scottsdale, Arizona 85260
 15 Telephone: (602) 553-4552
 16 Facsimile: (602) 553-4557
 17 Email: Melanie@wilkesmchugh.com

18 Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

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

CASE NO. A-17-754013-C

DEPT NO. XIII

Plaintiffs,

vs.

SAMIR SAXENA, M.D.,

Defendant.

SUMMONS – DEFENDANT, SAMIR SAXENA, M.D.

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

TO THE DEFENDANT: A civil Complaint has been filed by the Plaintiffs against you for the relief set forth in the Complaint.

SAMIR SAXENA, M.D.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served

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

on you exclusive of the day of service, you must do the following:

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

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

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

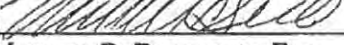
3. This action is brought against you for abuse/neglect of an older person; wrongful death, and medical malpractice, as described in the Complaint.

4. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

5. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer to the Complaint.

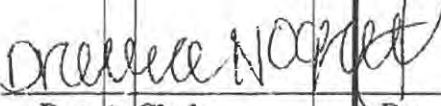
Issued at the direction of:

KOLESAR & LEATHAM

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

Attorneys for Plaintiffs

CLERK OF COURT
APR 18 2017

By: 
Deputy Clerk
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

Date

DREANNA HOGAN

DISTRICT COURT CIVIL COVER SHEET

A-17-754013-C

County, Nevada

XIII

Case No.

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):

Estate of Mary Curtis, deceased; Laura Latrenta, as Personal

Representative of the Estate of Mary Curtis; and Laura Latrenta

1035 E. Flamingo #1024

Las Vegas, NV 89119

Defendant(s) (name/address/phone):

Samir Saxena, M.D.

1608 Villa Rica Dr.

Henderson, NV 89052

Attorney (name/address/phone):

Michael D. Davidson, Esq.

Kolesar & Leatham

400 S. Rampart Suite 400

Las Vegas, NV 89145 (702) 362-7800

Attorney (name/address/phone):

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

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

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

April 14, 2017

Date

Signature of initiating party or representative

See other side for family-related case filings.

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CLERK OF THE COURT

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Facsimile: (602) 553-4557
10 E-Mail: Melanie@wilkesmchugh.com

11 Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

14 ***

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

17 Plaintiffs,

18 vs.

19 SAMIR SAXENA, M.D.,

20 Defendant.

CASE NO. A-17-754013-C
DEPT NO. XIII

COMPLAINT FOR DAMAGES

1. Abuse/Neglect of an Older Person
2. Wrongful Death by Estate
3. Wrongful Death by Individual
4. Medical Malpractice

23 Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of
24 the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of
25 record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Complaint against
26 Defendant Samir Saxena, M.D., and allege as follows:

27 ///

28 ///

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GENERAL ALLEGATIONS

1. Decedent Mary Curtis suffered while a resident at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley significant physical injury and ultimately a painful death. At all times relevant she resided in the City of Las Vegas in the County of Clark, Nevada and was an "older person" under N.R.S. § 41.1395. She died on March 11, 2016 in Las Vegas.

2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park, New Jersey.

3. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Samir Saxena, M.D. was a licensed physician who provided medical care at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and was Ms. Curtis's treating physician thereat.

4. Defendant Samir Saxena, M.D., was and is a resident of the State of Nevada.

5. Every fact, act, omission, event, and circumstance herein mentioned and described occurred in Clark County, Nevada, and Defendant is a resident of Clark County.

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against Defendant)

6. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though fully set forth herein.

7. Mary Curtis was born on 19 December 1926 and was therefore an "older person" under N.R.S. § 41.1395.

8. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision.

9. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27

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1 February 2016; during her hospitalization it was determined that she would not be able to
2 immediately return to her previous living situation and so following her hospital course she was
3 transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for
4 continuing care.

5 10. During her Life Care Center of South Las Vegas f/k/a Life Care Center of
6 Paradise Valley residency Ms. Curtis was dependent on Dr. Saxena for medical care.

7 11. Dr. Saxena knew that Ms. Curtis relied on him for her medical care and that
8 without that care she would be susceptible to injury and death.

9 12. Life Care Center staff on 7 March 2016 administered to Ms. Curtis, who had not
10 been prescribed morphine, morphine prescribed to another resident.

11 13. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las
12 Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose,
13 and although a reasonably trained physician would have recognized that she required treatment
14 in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading
15 to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of
16 Paradise Valley until 8 March 2016 and contributing to her injuries and death.

17 14. Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose,
18 and although a reasonably trained physician would have recognized that she required a Narcan
19 IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment.
20 He also knew or should have known that she required the close observation that an acute care
21 hospital would provide. These failures contributed to her injuries and death.

22 15. Life Care Center of South Las Vegas staff eventually called 911 and emergency
23 personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain
24 encephalopathy and put on a Narcan IV drip. She was later transferred to Nathan Adelson
25 Hospice on 11 March 2016 and died shortly thereafter.

26 16. Ms. Curtis's death certificate records that her immediate cause of death was
27 morphine intoxication.

28 17. As a result of Dr. Saxena's failures and conscious disregard of Ms. Curtis's life,

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1 health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

2 18. Dr. Saxena's actions were abuse under N.R.S. § 41.1395(4)(a) and neglect under
3 N.R.S. § 41.1395(4)(c).

4 19. Dr. Saxena's failures were made in conscious disregard for Ms. Curtis's health
5 and safety and he acted with recklessness, oppression, fraud, or malice in commission of his
6 neglect or abuse of Ms. Curtis.

7 20. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal
8 representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

9 21. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal
10 representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

11 22. Despite Dr. Saxena's notice and knowledge that Ms. Curtis was dependent on him
12 for her medical care, he willfully and deliberately ignored and failed to avoid the substantial risk
13 and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive
14 damages under N.R.S. § 42.001.

15 23. As a direct and proximate result of Dr. Saxena's willful negligence and
16 intentional and unjustified conduct, he contributed to Ms. Curtis's significant injuries and death.
17 Dr. Saxena's conduct was a direct consequence of the motive and plans set forth herein, and he is
18 guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and
19 exemplary damages.

20 SECOND CAUSE OF ACTION

21 **(Wrongful Death by the Estate of Mary Curtis against Defendant)**

22 24. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing
23 paragraphs as though fully set forth herein.

24 25. Dr. Saxena, in providing medical care for Ms. Curtis, had a duty to exercise the
25 level of knowledge, skill, and care of physicians in good standing in the community.

26 26. Dr. Saxena breached his duties to Ms. Curtis and was negligent and careless in his
27 actions and omissions as set forth above.

28 27. As a direct and proximate result of Dr. Saxena's breaches Ms. Curtis died on 11

1 March 2016 in Las Vegas, Nevada.

2 28. As a direct and legal result of Ms. Curtis's death, her estate's personal
3 representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. §
4 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her
5 death, as well as funeral and burial expenses according to proof at trial.

6 29. Despite Dr. Saxena's notice and knowledge that Ms. Curtis was dependent on him
7 for her medical care, he willfully and deliberately ignored and failed to avoid the substantial risk
8 and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive
9 damages under N.R.S. § 42.001.

10 THIRD CAUSE OF ACTION

11 **(Wrongful Death by Laura Latrenta individually against Defendant)**

12 30. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing
13 paragraphs as though fully set forth herein.

14 31. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

15 32. Dr. Saxena, in providing medical care to Ms. Curtis, had a duty to exercise the
16 level of knowledge, skill, and care of physicians in good standing in the community.

17 33. Dr. Saxena breached his duties to Ms. Curtis and was negligent and careless in his
18 actions and omissions as set forth above.

19 34. As a direct and proximate result of Dr. Saxena's breaches Ms. Curtis died on 11
20 March 2016 in Las Vegas, Nevada.

21 35. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her
22 daughter Laura Latrenta.

23 36. As a further direct and proximate result of Dr. Saxena's negligence Plaintiff Laura
24 Latrenta has lost the love, companionship, comfort, affection, and society of her mother, all to
25 her general damage in a sum to be determined according to proof.

26 37. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary
27 damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost
28 companionship, lost society, lost comfort, and mental and physical pain and suffering

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FOURTH CAUSE OF ACTION**(Medical malpractice by all Plaintiffs against Defendant)**

38. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

39. Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, Dr. Saxena assumed responsibility for her medical care and had a duty to use such skill, prudence, and diligence as other similarly situated physicians in providing medical care to dependent and elderly residents such as Ms. Curtis.

40. Ms. Curtis was dependent on Dr. Saxena for her medical care while at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

41. Despite Dr. Saxena's knowledge of Ms. Curtis's dependence on him for medical care, he failed to provide adequate medical care to her, as alleged above.

42. Dr. Saxena failed to meet the applicable standard of care in his medical care for Ms. Curtis, including by (1) failing to order that she be sent to an acute care hospital in response to her morphine overdose; (2) failing to order that she receive a Narcan drip (or ongoing dosages of Narcan equivalent thereto); and (3) failing to recognize or to act on his recognition that she required the close observation that an acute care hospital would provide.

43. Dr. Saxena's medical care of Ms. Curtis fell below the standard of care and was a proximate cause of her injuries and damages, including by contributing to her death. This allegation is supported by the Affidavit of Loren Lipson, MD. See Ex. 1, Lipson Aff.

44. Ms. Curtis's injuries and death were therefore the result of Dr. Saxena's negligence.

45. The damages and injuries directly and proximately caused by Dr. Saxena's malpractice were permanent.

46. As a direct and proximate result of Dr. Saxena's malpractice and Ms. Curtis's resulting death, Laura Latrenta incurred damages of grief, sorrow, companionship, society, comfort and consortium, and damages for pain and suffering, mental anguish, hospitalizations, and medical and nursing care and treatment.

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1 47. The damages and injuries directly and proximately caused by Dr. Saxena's
 2 malpractice were permanent, including future pain and suffering, loss of companionship, and
 3 mental anguish from Ms. Curtis's untimely death.

4 48. Plaintiffs' past and future damages exceed \$10,000.

5 49. Wherefore, Plaintiffs pray for judgment against Defendant as follows:

- 6 A. For compensatory damages in an amount in excess of \$10,000;
 7 B. For special damages in an amount in excess of \$10,000;
 8 C. For punitive damages in an amount in excess of \$10,000;
 9 D. For reasonable attorney fees and costs incurred herein;
 10 E. For additional damages pursuant to NRS Chapter 41;
 11 F. For pre-judgment and post-judgment interest; and
 12 G. For such other and further relief as the Court may deem just and proper in
 13 the premises.

14 DATED this 14 day of April, 2017.

15 **KOLESAR & LEATHAM**

16 By 

17 MICHAEL D. DAVIDSON, ESQ.
 18 Nevada Bar No. 000878
 19 400 South Rampart Boulevard, Suite 400
 20 Las Vegas, Nevada 89145

21 -and-

22 MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
 23 (pending)
 24 **WILKES & McHUGH, P.A.**
 25 15333 N. Pima Rd., Ste. 300
 26 Scottsdale, Arizona 85260

27 *Attorneys for Plaintiffs*
 28

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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
LATRENTA, individually,

CASE NO.

DEPT NO.

17 Plaintiffs,

AFFIDAVIT OF LOREN LIPSON,

18 vs.

MD

19 SAMIR SAXENA, M.D.,

20 Defendant.

21

22 Plaintiffs Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of

23 the Estate of Mary Curtis; and Laura Latrenta, individually, by and through their attorneys of

24 record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Affidavit of Loren

25 Lipson, MD.

26 **AFFIDAVIT OF LOREN LIPSON, MD**

27 STATE OF CALIFORNIA)

) ss.

28 COUNTY OF LOS ANGELES)

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1 Loren Lipson, M.D., being first duly sworn, states:

2 1. I am a medical doctor licensed and currently practicing in the State of California. I have
3 been board certified in internal and geriatric medicine as well as in quality assurance and utilization
4 review.

5 2. I have been chief of the section of geriatric medicine at the University of Southern
6 California and was on the faculty of the Schools of Pharmacy, Medical Dentistry and Public
7 Health, Gerontology, and the Department of Occupational Science and Occupational Therapy at
8 the University of Southern California.

9 3. I have been a consultant to the Department of Administration Division of Longevity
10 Programs for the State of Alaska in the areas of geriatric medicine and quality assurance, and am
11 a consultant to the State of California and State of New Mexico Department of Justice Office of
12 Attorney General in the areas of geriatric care and elder abuse.

13 4. In addition, I have been physician advisor to the University of Southern California
14 University Hospital in the areas of utilization management, risk management, and quality
15 assurance.

16 5. I am familiar with reviewing medical records to determine whether the appropriate
17 standards of care have been met and whether violations of the standard of care caused any injuries.

18 6. I have reviewed Mary Curtis's pertinent medical records.

19 7. Based on my review of Ms. Curtis's medical records, as well as on my education, training,
20 and experience as a physician, it is my opinion, within a reasonable degree of medical probability,
21 that the substandard medical care rendered Ms. Curtis by Dr. Samir Saxena caused her preventable
22 injuries, pain, and suffering, and ultimately contributed to her death.

23 8. Mary Curtis, an 89-year-old widow with a past medical history of dementia, hypertension,
24 COPD, and renal insufficiency, entered Life Care Center of South Las Vegas f/k/a Life Care Center
25 of Paradise Valley under Dr. Saxena's medical care on 2 March 2016 for post-hospitalization
26 continuing care.

27 9. Ms. Curtis, who had not been prescribed morphine, was given another resident's prescribed
28 morphine on 7 March 2016.

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1 10. Ms. Curtis was thereafter given two doses of Narcan in an effort to reverse the morphine's
2 effects.

3 11. On the morning of 8 March 2016, Ms. Curtis was found in an altered mental state with low
4 blood oxygen saturation; emergency medical services transported her to Sunrise Hospital, where
5 she was diagnosed with anoxic brain encephalopathy.

6 12. Ms. Curtis was transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly
7 thereafter. Her death certificate records that her immediate cause of death was morphine
8 intoxication.

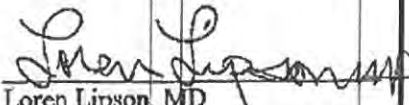
9 13. Dr. Saxena knew that Life Care Center staff had wrongly administered morphine to Ms.
10 Curtis resulting in morphine overdose yet failed to timely order that she be sent to an acute care
11 setting for treatment. His failure to do so was a contributing cause of her injuries and contributed
12 to her death from morphine intoxication.

13 14. Dr. Saxena knew or should have known that Ms. Curtis required a Narcan IV drip (or
14 ongoing dosages of Narcan equivalent thereto) to counteract her morphine overdose yet failed to
15 order that treatment. In addition, he knew or should have known that she required the close
16 observation that an acute care hospital would provide. His failures to comply with the standard of
17 care were a contributing cause of her injuries and contributed to her death from morphine
18 intoxication.

19 15. All the opinions in this affidavit are expressed within a reasonable degree of probability
20 and are based on my education, training, and experience, as well as on my review of Ms. Curtis's
21 medical records.

22 16. This affidavit is preliminary and is not intended to nor does it contain all the opinions that
23 I have reached concerning Ms. Curtis's medical care rendered to her by Dr. Saxena.

24 17. To my knowledge no previous opinion rendered by me has been rejected by any court.

25
26 
27 Loren Lipson, MD

28 Sworn to and subscribed before me this 14th day of April, 2017.

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1 

2 NOTARY PUBLIC, STATE OF CALIFORNIA

3 My Commission Expires:

Feb. 20, 2018

4 Personally Known ☒ OR Produced Identification ☐

5 Type of Identification Produced _____



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Activity Tracker

Samir Saxena

NV, 89141

5.50
ABIM MOC POINTS EARNED

ABIM MOC Points

January 2017 through December 2017

0.50 Points	Case Challenges in Chronic Migraine Core Competence: Patient Care and Procedural Skills, Medical Knowledge Provider: Medscape Status: Submitted Completed: May 01, 2017
0.25 Points	Generic Forms of Glatiramer Acetate: A Neurology and Pharmacy Perspective Core Competence: Medical Knowledge Provider: Medscape Status: Submitted Completed: May 01, 2017
0.25 Points	Managing Patients With PAH and Comorbid Diabetes Core Competence: Medical Knowledge Provider: Medscape Status: Submitted Completed: May 01, 2017
0.50 Points	Clinical Strategies to Reduce Interferences in Laboratory Testing Core Competence: Patient Care and Procedural Skills, Interprofessional Education, Roles and Responsibilities, Medical Knowledge Provider: Medscape Status: Submitted Completed: May 01, 2017
0.75 Points	Tumor Board- Managing AML Today Core Competence: Medical Knowledge Provider: Medscape Status: Accepted Completed: April 30, 2017
0.25 Points	Can Acupuncture Relieve Cancer-Related Pain? Core Competence: Medical Knowledge Provider: Medscape Status: Accepted Completed: April 30, 2017
0.50 Points	Interventional Management of DVT: Collaborative Strategies and Considerations Core Competence: Patient Care and Procedural Skills, Medical Knowledge Provider: Medscape Status: Accepted Completed: April 30, 2017

0.25 Points	Concurrent Opioid, Benzodiazepine Use Ups Overdose Risk Core Competence: Medical Knowledge, Teamwork Provider: Medscape Status: Accepted Completed: April 30, 2017
0.25 Points	Can Screen Time Affect Diabetes Risk in Kids? Core Competence: Medical Knowledge, Teamwork Provider: Medscape Status: Accepted Completed: April 30, 2017
0.25 Points	Addressing Suboptimal Adherence in PAH Core Competence: Medical Knowledge Provider: Medscape Status: Accepted Completed: April 29, 2017
0.50 Points	Current Issues and Emerging Advances in the Management of PKU Core Competence: Medical Knowledge Provider: Medscape Status: Accepted Completed: April 29, 2017
0.25 Points	NAFLD and Diabetes Increase Morbidity, Mortality Risks Core Competence: Medical Knowledge Provider: Medscape Status: Accepted Completed: April 29, 2017
0.50 Points	Risk Recognition in Healthcare Settings Core Competence: Patient Care and Procedural Skills, Systems-based Practice, Teamwork, Interprofessional Education, Values and Ethics, Roles and Responsibilities, Medical Knowledge, Professionalism Provider: Medscape Status: Accepted Completed: April 29, 2017
0.25 Points	Back to Basics With Incretin Agents Core Competence: Medical Knowledge Provider: Medscape Status: Submitted Completed: April 29, 2017
0.25 Points	Real-World Evidence in VTE Core Competence: Patient Care and Procedural Skills, Medical Knowledge Provider: Medscape Status: Submitted Completed: April 29, 2017

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Activity Tracker

Samir Saxena

NV, 89141

32.25
CME CREDITS EARNED

CME Credits

January 2017 through December 2017

1.00 Credits	Heart Disease and Cancer Deaths – Trends and Projections in the United States, 1969–2020 Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: May 01, 2017
1.00 Credits	Epidemiology of Hospitalizations Associated with Invasive Candidiasis, United States, 2002–2012 Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: May 01, 2017
1.00 Credits	Investigation of and Response to 2 Plague Cases, Yosemite National Park, California, USA, 2015 Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: May 01, 2017
1.00 Credits	Safety and Acceptability of an Organic Light-Emitting Diode Sleep Mask as a Potential Therapy for Retinal Disease Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: May 01, 2017
0.25 Credits	Managing Patients With PAH and Comorbid Diabetes Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: May 01, 2017
0.50 Credits	Clinical Strategies to Reduce Interferences in Laboratory Testing Core Competence: Patient Care and Procedural Skills, Interprofessional Education, Roles and Responsibilities, Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: May 01, 2017
0.25	

Credits	USPSTF Endorses Updated Breastfeeding Recommendations Core Competence: Patient Care and Procedural Skills, Roles and Responsibilities, Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)*, AAFP Prescribed credit (s) Completed: May 01, 2017
0.75 Credits	Preventing HIV Infection in the Primary Care Setting: The Role of Pre-Exposure Prophylaxis (PrEP) Core Competence: Patient Care and Procedural Skills, Professionalism, Interprofessional Communication, Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)* Completed: May 01, 2017
0.25 Credits	Guidance Needed for Neurologists to Deal With Brain Death Core Competence: Medical Knowledge, Professionalism Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)* Completed: May 01, 2017
0.25 Credits	Can Parents' Use of Social Media Hurt Their Children? Core Competence: Medical Knowledge, Interprofessional Communication, Roles and Responsibilities Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)*, AAFP Prescribed credit (s) Completed: May 01, 2017
0.25 Credits	Copied and Pasted and Misdiagnosed (or Cloned Notes and Blind Alleys) Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)* Completed: May 01, 2017
0.50 Credits	When an Aging Colleague Seems Impaired Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)* Completed: May 01, 2017
0.50 Credits	Addressing a Colleague's Sexually Explicit Facebook Post Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)* Completed: May 01, 2017
0.50 Credits	Resident Duty Hours: To Hand Over or Gloss Over? Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (s)* Completed: May 01, 2017
0.50 Credits	Stewardship of Health Care Resources: Allocating Mechanical Ventilators During Pandemic Influenza

	Core Competence: Patient Care and Procedural Skills, Systems-based Practice, Professionalism, Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: May 01, 2017
0.25 Credits	Maintaining Medical Professionalism Online: Posting of Patient Information			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: May 01, 2017
0.50 Credits	Case Challenges in Chronic Migraine			
	Core Competence: Patient Care and Procedural Skills, Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: May 01, 2017
0.25 Credits	Escalating Treatment in PAH Patient on Dual Therapy			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: May 01, 2017
0.25 Credits	Generic Forms of Glatiramer Acetate: A Neurology and Pharmacy Perspective			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: May 01, 2017
1.00 Credits	Multidrug-Resistant Candida haemulonii and C. auris, Tel Aviv, Israel			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: April 29, 2017
1.00 Credits	How I Treat Cryoglobulinemia			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: April 29, 2017
0.25 Credits	Back to Basics With Incretin Agents			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: April 29, 2017
1.00 Credits	Prevalence of Cancer Screening Among Adults With Disabilities, United States, 2013			
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)*	Completed: April 29, 2017
0.75 Credits	Tumor Board- Managing AML Today			
				Completed:

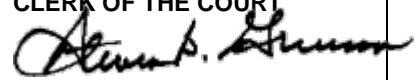
	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	April 29, 2017	
1.00 Credits	Prevalence of Referable, Sight-Threatening Retinopathy in Type 1 Diabetes and its Relationship to Diabetes Duration and Systemic Risk Factors	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.00 Credits	Epidemiology of Mycobacterium bovis Disease in Humans in England, Wales, and Northern Ireland, 2002-2014	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.00 Credits	Neurologic Complications of Influenza B Virus Infection in Adults, Romania	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.00 Credits	Increased Neurotropic Threat from Burkholderia pseudomallei Strains with a B. mallei -Like Variation in the bimA Motility Gene, Australia	Core Competence: Patient Care and Procedural Skills	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.00 Credits	Risk of Heart Failure in Survivors of Hodgkin Lymphoma: Effects of Cardiac Exposure to Radiation and Anthracyclines	Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
0.25 Credits	HIV: A Serious Health Threat to the Hispanic/Latino Community	Core Competence: Patient Care and Procedural Skills, Interprofessional Communication, Values and Ethics, Medical Knowledge, Interprofessional Education	Provider: Johns Hopkins University School of Medicine	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
0.25 Credits	Real-World Evidence in VTE	Core Competence: Patient Care and Procedural Skills, Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.00 Credits	Racial and Ethnic Subgroup Disparities in Hypertension Prevalence, New York City Health and Nutrition Examination Survey, 2013-2014				

	Core Competence: Practice-based Learning and Improvement	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.00 Credits	Using Patient Simulations to Optimize HIV Care Core Competence: Patient Care and Procedural Skills, Medical Knowledge	Provider: Johns Hopkins University School of Medicine	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.75 Credits	Neurogenic Orthostatic Hypotension Diagnostic and Treatment Dilemmas Core Competence: Patient Care and Procedural Skills, Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.75 Credits	Multidisciplinary Approaches to Cancer Core Competence: Medical Knowledge	Provider: City of Hope	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
0.50 Credits	Interventional Management of DVT: Collaborative Strategies and Considerations Core Competence: Patient Care and Procedural Skills, Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
1.25 Credits	Chronic Heart Failure: New Therapeutic Options for Improving Patient Outcomes Core Competence: N/A	Provider: Polomac Center for Medical Education	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017
0.25 Credits	Concurrent Opioid, Benzodiazepine Use Ups Overdose Risk Core Competence: Medical Knowledge, Teamwork	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s); AAFP Prescribed credit (s)	Completed: April 29, 2017
0.25 Credits	Can Acupuncture Relieve Cancer-Related Pain? Core Competence: Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s); AAFP Prescribed credit (s)	Completed: April 29, 2017
1.25 Credits	Clinical Challenges in HCV Genotype 3 Core Competence: Patient Care and Procedural Skills, Medical Knowledge	Provider: Medscape	Credit Type: AMA PRA Category 1 Credit (s)	Completed: April 29, 2017

1.00 Credits	Individualizing Treatment Selection for RA: Patient Simulation Approach Core Competence: Patient Care and Procedural Skills, Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: April 29, 2017
0.25 Credits	Mobile App Reduces Postsurgical In-Person Appointments Core Competence: Patient Care and Procedural Skills, Systems-based Practice Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5); AAP Prescribed credit (5) Completed: April 29, 2017
0.25 Credits	Can Screen Time Affect Diabetes Risk in Kids? Core Competence: Medical Knowledge, Teamwork Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5); AAP Prescribed credit (5) Completed: April 29, 2017
1.00 Credits	Treating Rheumatoid Arthritis to Target: Medical Simulation Approach to Improving Clinical Decisions Core Competence: Patient Care and Procedural Skills, Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: April 29, 2017
0.25 Credits	Addressing Suboptimal Adherence in PAH Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: April 28, 2017
0.50 Credits	Current Issues and Emerging Advances in the Management of PKU Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: April 28, 2017
0.25 Credits	NAFLD and Diabetes Increase Morbidity, Mortality Risks Core Competence: Medical Knowledge Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5); AAP Prescribed credit (5) Completed: April 28, 2017
0.50 Credits	Risk Recognition in Healthcare Settings Core Competence: Patient Care and Procedural Skills, Systems-based Practice, Teamwork, Interprofessional Education, Values and Ethics, Roles and Responsibilities, Medical Knowledge, Professionalism Provider: Medscape Credit Type: AMA PRA Category 1 Credit (5) Completed: April 23, 2017

<http://www.medscape.org/activitytracker>

5/1/2017



ACOM

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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,

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

CASE NO. A-17-750520-C

DEPT NO. XVII

Consolidated with:

CASE NO. A-17-754013-C

**AMENDED COMPLAINT FOR
DAMAGES**

1. Abuse/Neglect of an Older Person
2. Wrongful Death by Estate
3. Wrongful Death by Individual Medical Malpractice

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NEVADA, INC.; HOSPITALISTS OF
NEVADA, INC.; and DOES 51–100,

Defendant.

AMENDED COMPLAINT FOR DAMAGES

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 of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Amended Complaint against Defendants Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc. aka IPC The Hospitalist Company, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., Hospitalists of Nevada, Inc., and Does 51 through 100, and allege as follows:

GENERAL ALLEGATIONS

1. Decedent Mary Curtis suffered while a resident at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley significant physical injury and ultimately a painful death. At all times relevant she resided in the City of Las Vegas in the County of Clark, Nevada and was an “older person” under N.R.S. § 41.1395. She died on March 11, 2016 in Las Vegas.

2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park, New Jersey.

3. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Samir Saxena, M.D. was a licensed physician who provided medical care at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and was Ms. Curtis’s treating physician thereat.

4. Defendant Samir Saxena, M.D., was and is a resident of the State of Nevada.

5. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant Annabelle Socaoco, N.P., was a licensed nurse practitioner who provided medical care under Defendant Saxena’s supervision at Life Care Center of South Las Vegas f/k/a Life

Care Center of Paradise Valley.

6. Defendant Annabelle Socaoco, N.P., was and is a resident of the State of Nevada.

7. Defendant IPC Healthcare, Inc., a Delaware corporation aka The Hospitalist Company, Inc., and/or its affiliated entities Inpatient Consultants of Nevada, Inc., a California corporation; IPC Healthcare Services of Nevada, Inc., a California corporation; and Hospitalists of Nevada, Inc., a Missouri corporation, was at all relevant times employer of Defendants Samir Saxena, M.D., and Annabelle Socaoco, N.P.

8. Defendant IPC Healthcare, Inc., and/or its affiliated entities Inpatient Consultants of Nevada, Inc.; IPC Healthcare Services of Nevada, Inc.; and Hospitalists of Nevada, Inc., as employer of Defendants Saxena and Socaoco, who were at all relevant times acting within the course and scope of their employment, is vicariously liable for the acts, omissions, and failures of Defendants Saxena and Socaoco.

9. Plaintiffs are informed and believe and thereon allege that Defendants Does 51 through 100 are other individuals or entities that caused or contributed to injuries suffered by Ms. Curtis as discussed below. (Hereinafter "IPC Defendants" refers to Samir Saxena, M.D., Annabelle Socaoco, N.P., IPC Healthcare, Inc., Inpatient Consultants of Nevada, Inc., IPC Healthcare Services of Nevada, Inc., Hospitalists of Nevada, Inc., and Does 51 through 100.)

10. Plaintiffs will ask leave of Court to amend this Complaint to show such true names and capacities of Doe Defendants when the names of such defendants have been ascertained. Plaintiffs are informed and believe and thereon allege that each defendant designated herein as Doe is responsible in some manner and liable herein by reason of negligence and other actionable conduct and by such conduct proximately caused the injuries and damages hereinafter further alleged.

11. Every fact, act, omission, event, and circumstance herein mentioned and described occurred in Clark County, Nevada, and each Defendant is a resident of Clark County, has its principal place of business in Clark County, or is legally doing business in Clark County.

12. Each Defendant, whether named or designated as Doe, was the agent, servant, or employee of each remaining Defendant. Each Defendant acted within the course and scope of

1 such agency, service, or employment with the permission, consent, and ratification of each co-
2 Defendant in performing the acts hereinafter alleged which gave rise to Ms. Curtis's injuries.

3 **FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON**

4 **(Abuse/Neglect of an older person by the Estate of Mary Curtis against IPC Defendants)**

5 13. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as
6 though fully set forth herein.

7 14. Mary Curtis was born on 19 December 1926 and was therefore an "older person"
8 under N.R.S. § 41.1395.

9 15. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of
10 South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and
11 supervision.

12 16. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of
13 Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and
14 renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27
15 February 2016; during her hospitalization it was determined that she would not be able to
16 immediately return to her previous living situation and so following her hospital course she was
17 transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for
18 continuing care.

19 17. During her Life Care Center of South Las Vegas f/k/a Life Care Center of
20 Paradise Valley residency Ms. Curtis was dependent on IPC Defendants for medical care.

21 18. IPC Defendants knew that Ms. Curtis relied on them for her medical care and that
22 without that care she would be susceptible to injury and death.

23 19. Life Care Center staff on 7 March 2016 administered to Ms. Curtis, who had not
24 been prescribed morphine, morphine prescribed to another resident.

25 20. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las
26 Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose,
27 and although a reasonably trained physician would have recognized that she required treatment
28 in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading

1 to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of
2 Paradise Valley until 8 March 2016 and contributing to her injuries and death.

3 21. Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose,
4 and although a reasonably trained physician would have recognized that she required a Narcan
5 IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment.
6 He also knew or should have known that she required the close observation that an acute care
7 hospital would provide. These failures contributed to her injuries and death.

8 22. Despite NP Socaoco's notice and knowledge that Life Care Center of South Las
9 Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose,
10 and although a reasonably trained nurse practitioner would have recognized that she required
11 treatment in an acute care setting, NP Socaoco failed to timely order that she be sent to an acute
12 care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life
13 Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death. NP
14 Socaoco instead ordered that Ms. Curtis be given Narcan.

15 23. Despite NP Socaoco's notice and knowledge of Ms. Curtis's morphine overdose,
16 and although a reasonably trained nurse practitioner would have recognized that she required a
17 Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), she failed to order such a
18 treatment. She also knew or should have known that Ms. Curtis required the close observation
19 that an acute care hospital would provide. These failures contributed to her injuries and death.

20 24. Life Care Center of South Las Vegas staff eventually called 911 and emergency
21 personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain
22 encephalopathy and put on a Narcan IV drip. She was later transferred to Nathan Adelson
23 Hospice on 11 March 2016 and died shortly thereafter.

24 25. Ms. Curtis's death certificate records that her immediate cause of death was
25 morphine intoxication.

26 26. As a result of IPC Defendants' failures and conscious disregard of Ms. Curtis's
27 life, health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

28 27. IPC Defendants' actions were abuse under N.R.S. § 41.1395(4)(a) and neglect

1 under N.R.S. § 41.1395(4)(c).

2 28. IPC Defendants' failures were made in conscious disregard for Ms. Curtis's
3 health and safety and they acted with recklessness, oppression, fraud, or malice in commission of
4 their neglect or abuse of Ms. Curtis.

5 29. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal
6 representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

7 30. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal
8 representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

9 31. Despite IPC Defendants' notice and knowledge that Ms. Curtis was dependent on
10 them for her medical care, they willfully and deliberately ignored and failed to avoid the
11 substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled
12 to punitive damages under N.R.S. § 42.001.

13 32. As a direct and proximate result of IPC Defendants' willful negligence and
14 intentional and unjustified conduct, they contributed to Ms. Curtis's significant injuries and
15 death. Their conduct was a direct consequence of the motive and plans set forth herein, and they
16 are guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and
17 exemplary damages.

18 **SECOND CAUSE OF ACTION**

19 **(Wrongful Death by the Estate of Mary Curtis against IPC Defendants)**

20 33. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing
21 paragraphs as though fully set forth herein.

22 34. IPC Defendants, in providing medical care for Ms. Curtis, had a duty to exercise
23 the level of knowledge, skill, and care of medical professionals in good standing in the
24 community.

25 35. IPC Defendants breached their duties to Ms. Curtis and were negligent and
26 careless in their actions and omissions as set forth above.

27 36. As a direct and proximate result of IPC Defendants' breaches Ms. Curtis died on
28 11 March 2016 in Las Vegas, Nevada.

1 37. As a direct and legal result of Ms. Curtis's death, her estate's personal
2 representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. §
3 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her
4 death, as well as funeral and burial expenses according to proof at trial.

5 38. Despite IPC Defendants' notice and knowledge that Ms. Curtis was dependent on
6 them for her medical care, they willfully and deliberately ignored and failed to avoid the
7 substantial risk and probability that she would suffer injury and death, so that Plaintiff is also
8 entitled to punitive damages under N.R.S. § 42.001.

9 **THIRD CAUSE OF ACTION**

10 **(Wrongful Death by Laura Latrenta individually against IPC Defendants)**

11 39. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing
12 paragraphs as though fully set forth herein.

13 40. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

14 41. IPC Defendants, in providing medical care to Ms. Curtis, had a duty to exercise
15 the level of knowledge, skill, and care of medical professionals in good standing in the
16 community.

17 42. IPC Defendants breached their duties to Ms. Curtis and were negligent and
18 careless in their actions and omissions as set forth above.

19 43. As a direct and proximate result of IPC Defendants' breaches Ms. Curtis died on
20 11 March 2016 in Las Vegas, Nevada.

21 44. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her
22 daughter Laura Latrenta.

23 45. As a further direct and proximate result of IPC Defendants' negligence Plaintiff
24 Laura Latrenta has lost the love, companionship, comfort, affection, and society of her mother,
25 all to her general damage in a sum to be determined according to proof.

26 46. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary
27 damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost
28 companionship, lost society, lost comfort, and mental and physical pain and suffering.

1 **FOURTH CAUSE OF ACTION**

2 **(Medical malpractice by all Plaintiffs against IPC Defendants)**

3 47. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing
4 paragraphs as though fully set forth herein.

5 48. Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life
6 Care Center of Paradise Valley, IPC Defendants assumed responsibility for her medical care and
7 had a duty to use such skill, prudence, and diligence as other similarly situated medical
8 professionals in providing medical care to dependent and elderly residents such as Ms. Curtis.

9 49. Ms. Curtis was dependent on IPC Defendants for her medical care while at Life
10 Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

11 50. Despite IPC Defendants' knowledge of Ms. Curtis's dependence on them for
12 medical care, they failed to provide adequate medical care to her, as alleged above.

13 51. IPC Defendants failed to meet the applicable standard of care in their medical
14 care for Ms. Curtis, including by (1) failing to order that she be sent to an acute care hospital in
15 response to her morphine overdose; (2) failing to order that she receive a Narcan drip (or
16 ongoing dosages of Narcan equivalent thereto); and (3) failing to recognize or to act on their
17 recognition that she required the close observation that an acute care hospital would provide.

18 52. IPC Defendants' medical care of Ms. Curtis fell below the standard of care and
19 was a proximate cause of her injuries and damages, including by contributing to her death. This
20 allegation is supported by the Affidavit of Loren Lipson, MD, *see* Ex. 1, Lipson Aff., and by the
21 Affidavit of Kathleen Hill-O'Neill, RN, DNP, MSN, NHA. *See* Ex. 2, Hill-O'Neill Aff.

22 53. Ms. Curtis's injuries and death were therefore the result of IPC Defendants'
23 negligence.

24 54. The damages and injuries directly and proximately caused by IPC Defendants'
25 malpractice were permanent.

26 55. As a direct and proximate result of IPC Defendants' malpractice and Ms. Curtis's
27 resulting death, Laura Latrenta incurred damages of grief, sorrow, companionship, society,
28 comfort and consortium, and damages for pain and suffering, mental anguish, hospitalizations,

1 and medical and nursing care and treatment.

2 56. The damages and injuries directly and proximately caused by IPC Defendants'
3 malpractice were permanent, including future pain and suffering, loss of companionship, and
4 mental anguish from Ms. Curtis's untimely death.

5 57. Plaintiffs' past and future damages exceed \$10,000.

6 58. Wherefore, Plaintiffs pray for judgment against IPC Defendants as follows:

7 A. For compensatory damages in an amount in excess of \$10,000;

8 B. For special damages in an amount in excess of \$10,000;

9 C. For punitive damages in an amount in excess of \$10,000;

10 D. For reasonable attorney fees and costs incurred herein;

11 E. For additional damages pursuant to NRS Chapter 41;

12 F. For pre-judgment and post-judgment interest; and

13 G. For such other and further relief as the Court may deem just and proper in
14 the premises.

15 DATED this 1st day of May, 2018.

16 **KOLESAR & LEATHAM**

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

18 MICHAEL D. DAVIDSON, ESQ.

19 Nevada Bar No. 000878

20 400 South Rampart Boulevard, Suite 400

21 Las Vegas, Nevada 89145

22 -and-

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

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

25 15333 N. Pima Rd., Ste. 300

26 Scottsdale, Arizona 85260

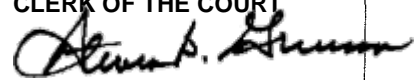
27 Attorneys for Plaintiffs

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(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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MCSO

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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.

CASE NO. A-17-750520-C

DEPT NO. XXIII

**PLAINTIFFS' MOTION TO
CONSOLIDATE CASE NO. A-17-
754013-C WITH THIS ACTION**

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 move to consolidate Case No. A-17-754013-C with the instant action.

This Motion is made and based upon NRCP 42(a), EDCR 2.50, the following Memorandum of Points and Authorities, the pleadings and papers on file herein, and any argument presented at the time of hearing on this matter.

DATED this 6 day of July, 2017.

KOLESAR & LEATHAM

By


MICHAEL D. DAVIDSON, ESQ. (NSB 878)
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

-and-

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

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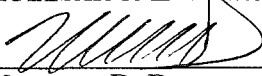
NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing on the 22 day of August, 2017, in Department XXIII of the above-entitled Court at the hour of 9 : 30 A.m., or as soon thereafter as counsel may be heard.

DATED this ____ day of July, 2017.

KOLESAR & LEATHAM

By


MICHAEL D. DAVIDSON, ESQ. (NSB 878)
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

-and-

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

WILKES & MCHUGH, P.A.

15333 N. Pima Rd., Ste. 300

Scottsdale, Arizona 85260

Attorneys for Plaintiffs

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

On February 2, 2017 Laura Latrenta filed a complaint for (1) abuse/neglect of an older person, (2) wrongful death by estate, (3) wrongful death by individual, and (4) bad faith tort

1 against South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas (fka
2 Life Care Center of Paradise Valley), South Las Vegas Investors Limited Partnership, Life Care
3 Centers of America, Inc., Bina Portello, and Carl Wagner (hereinafter collectively “Life Care”).
4 *See* Compl. A-17-750520-C. She pleaded inter alia that Life Care administered to her mother
5 Mary Curtis un-prescribed morphine; that they failed to timely act upon discovering that they
6 had done so; that she was diagnosed with anoxic brain encephalopathy and died; that her death
7 certificate records as her immediate cause of death morphine intoxication; and that as a result of
8 Life Care’s failures and conscious disregard of Mary’s life, health, and safety she suffered
9 unjustified pain, injury, mental anguish, and death. *Id.* ¶¶ 18–22.

10 On April 14, 2017 Laura filed a complaint for (1) abuse/neglect of an older person, (2)
11 wrongful death by estate, (3) wrongful death by individual; and (4) medical malpractice against
12 Dr. Samir Saxena. *See* Compl. A-17-754013-C. She pleaded inter alia that Dr. Saxena was her
13 mother’s treating physician at Life Care Center of South Las Vegas; that despite knowing that
14 Life Care had wrongly administered morphine to Mary resulting in morphine overdose he failed
15 to timely order that she be sent to an acute care setting; that despite knowing that she required a
16 Narcan IV drip or equivalent ongoing Narcan dosages he failed to order such a treatment; and
17 that as a result of his failures and conscious disregard of Mary’s life, health, and safety she
18 suffered unjustified pain, injury, mental anguish, and death. *Id.* ¶¶ 3, 13–17.

19 II. ARGUMENT

20 A. Rule 42(a) Counsels Consolidation.

21 A court confronting “actions involving a common question of law or fact . . . may order
22 all the actions consolidated.” Nev. R. Civ. P. 42(a). Under this rule “courts enjoy broad, but not
23 unfettered, discretion in ordering consolidation.” *Marcuse v. Del Webb Cmtys., Inc.*, 123 Nev.
24 278, 286 (2007).

25 Laura’s two actions implicate the same underlying facts: Mary’s morphine overdose,
26 Defendants’ reaction (or lack thereof) thereto, and her resulting injuries and death. *See supra* Part
27 II. They therefore involve common questions of fact. They also implicate the same underlying
28 legal issues: causation of and liability for Mary’s injuries and wrongful death. *See id.* They

1 therefore involve common questions of law. So because Rule 42(a) permits consolidation of
2 actions involving a common question of law or fact, and because Laura's actions involve
3 common questions of both law and fact, consolidation is appropriate here.

4 **B. Caselaw Counsels Consolidation.**

5 Supporting consolidation are *Pino-Betancourt v. Hospital Pavia Santurce*, 928 F. Supp.
6 2d 393 (D.P.R. 2013), and *Morell v. Basa*, 752 N.Y.S.2d 299 (N.Y. App. Div. 2002).

7 In *Pino-Betancourt*, decedent's family members sought consolidation of two claims
8 arising from decedent's series of visits to two hospitals. 928 F. Supp. 2d at 394-95. The district
9 court first observed that Rule 42(a) "is designed to encourage consolidation where common
10 questions of law or fact are present," and that "the purpose of joining actions is to promote
11 convenience and judicial economy." *Id.* at 394-95. It then noted that "[s]imilar claims in each
12 case exist due to the alleged negligent or tortious acts of the defendants, their physicians, and
13 medical staff which caused [decedent's] death," and that "[g]iven the common issues of fact,
14 consolidation will expedite discovery." *Id.* at 395. So because "the cases meet the Rule 42(a)
15 requirement of common issues of law or fact, and consolidation would both reduce the litigation
16 costs to the parties and serve judicial economy," the court ordered the cases' consolidation. *Id.*

17 In *Morell*, plaintiff brought separate actions against a hospital and a physician, alleging
18 that each had failed to timely diagnose and treat her breast cancer. 752 N.Y.S.2d at 300. The trial
19 court denied hospital's motion to consolidate. *Id.* at 299. The appellate division, however, noting
20 that "[e]ach defendant claims that the other is responsible for plaintiff's condition," that one jury
21 hearing all the evidence could better allocate fault among the defendants, and that that would
22 eliminate the possibility of inconsistent verdicts, reversed. *Id.* at 300.¹

23 This case is like *Pino-Betancourt*. Laura has brought similar claims against both Life
24 Care and Dr. Saxena, i.e., that their negligence concerning her mother's morphine overdose
25

26 ¹ See also *Weiss v. City of New York*, 276 N.Y.S.2d 970 (N.Y. App. Div. 1967) (ordering consolidation of two
27 actions against two hospitals and their staffs where plaintiff alleged that second set of defendants' negligence
28 aggravated injuries caused by first set of defendants as consolidation would avoid "extensive duplication of medical
testimony" and would permit resolution of defendants' "contrary contentions . . . as to causation and extent of
damage caused by each"); *Corbett v. Weisband*, 551 A.2d 1059 (Pa. Super. Ct. 1988) (upholding consolidation of
actions against two physicians who consecutively treated plaintiff).

1 caused her injuries and death. Consolidation will therefore expedite discovery, reducing
2 litigation costs and serving judicial economy. *Pino-Betancourt* therefore supports consolidation.

3 And this case is like *Morell*. Laura has alleged that Life Care and Dr. Saxena each failed
4 to timely respond to her mother's morphine overdose. Each will potentially claim that the other
5 is responsible for Mary's injuries and death, and so one jury hearing all the evidence would
6 better allocate fault among them, thereby eliminating the possibility of inconsistent verdicts.
7 *Morell* therefore supports consolidation.

8 In sum, (1) Laura's actions against both Life Care and Dr. Saxena involve common
9 questions of law, e.g., causation of and liability for her mother's injuries and death, and of fact,
10 e.g., her mother's morphine overdose and Defendants' untimely response thereto; (2) given these
11 common issues, consolidation will expedite discovery, thereby reducing litigation costs and
12 serving judicial economy; and (3) as Defendants may potentially blame each other, one jury
13 should hear all claims in order to allocate fault and prevent inconsistent verdicts. Both Rule 42(a)
14 and cases construing it therefore counsel consolidation here.

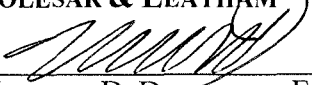
15 **III. CONCLUSION**

16 Based on the foregoing, Plaintiffs respectfully request that the Court grant their motion
17 for consolidation.

18 DATED this 6 day of July, 2017.

19 **KOLESAR & LEATHAM**

20 By


MICHAEL D. DAVIDSON, ESQ.
Nevada State Bar 000878
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

21 -and-

22 MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
23 **WILKES & MCHUGH, P.A.**
24 15333 N. Pima Rd., Ste. 300
25 Scottsdale, Arizona 85260

26 *Attorneys for Plaintiffs*
27
28

CERTIFICATE OF SERVICE

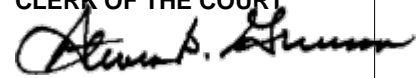
I hereby certify that I am an employee of Kolesar & Leatham, and that on the 10th day of July, 2017, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' MOTION TO CONSOLIDATE CASE NO. A-17-754013-C WITH THIS ACTION** in the following manner:

(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.

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7 *Attorneys for Defendant, Samir S. Saxena, M.D.*

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

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

13 Plaintiffs,

14 v.

15 SAMIR S. SAXENA, M.D.,
16 Defendant.

CASE NO.: **A-17-754013-C**
DEPT. NO.: **XIII**

DEFENDANT SAMIR S. SAXENA
M.D.'S OPPOSITION TO MOTION
TO CONSOLIDATE CASE NO. A-17-
754013 WITH THIS ACTION.

17
18
19 COMES NOW Defendant SAMIR S. SAXENA, M.D. (hereinafter "Defendant"), by and
20 through their attorneys of record, John H. Cotton, Esq. and Vincent J. Vitatoe, Esq., of the law
21 firm of the law firm JOHN H. COTTON & ASSOCIATES, LTD., hereby submit this Opposition
22 to Plaintiffs' Motion to Consolidate Case No. A-17-754013 With This Action.

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

26 ///

27
28 ///

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

1 **I. INTRODUCTION.**

2 Plaintiffs intentionally filed two different Complaints which should remain distinct. The
3 *material* facts differ between the two cases as does the *applicable* law given NRS 41A. If
4 granted, Plaintiffs’ request to consolidate the cases would prejudice Dr. Saxena. There is a high
5 risk of jury confusion and an increased likelihood Dr. Saxena will be attributed non-economic
6 damages which certainly did not arise from his care. Denial of the motion is warranted.
7

8 **II. BACKGROUND.**

9 **First Case: Life Care Center - A-17-750520**

10 1. On February 2, 2017, Plaintiff filed a Complaint against Life Care Center. **Exhibit A.**

11 2. The crux of Plaintiff’s Complaint is the allegation that Life Care Center defendants
12 (and their employees/agents) incorrectly administered morphine to Mary Curtis, an 89
13 year old woman.
14

15 3. The primary complaints include:

16 a. “Defendants voluntarily assumed responsibility for her care and to provide her
17 food, shelter, clothing, and services necessary to maintain her physical and
18 mental health.” Id. at ¶13.

19 b. “During her Life Care Center of South Las Vegas f/k/a Life Care Center of
20 Paradise Valley residency Ms. Curtis was dependent on staff for her basic
21 needs and her activities of daily living.” Id. at ¶15.

22 c. Defendants knew that Ms. Curtis relied on them for her basic needs and that
23 without assistance from them she would be susceptible to injury and death.”
24 Id. at ¶16.

25 d. “Despite Defendants’ notice and knowledge of Ms. Curtis’s fall risk they
26 permitted her to fall (causing her injuries) shortly after she entered Life Care
27
28

Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.” Id. at ¶17.

e. “Despite Defendants’ notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on 7 March 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine.” Id. at ¶22.

4. The Plaintiffs seek punitive damages as follows: “As a result of Defendants’ failures and conscious disregard of Ms. Curtis life, health, and safety, she suffered unjustified pain injury, mental anguish, and death. Id. at ¶22.

Second Case: Dr. Samir Saxena - A-17-754013

5. More than two months later, on April 14, 2017, Plaintiff filed a Complaint against Dr. Saxena, the sole defendant. **Exhibit B.**

6. Plaintiffs generally assert Narcan was not given quickly enough by Dr. Saxena to Ms. Curtis *after* the overdose of morphine occurred.

7. The primary complaints include:

a. “During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency **Ms. Curtis was dependent on Dr. Saxena for medical care.**” (Emphasis added). Id. at ¶10.

b. “Dr. Saxena knew that Ms. Curtis relied upon him for medical care and that without that care she would be susceptible to injury and death.” Id. at ¶11.

c. “Despite Dr. Saxena’s notice and knowledge of Ms. Curtis’s morphine overdose, and although **a reasonably trained physician would have recognized** that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment. He also knew or

1 should have known that she required the close observation that an acute care
2 hospital would provide. These failures contributed to her injuries and death.”
3 (Emphasis added). Id. at ¶14.

4 d. “Dr. Saxena, in providing medical care for Ms. Curtis, had a duty to exercise
5 the level of knowledge, skill, and care of physicians in good standing in the
6 community.” Id. at ¶25.

7 e. “Upon Ms. Curtis’s admission to Life Care Center of South Las Vegas f/k/a
8 Life Care Center of Paradise Valley, Dr. Saxena assumed responsibility for
9 her medical care and had a duty to use such skill, prudence, and diligence as
10 other similarly situated physicians in providing medical care to dependent and
11 elderly residents such as Ms. Curtis.” Id. at ¶39.

12 8. The Plaintiffs seek punitive damages against Dr. Saxena. Id. at ¶49(C).

13
14 **III. LEGAL ARGUMENT.**

15 **a. Professional Negligence in Nevada.**

16 The parties have a constitutional right to a trial of their claims before an impartial jury.
17
18 Sanders v. Sears-age, 354 P.2d 201, 205 (2015) (citations omitted). Moreover, “[t]he importance
19 of a truly impartial jury...is so basic to our notion of jurisprudence that its necessity has never
20 really been questioned...civil litigants are entitled to impartial jurors who will fairly and honestly
21 deliberate the case without interference from personal bias or prejudice.” Id.

22
23 In Nevada, medical malpractice is defined as “the failure of a physician, hospital or
24 employee of a hospital, in rendering services, to use the reasonable care, skill or knowledge
25 ordinarily used under the circumstances.” NRS 41A.009 “To prevail in a medical malpractice
26 action, the Plaintiffs must establish the following: (1) that the doctor’s conduct departed from the
27 accepted standard of medical care or practice, (2) that the doctor’s conduct was both the actual
28

1 and proximate cause of the Plaintiffs' injuries; and (3) that the Plaintiffs suffered damages."
2 Prabhu v. Levine, 112 Nev. 1538, 930 P.2d 103, 108 citing Orcutt v. Miller, 95 Nev. 408, 414,
3 595 P.2d 1191 (1979) (the Plaintiffs must prove "that a defendant physician failed to possess and
4 exercise, in both diagnosis and treatment, that standard of skill and care expected of a reasonably
5 competent practitioner in the same specialty under similar circumstances.").

6
7 It is the Plaintiffs' burden to prove negligence by the defendant physician and they must
8 present expert testimony to educate the jury as to the standard of care, causation and damages.
9 NRS 41A.110. In Nevada, "evidence consisting of expert medical testimony or material from
10 recognized medical texts or treatises presented to demonstrate the alleged deviation from the
11 accepted standard of care in similar circumstances" defines the standard of care. NRS 41A.100.
12 In medical malpractice issues, experts must confine their testimony to the standard of care,
13 whether a deviation of that standard of care occurred and, further, whether that deviation caused
14 injury to the Plaintiffs. Prabhu, 112 Nev. At 154, 930 P.2d at 107.

15
16 **b. Court Retains Discretion But Must Weigh Several Factors.**

17 Plaintiffs cite a District of Puerto Rico case along with a New York State intermediate
18 appellate court's decision in support of the instant motion. Both cases contain little more than a
19 bare bones, generalized recitation of facts which makes it ill-advised to assert that those cases are
20 analogous to the instant matter.

21
22 The Pino-Betancourt Court does well to explain that the decision to consolidate falls
23 "within the broad discretion of the trial court" which must "weigh considerations of convenience
24 and economy against considerations of confusion and prejudice." Pino-Betancourt v. Hosp. Pavia
25 Santurce, 928 F. Supp. 2d 393, 395 (D.P.R. 2013). Yet, the Pino-Betancourt Court reveals only
26 a limited glimpse into the underlying facts by vaguely noting the cases "involve similar facts
27 arising from a series of medical care visits by Mr. Pino to the San Juan Veterans Administration
28

1 Hospital and Hospital Pavia Santurce in June and July 2009.” Id. The relationship of the various
2 medical visits to the actual causes of action asserted in each case is not delineated or otherwise
3 explained.

4 Similarly, the (limited) factual background discussed in the Morell case greatly reduces
5 its already tenuous persuasive value. Morell v. Basa, 300 A.D.2d 134, 134-35, 752 N.Y.S.2d
6 299, 300 (App. Div. 2002). Specifically, the Morell Court noted that the defendants *both* acted
7 inappropriately with regard to the *same* medical issue: “failing to timely diagnose and treat her
8 breast cancer. Id. Here, the purported failure of Dr. Saxena is *different* (both factually and
9 legally) from the alleged failure of the Life Care Center defendants, as explained below.

10
11 **IV. CONSOLIDATION RESULTS IN PREJUDICE.**

12 Consolidation is inappropriate because different material facts and legal standards are at
13 issue in each case.

14
15 **a. Different Material Facts.**

16 “A material issue of fact is one that affects the outcome of the litigation and requires a
17 trial to resolve the differing versions of the truth. Capitol Indem. Corp. v. Blazer, 51 F. Supp. 2d
18 1080, 1083 (D. Nev. 1999). The temporal proximity of *different* material facts is not dispositive.
19 Moore v. New York Cotton Exchange, 270 U.S. 593 (1926). This Court should consider whether
20 *material* facts overlap between the two cases. However, a comparison of the two Complaints
21 demonstrates that the material facts impacting the ultimate outcome are significantly different.
22 The case against Life Care Center focuses on the fact that morphine was improperly
23 administered to Ms. Curtis. In contrast, the case against Dr. Saxena concerns the purported acts
24 and omissions of Dr. Saxena regarding the medical care provided to Ms. Curtis *after* Dr. Saxena
25 learned she received another patient’s morphine. Plaintiffs nowhere assert that Dr. Saxena had
26 anything to do with administration of morphine.
27
28

Moreover, Plaintiffs complain that the Life Care Center defendants caused Ms. Curtis to suffer a fall. **Exhibit A** at ¶17. This is part and parcel with Plaintiffs’ general assertion that Life Care Center was responsible for providing Ms. Curtis’ basic needs including assuming “responsibility for her care and to provide her food, shelter, clothing, and services necessary to maintain her physical and mental health.” Id. at ¶13. Yet, no similar allegation is made as related to Dr. Saxena. Indeed, the Complaint against Dr. Saxena acknowledges that his connection to Ms. Curtis solely relates to medical care he provided. **Exhibit B** at ¶10-11.

b. Different Applicable Law.

In addition to the distinct facts giving rise to each Complaint, different legal standards govern each case. The case against Dr. Saxena, a physician, necessarily causes NRS 41A to apply to the claims asserted whereas standard principles of negligence apply in the Life Care Center case. The differences in applicable law, therefore, are substantial as related to each and every element of the negligence claim.

i. Duty and Breach Elements Differ.

The “duty” and “breach” elements of the negligence claim lodged against Dr. Saxena involve an analysis of the “standard of care” which may only be established by similarly situated physicians. Prabhu, 112 Nev. at 1538. The “duty” element applicable to the Life Care Center defendants, in contrast, does not involve a NRS 41A professional negligence cause of action. As noted, the underlying facts related to the “duty” element vary greatly because Plaintiffs assert that Dr. Saxena did not treat a drug-overdosed patient in line with the treatment a “reasonably trained physician” would have allegedly provided including the administration of Narcan. **Exhibit B** at ¶14.

1 ii. Causation.

2 The issue of causation also diverges dramatically in the two cases. On the one hand, a
3 similarly situated physician would need to opine that Dr. Saxena's purported *delay or omission*
4 in the treatment of Ms. Curtis—after she already received morphine—caused her ultimate
5 demise. In contrast, the causation element applicable to Life Care Center primarily concerns the
6 effect of (allegedly) providing the morphine in the first place.

7 iii. Damages.

8 The potential damages applicable to Dr. Saxena are vastly different than the damages
9 applicable to Life Care Center. First, NRS 41A renders Dr. Saxena severally liable and subject to
10 the statutory damages cap while potential co-defendant, Life Care Center, is joint and severally
11 liable with no damages cap.

12 The scope of damages differs. For example, the pain and suffering allegedly endured by
13 Ms. Curtis *after* being given the wrong dose of morphine but *prior to* receiving (or failing to
14 receive) Dr. Saxena's care is not attributable to Dr. Saxena—though such damages *would* be
15 arguably attributable to Life Care Center. Equally problematic, Plaintiffs' allege that Life Care
16 Center permitted Ms. Curtis to fall which caused damages inapplicable to Dr. Saxena.

17 Plaintiffs also seek punitive damages in both Complaints. Yet, again, the standard for
18 evaluating whether punitive damages apply to Dr. Saxena is different than the standard
19 applicable to Life Care Center. Specifically, as related to Dr. Saxena, Plaintiffs must establish,
20 that Dr. Saxena's conduct *exceeded* gross negligence—a standard which can only be set forth by
21 a medical expert. In contrast, Plaintiffs do not require expert medical testimony with regard to
22 whether Life Care Center's conduct exceeded gross negligence.

23 c. Jury Confusion and Prejudice.

24 In sum, consolidating the two cases creates a significant risk of jury confusion and
25
26
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28

1 prejudices Dr. Saxena. General negligence claims are substantively different than professional
2 negligence claims. The jury could easily become confused as related to the legal standards which
3 apply to Dr. Saxena as compared to those which apply to the Life Care Center defendants. The
4 standards are similar but distinct in important ways. Indeed, the elements bear the same
5 description (“duty”, “breach”, “causation”, and “damages”) but the *meaning* of each of those
6 elements differ because of NRS 41A, as explained above. Indeed, in addition to the prejudice
7 caused by juror confusion as to the applicable legal standards, Dr. Saxena faces prejudice
8 because he may be found liable for damages which he certainly did not cause. The scope of non-
9 economic damages (i.e., pain and suffering, etc.) is broader as related to the Life Care Center
10 defendants who are allegedly responsible for providing an improper dose of morphine to Ms.
11 Curtis and permitting her to fall. Absent leaving the cases separate as Plaintiffs initially intended,
12 Dr. Saxena faces the high probability that the jury will improperly conflate non-economic
13 damages into a single figure.
14

15
16 **V. CONCLUSION.**

17 This Court should deny Plaintiffs’ motion. Different material facts and substantively
18 distinct law support the conclusion that the two separate cases should remain separate. If the
19 matters are consolidated, Dr. Saxena faces prejudice due to jury confusion and exposure to
20 damages which are not attributable to any of his conduct.
21

22 Dated this 18th day of July 2017.

23 **JOHN H. COTTON & ASSOCIATES, LTD.**
24 7900 West Sahara Avenue, Suite 200
25 Las Vegas, Nevada 89117

26 /s/ Vincent J. Vitatoe

27 _____
28 JOHN H. COTTON, ESQ.
VINCENT J. VITATOE, ESQ.

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the 18th day of July 2017, I served a true and correct copy of the foregoing **DEFENDANT SAMIR S. SAXENA M.D.'S OPPOSITION TO MOTION TO CONSOLIDATE CASE NO. A-17-754013 WITH THIS ACTION** by electronic means Pursuant to EDCR 8.05(a), and 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/ Terri Bryson
An Employee of John H. Cotton & Associates

Exhibit A

Defendant Samir Saxena M.D.'s Opposition to Motion to Consolidate Case No. A-17-754013-C with this Action

Exhibit A

Defendant Samir Saxena M.D.'s Opposition to Motion to Consolidate Case No. A-17-754013-C with this Action

Saxena adv. Curtis: A-17-754013-C

DISTRICT COURT CIVIL COVER SHEET

A-17-750520-C

County, Nevada

XXIII

Case No.

(Assigned by Clerk's Office)

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

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

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

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

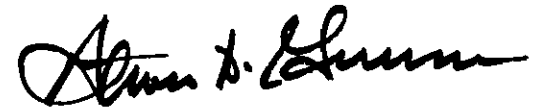
Business Court filings should be filed using the Business Court civil coversheet.

February 2, 2017

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP

MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

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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.

CASE NO. A-17-750520-C

DEPT NO. XXIII

COMPLAINT FOR DAMAGES

1. Abuse/Neglect of an Older Person
2. Wrongful Death by Estate
3. Wrongful Death by Individual
4. Bad Faith Tort

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 of
record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Complaint against

1 Defendants South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas
2 f/k/a Life Care Center of Paradise Valley; South Las Vegas Investors Limited Partnership; Life
3 Care Centers of America, Inc.; Bina Hribik Portello; Carl Wagner; and Does 1 to 50, inclusive,
4 and allege as follows:

5
GENERAL ALLEGATIONS

6 1. Decedent Mary Curtis suffered significant physical injury while a resident at Life
7 Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and ultimately a
8 painful death. At all times relevant she resided in the city of Las Vegas in the County of Clark,
9 Nevada and was an "older person" under N.R.S. § 41.1395. Ms. Curtis died on March 11, 2016
10 in Las Vegas, Nevada.

11 2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving
12 heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park,
13 New Jersey.

14 3. Plaintiffs are informed and believe and thereon allege that at all relevant times
15 Defendant South Las Vegas Medical Investors, LLC dba Life Care Center of South Las Vegas
16 f/k/a Life Care Center of Paradise Valley was a limited liability company duly authorized,
17 licensed, and doing business in Clark County, Nevada and was at all relevant times in the
18 business of providing care to residents while subject to the requirements of federal and state law,
19 located at 2325 E. Harmon Ave., Las Vegas, NV 89119.

20 4. Plaintiffs are informed and believe and thereon allege that at all relevant times
21 Defendants Life Care Centers of America, Inc.; South Las Vegas Investors Limited Partnership;
22 South Las Vegas Medical Investors, LLC; and Does 1 through 25, and each of them, were and
23 are owners, operators, and managing agents of South Las Vegas Medical Investors, LLC dba
24 Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, such that they
25 controlled the budget for said Defendant which impacted resident care, collected accounts
26 receivable, prepared audited financial statements, contracted with various vendors for services,
27 and provided direct oversight for said Defendants in terms of financial and patient care
28 responsibility.

1 5. Plaintiffs are informed and believe and thereon allege that at all relevant times
2 Defendants Bina Hribik Portello and Carl Wagner were and are administrators of Life Care
3 Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

4 6. Plaintiffs are informed and believe and thereon allege that Defendants Does 26
5 through 50 are other individuals or entities that caused or contributed to injuries suffered by Ms.
6 Curtis as discussed below. (Hereinafter "Defendants" refers to South Las Vegas Medical
7 Investors, LLC dba Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise
8 Valley; South Las Vegas Investors Limited Partnership; Life Care Centers of America, Inc.; Bina
9 Hribik Portello; Carl Wagner; and Does 1 through 50.)

10 7. Plaintiffs will ask leave of Court to amend this Complaint to show such true
11 names and capacities of Doe Defendants when the names of such defendants have been
12 ascertained. Plaintiffs are informed and believe and thereon allege that each defendant
13 designated herein as Doe is responsible in some manner and liable herein by reason of
14 negligence and other actionable conduct and by such conduct proximately caused the injuries
15 and damages hereinafter further alleged.

16 8. Plaintiffs are informed and believe and thereon allege that at all relevant times
17 Defendants and each of them were the agents, servants, employees, and partners of their co-
18 Defendants and each of them; and that they were acting within the course and scope of
19 employment. Each Defendant when acting as principal was negligent in the selection, hiring,
20 training, and supervision of each other Defendant as its agent, servant, employee, and partner.

21 9. Every fact, act, omission, event, and circumstance herein mentioned and
22 described occurred in Clark County, Nevada, and each Defendant is a resident of Clark County,
23 has its principal place of business in Clark County, or is legally doing business in Clark County.

24 10. Each Defendant, whether named or designated as Doe, was the agent, servant, or
25 employee of each remaining Defendant. Each Defendant acted within the course and scope of
26 such agency, service, or employment with the permission, consent, and ratification of each co-
27 Defendant in performing the acts hereinafter alleged which gave rise to Ms. Curtis's injuries.

28 ///

FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON

(Abuse/Neglect of an older person by the Estate of Mary Curtis against all Defendants)

11. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as though set forth at length herein.

12. Mary Curtis was born on 19 December 1926 and was therefore an “older person” under N.R.S. § 41.1395.

13. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and supervision. Defendants voluntarily assumed responsibility for her care and to provide her food, shelter, clothing, and services necessary to maintain her physical and mental health.

14. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley Ms. Curtis’s past medical history included dementia, hypertension, COPD, and renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27 February 2016; during her hospitalization it was determined that she would not be able to return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing subacute and memory care.

15. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on staff for her basic needs and her activities of daily living.

16. Defendants knew that Ms. Curtis relied on them for her basic needs and that without assistance from them she would be susceptible to injury and death.

17. Despite Defendants’ notice and knowledge of Ms. Curtis’s fall risk they permitted her to fall (causing her injuries) shortly after she entered Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

18. Despite Defendants’ notice and knowledge that Ms. Curtis was dependent on them for proper medication administration, they on 7 March 2016 administered to her a dose of morphine prescribed to another resident. Ms. Curtis was not prescribed morphine.

19. Despite Defendants' notice and knowledge that they had wrongly administered morphine to Ms. Curtis, they failed to act timely upon that discovery, instead retaining Ms. Curtis as a resident until 8 March 2016.

20. Defendants eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

21. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

22. As a result of Defendants' failures and conscious disregard of Ms. Curtis's life, health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

23. The actions of Defendants and each of them were abuse under N.R.S. § 41.1395(4)(a) and neglect under N.R.S. § 41.1395(4)(c).

24. Defendants' failures were made in conscious disregard for Ms. Curtis's health and safety and they acted with recklessness, oppression, fraud, or malice in commission of their neglect or abuse of Ms. Curtis.

25. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

26. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

27. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for her basic needs and safety, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

28. As a direct and proximate result of Defendants' willful negligence and intentional and unjustified conduct, Ms. Curtis suffered significant injuries and death. Defendants' conduct was a direct consequence of the motive and plans set forth herein, and Defendants are guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against all Defendants)

29. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as though fully set forth herein.

30. Defendants, their staff, and employees, in caring for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of those in good standing in the community.

31. Defendants had a duty to properly train and supervise their staff and employees to act with the level of knowledge, skill, and care of nursing homes in good standing in the community.

32. Defendants and their agents and employees breached their duties to Ms. Curtis and were negligent and careless in their actions and omissions as set forth above.

33. As a direct and proximate result of Defendants' breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

34. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

35. Despite Defendants' notice and knowledge that Ms. Curtis was dependent on them for her basic needs and safety, they willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against all Defendants)

36. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

37. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

38. Defendants, their staff, and employees, in caring for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of those in good standing in the community.

Exhibit B

Defendant Samir Saxena M.D.'s Opposition to Motion to Consolidate Case No. A-17-754013-C with this Action

Exhibit B

Defendant Samir Saxena M.D.'s Opposition to Motion to Consolidate Case No. A-17-754013-C with this Action

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

X I I I

Case No.

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Estate of Mary Curtis, deceased; Laura Latrenta, as Personal Representative of the Estate of Mary Curtis; and Laura Latrenta	Samir Saxena, M.D.
1035 E. Flamingo #1024	1608 Villa Rica Dr.
Las Vegas, NV 89119	Henderson, NV 89052
Attorney (name/address/phone):	Attorney (name/address/phone):
Michael D. Davidson, Esq.	
Kolesar & Leatham	
400 S. Rampart Suite 400	
Las Vegas, NV 89145 (702) 362-7800	


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

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

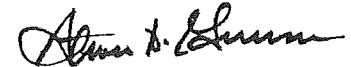
Business Court filings should be filed using the Business Court civil coversheet.

April 14, 2017

Date


 Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP

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

KOLESAR & LEATHAM

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-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice* (pending)

WILKES & MCHUGH, P.A.

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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.

SAMIR SAXENA, M.D.,

Defendant.

CASE NO. A-17-754013-C

DEPT NO. XIII

COMPLAINT FOR DAMAGES

1. Abuse/Neglect of an Older Person
2. Wrongful Death by Estate
3. Wrongful Death by Individual
4. Medical Malpractice

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 of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Complaint against Defendant Samir Saxena, M.D., and allege as follows:

///

///

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

GENERAL ALLEGATIONS

1
2 1. Decedent Mary Curtis suffered while a resident at Life Care Center of South Las
3 Vegas f/k/a Life Care Center of Paradise Valley significant physical injury and ultimately a
4 painful death. At all times relevant she resided in the City of Las Vegas in the County of Clark,
5 Nevada and was an "older person" under N.R.S. § 41.1395. She died on March 11, 2016 in Las
6 Vegas.

7 2. At all times material Plaintiff Laura Latrenta was a natural daughter and surviving
8 heir of Ms. Curtis. At all relevant times she was an individual and resident of Harrington Park,
9 New Jersey.

10 3. Plaintiffs are informed and believe and thereon allege that at all relevant times
11 Defendant Samir Saxena, M.D. was a licensed physician who provided medical care at Life
12 Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley and was Ms. Curtis's
13 treating physician thereat.

14 4. Defendant Samir Saxena, M.D., was and is a resident of the State of Nevada.

15 5. Every fact, act, omission, event, and circumstance herein mentioned and
16 described occurred in Clark County, Nevada, and Defendant is a resident of Clark County.

17 **FIRST CAUSE OF ACTION – ABUSE/NEGLECT OF AN OLDER PERSON**

18 **(Abuse/Neglect of an older person by the Estate of Mary Curtis against Defendant)**

19 6. Plaintiffs hereby incorporate the allegations in all the foregoing paragraphs as
20 though fully set forth herein.

21 7. Mary Curtis was born on 19 December 1926 and was therefore an "older person"
22 under N.R.S. § 41.1395.

23 8. On approximately 2 March 2016 Ms. Curtis was admitted to Life Care Center of
24 South Las Vegas f/k/a Life Care Center of Paradise Valley, a nursing home, for care and
25 supervision.

26 9. Upon entering Life Care Center of South Las Vegas f/k/a Life Care Center of
27 Paradise Valley Ms. Curtis's past medical history included dementia, hypertension, COPD, and
28 renal insufficiency. She had been hospitalized after being found on her bathroom floor on 27

February 2016; during her hospitalization it was determined that she would not be able to immediately return to her previous living situation and so following her hospital course she was transferred to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley for continuing care.

10. During her Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley residency Ms. Curtis was dependent on Dr. Saxena for medical care.

11. Dr. Saxena knew that Ms. Curtis relied on him for her medical care and that without that care she would be susceptible to injury and death.

12. Life Care Center staff on 7 March 2016 administered to Ms. Curtis, who had not been prescribed morphine, morphine prescribed to another resident.

13. Despite Dr. Saxena's notice and knowledge that Life Care Center of South Las Vegas staff had wrongly administered morphine to Ms. Curtis resulting in a morphine overdose, and although a reasonably trained physician would have recognized that she required treatment in an acute care setting, he failed to timely order that she be sent to an acute care setting, leading to Ms. Curtis's retention at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley until 8 March 2016 and contributing to her injuries and death.

14. Despite Dr. Saxena's notice and knowledge of Ms. Curtis's morphine overdose, and although a reasonably trained physician would have recognized that she required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto), he failed to order such a treatment. He also knew or should have known that she required the close observation that an acute care hospital would provide. These failures contributed to her injuries and death.

15. Life Care Center of South Las Vegas staff eventually called 911 and emergency personnel transported Ms. Curtis to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy and put on a Narcan IV drip. She was later transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter.

16. Ms. Curtis's death certificate records that her immediate cause of death was morphine intoxication.

17. As a result of Dr. Saxena's failures and conscious disregard of Ms. Curtis's life,

health, and safety, she suffered unjustified pain, injury, mental anguish, and death.

18. Dr. Saxena's actions were abuse under N.R.S. § 41.1395(4)(a) and neglect under N.R.S. § 41.1395(4)(c).

19. Dr. Saxena's failures were made in conscious disregard for Ms. Curtis's health and safety and he acted with recklessness, oppression, fraud, or malice in commission of his neglect or abuse of Ms. Curtis.

20. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to recover double her actual damages under N.R.S. § 41.1395.

21. As a direct and legal result of Ms. Curtis's injuries and death, her estate's personal representative is entitled to attorney fees and costs under N.R.S. § 41.1395.

22. Despite Dr. Saxena's notice and knowledge that Ms. Curtis was dependent on him for her medical care, he willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is entitled to punitive damages under N.R.S. § 42.001.

23. As a direct and proximate result of Dr. Saxena's willful negligence and intentional and unjustified conduct, he contributed to Ms. Curtis's significant injuries and death. Dr. Saxena's conduct was a direct consequence of the motive and plans set forth herein, and he is guilty of malice, oppression, recklessness, and fraud, justifying an award of punitive and exemplary damages.

SECOND CAUSE OF ACTION

(Wrongful Death by the Estate of Mary Curtis against Defendant)

24. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as though fully set forth herein.

25. Dr. Saxena, in providing medical care for Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of physicians in good standing in the community.

26. Dr. Saxena breached his duties to Ms. Curtis and was negligent and careless in his actions and omissions as set forth above.

27. As a direct and proximate result of Dr. Saxena's breaches Ms. Curtis died on 11

March 2016 in Las Vegas, Nevada.

28. As a direct and legal result of Ms. Curtis's death, her estate's personal representative is entitled to maintain all actions on her behalf and is entitled under N.R.S. § 41.085 to recover special damages, including medical expenses incurred by Ms. Curtis before her death, as well as funeral and burial expenses according to proof at trial.

29. Despite Dr. Saxena's notice and knowledge that Ms. Curtis was dependent on him for her medical care, he willfully and deliberately ignored and failed to avoid the substantial risk and probability that she would suffer injury and death, so that Plaintiff is also entitled to punitive damages under N.R.S. § 42.001.

THIRD CAUSE OF ACTION

(Wrongful Death by Laura Latrenta individually against Defendant)

30. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

31. Plaintiff Laura Latrenta is a surviving daughter and natural heir of Mary Curtis.

32. Dr. Saxena, in providing medical care to Ms. Curtis, had a duty to exercise the level of knowledge, skill, and care of physicians in good standing in the community.

33. Dr. Saxena breached his duties to Ms. Curtis and was negligent and careless in his actions and omissions as set forth above.

34. As a direct and proximate result of Dr. Saxena's breaches Ms. Curtis died on 11 March 2016 in Las Vegas, Nevada.

35. Before her death, Ms. Curtis was a faithful, loving, and dutiful mother to her daughter Laura Latrenta.

36. As a further direct and proximate result of Dr. Saxena's negligence Plaintiff Laura Latrenta has lost the love, companionship, comfort, affection, and society of her mother, all to her general damage in a sum to be determined according to proof.

37. Under N.R.S. § 41.085 Plaintiff Laura Latrenta is entitled to recover pecuniary damages for her grief, mental anguish, sorrow, physical pain, lost moral support, lost companionship, lost society, lost comfort, and mental and physical pain and suffering.

FOURTH CAUSE OF ACTION

(Medical malpractice by all Plaintiffs against Defendant)

38. Plaintiffs re-allege and incorporate by reference the allegations in the foregoing paragraphs as though fully set forth herein.

39. Upon Ms. Curtis's admission to Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley, Dr. Saxena assumed responsibility for her medical care and had a duty to use such skill, prudence, and diligence as other similarly situated physicians in providing medical care to dependent and elderly residents such as Ms. Curtis.

40. Ms. Curtis was dependent on Dr. Saxena for her medical care while at Life Care Center of South Las Vegas f/k/a Life Care Center of Paradise Valley.

41. Despite Dr. Saxena's knowledge of Ms. Curtis's dependence on him for medical care, he failed to provide adequate medical care to her, as alleged above.

42. Dr. Saxena failed to meet the applicable standard of care in his medical care for Ms. Curtis, including by (1) failing to order that she be sent to an acute care hospital in response to her morphine overdose; (2) failing to order that she receive a Narcan drip (or ongoing dosages of Narcan equivalent thereto); and (3) failing to recognize or to act on his recognition that she required the close observation that an acute care hospital would provide.

43. Dr. Saxena's medical care of Ms. Curtis fell below the standard of care and was a proximate cause of her injuries and damages, including by contributing to her death. This allegation is supported by the Affidavit of Loren Lipson, MD. *See* Ex. 1, Lipson Aff.

44. Ms. Curtis's injuries and death were therefore the result of Dr. Saxena's negligence.

45. The damages and injuries directly and proximately caused by Dr. Saxena's malpractice were permanent.

46. As a direct and proximate result of Dr. Saxena's malpractice and Ms. Curtis's resulting death, Laura Latrenta incurred damages of grief, sorrow, companionship, society, comfort and consortium, and damages for pain and suffering, mental anguish, hospitalizations, and medical and nursing care and treatment.

47. The damages and injuries directly and proximately caused by Dr. Saxena's malpractice were permanent, including future pain and suffering, loss of companionship, and mental anguish from Ms. Curtis's untimely death.

48. Plaintiffs' past and future damages exceed \$10,000.

49. Wherefore, Plaintiffs pray for judgment against Defendant as follows:

A. For compensatory damages in an amount in excess of \$10,000;

B. For special damages in an amount in excess of \$10,000;

C. For punitive damages in an amount in excess of \$10,000;

D. For reasonable attorney fees and costs incurred herein;

E. For additional damages pursuant to NRS Chapter 41;


F. For pre-judgment and post-judgment interest; and

G. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 14 day of April, 2017.

KOLESAR & LEATHAM

By


MICHAEL D. DAVIDSON, ESQ.

Nevada Bar No. 000878

400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
(pending)

WILKES & MCHUGH, P.A.

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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,

CASE NO.

DEPT NO.

Plaintiffs,

VS.

SAMIR SAXENA, M.D.,

Defendant.

AFFIDAVIT OF LOREN LIPSON,

MD

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 of record, Kolesar & Leatham and Wilkes & McHugh, P.A., hereby submit this Affidavit of Loren Lipson, MD.

AFFIDAVIT OF LOREN LIPSON, MD

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-5800 / Fax: (702) 362-9472

1 Loren Lipson, M.D., being first duly sworn, states:

2 1. I am a medical doctor licensed and currently practicing in the State of California. I have
3 been board certified in internal and geriatric medicine as well as in quality assurance and utilization
4 review.

5 2. I have been chief of the section of geriatric medicine at the University of Southern
6 California and was on the faculty of the Schools of Pharmacy, Medical Dentistry and Public
7 Health, Gerontology, and the Department of Occupational Science and Occupational Therapy at
8 the University of Southern California.

9 3. I have been a consultant to the Department of Administration Division of Longevity
10 Programs for the State of Alaska in the areas of geriatric medicine and quality assurance, and am
11 a consultant to the State of California and State of New Mexico Department of Justice Office of
12 Attorney General in the areas of geriatric care and elder abuse.

13 4. In addition, I have been physician advisor to the University of Southern California
14 University Hospital in the areas of utilization management, risk management, and quality
15 assurance.

16 5. I am familiar with reviewing medical records to determine whether the appropriate
17 standards of care have been met and whether violations of the standard of care caused any injuries.

18 6. I have reviewed Mary Curtis's pertinent medical records.

19 7. Based on my review of Ms. Curtis's medical records, as well as on my education, training,
20 and experience as a physician, it is my opinion, within a reasonable degree of medical probability,
21 that the substandard medical care rendered Ms. Curtis by Dr. Samir Saxena caused her preventable
22 injuries, pain, and suffering, and ultimately contributed to her death.

23 8. Mary Curtis, an 89-year-old widow with a past medical history of dementia, hypertension,
24 COPD, and renal insufficiency, entered Life Care Center of South Las Vegas f/k/a Life Care Center
25 of Paradise Valley under Dr. Saxena's medical care on 2 March 2016 for post-hospitalization
26 continuing care.

27 9. Ms. Curtis, who had not been prescribed morphine, was given another resident's prescribed
28 morphine on 7 March 2016.

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

10. Ms. Curtis was thereafter given two doses of Narcan in an effort to reverse the morphine's effects.

11. On the morning of 8 March 2016, Ms. Curtis was found in an altered mental state with low blood oxygen saturation; emergency medical services transported her to Sunrise Hospital, where she was diagnosed with anoxic brain encephalopathy.

12. Ms. Curtis was transferred to Nathan Adelson Hospice on 11 March 2016 and died shortly thereafter. Her death certificate records that her immediate cause of death was morphine intoxication.

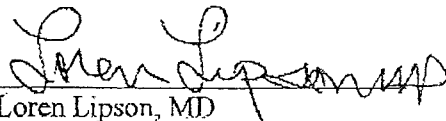
13. Dr. Saxena knew that Life Care Center staff had wrongly administered morphine to Ms. Curtis resulting in morphine overdose yet failed to timely order that she be sent to an acute care setting for treatment. His failure to do so was a contributing cause of her injuries and contributed to her death from morphine intoxication.

14. Dr. Saxena knew or should have known that Ms. Curtis required a Narcan IV drip (or ongoing dosages of Narcan equivalent thereto) to counteract her morphine overdose yet failed to order that treatment. In addition, he knew or should have known that she required the close observation that an acute care hospital would provide. His failures to comply with the standard of care were a contributing cause of her injuries and contributed to her death from morphine intoxication.

15. All the opinions in this affidavit are expressed within a reasonable degree of probability and are based on my education, training, and experience, as well as on my review of Ms. Curtis's medical records.

16. This affidavit is preliminary and is not intended to nor does it contain all the opinions that I have reached concerning Ms. Curtis's medical care rendered to her by Dr. Saxena.

17. To my knowledge no previous opinion rendered by me has been rejected by any court.


 Loren Lipson, MD

Sworn to and subscribed before me this 14th day of April, 2017.

1 _____
 2 NOTARY PUBLIC, STATE OF CALIFORNIA

3 My Commission Expires:

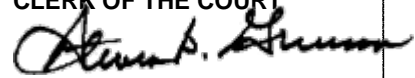
Feb. 20, 2018

4 Personally Known ☒ OR Produced Identification _____

5 Type of Identification Produced _____
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RIS
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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; and DOES 1-50, inclusive,

Defendants.

CASE NO. A-17-750520-C

DEPT NO. XXIII

**PLAINTIFFS' REPLY IN SUPPORT
OF THEIR MOTION TO
CONSOLIDATE CASE NO. A-17-
754013-C WITH THIS ACTION**

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 firm of Kolesar & Leatham, hereby reply to

Defendant Samir S. Saxena M.D.'s Opposition to Motion to Consolidate Case No. A-17-754013
with This Action.

DATED this 15th day of August, 2017.

KOLESAR & LEATHAM

By

MICHAEL D. DAVIDSON, ESQ.
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Las Vegas, Nevada 89145

-and-

MELANIE L. BOSSIE, ESQ. - *Pro Hac Vice*
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Attorneys for Plaintiffs

POINTS AND AUTHORITIES

I. INTRODUCTION

Consolidation is appropriate because (1) the two cases are entangled in common questions of law and fact; (2) consolidation would promote judicial economy; and (3) the prejudice of which Dr. Saxena complains is premised on a faulty presumption of juror simplemindedness.

II. ARGUMENT

A. Common Questions of Law and Fact Abound.

Laura has pleaded that (1) Life Care staff gave Mary un-prescribed morphine;¹ (2) both staff and Dr. Saxena failed to respond timely or adequately to Mary's resulting morphine intoxication; and (3) Mary therefore suffered and died. *See* Pls.' Mot. Consol. Part I. All claims against all Defendants arise ex delicto. *See id.* (abuse/neglect of an older person and wrongful death against all Defendants; bad faith tort against the Life Care Defendants; medical malpractice against Dr. Saxena). Common questions of law and fact therefore abound. And Rule

¹ Dr. Saxena was as medical director responsible for the administration of schedule one narcotics to residents under his care.

1 42(a) “encourage[s] consolidation where common questions of law or fact are present.” *Pino-*
2 *Betancourt v. Hosp. Pavia Santurce*, 928 F. Supp. 2d 393, 394–95 (D.P.R. 2013). It therefore
3 encourages consolidation of these actions.²

4 **B. Judicial Economy Matters.**

5 Dr. Saxena’s response is all about Dr. Saxena; he nowhere discusses the burden of
6 separate actions on the courts and other parties. *See* Def. Saxena’s Opp’n to Mot. Consol.
7 *passim*. Yet “[c]ourts have stressed that the purpose of joining actions is to promote convenience
8 and judicial economy.” *Pino-Betancourt*, 928 F. Supp. 2d at 395. Here, consolidation would,
9 given the law and facts common to each action, “both reduce the litigation costs to the parties
10 and serve judicial economy.” *Id.* It should therefore be welcomed both by the parties and by the
11 Court.

12 **C. There Is No Presumption of Juror Dull-Wittedness.**

13 Dr. Saxena’s chief argument against consolidation appears to be that consolidation would
14 confuse the jury, thereby prejudicing him. *See* Def. Saxena’s Opp’n to Mot. Consol. 8–9. He
15 says that “general negligence claims are substantively different than [sic] professional negligence
16 claims,” such that “[t]he jury could easily become confused as related to the legal standards
17 which apply to Dr. Saxena as compared to those which apply to the Life Care Center
18 defendants.” *Id.* at 9. Under this theory, applying both professional and ordinary negligence
19 standards—which have the same elements—is beyond the jury’s competence. So a fortiori
20 applying both contract and tort standards would perplex a jury. And yet juries are asked to do
21 that in cases with both contract and tort claims with some frequency.

22 He then argues that he “faces prejudice because he may be found liable for damages
23 which he certainly did not cause,” because “[t]he scope of non-economic damages . . . is broader
24 as related to the Life Care Center defendants.” Def. Saxena’s Opp’n to Mot. Consol. 9. The
25 unarticulated premise underlying Dr. Saxena’s protestations of prejudice is evidently that the

26
27 ² Emphasizing the wisdom of consolidation is Dr. Saxena’s having declined to disclaim his defense of deflecting
28 blame onto the Life Care Defendants. *See Morell v. Basa*, 752 N.Y.S.2d 299, 300 (App. Div. 2002) (holding that
the trial court abused its discretion in denying consolidation where “[e]ach defendant claims that the other is
responsible for plaintiff’s condition”).

1 jury is too softheaded to be trusted to consider different legal theories or to discern between types
2 of damages. But the jury will be instructed on these matters. And so Dr. Saxena's premise
3 offends "the almost invariable assumption of the law that jurors follow their instructions."
4 *Richardson v. March*, 481 U.S. 200, 206 (1987).³

5 In sum, (1) the common questions of law and fact implicated in these actions satisfy Rule
6 42(a) and counsel consolidation; (2) consolidation will promote judicial economy; and (3) Dr.
7 Saxena's objections to consolidation are based on an impermissible presumption of juror
8 simplemindedness and are therefore without force.

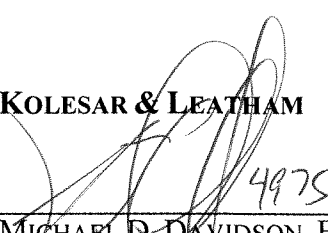
9 **III. CONCLUSION**

10 Laura requests that the Court grant her motion for consolidation.

11 DATED this 15th day of August, 2017.

12 **KOLESAR & LEATHAM**

13
14 By

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26

27 ³ See also *United States v. Taylor*, 635 F. Supp. 2d 1243, 1246 (D.N.M. 2009) ("Defendant is also up against a basic
28 presumption underlying the system of trial by jury—that juries will follow the instructions given them by the trial judge.").

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham, and that on the 15th day of August, 2017, I caused to be served a true and correct copy of foregoing **PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION TO CONSOLIDATE CASE NO. A-17-754013-C WITH THIS ACTION** in the following manner:

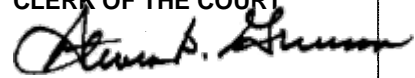
(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed on the Court's Master Service List.


An Employee of KOLESAR & LEATHAM

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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,

vs.

SAMIR S. SAXENA, M.D.,

Defendant.

CASE NO. A-17-750520-C

DEPT NO. XVII

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

**ORDER GRANTING PLAINTIFF'S
MOTION TO CONSOLIDATE CASE
NO. A-17-754013-C WITH THIS
ACTION**

Date: August 24, 2017
Time: 9:30 a.m.

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**ORDER GRANTING PLAINTIFF'S MOTION TO CONSOLIDATE
CASE NO. A-17-754013-C WITH THIS ACTION**

This matter, having come before the Court at 9:30 a.m. on August 24, 2017 on Plaintiff's Motion to Consolidate Case No. A-17-754013-C with this Action ("Motion"). Michael D. Davidson, Esq., of Kolesar & Leatham and Melanie Bossie, Esq., of Wilkes & McHugh, P.A., appeared on behalf of the Plaintiffs, John C. Orr, Esq. of Lewis Brisbois Bisgaard & Smith LLP, appeared on behalf of the South Las Vegas Medical Investors Defendants in Case No. A-17-750520-C and Vincent J. Vitatoe, Esq. of John H. Cotton & Associates, LTD., for Defendant Samir Saxena, M.D. in Case No. A-17-754013-C. The Court, being fully advised in the premises and after review of the pleadings, consideration of the oral argument and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion to Consolidate is GRANTED;

IT IS FURTHER ORDERED that:

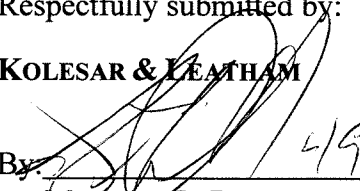
1. That some common questions of law and fact exist between the two cases;
2. That inconsistent verdicts could result if they are not consolidated;
3. That to promote judicial economy, the cases should be consolidated; and
4. The Court finds there is no prejudice for any party as a result of the consolidation.

DATED this 10 day of September, 2017.


DISTRICT JUDGE *KG*

Respectfully submitted by:


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1 Approved as to form and content:

2 DATED this 22 day of September, 2017

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4 By: 

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11 *Attorneys for Defendant*
12 *Samir Saxena, M.D.*

DATED this ___ day of September, 2017

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2 DATED this ___ day of September, 2017

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DATED this 14 day of September, 2017

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