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11 Attorneys for Plaintiffs
12 *Desire Evans-Waiiau and*
13 *Guadalupe Parra-Mendez*

Electronically Filed
Aug 19 2019 02:11 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

10 **DESIRE EVANS-WAIAU, individually;**
11 **GUADALUPE PARRA-MENDEZ,**
12 **individually; JORGE PARRA-MEZA, as**
13 **guardian for MAYRA PARRA, a minor;**
14 **JORGE PARRA-MEZA, as guardian for**
15 **AALIYAH PARRA, a minor; and JORGE**
16 **PARRA-MEZA, as guardian for SIENNA**
17 **PARRA, a minor,**

Case No. A-16-736457-C
Dept. No. XVIII

18 Plaintiffs,

19 vs.

20 **BABYLYN TATE, individually; DOES I-X,**
21 **and ROE CORPORATIONS I-X, inclusive,**

22 Defendant.

NOTICE OF APPEAL

23 PLEASE TAKE NOTICE that Plaintiffs **DESIRE EVANS-WAIAU** and **GUADALUPE**
24 **PARRA-MENDEZ** hereby appeal to the Supreme Court of Nevada from:

- 25 1. All judgments and orders in this case;
- 26 2. Order Regarding Plaintiffs' Motions in Limine filed on April 22, 2019, the Notice of Entry
27 of which was filed and served on April 22, 2019, attached as **Exhibit "1,"**
- 28 3. Order Regarding Defendant Tate's Motions in Limine filed on April 24, 2019, the Notice
of Entry of which was filed and served on April 26, 2019, attached as **Exhibit "2;"**



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4. Verdict, which was filed on June 3, 2019, attached as **Exhibit “3;”**

5. Judgment upon Jury Verdict filed July 15, 2019, the Notice of Entry of which was filed and served on July 15, 2019, attached as **Exhibit “4;”** and

6. All other appealable orders and rulings, as well as all interlocutory orders and rulings made appealable by entry of any of the foregoing orders or judgments.

DATED this 14th day of August, 2019.

Respectfully Submitted,

PRINCE LAW GROUP



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Attorneys for Plaintiffs
*Desire Evans-Waiiau and
Guadalupe Parra-Mendez*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of **PRINCE LAW GROUP**, and that on the 14 day of August, 2019, I caused the foregoing document entitled **NOTICE OF APPEAL** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court E-Filing System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

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An Employee of PRINCE LAW GROUP



EXHIBIT 1

Steven D. Grierson

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IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually,
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guardian for SIENNA
PARRA, a minor,

Plaintiffs,

vs.

BABYLYN TATE, individually, DOES I-X,
and ROE CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: A-16-737457-C

DEPT. NO.: XVII

**NOTICE OF ENTRY OF ORDER
REGARDING PLAINTIFFS' MOTIONS
IN LIMINE**

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PLEASE TAKE NOTICE that an Order Regarding Plaintiffs' Motions In Limine was entered on April 22, 2019, a copy of which is attached hereto as Exhibit "1."

DATED this 22nd day of April, 2019.

EGLET PRINCE

/s/ Jack F. DeGree

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*Attorneys for Plaintiffs Desire Evans-Walau
and Guadalupe Parra-Mendez*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the EGLET PRINCE and that on April 22, 2019, I did cause a true and correct copy of **NOTICE OF ENTRY OF ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE** to be e-filed and e-served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules entered on the Court's docket in the above-referenced matter.

Thomas E. Winner, Esq.
Caitlin J. Lorelli, Esq.
ATKIN WINNER & SHERROD
1117 S. Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Defendant Babylyn Tate


An Employee of EGLET PRINCE

EXHIBIT 1

EXHIBIT 1



1 ORDR

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 EVANS-WAIAU ET AL.

5 vs.

6 Case No.

A-16-736457-C

7 BABLYN TATE

8 Dept. No.

XVIII

9
10 **ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE**

11 Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ's
12 Motions in Limine were brought for hearing in front of Department 17 of the Eighth Judicial
13 District Court, before The Honorable Senior Judge Nancy Becker, on the 3rd day of October,
14 2018; and before The Honorable Judge Michael P. Villani, in chambers, on the 1st day of
15 November, 2018; and for hearing on the 5th day of December 2018; and in chambers, on the
16 18th day of January, 2019, with Dennis M. Prince, Esq., James A. Trummell, Esq., and
17 Kevin T. Strong, Esq. of EGLET PRINCE, appearing on behalf of Plaintiffs DESIRE
18 EVANS-WAIAU and GUADALUPE PARRA-MENDEZ; and Thomas E. Winner, Esq. of
19 ATKIN WINNER & SHERROD, appearing on behalf of Defendant BABYLYN TATE.
20 The Court having reviewed the pleadings and papers on file herein, having heard oral
21 argument, and being duly advised in the premises, hereby orders:
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25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 1: Exclude Hypothetical Medical Conditions that are Not Based in
27 Evidence is **GRANTED**. All hypothetical questions must be based upon the evidence
28

MARY KAY HOLTHUS
DISTRICT JUDGE
DEPARTMENT XVIII

1 adduced at trial. All experts are limited to the opinions articulated within their respective
2 reports and deposition testimony.

3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
4 Motion in Limine No. 2: Exclude Reference to Any Absence of Medical Records Before the
5 Subject Collision is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her
6 counsel, and her witnesses are precluded from offering any statement, argument or reference
7 that suggests other medical records of Plaintiffs exist and that they were not provided with
8 those medical records. Defendant's retained medical experts may testify that their medical
9 causation opinions and opinions regarding Plaintiffs' need for future medical treatment
10 remain unchanged even in the absence of prior medical records.

13 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
14 Motion in Limine No. 3: Exclude Reference to Plaintiffs Being Malingerers, Magnifying
15 Symptoms, or Manifesting Secondary Gain Motives Because There is No Competent
16 Evidence to Support Such Reference is **GRANTED, IN PART** and **DENIED, IN PART**.
17 Defendant's retained medical experts are precluded from offering any testimony, opinions or
18 references that Plaintiffs are malingerers, symptom magnifiers, or manifest secondary gain
19 motives because those opinions are not contained within their reports, not because they lack
20 the qualifications as a psychiatrist or psychologist to offer the opinions. Defendant's
21 retained medical experts are allowed to rely on the medical records and the timing of
22 Plaintiffs' respective pain complaints to support their medical causation opinions so long as
23 those opinions are contained within their respective reports or deposition testimony.

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
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1 Motion in Limine No. 4: Permit Treating Physicians to Testify as to Causation, Diagnosis,
2 Prognosis, Future Treatment, and Extent of Disability Without a Formal Expert Report is
3 **GRANTED**. Plaintiffs' treating physicians are allowed to testify as to causation, diagnosis,
4 prognosis, future treatment, and extent of disability pursuant to *FCHI, LLC v. Rodriguez*,
5 130 Nev. ___, 335 P.3d 183 (Nev. Oct. 2, 2014) and because they were properly disclosed
6 pursuant to NRCP 16.1(a)(2)(B).
7

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
9 Motion in Limine No. 5: Exclude Reference to Defense Medical Experts as "Independent"
10 Because They are Not is **DENIED**.
11

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
13 Motion in Limine No. 6: Exclude Argument that this Case is "Attorney Driven" or a
14 "Medical Buildup" Case Because There is No Such Evidence to Support Such Argument is
15 **DENIED**. Defendant, her counsel, and her witnesses cannot offer any statement, argument
16 or reference that Plaintiffs' injury claims or damages are "attorney-driven" or that this is a
17 "medical buildup case," without a supporting factual basis. However, Plaintiffs' counsel
18 must make an objection to any statement, argument or reference that Plaintiffs' injury claims
19 or damages are "attorney driven" or that this is a "medical buildup" case so that the Court
20 can determine whether the statement, argument or reference is fact-based or an attempt to
21 inflame the passions of the jury.
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25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 7: Exclude Evidence of When the Parties Contacted and Retained
27 Counsel is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her counsel, and
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1 her witnesses are permitted to offer any statement, argument or reference about when
2 Plaintiffs contacted and retained counsel only in relation to any referrals from Plaintiffs'
3 counsel to their respective medical providers. Defendant, her counsel, and her witnesses are
4 precluded from offering any statement, argument or reference about when Plaintiffs
5 contacted and retained counsel for any other purpose, including, but not limited to, how
6 often Plaintiffs went to see their counsel.
7

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
9 Motion in Limine No. 8: Exclude Reference to Attorney Advertising (Except for Limited
10 References During Voir Dire) is **GRANTED**. The parties, their respective counsel, and their
11 respective witnesses shall be precluded from offering any references to attorney advertising
12 during the trial. The parties and their counsel shall be permitted to explore the topic of
13 attorney advertising with prospective jurors during voir dire only.
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16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
17 Motion in Limine No. 9: Exclude Closing Argument that Plaintiffs are Requesting More
18 Money than They Expect to Receive is **GRANTED**. Defendant and her counsel shall be
19 precluded from making any closing argument or statement that Plaintiffs, during closing
20 argument, requested more money in damages than they expect to receive from the jury.
21 Defendant and her counsel are only permitted to make fact-based arguments against any
22 requested damages award Plaintiffs' counsel makes in his closing argument.
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25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 10: Allow Voir Dire Questioning About Employment with or
27 Financial Interest in any Insurance Company is **GRANTED**. All parties and their respective
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1 counsel shall be permitted to ask good-faith questions to prospective jurors during voir dire
2 about their employment in the insurance claims industry and if they have any financial
3 interest, other than as a general mutual stockholder, in an insurance company pursuant to
4 *Silver State Disposal Co. v. Shelley*, 105 Nev. 309 (1989).

5
6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
7 Motion in Limine No. 11: Exclude Reference to Plaintiffs' Counsel Working with Plaintiffs'
8 Treating Physicians on Unrelated Cases is **GRANTED, IN PART** and **DENIED, IN**
9 **PART**. Defendant and her counsel are permitted to ask questions of Plaintiffs' medical
10 providers regarding the existence of any past working relationship with Plaintiffs' counsel
11 involving medical liens only. Defendant and her counsel are precluded from offering any
12 statement, argument or reference about Plaintiffs' medical providers involvement or
13 treatment of other past clients of Plaintiffs' counsel for any other purpose.
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16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
17 Motion in Limine No. 12: To Limit Defendants' Retained Experts' Testimony to the
18 Opinions and Bases Set Forth in Their Expert Reports is **GRANTED, IN PART** and
19 **DENIED, IN PART**. The parties' retained experts' testimony at trial is solely limited to the
20 opinions and bases set forth in their reports and deposition testimony, and reasonable
21 inferences therefrom. The parties' retained experts may change the opinions outlined in their
22 reports or deposition testimony only if new information, theories, arguments, or conclusions
23 are presented during the trial that were not known or considered at the time the experts
24 drafted any of their initial reports or supplemental reports thereto.
25

26 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'

1 Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff
2 Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to
3 and Immediately Before the Subject Collision is **GRANTED**.

4 Plaintiff Desire Evans-Waiiau ("Evans-Waiiau") was involved in a prior motor vehicle
5 accident in 2010. The evidence produced shows that Evans-Waiiau received two months of
6 chiropractic treatment following the 2010 accident. The evidence shows that Evans-Waiiau
7 underwent one medical examination with a physician who diagnosed her with a possible
8 cervical radiculopathy following the 2010 accident. There is no evidence that Evans-Waiiau
9 underwent any further treatment for neck pain between July 13, 2010 and October 30, 2015,
10 the date of the subject motor vehicle collision that gives rise to this action.

13 "In order for evidence of a prior injury or pre-existing condition to be admissible, a
14 defendant must present by competent evidence a causal connection between the prior injury
15 and the injury at issue." *FGA, Inc. v. Giglio*, 128 Nev. 271, 283 (2012). Once the plaintiff
16 has met her burden of proof as to medical causation, the defendant can traverse the plaintiff's
17 case in three ways. The defendant can: "(1) cross-examine the plaintiff's expert, (2)
18 contradict the expert's testimony with his own expert, and/or (3) propose an independent
19 alternative causation theory." *Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 530
20 (2011). If an expert proposes an independent alternative causation theory, then the expert
21 must state that opinion to a reasonable degree of medical probability. *Id.*

24 NRCP 16.1(a)(2)(B) requires retained experts to provide a complete statement of their
25 opinions and the bases supporting those opinions in their expert reports. Defendant retained
26 two medical experts in this case: Jeffrey Wang, M.D., and Joseph Schifini, M.D. Dr. Wang
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1 and Dr. Schifini do not offer an independent alternative causation theory for Evans-Waiiau's
2 present injuries to a reasonable degree of medical probability in their respective reports.
3 Therefore, Defendant has not established a causal connection between Evans-Waiiau's prior
4 cervical spine injury or prior 2010 motor vehicle accident and her current injuries and pain
5 complaints allegedly caused by the subject motor vehicle collision.
6

7 Alternatively, if expert testimony is offered to contradict the party opponent's medical
8 causation theory, the expert's testimony must be competent and supported by relevant
9 evidence or research. *FGA, Inc.*, 128 Nev. at 284. The defense expert must also include the
10 plaintiff's causation theory in his analysis if his testimony is used to contradict the plaintiff's
11 medical causation theory. *Id.* Otherwise, the testimony would be "incompetent not only
12 because it lacks the degree of probability necessary for admissibility but also because it does
13 nothing to controvert the evidence of [the plaintiff]." *Id.* Although both Dr. Wang and Dr.
14 Schifini reviewed Evans-Waiiau's medical records, including those records for treatment
15 following the 2010 motor vehicle accident, it does not appear that either of them considered
16 Plaintiff's theory of medical causation in their reports. Rather, Defendant's experts opine
17 that Plaintiff did not suffer an acute, traumatic injury to her cervical disc.
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21 Defendant's retained medical experts fail to establish that Evans-Waiiau's 2010 motor
22 vehicle accident and the resulting cervical spine injury are medically relevant to her current
23 injuries and pain complaints required by *FGA, Inc.* and *Williams*. Defendant also possesses
24 no evidence that Evans-Waiiau's cervical spine was symptomatic between July 13, 2010 and
25 October 30, 2015. Therefore, Defendant is precluded from arguing that Evans-Waiiau was
26 symptomatic in the immediate years prior to the subject collision, unless disclosed witnesses
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1 have testified to the contrary.

2 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
3 Motion in Limine No. 14: To Preclude Defendant from Characterizing Plaintiff Desire
4 Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident
5 as Anything Other than a Temporary Exacerbation is **GRANTED**. Defendant's retained
6 medical experts are allowed to testify that Plaintiff Desire Evans-Waiiau ("Evans-Waiiau")
7 experienced an increase in symptoms after the subsequent July 10, 2016 motor vehicle
8 accident so long as that opinion is articulated in their respective reports. Defendant and her
9 counsel are allowed to argue that neither the subject October 30, 2015 motor vehicle
10 collision, nor the subsequent July 10, 2016 motor vehicle accident caused any need for
11 Evans-Waiiau's cervical spine surgery.
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14 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
15 Motion in Limine No. 15: To Exclude Irrelevant and/or Unduly Prejudicial Information is
16 **GRANTED**.
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19 (1) Defendant, her counsel, and her witnesses are precluded from offering any
20 statement, argument or reference that Plaintiff Guadalupe Parra-Mendez ("Parra-Mendez")
21 was terminated from her employment at The Cromwell Hotel and Casino. The documentary
22 evidence produced establishes that Parra-Mendez was not terminated from The Cromwell,
23 but instead resigned.
24

25 (2) Defendant, her counsel, and her witnesses are precluded from offering any
26 statement, argument or reference that Plaintiff Desire Evans-Waiiau ("Evans-Waiiau") was
27 terminated from her employment with Bed Bath & Beyond and Spacecraft Components
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1 Corp. and the reasons for those terminations. This information is irrelevant because
2 Defendant's experts fail to address these terminations in relation to Evans-Waiiau's earning
3 capacity.

4 (3) Defendant, her counsel, and her witnesses are precluded from offering any
5 statement, argument or reference regarding Evans-Waiiau's claims and/or lawsuits arising
6 from the prior May 10, 2010 and subsequent July 10, 2016 motor vehicle accidents,
7 respectively. The Court Finds that the A-777152 Complaint to be unverified. The fact that
8 Evans-Waiiau made claims or filed lawsuits is irrelevant to the issues of fact that remain in
9 this action, because Defendant's experts do not affirmatively opine that the 2010 or 2016
10 accidents caused or contributed to any injury of a disc in the Plaintiff's cervical spine.

11 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
12 Motion in Limine No. 16: To Limit Testimony and Opinions of Defendant's Retained
13 Medical Expert, Joseph J. Schifini, M.D. is **GRANTED**. Dr. Schifini is precluded from
14 offering any statement, opinion or reference regarding any alleged damage Plaintiffs' motor
15 vehicle sustained prior to the subject October 30, 2015 motor vehicle collision. Dr. Schifini
16 is allowed to rely on the photographs and property damage estimate of Plaintiffs' vehicle as
17 a basis to support the opinions articulated in his reports.

18 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
19 Motion in Limine No. 17: To Exclude Reference to and Evidence of Medical Liens is
20 **GRANTED, IN PART and DENIED, IN PART**. Defendant, her counsel, and her
21 witnesses shall be precluded from offering any evidence, statement, argument or reference
22 related to any payment of Plaintiffs' medical bills and other expenses from the following
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1 collateral sources: (1) Health insurance, (2) Medicare, (3) Medicaid, (4) Obamacare/The
2 Affordable Healthcare Act, (5) Social Security disability, and (6) Self-funded employment
3 health insurance. Defendant, her counsel, and her witnesses shall be precluded from offering
4 any evidence, statement, argument or reference regarding any of Plaintiffs' medical provider
5 write-downs or discounted sales of liens to third-parties pursuant to *Khoury v. Seastrand*,
6 132 Nev.____, 377 P.3d 81 (2016). Evidence that Plaintiffs' medical treatment was provided
7 on a lien basis is admissible.
8

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
10 Motion in Limine No. 18: For Judicial Notice of Life Expectancy Table is **GRANTED, IN**
11 **PART and DENIED, IN PART.** The Court shall take judicial notice of the admissibility of
12 the life expectancy table itself as it relates to Plaintiffs' economic and non-economic
13 damages. However, the Court shall not take judicial notice of Plaintiffs' respective life
14 expectancy age as contained in the life expectancy table.
15

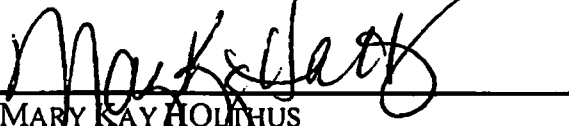
16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Court's
17 decision on Plaintiff's Motion in Limine No. 19: To Exclude Sub Rosa Surveillance Video
18 of Plaintiff Desire Evans-Waiiau and Any Testimony or Reference to the Same is deferred
19 until the time of trial, to permit the Court to review the video and consider it in light of the
20 other evidence presented.
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22 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Plaintiff's
23 Motion in Limine No. 20: To Exclude the Testimony and Opinions of Defendant's Retained
24 Expert, Kevin Kirkendall, CPA, is withdrawn. The parties have agreed in open court that Mr.
25 Kirkendall shall not offer any testimony or opinions regarding the legal standard for
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admissible expert testimony pursuant to *Hallmark v. Eldridge*, 124 Nev. 492 (2008).


IT IS SO ORDERED

DATED this 22nd of April, 2019.


MARY KAY HOLTHUS
DISTRICT COURT JUDGE

MARY KAY HOLTHUS
DISTRICT JUDGE
DEPARTMENT XVIII

EXHIBIT 2



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Attorneys for Defendant
Babylyn B. Tate

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA, a minor,

Plaintiffs

vs.

BABYLYN TATE, individually, DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendants

CASE NO.: A-16-736457-C
DEPT. NO.: 18

**NOTICE OF ENTRY OF ORDER
REGARDING DEFENDANT TATE'S
MOTIONS IN LIMINE**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE that the attached Order Regarding Defendant

///

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///

///

1 Tate's Motions in Limine was entered by the Court on the 24th day of April, 2019.

2 DATED this 25 day of April, 2019.

4 ATKIN WINNER & SHERROD

6 
7 Thomas E. Winner
8 Nevada Bar No. 5168
9 Caitlin J. Lorelli
10 Nevada Bar No. 14571
11 1117 South Rancho Drive
12 Las Vegas, Nevada 89102
13 Attorneys for Babylyn B. Tate

CERTIFICATE OF SERVICE

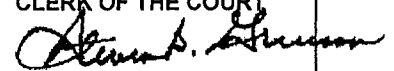
I certify that on this 24 day of April, 2019, the foregoing **NOTICE OF ENTRY OF ORDER REGARDING DEFENDANT TATE'S MOTIONS IN LIMINE** was served on the following by ☐ Electronic Service pursuant to NEFR 9 ☒ Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐ overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

Paul D. Powell
Michael Kristof
The Powell Law Firm
6785 West Russell Road, Suite 210
Las Vegas, NV 89118

And

Dennis Prince
Jack Degree
Eglet Prince
400 South 7th Street, Suite 400
Las Vegas, Nevada 89101
Attorney for Plaintiffs


An employee of ATKIN WINNER & SHERROD



1 **ORDR**
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13 *Attorneys for Babylyn B. Tate*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 DESIRE EVANS-WAIAU, individually;
17 GUADALUPE PARRA-MENDEZ,
18 individually; JORGE PARRA-MEZA, as
19 guardian for MAYRA PARRA, a minor;
20 JORGE PARRA-MEZA, as guardian for
21 AALIYAH PARRA, a minor; and JORGE
22 PARRA-MEZA, as guaridan for SIENNA
23 PARRA, a minor,

24 Plaintiff(s)

25 vs.

26 BABYLYN TATE, Individually; DOES I-
27 X, and ROE CORPORATIONS I-X,
28 inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: IX

**ORDER REGARDING DEFENDANT
TATE'S MOTIONS *IN LIMINE***

Defendant BABYLYN TATE's Motions *in Limine* were brought for hearing in front of Department 17 of the Eighth Judicial District Court, before the Honorable Senior Judge Nancy Becker, on the 3rd day of October 2018; and before the Honorable Judge Michael P. Villani, in chambers, on the 1st day November, 2018, and for hearing on the 5th day of December, 2018 and 18th day of January, 2019, before the Honorable Judge Michael P. Villani with Dennis M. Prince, Esq., James A. Trummell, Esq., and Kevin T. Strong, Esq. of EGLET PRINCE appearing on behalf of Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ, and

1 Thomas E. Winner, Esq. of ATKIN WINNER & SHERROD appearing on behalf of Defendant
2 BABYLYN TATE. The Court having reviewed the pleadings and papers on file herein, having
3 heard oral argument, and being duly advised in the premises, hereby orders:

4 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
5 Motion *in Limine* No. 1: Regarding Specific Statements and Claims of the Parties is
6 **GRANTED, IN PART and DENIED, IN PART.** Part (B) – Defendant Tate's Observations and
7 Triage at Accident Scene - Defendant Tate is permitted to testify about what she observed after
8 the subject accident occurred, including the actions of the Plaintiffs post-accident. Meaning,
9 Defendant Tate is permitted to opine she does not believe Plaintiffs sustained any injury based
10 upon her observations. In rendering her observations post-accident, Defendant Tate is not
11 permitted to testify she performed a triage or a medical procedure.¹ Part (C) – Injuries of Minor
12 Children – Evidence of injury to minor children is permissible to establish severity of impact
13 only. Evidence of lack of injury to Defendant Tate is permissible to establish severity of impact.
14 Evidence of minor children's medical expenses is inadmissible; relevance outweighed by unfair
15 prejudice.² Part (D) – Plaintiff Evans-Waiiau's Subsequent Injuries – The defense may argue that
16 neither the subject accident nor the subsequent accident on July 10, 2016 is the cause of Plaintiff
17 Evans-Waiiau's surgery. The defense is permitted to have experts testify there was an increase in
18 symptoms as set forth by the reports.³ However, Plaintiff Evans-Waiiau's 2018 Complaint,
19 relative to the July 10, 2016 subsequent accident, wherein she alleges injuries to her shoulders
20 and back, is not a verified complaint and the statements contained therein are deemed legal
21 conclusions made by counsel rather than party admissions. The Court finds Plaintiff Evans-
22 Waiiau's cervical recommendation was made prior to the 2016 accident and that Defendant
23 Tate's experts do not opine the 2016 caused or contributed to the alleged injuries sustained in the
24
25

26 ¹ See Minute Order 10/3/2018.

27 ² See Minute Order 11/1/2018.

28 ³ See Minute Order 12/5/2018.

1 subject collision and on these bases and to that extent, Part 1D is denied.⁴

2 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 3 Motion *in Limine* No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics is **GRANTED,**
 4 **IN PART** and **DENIED, IN PART.** Part (1) – Avoiding Responsibility – Counsel cannot argue
 5 this matter is in trial because Defendant Tate is trying to avoid her responsibility. Counsel may
 6 use the term "safety rule." However, to the extent counsel is going to use this specific
 7 terminology, counsel must use them in the context of their fact-driven argument.⁵ Part (2) –
 8 Negligence Posing a Risk to Persons Other Than Plaintiffs – Counsel may make the general
 9 argument that when a person violates the rules of the road, it endangers people on the roadway in
 10 general. However, counsel cannot argue or make argument that suggests other people were
 11 threatened or harmed by Defendant Tate's conduct absent facts to support this contention.⁶ Part
 12 (3) – "Send a Message" via Verdict – The Court did not specifically rule on this issue. Rather,
 13 the Court made a general ruling with regard to Motion *in Limine* No. 2 as a whole wherein the
 14 Court Granted Defendant Tate's motion *in limine* to the extent that if counsel is going to use
 15 specific words, counsel has to use them in the context of their fact-driven argument.⁷ Part (4) –
 16 Conscience of the Community – Counsel cannot argue that the jury is the conscience of the
 17 community.⁸

18 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 19 Motion *in Limine* No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs'
 20 Claims for Damages is **GRANTED, IN PART** and **DENIED, IN PART.** Part (1) – Evidence of
 21 Medical Liens – Evidence of treatment on a litigation lien is admissible.⁹ Part (2) – Per Diem

22
23
24 ⁴ See Minute Order on 1/18/2019.

25 ⁵ See Minute Order 10/3/2018.

26 ⁶ See Minute Order 10/3/2018.

27 ⁷ See Minute Order 10/3/2018.

28 ⁸ See Minute Order 10/3/2018.

⁹ See Minute Order 11/1/2018.

1 Calculations – Per diem arguments are permitted.¹⁰ Part (3) – Untimely Disclosures of Medical
2 Specials – Continued medical specials are not limited to May 4, 2018 unless there have been no
3 disclosures thereafter. Absent proper disclosure(s) continued medical specials are not
4 permitted.¹¹ Part (4) – Speculative Damages – Denied for vagueness.¹²

5 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
6 Motion *in Limine* No. 4: To Prohibit Questions Regarding Verdict Amounts During *Voir Dire*,
7 and to Impose Reasonable Limitations on the Scope and Duration of *Voir Dire* is **DENIED, IN**
8 **PART** and **DEFERRED, IN PART** Part (1) – Potential Jurors Willingness to Award Certain
9 Verdicts or Ranges – inquiring about potential verdict amounts from a potential juror is
10 admissible but may not rise to the level of juror indoctrination. Mentioning range or specific
11 verdict amount Plaintiffs are seeking is permissible from outset of *voir dire*. The parties are free
12 to a juror's life experience to determine any bias.¹³ Part (2) – Reasonable Limitations on Scope
13 and Duration of Voir Dire – the Court will address the extent and length of *voir dire* during
14 trial.¹⁴

15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
16 Motion *in Limine* No. 5: Regarding Expert Testimony is **GRANTED, IN PART** and **DENIED,**
17 **IN PART.** Part (1) – Non-Retained Experts Opinions Formed During Course and Scope of
18 Treatment, as Documented in their Records – A treating physician may not review documents
19 and act as a rebuttal witness. A treating physician cannot testify to things outside the scope of his
20 or her treatment.¹⁵ Part (2) – Cumulative Medical Testimony – Dr. Khavkin will not be excluded
21 on the basis of cumulative medical testimony.¹⁶ Part (3) – Expert Testimony Based on Reports
22

23 ¹⁰ See Minute Order 10/3/2018.

24 ¹¹ See Minute Order 10/3/2018.

25 ¹² See Minute Order 10/3/2018.

26 ¹³ See Minute Order 11/1/2018.

27 ¹⁴ See Minute Order 11/1/2018.

28 ¹⁵ See Minute Order 10/3/2018.

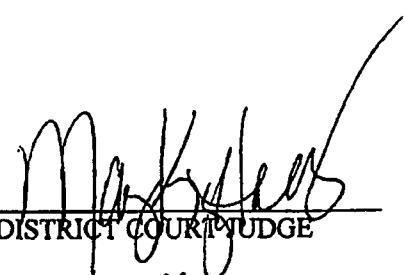
¹⁶ See Minute Order 10/3/2018.

1 and Learned in Trial – All experts are limited to their expert reports and deposition testimony.
2 However, the expert is not only allowed to parrot their reports. Experts do have latitude in
3 explaining the foundation of their opinions. Each party has the right to object, at the time of trial,
4 if he or she believes the other is seeking to elicit information or opinions that are outside the
5 mandates of NRCP 16.1. Moreover, an expert may modify his or her opinion based on new
6 information learned during the course of trial.¹⁷ Part (4) – Experts and Relevant, Fact-Based
7 Hypothetical Questions – all hypothetical questions must be based upon evidence adduced at
8 trial. All experts are limited to their opinions contained within their reports and deposition
9 testimony.¹⁸

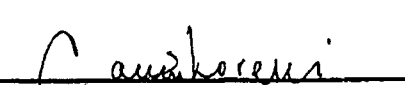
10
11 IT IS SO ORDERED.
12 DATED this 23 day of April, 2019.

13
14
15 DATED this 20 day of April, 2019.
16 Approved as to Form and Content:
17 EGLET PRINCE

18 DENNIS M. PRINCE, ESQ.
19 Nevada Bar No. 5092
20 TRACY A. EGLET, ESQ.
21 Nevada Bar No. 6419
22 KEVIN T. STRONG, ESQ.
23 Nevada Bar No. 12107
24 400 South 7th Street, 4th Floor
Las Vegas, Nevada 89101
Tel. (702) 450-5400
Fax (702) 450-5451
Attorneys for Plaintiffs
Desire Evans-Waiau and
Guadalupe Parra-Mendez

11
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DISTRICT COURT JUDGE

DATED this 23 day of April, 2019.
Respectfully Submitted By:
ATKIN WINNER & SHERROD


THOMAS E. WINNER, ESQ.
Nevada Bar No. 5168
CAITLIN J. LORELLI, ESQ.
Nevada Bar No. 14571
1117 South Rancho Drive
Las Vegas, Nevada 89102
Tel. (702) 243-7000
Fax (702) 243-7059
Attorneys for Defendant
Babylyn Tate

¹⁷ See Minute Order 11/1/2018.

¹⁸ See Minute Order 11/1/2018, referencing ruling on Plaintiffs' Omnibus Motion *in Limine* No. 1.

EXHIBIT 3

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 03 2019 3:25 PM

BY, Dara Yorke
DARA YORKE, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, INDIVIDUALLY;
GUADALUPE PARRA-MENDEZ,
INDIVIDUALLY,

Plaintiffs,

vs.

BABYLYN TATE, INDIVIDUALLY,

Defendants.

Case No. A-16-736457-C

Dept. No. 18

GENERAL VERDICT FOR DEFENDANT

We, the jury, find for defendant Babylyn Tate and against plaintiffs
Desire Evans-Waiau and Guadalupe Parra-Mendez.

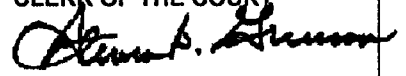
Dylan Sweikert
JURY FOREPERSON

6-3-19
DATE

A-16-736457-C
VER
Verdict
4839968



EXHIBIT 4



1 THOMAS E. WINNER
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2 CAITLIN J. LORELLI
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3 ATKIN WINNER & SHERROD
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6 clorelli@awslawyers.com
Attorneys for Defendant Babylyn Tate

7
8 EIGHTH JUDICIAL DISTRICT COURT

9 CLARK COUNTY, NV

10 DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
11 individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
12 JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
13 PARRA-MEZA, as guaridan for SIENNA
PARRA, a minor,

14 Plaintiffs.

15 vs.

16 BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
17 inclusive,

18 Defendant.

CASE NO.: A-16-736457-C
DEPT. NO.: IX

**NOTICE OF ENTRY OF JUDGMENT
UPON JURY VERDICT**

19 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

20 YOU WILL PLEASE TAKE NOTICE that the attached Judgment Upon Jury Verdict
21 was entered by the Court on the 15th day of July, 2019.

22 DATED this 15th day of July, 2019.

23 ATKIN WINNER & SHERROD

24
25 /s/ Caitlin J. Lorelli

26 Thomas E. Winner
Nevada Bar No. 5168
Caitlin J. Lorelli
27 Nevada Bar No. 14571
1117 South Rancho Drive
Las Vegas, Nevada 89102
28 *Attorneys for Defendant Babylyn B. Tate*

CERTIFICATE OF SERVICE

I certify that on this 15th day of July, 2019, the foregoing **NOTICE OF ENTRY OF JUDGMENT UPON JURY VERDICT** was served on the following by ☐ Electronic Service pursuant to NEFR 9 ☒ Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐ overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

Paul D. Powell
The Powell Law Firm
6785 West Russell Road, Suite 210
Las Vegas, NV 89118
Attorneys for Plaintiffs

Dennis M. Prince
Eglet Prince
400 S. 7th Street, 4th Floor
Las Vegas, NV 89101
Attorneys for Plaintiffs

/s/ Colette Thorne
An employee of ATKIN WINNER & SHERROD

ORIGINAL

Electronically Filed
7/15/2019 3:55 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

THOMAS E. WINNER
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Attorneys for Defendant
Babylyn Tate

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guardian for SIENNA
PARRA, a minor,

Plaintiff(s)

vs.

BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: XVIII

JUDGMENT UPON JURY VERDICT

This action came on for trial before the Court and a jury, Honorable Mary Kay Holthus,
Eighth Judicial District Court Judge, presiding, and the issues having been duly tried and the jury
having duly rendered its verdict,

IT IS ORDERED ADJUDGED AND DECREED that the Plaintiffs take nothing, that the
action be dismissed on the merits, and that the Defendant, Babylyn Tate, recover of the plaintiffs,

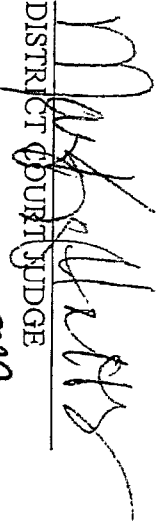

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<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input type="checkbox"/> Non-Jury Judgment Reached	<input checked="" type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other - _____

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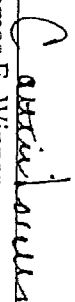
DESIRE EVANS-WAIAU AND GUADALUPE PARRA MENDEZ, her costs of action.

DATED this 11th day of July, 2019.

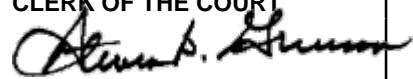

DISTRICT COURT JUDGE


Submitted by:

Atkin Winner & Sherrod



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*Attorneys for Defendant
Babyln Tale*



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5 Tel. (702) 534-7600
Fax (702) 534-7601
6 Attorneys for Plaintiffs
Desire Evans-Waiiau and
7 *Guadalupe Parra-Mendez*

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

10 DESIRE EVANS-WAIAU, individually;
11 GUADALUPE PARRA-MENDEZ,
12 individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
13 JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
14 PARRA-MEZA, as guardian for SIENNA
PARRA, a minor,

Case No. A-16-736457-C
Dept. No. XVIII

CASE APPEAL STATEMENT

15
16 Plaintiffs,

17 vs.

18 BABYLYN TATE, individually; DOES I-X,
19 and ROE CORPORATIONS I-X, inclusive,

20 Defendant.

21
22 Pursuant to NRAP 3(f)(1), Plaintiffs/Appellants DESIRE EVANS-WAIAU and
23 GUADALUPE PARRA-MENDEZ hereby submit the following Case Appeal Statement.

24 A. District Court Case Number and Caption Showing the Names of All Parties to the Proceedings:

25 Desire Evans-Waiiau; Guadalupe Parra-Mendez, Plaintiffs¹
26 Babylyn Tate, Defendant
Case No. A-16-736457-C
Department No. XVIII

27
28 ¹ Plaintiffs Jorge Parra-Meza, as guardian for Mayra Parra; Jorge Parra-Meza, as guardian for Aaliyah Parra; and Jorge Parra-Meza, as guardian for Sienna Parra resolved their claims and are no longer parties to the action.



1 B. Names of Judges Who Entered Orders or Judgment Being Appealed:

2 The Honorable Senior Judge Nancy Becker

3 The Honorable Judge Michael P. Villani

4 The Honorable Judge Mary K. Holthus²

5 C. Name of Each Appellant and Name and Address of Counsel for Each Appellant:

6 Plaintiffs/Appellants Desire Evans-Waiiau and Guadalupe Parra-Mendez are represented by
7 the following counsel:

8 Dennis M. Prince
9 Kevin T. Strong
10 PRINCE LAW GROUP
11 8816 Spanish Ridge Avenue
12 Las Vegas, Nevada 89148
13 Tel. (702) 534-7600
14 Fax (702) 534-7601

15 D. Name of Each Respondent and Name and Address of Appellate Counsel for Respondent, if Known:

16 Respondent is Babylyn Tate. Ms. Tate's appellate counsel is unknown. Ms. Tate was
17 represented in the district court by the following trial counsel:

18 Thomas E. Winner
19 Caitlin J. Lorelli
20 ATKIN WINNER & SHERROD
21 1117 South Rancho Drive
22 Las Vegas, Nevada 89102
23 Tel. (702) 243-7000
24 Fax: (702) 243-7059

25 E. Whether an Attorney Identified in Response to Subparagraph (D) is Not Licensed to Practice Law in Nevada and if so, Whether the District Court Granted that Attorney Permission to Appear Under SCR 42, Including a Copy of Any District Court Order Granting that Permission:

26 All the retained attorneys in the district court action are licensed to practice law in Nevada.

27 F. Whether Appellants were Represented by Appointed or Retained Counsel in the District Court, and whether Appellants are Represented by Appointed Counsel on Appeal:

28 Retained counsel represented Plaintiffs/Appellants before the district court and represents Plaintiffs/Appellants on appeal.

² The Honorable Judge Nancy Becker and The Honorable Judge Michael P. Villani issued rulings on the parties' respective Motions *in limine*. The Honorable Judge Mary K. Holthus presided over the jury trial and issued multiple evidentiary rulings throughout the trial.

1 G. Whether Appellants were Granted Leave to Proceed *in forma pauperis*:

2 Plaintiffs/Appellants were not granted leave to proceed *in forma pauperis*.

3 H. Date Proceedings Commenced in District Court:

4 Plaintiffs/Appellants filed their Complaint in this matter on May 10, 2016.

5 I. Brief Description of the Nature of the Action and Result in District Court, Including the Type of Judgment or Order Being Appealed and the Relief Granted by the District Court:

6 This is a personal injury action that arises from a motor vehicle collision that occurred on
7 October 30, 2015. Plaintiff/Appellant Desire Evans-Waiiau traveled westbound on Flamingo Road
8 towards The Linq in a 1998 Honda Accord. Plaintiff/Appellant Guadalupe Parra-Mendez sat in the
9 right front passenger's seat of the Honda. Defendant/Respondent Babylyn Tate also traveled
10 westbound on Flamingo Road directly behind Plaintiffs/Appellants in a 2014 Acura RDX.
11 Plaintiff/Appellant Evans-Waiiau's vehicle was stopped for a red light at the intersection of Flamingo
12 Road and Linq Lane behind one car. Plaintiff/Appellant Evans-Waiiau's right signal was activated
13 indicating her intent to turn right onto Linq Lane. After the vehicle in front of Plaintiff/Appellant
14 Evans-Waiiau turned right, she moved her vehicle forward to turn right. As Plaintiff/Appellant Evans-
15 Waiiau was about to turn right, multiple pedestrians allegedly entered the crosswalk, which forced her
16 to stop her vehicle. Defendant/Respondent Tate then hit the back of Plaintiff/Appellant Evans-
17 Waiiau's vehicle. Plaintiffs/Appellants Evans-Waiiau and Parra-Mendez allegedly sustained injuries
18 from the collision.

19 On April 22 and 24, 2019, the district court entered orders regarding the parties' respective
20 motions *in limine* addressing a wide variety of evidentiary matters. On April 22, 2019, a jury trial
21 commenced for five (5) days and resulted in a mistrial. On May 14, 2019, a second jury trial began
22 and lasted for thirteen (13) days. During both the first jury trial and second jury trial, the district court
23 issued various evidentiary rulings and rulings on multiple trial briefs filed by the parties, respectively.
24 On June 3, 2019, the jury rendered its verdict in favor of Defendant/Respondent Tate and against
25 Plaintiffs/Appellants Evans-Waiiau and Parra-Mendez. On July 15, 2019, Judgment upon Jury Verdict
26 was filed, the Notice of Entry of which was filed and served on the same day.

27 J. Whether the Case was Previously Subject of an Appeal to or Original Writ Proceeding in the Supreme Court and if so, the Caption and Supreme Court Docket Number of the Prior Proceeding:

28 This is the first appeal in this case. There were no prior appeals or original writ proceedings.



1 K. Whether the Appeal Involves Child Custody or Visitation:

2 This case does not involve child custody or visitation.

3 L. Whether the Appeal Involves the Possibility of Settlement:

4 This appeal involves the possibility of settlement.

5 DATED this 14th day of August, 2019.

6 Respectfully Submitted,

7 **PRINCE LAW GROUP**

8 

10 DENNIS M. PRINCE
Nevada Bar No. 5092
11 KEVIN T. STRONG
Nevada Bar No. 12107
12 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
13 Attorneys for Plaintiffs
14 *Desire Evans-Waiiau and*
Guadalupe Parra-Mendez



CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of **PRINCE LAW GROUP**, and that on the 14 day of August, 2019, I caused the foregoing document entitled **CASE APPEAL STATEMENT** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court E-Filing System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

Thomas E. Winner
Caitlin J. Lorelli
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Tel. (702) 243-7000
Fax: (702) 243-7059
Attorneys for Defendant
Babylyn Tate



An Employee of PRINCE LAW GROUP

CASE SUMMARY**CASE NO. A-16-736457-C**

Desire Evans-Waiiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

§
§
§
§
§

Location: **Department 18**
 Judicial Officer: **Holthus, Mary Kay**
 Filed on: **05/10/2016**
 Case Number History:
 Cross-Reference Case Number: **A736457**

CASE INFORMATION

Statistical Closures
 07/15/2019 Verdict Reached

Case Type: **Negligence - Auto**

Case Status: **07/15/2019 Closed**



DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-16-736457-C
 Court Department 18
 Date Assigned 01/07/2019
 Judicial Officer Holthus, Mary Kay

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Evans-Waiiau, Desire	Prince, Dennis M <i>Retained</i> 702-534-7600(W)
	Parra-Mendez, Guadalupe	Prince, Dennis M <i>Retained</i> 702-534-7600(W)
Defendant	Tate, Babylyn	Atkin, Trevor L. <i>Retained</i> 7022437000(W)

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

05/10/2016	 Complaint Filed By: Plaintiff Evans-Waiiau, Desire <i>Complaint</i>
05/11/2016	 Initial Appearance Fee Disclosure Filed By: Plaintiff Evans-Waiiau, Desire <i>Initial Appearance and Fee Disclosure</i>
05/11/2016	 Demand for Jury Trial Filed By: Plaintiff Evans-Waiiau, Desire <i>Demand for Jury Trial</i>
06/28/2016	 Affidavit of Service Filed By: Plaintiff Evans-Waiiau, Desire <i>Affidavit of Service</i>
08/08/2016	 Initial Appearance Fee Disclosure

CASE SUMMARY

CASE NO. A-16-736457-C

Filed By: Defendant Tate, Babylyn
Initial Appearance Fee Disclosure (N.R.S. Chapter 19)

08/08/2016



Answer to Complaint

Filed by: Defendant Tate, Babylyn
Answer to Complaint

09/13/2016



Commissioners Decision on Request for Exemption - Granted
Commissioner's Decision on Request for Exemption - Granted

10/05/2016



Early Case Conference List of Witnesses & Production of Docs
Filed By: Defendant Tate, Babylyn
Defendant Tate's Early Case Conference List of Witnesses and Production of Documents

10/20/2016



Joint Case Conference Report
Filed By: Plaintiff Evans-Waiau, Desire
Joint Case Conference Report

11/30/2016



Scheduling Order
Scheduling Order

12/01/2016



Order Setting Civil Jury Trial
Order Setting Civil Jury Trial and Calendar Call

03/20/2017



Motion
Filed By: Plaintiff Evans-Waiau, Desire
Plaintiffs' Motion to Deem Admissions Admitted

03/27/2017



Notice of Association of Counsel
Filed By: Defendant Tate, Babylyn
Notice of Association of Counsel

04/03/2017



Opposition and Countermotion
Filed By: Defendant Tate, Babylyn
Defendant's Opposition to Plaintiff's Motion to Deem Admissions Admitted, and Countermotion to Enlarge Time to Respond to Written Discovery, and to Withdraw and Amend Admissions

04/17/2017



Reply in Support
Filed By: Plaintiff Evans-Waiau, Desire
Waiau Reply In Support Of her Motion to Deem Admissions Admitted and Opposition to Counter Motion to Enlarge Time

04/19/2017



Request
Filed by: Defendant Tate, Babylyn
Defendant's Request For Prior Pleadings and Discovery

04/24/2017



Reply in Support
Filed By: Defendant Tate, Babylyn
Defendant's Reply in Support of Countermotion to Enlarge Time to Respond to Written Discovery, and to Withdraw and Amend Admissions

06/30/2017



Stipulation and Order to Extend Discovery Deadlines
Filed By: Plaintiff Evans-Waiau, Desire

CASE SUMMARY

CASE NO. A-16-736457-C

Stipulation and Order to Extend Discovery and Continue Trial (First request)

07/05/2017



Notice of Entry of Order

Filed By: Plaintiff Evans-Waiau, Desire

Notice of Entry of Order

07/06/2017



Amended Order Setting Jury Trial

Amended Order Setting Jury Trial

09/29/2017



Stipulation and Order

Filed by: Defendant Tate, Babylyn

Stipulation & Order to Extend Discovery Deadlines and Request New Trial Date

10/03/2017



Notice of Entry of Stipulation and Order

Filed By: Defendant Tate, Babylyn

Notice of Entry of Stipulation & Order to Extend Discovery and Request New Trial Date - Second Request

10/05/2017



Amended Order Setting Jury Trial

Amended Order Setting Jury Trial

10/11/2017



Notice of Association of Counsel

Filed By: Defendant Tate, Babylyn; Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna

Notice of Association of Counsel

11/06/2017



Stipulation and Order

Stipulation and Order Regarding NRCP 35 Medical Examination of Plaintiff By Dr. Wang

11/08/2017



Notice of Entry of Order

Notice of Entry Of Stipulation and Order Regarding NRCP 35 Medical Examination of Plaintiff by Dr. Jeffrey Wang

01/26/2018



Notice of Deposition

Filed By: Defendant Tate, Babylyn

Amended Notice of Deposition of Dr. Yevgeniy Khavkin

02/27/2018



Stipulation and Order

Filed by: Defendant Tate, Babylyn

Stipulation & Order to Extend Discovery Deadlines - Third Request

03/01/2018



Notice of Entry of Stipulation and Order

Filed By: Defendant Tate, Babylyn

Notice of Entry of Stipulation & Order to Extend Discovery Deadlines - Third Request

03/13/2018



Notice

Filed By: Defendant Tate, Babylyn

Notice of Potential Trial Conflict

03/29/2018














Stipulation and Order to Extend Discovery Deadlines

Filed By: Defendant Tate, Babylyn

Stipulation & Order to Extend Discovery Deadlines - Fourth Request

CASE SUMMARY

CASE NO. A-16-736457-C

04/03/2018	 Notice of Entry Filed By: Defendant Tate, Babylyn <i>Notice of Entry of Stipulation & Order to Extend Discovery Deadlines - Fourth Request</i>
07/23/2018	 Affidavit Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Affidavit of Kevin T. Strong, Esq., In Compliance with EDCR 2.47</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine Nos. 1-11</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine No. 12: To Limit Defendant's Retained Experts' Testimony To The Opinions And Bases Set Forth In Their Expert Reports</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine No 13: to Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine No. 14 to Preclude Defendant from Characterizing Plaintiff Desire Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident as Anything Other than a Temporary Exacerbation</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine No. 14 to Preclude Defendant from Characterizing Plaintiff Desire Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident as Anything Other than a Temporary Exacerbation</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine No. 16 to Limit Testimony and Opinions of Defendant's Retained Medical Expert, Joseph J. Schifini, M.D.</i>
07/23/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion in Limine No. 17: to Exclude Reference to and Evidence of Medical Liens</i>
07/23/2018	 Motion in Limine <i>Plaintiffs' Motion in Limine No 18: for Judicial Notice of Life Expectancy Table</i>
07/24/2018	 Motion in Limine Filed By: Defendant Tate, Babylyn

CASE SUMMARY

CASE NO. A-16-736457-C

Defendant's Motion in Limine No. 1: Regarding Specific Statements of the Parties

07/24/2018



Motion in Limine

Filed By: Defendant Tate, Babylyn

Defendant's Motion in Limine No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics

07/24/2018



Motion in Limine

Filed By: Defendant Tate, Babylyn

Defendant's Motion in Limine No. 4: To Prohibit Questions Regarding Verdict Amounts During Voir Dire, and to Impose Reasonable Limitations on the Scope and Duration of Voir Dire (Parts 1-2)

07/24/2018



Motion in Limine

Filed By: Defendant Tate, Babylyn

Defendant's Motion in Limine No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs' Claims for Damages (Parts 1-4)

07/24/2018



Motion in Limine

Filed By: Defendant Tate, Babylyn

Defendant's Motion in Limine No. 5: Regarding Expert Testimony

07/31/2018



Notice of Attorney Lien

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Notice of Attorney Lien

08/02/2018



Pre-Trial Disclosure

Party: Defendant Tate, Babylyn

Defendant's NRCP 16.1 Pretrial Disclosures

08/03/2018



Pre-Trial Disclosure

Party: Defendant Tate, Babylyn

First Supplement to Defendant's NRCP 16.1 Pre Trial Disclosure

08/06/2018



Pre-Trial Disclosure

Party: Defendant Tate, Babylyn

Second Supplement to Defendant's NRCP 16.1 Pretrial Disclosure

08/06/2018



Pre-Trial Disclosure

Party: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna

Plaintiff's Pretrial Disclosure Pursuant to NRCP 16.1(a)(3)

08/09/2018



Opposition

Filed By: Defendant Tate, Babylyn

Defendant's Opposition to Plaintiffs' Motion in Limine No 13 to Exclude Argument, Reference or Expert Opinion that Plaintiff Desire Evans-Waiiau's neck pain was symptomatic during the Immediate Years Prior to and Immediately Before the Subject Collision

08/09/2018



Opposition to Motion

Filed By: Defendant Tate, Babylyn

Defendant's Babylyn Tate's Opposition to Plaintiff's Motion in Limine No. 17: to Exclude Reference to and Evidence of Medical Liens

08/10/2018



Opposition

CASE SUMMARY

CASE NO. A-16-736457-C

	Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition To Defendant's Motion In Limine No. 1: Regarding Specific Statements And Claims Of The Parties</i>
08/10/2018	 Opposition Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition To Defendant's Motion In Limine No. 2: To Prohibit The Use Of Unfairly Prejudicial Trial Tactics</i>
08/10/2018	 Opposition Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition To Defendant's Motion In Limine No. 4: To Prohibit Questions Regarding Verdict Amounts During Voir Dire, And To Impose Reasonable Limitations On The Scope And Duration Of Voir Dire</i>
08/10/2018	 Opposition Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition To Defendant's Motion In Limine No. 5: Regarding Expert Testimony</i>
08/10/2018	 Opposition Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition To Defendant's Motion In Limine No. 3: To Admit And Exclude Certain Evidence Regarding The Plaintiffs' Claims For Damages</i>
08/13/2018	 Opposition to Motion Filed By: Defendant Tate, Babylyn <i>Defendant's Opposition to Plaintiffs' Motion in Limine No 15 to Exclude Irrelevant and/or Unduly Prejudicial Information</i>
08/14/2018	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiffs' Motion in Limine No. 12: To Limit Defendant's Retained Experts' Testimony to the Opinions and Bases Set Forth in Their Reports</i>
08/14/2018	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiffs' Motion in Limine No. 14: Regarding Plaintiff Evans-Waiau's Neck Pain Following Her July 10, 2016 Motor Vehicle Accident</i>
08/14/2018	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiff's Motion in Limine No. 18: For Judicial Notice of Life Expectancy Table</i>
08/14/2018	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiff's Motion in Limine No. 16: Regarding the Opinions Given by Dr. Schifini</i>
08/14/2018	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiffs' Motions in Limine Nos. 1-11</i>
08/20/2018	 Pre Trial Information Filed by: Defendant Tate, Babylyn <i>Defendant's Pretrial Memorandum</i>

CASE SUMMARY

CASE NO. A-16-736457-C

08/20/2018



Pre-trial Memorandum

Filed by: Plaintiff Evans-Waiiau, Desire
Plaintiffs' Pretrial Memorandum

08/22/2018



Errata

Filed By: Defendant Tate, Babylyn
Errata to Defendant's Opposition to Plaintiffs' Motions in Limine Nos. 13, 15 and 17

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Plaintiffs' Reply In Support Of Motion In Limine No. 12: To Limit Defendant's Retained Experts' Testimony To The Opinions And Bases Set Forth In Their Expert Reports

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Plaintiffs' Reply In Support Of Motion In Limine Nos. 1-11

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Plaintiffs' Reply In Support Of Motion In Limine No. 14: To Preclude Defendant From Characterizing Plaintiff Desire Evans-Waiiau's Neck Pain Following The Subsequent July 10, 2016 Motor Vehicle Accident As Anything Other Than A Temporary Exacerbation

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Plaintiffs' Reply in Support of Motion in Limine No. 15: to Exclude Irrelevant and/or Unduly Prejudicial Information

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Plaintiff's Reply In Support Of Motion In Limine No. 17: To Exclude Reference To And Evidence Of Medical Liens

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Plaintiff's Reply In Support Of Motion In Limine No. 16: To Limit Testimony And Opinions Of Defendant's Retained Medical Expert, Joseph J. Schifini, M.D.

08/22/2018



Reply in Support

Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna
Reply In Support Of Motion In Limine No. 18: For Judicial Notice Of Life Expectancy Table

08/22/2018



Reply in Support

Filed By: Defendant Tate, Babylyn
Defendant's Reply in Support of Her Motion in Limine No. 1: Regarding Specific Statements and Claims of the Parties

08/22/2018



Reply in Support

CASE SUMMARY

CASE NO. A-16-736457-C

	<p>Filed By: Plaintiff Evans-Waiiau, Desire; Plaintiff Parra-Mendez, Guadalupe; Subject Minor Parra, Mayra; Subject Minor Parra, Alliyah; Subject Minor Parra, Sienna <i>Plaintiffs' Motion In Limine No. 13: To Exclude Argument, Reference, Or Expert Opinion That Plaintiff Desire Evans-Waiiau's Neck Pain Was Symptomatic During The Immediate Years Prior To And Immediately Before The Subject Collision</i></p>
08/22/2018	 Amended Order Setting Jury Trial <i>Amended Order Setting Jury Trial</i>
08/23/2018	 Reply in Support <p>Filed By: Defendant Tate, Babylyn <i>Defendant's Reply in Support of Her Motion in Limine No. 5: Regarding Expert Testimony</i></p>
08/23/2018	 Reply in Support <p>Filed By: Defendant Tate, Babylyn <i>Defendant's Reply in Support of Her Motion in Limine No. 4: To Prohibit Questions Regarding Verdict Amounts During Voir Dire, and to Impose Reasonable Limitations on the Scope and Duration of Voir Dire</i></p>
08/23/2018	 Reply in Support <p>Filed By: Defendant Tate, Babylyn <i>Defendant's Reply in Support of Her Motion in Limine No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs' Claims for Damages</i></p>
08/23/2018	 Reply in Support <p>Filed By: Defendant Tate, Babylyn <i>Defendant's Reply in Support of Her Motion in Limine No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics</i></p>
08/30/2018	 Notice <p>Filed By: Defendant Tate, Babylyn <i>Notice of Potential Trial Conflict</i></p>
09/28/2018	 Supplement <p>Filed by: Defendant Tate, Babylyn <i>Supplement to Notice of Potential Trial Conflict</i></p>
10/10/2018	 Recorders Transcript of Hearing <p><i>Recorder's Transcript of Hearing: All Pending Motions Heard on October 3, 2018</i></p>
10/15/2018	 Pre-Trial Disclosure <p>Party: Plaintiff Evans-Waiiau, Desire <i>Plaintiff's Pretrial Disclosure Pursuant to NRCP 16.1(a)(3)</i></p>
10/28/2018	 Pre-trial Memorandum <p>Filed by: Plaintiff Evans-Waiiau, Desire <i>Plaintiff's Pretrial Memorandum</i></p>
10/29/2018	 Pre-trial Memorandum <p>Filed by: Defendant Tate, Babylyn <i>First Supplement to Defendant's Pretrial Memorandum</i></p>
10/31/2018	 Amended Order Setting Jury Trial <i>Amended Order Setting Jury Trial</i>

CASE SUMMARY

CASE NO. A-16-736457-C

11/07/2018	 Pre-Trial Disclosure Party: Defendant Tate, Babylyn <i>Third Supplement to Defendant's N.R.C.P. 16.1 (a)(3) Petrial Disclosures</i>
11/09/2018	 Stipulation and Order Filed by: Defendant Tate, Babylyn <i>Stipulation & Order to Continue Trial</i>
11/13/2018	 Notice of Entry of Stipulation and Order Filed By: Defendant Tate, Babylyn <i>Notice of Entry of Stipulation & Order to Continue Trial</i>
12/21/2018	 Notice Filed By: Defendant Tate, Babylyn <i>Notice of Trial Conflict</i>
12/21/2018	 Affidavit Filed By: Plaintiff Evans-Waiau, Desire <i>Affidavit Of Kevin T. Strong, Esq. In Compliance With EDCR 2.47</i>
12/21/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Motion In Limine No. 19: To Exclude Sub Rosa Surveillance Video Of Plaintiff Desire Evans-Waiau And Any Testimony Or Reference To The Same</i>
12/26/2018	 Motion in Limine Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiff's Motion In limine No. 20: To Exclude The Testimony And Opinions Of Defendant's Retained Expert Kevin Kirkendall, CPA</i>
01/04/2019	 Supplement Filed by: Defendant Tate, Babylyn <i>Third Supplement to Defendant's NRCP 16.1(a)(3) Pretrial Disclosures</i>
01/07/2019	Case Reassigned to Department 18 <i>Judicial Reassignment - From Judge Villani to Judge Holthus</i>
01/07/2019	 Pre-Trial Disclosure Party: Plaintiff Evans-Waiau, Desire <i>Plaintiff's Pretrial Disclosure Pursuant to NRCP 16.1(a)(3)</i>
01/22/2019	 Pre-Trial Disclosure Party: Defendant Tate, Babylyn <i>Fourth Supplement to Defendant's NRCP 16.1(a)(3) Pretrial Disclosure</i>
01/22/2019	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiffs' Motion in Limine No. 19: Regarding Sub Rosa Surveillance of Plaintiff Desire Evans-Waiau</i>
01/23/2019	 Opposition to Motion in Limine Filed By: Defendant Tate, Babylyn <i>Defendant Babylyn Tate's Opposition to Plaintiffs' Motion in Limine No. 20: Regarding the Opinions of Kevin Kirkendall, CPA</i>

CASE SUMMARY

CASE NO. A-16-736457-C

02/08/2019	 Notice Filed By: Defendant Tate, Babylyn <i>Notice of Potential Trial conflict</i>
02/15/2019	 Notice <i>Notice of Association of Counsel</i>
03/22/2019	 Supplement Filed by: Defendant Tate, Babylyn <i>Fifth Supplement to Defendant's NRCP 16.1(a)(3) Pretrial Disclosures</i>
04/03/2019	 Reply in Support Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Reply In Support Of Motion In Limine No. 19: To Exclude Sub Rosa Surveillance Video Of Plaintiff Desire Evans-Waiau Any Any Testimony Or Reference To The Same</i>
04/03/2019	 Reply in Support Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Reply In Support Of Motion In Limine No. 20: To Exclude The Testimony And Opinions Of Defendant's Retained Expert, Kevin Kirkendall, CPA</i>
04/05/2019	 Pre-trial Memorandum Filed by: Defendant Tate, Babylyn <i>Second Supplement to Defendant's Pretrial Memorandum</i>
04/11/2019	 Notice Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of EDCR 2.67 Conference</i>
04/16/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: All Pending Motions Heard on December 5, 2018</i>
04/16/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiff's trial Brief to Pre-Instruct the Jury</i>
04/16/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Trial brief Regarding Restrictions on Peremptory Challenges</i>
04/16/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' trial Brief Regarding Challenges for Cause</i>
04/16/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief Regarding Jury Instructions on the Sudden Emergency Doctrine</i>
04/16/2019	 Brief <i>Trial Brief Regarding Defendant's Right to Contest Plaintiffs' Prima Facie Showing of Causation and Damages and Offer of Proof</i>
04/17/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Calendar Call: Plaintiffs' Motion in Limine 19; Plaintiffs' Motion in</i>

CASE SUMMARY

CASE NO. A-16-736457-C

Limine 20 - April 10, 2019

04/17/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief Regarding Precluding Cumulative Testimony Fro Defendant's Retained Experts</i>
04/18/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendant's Responsive Trial Brief to Plaintiffs Trial Brief to Pre-Instruct the Jury</i>
04/19/2019	 Jury Instructions Party: Defendant Tate, Babylyn <i>Defendant's Proposed Jury Instructions and Verdict Forms</i>
04/19/2019	 Proposed Voir Dire Questions Filed By: Defendant Tate, Babylyn <i>Defendant's Proposed Voir Dire</i>
04/19/2019	 Trial Brief <i>Defendant's Trial Brief Requesting that Plaintiffs Be PRecluded from Referencing Unrelated Cases in Which Defendnat Tate's Experts Appeared and Testified</i>
04/19/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendant's Trial Brief Requesting Pliantiffs be Precluded from Mentioning Media Reports or Senate Investigation of Defense EXpert Dr. Jeff Wang and Preclude Plaintiffs from Referencing Adminsitrativ Matters Pertaining to Defense Expert Dr. Jeff Wang</i>
04/19/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendnat's Trial Brief Requesting Plaintiffs Be Precluded from Mentioning or Presenting Evidence of Media Reports of UCLA Regents Settlement Payouts over Financial Conflicts at ucla in Relation to Dr. Jeff Wang</i>
04/19/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendnat's Trial Brief on Voir Dire</i>
04/19/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendnat's Trial Brief on Differential Diagnosis and Causation</i>
04/19/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief Regarding Treating Physicians and Retained Medical Experts</i>
04/19/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Trial Brief in Opposition to Defendant Tate's Trial Brief on Voir Dire</i>
04/22/2019	 Order Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Order Regardig Plaintiffs' Motions in LImine</i>
04/22/2019	

CASE SUMMARY

CASE NO. A-16-736457-C

	 Notice of Entry of Order Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of Enry of Order Regarding Plaintiffs' Motions in Limine</i>
04/22/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendant Tate's Opposition to Plaintiff's Trial Brief to Preclude Alleged Cumulative Medical Testimony from the Defendant's Retained Experts</i>
04/23/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition to Defendant Tate's Brief Requesting that Plaintiffs be Precluded from Mentioning or Presenting Evidence of Media Reports of UCLA Reggents Settlnment Payouts Over Financial Conflicts at UCLA in Relation to Defense Expert Jeffrey Wang, M.D.</i>
04/23/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Opposition to Defendant Tate's Trial Brief Requesting that Plaintiffs be Precluded from Mentioning Media Reports or Senate Investigation on Defense Expert Jeffrey Wang, M.D. and ro Preclude Plaintiff from refereneing Administrative Matters Pertaning to Defense Expert Jeffrey Wang, M.D.</i>
04/23/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs Trial Brief In Opposition To Trial Brief Regarding Defendant s Right To Contest Plaintiffs Prima Facie Showing Of Causation And Damages</i>
04/24/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs trial Brief in Opposition to Defendant Tate's Trial Brief Requesting that Plaintiffs be Precluding [SIC] From Referencing Unrelated Cases in Which Defendant Tate's Experts Appeared and Testified</i>
04/24/2019	 Stipulation and Order Filed by: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Stipulation and Order Regarding Motions in Limine</i>
04/24/2019	 Order Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Order Regarding Defendant Tate's Motions in Limine</i>
04/24/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Trial Brief in Opposition to Defendant Tate's Trial Brief on Differential Diagnosis and Causation</i>
04/25/2019	 Jury List
04/26/2019	 Notice of Entry of Order Filed By: Defendant Tate, Babylyn <i>Notice of Entry of Order Regarding Defendant Tate's Motions in Limine</i>
04/26/2019	 Notice of Entry of Order Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of Entry of Order Regarding Defendant Tate's Motions in Limine</i>

CASE SUMMARY

CASE NO. A-16-736457-C

04/26/2019	 Notice of Entry of Order Filed By: Plaintiff Evans-Waiau, Desire <i>Notice of Entry of Stipulation and Order Regarding Motions in Limine</i>
04/29/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Jury Trial - Day 5</i>
04/29/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 2 - April 23, 2019</i>
05/06/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 3 - August 24, 2019</i>
05/06/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 4 - April 25, 2019</i>
05/13/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief Regarding Defense Counsel May Not State A Traffic Accident Report Nor Citation Was Not Given At The Scene Of The Collision</i>
05/13/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brieg Regarding Defense Counsel Is Precluded From Stating Or Implying Plaintiff Should Not Have Insisted An Officer Should Come To The Scene For A Report</i>
05/15/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief Regarding Admissibility Of Defendant s Liability Insurance To Rebut Defendant s Alleged Medical Buildup Argument Or Inference</i>
05/16/2019	 Opposition Filed By: Defendant Tate, Babylyn <i>Defendant's Opposition to Plaintiffs' Trial Brief Regarding Plaintiffs' Insistence that an Officer Come to the Scene for a Report</i>
05/16/2019	 Notice of Hearing Filed By: Plaintiff Evans-Waiau, Desire <i>Notice of Hearing on Motion for Attorney Fees and Costs Based on Defense Counsel's Professional Misconduct</i>
05/16/2019	 Trial Brief <i>Trial Broef to Pre-Instruct Jury on NRS 484E.030</i>
05/16/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Trial Brief Regarding Admissibility of Defendant's Liability Insurance</i>
05/17/2019	 Motion for Protective Order Filed By: Defendant Tate, Babylyn <i>Defendant's Motion for Protective Order and Objection to Subpoenas on Order Shortening Time</i>

CASE SUMMARY

CASE NO. A-16-736457-C

05/17/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/20/2019	 Opposition to Motion For Protective Order Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Plaintiffs Opposition To Defendant Tate s Motion For Protective Order And Objection To Subpoenas On An Order Shortening Time</i>
05/21/2019	 Trial Brief Filed By: Defendant Tate, Babylyn <i>Defendant's Trial Brief to Exclude DMV Manuals and Training from Use During Trial, and to Prohibit Questions Based on the "Reptile Script"</i>
05/22/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>TRIAL BRIEF REGARDING COMPUTATIONS OF PLAINTIFF EVANS-WAIAU'S FUTURE DAMAGES</i>
05/22/2019	 Opposition Filed By: Defendant Tate, Babylyn <i>Opposition to "Trial Brief Regarding Computations of Plaintiff Evans-Waiau's Future Damages"</i>
05/22/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Plaintiff's Opposition to Defendant Tate's Trial Brief to Exclude DMV Manuals and Training from Use During Trial, and to Prohibit Questions Based on the "Reptile Script"</i>
05/23/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief Regarding Physicians and retained Experts' Opinions on Future Care Treatment</i>
05/28/2019	 Motion Filed By: Defendant Tate, Babylyn <i>Defendant's Motion to Permit Dr. Jeffrey Wang to Testify Out of Order, if Necessary, on Order Shortening Time</i>
05/28/2019	 Amended Certificate of Service Party: Defendant Tate, Babylyn <i>Amended Certificate of Service of Defendant Tate's Motion to Permit Dr. Jeff Wang to testify Out of Order on Order Shortening Time</i>
05/28/2019	 Stipulation and Order Filed by: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Stipulation and Order Regarding Cost of One Level Cervical Spine Fusion Surgery and Plaintiff's Future Life Expectancy</i>
05/29/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript - Jury Trial - Day 1 - Partial Transcript (Proceedings from 3:51:55 p.m. to 4:58:24 p.m.) - May 14, 2019</i>
05/29/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript of: Jury Trial - Day 4 - May 17, 2019</i>
05/29/2019	 Order to Show Cause

CASE SUMMARY















CASE NO. A-16-736457-C

Order to Show Cause

05/30/2019	 Affidavit of Service Filed By: Defendant Tate, Babylyn <i>Affidavit of Service regarding Order to Show Cause for Dr. Keith Lewis</i>
05/30/2019	 Trial Brief Filed By: Plaintiff Evans-Waiau, Desire <i>Trial Brief To Strike Defense Medical Expert Witness, Joseph Schifini, M.D. S Testimony</i>
05/31/2019	 Jury Instructions Party: Defendant Tate, Babylyn <i>Defendant's Proposed Jury Instructions, Not Agreed Upon</i>
05/31/2019	 Jury Instructions Party: Defendant Tate, Babylyn <i>Defendant's Supplemental Proposed Jury Instructions, Not Agreed Upon</i>
05/31/2019	 Jury Instructions Party: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Proposed Jury Instructions, Not Agreed Upon</i>
05/31/2019	 Jury Instructions Party: Plaintiff Evans-Waiau, Desire <i>Plaintiffs' Proposed Jury Instructions, Agreed Upon</i>
06/03/2019	 Opposition Filed By: Defendant Tate, Babylyn <i>Opposition to Motion for Attorneys Fees and Costs Based on Counsel's [Purported] Professional Misconduct on Order Shortening Time</i>
06/03/2019	 Verdict
06/03/2019	 Jury Instructions
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 3 - April 24, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 4 - April 25, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Jury Trial - Day 5 - April 26, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 6 - May 21, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Rough Draft Transcript Re: Jury Trial - Day 7 - May 22, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Jury Trial - Day 10 - May 29, 2019</i>

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06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Jury Trial - Day 11 - May 30, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Jury Trial - Day 12 - May 31, 2019</i>
06/07/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Jury Trial - Day 13 - June 3, 2019</i>
06/18/2019	 Reply in Support Filed By: Plaintiff Evans-Waiau, Desire <i>Reply In Support Of Plaintiffs Motion For Attorney Fees And Costs Based On Defense s Professional Misconduct</i>
07/15/2019	 Judgment Upon Jury Verdict Filed By: Defendant Tate, Babylyn <i>Judgment Upon Jury Verdict</i>
07/15/2019	 Notice of Entry of Judgment Filed By: Defendant Tate, Babylyn <i>Notice of Entry of Judgment Upon Jury Verdict</i>
07/16/2019	 Memorandum of Costs and Disbursements Filed By: Defendant Tate, Babylyn <i>Memorandum of Costs and Disbursements</i>
07/18/2019	 Notice of Firm Name Change Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of Firm Name Change</i>
07/18/2019	 Notice of Change Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of Change of Lead Counsel and Change of Contact Information for Dennis M. Prince, Esq.</i>
07/18/2019	 Notice of Change Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of Change of Lead Counsel and Change of Contact Information for Dennis M. Prince, Esq.</i>
07/19/2019	 Notice Filed By: Plaintiff Evans-Waiau, Desire; Plaintiff Parra-Mendez, Guadalupe <i>Notice of Disassociation of Counsel</i>
07/31/2019	 Notice of Attorney Lien <i>Notice of Attorney Lien</i>
08/14/2019	 Notice of Appeal Filed By: Plaintiff Evans-Waiau, Desire <i>Notice of Appeal</i>
08/14/2019	 Case Appeal Statement Filed By: Plaintiff Evans-Waiau, Desire <i>Case Appeal Statement</i>




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DISPOSITIONS


- 06/03/2019 **Verdict** (Judicial Officer: Holthus, Mary Kay)
Debtors: Desire Evans-Waiiau (Plaintiff), Guadalupe Parra-Mendez (Plaintiff)
Creditors: Babylyn Tate (Defendant)
Judgment: 06/03/2019, Docketed: 06/10/2019
- 07/15/2019 **Judgment Upon the Verdict** (Judicial Officer: Holthus, Mary Kay)
Debtors: Desire Evans-Waiiau (Plaintiff), Guadalupe Parra-Mendez (Plaintiff)
Creditors: Babylyn Tate (Defendant)
Judgment: 07/15/2019, Docketed: 07/16/2019
- 07/15/2019 **Order of Dismissal** (Judicial Officer: Holthus, Mary Kay)
Debtors: Desire Evans-Waiiau (Plaintiff), Mayra Parra (Subject Minor), Alliyah Parra (Subject Minor), Sienna Parra (Subject Minor)
Creditors: Babylyn Tate (Defendant)
Judgment: 07/15/2019, Docketed: 07/16/2019

HEARINGS

- 04/26/2017 **Motion to Deem Requests for Admissions Admitted** (3:00 AM) (Judicial Officer: Villani, Michael)
Plaintiffs' Motion to Deem Admissions Admitted
- 04/26/2017 **Opposition and Countermotion** (3:00 AM) (Judicial Officer: Villani, Michael)
Defendant's Opposition to Plaintiff's Motion to Deem Admissions Admitted, and Countermotion to Enlarge Time to Respond to Written Discovery, and to Withdraw and Amend Admissions
- 04/26/2017  **All Pending Motions** (3:00 AM) (Judicial Officer: Villani, Michael)
Minute Order - No Hearing Held;
Journal Entry Details:
CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Paul Powell, Esq. and Nickolas Amon, Esq./05/02/17.;
- 01/24/2018 **CANCELED Calendar Call** (9:00 AM) (Judicial Officer: Villani, Michael)
Vacated - per Stipulation and Order
- 02/05/2018 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Villani, Michael)
Vacated - per Stipulation and Order
- 06/13/2018 **CANCELED Calendar Call** (9:00 AM) (Judicial Officer: Villani, Michael)
Vacated - per Stipulation and Order
- 06/25/2018 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Villani, Michael)
Vacated - per Stipulation and Order
- 08/22/2018  **Calendar Call** (9:00 AM) (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
Colloquy regarding scheduling. Counsel anticipate two weeks. Pursuant to representations, COURT ORDERED, matter SET for status check; trial date VACATED and RESET. 9/19/18 8:30 AM STATUS CHECK: TRIAL READINESS 10/31/18 9:00 AM CALENDAR CALL 11/13/18 10:00 AM JURY TRIAL ;
- 08/28/2018  **Minute Order** (1:43 PM) (Judicial Officer: Villani, Michael)
Minute Order Re: Continuance of Pltfs' and Deft's Motions in Limine
Minute Order - No Hearing Held; Minute Order Re: Continuance of Pltfs' and Deft's Motions in Limine


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	<p>Journal Entry Details: <i>Plaintiffs Motions in Limine 1-18 and Defendant s Motions in Limine 1-5 currently set for hearing on Wednesday, September 5, 2018 at 8:30 a.m. are CONTINUED to Wednesday, October 3, 2018 at 8:30 a.m. CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, April Watkins, to all registered parties for Odyssey File & serve. aw;</i></p>
09/04/2018	<p>CANCELED Jury Trial (10:00 AM) (Judicial Officer: Villani, Michael) <i>Vacated</i></p>
09/19/2018	<p> Status Check (8:30 AM) (Judicial Officer: Hardcastle, Kathy) <i>Status Check: Trial Readiness</i> Matter Heard; Status Check: Trial Readiness Journal Entry Details: <i>Upon Court's inquiry, Mr. Winner stated he believes case will be ready for trial. COURT ORDERED, calendar call date STANDS.;</i></p>
10/03/2018	<p>Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Plaintiffs' Motion in Limine Nos. 1-11</i> Matter Continued; Per 10/29/18 email from law clerk Per 10/30/18 email from law clerk</p>
10/03/2018	<p>Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Plaintiffs' Motion In Limine No. 12: To Limit Defendant's Retained Experts' Testimony To The Opinions And Bases Set Forth In Their Expert Reports</i> Denied;</p>
10/03/2018	<p>Motion in Limine (10:00 AM) (Judicial Officer: Villani, Michael) 10/03/2018, 12/05/2018 <i>Plaintiffs' Motion in Limine No. 13 to Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision</i> Matter Continued; Motion Granted; Matter Continued; Motion Granted;</p>
10/03/2018	<p>Motion in Limine (10:00 AM) (Judicial Officer: Villani, Michael) 10/03/2018, 12/05/2018 <i>Plaintiffs' Motion in Limine No. 14 to Preclude Defendant from Characterizing Plaintiff Desire Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident as Anything Other than a Temporary Exacerbation</i> Matter Continued; Per 10/29/18 email from law clerk Granted in Part; Matter Continued; Per 10/29/18 email from law clerk Granted in Part;</p>
10/03/2018	<p>Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Plaintiffs' Motion in Limine No. 15 to Exclude Irrelevant and/or Unduly Prejudicial Information</i> Matter Continued; Per 10/29/18 email from law clerk Per 10/30/18 email from law clerk</p>
10/03/2018	<p>Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Plaintiffs' Motion in Limine No. 16 to Limit Testimony and Opinions of Defendant's Retained Medical Expert, Joseph J. Schifini, M.D.</i> Matter Continued;</p>

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	Per 10/29/18 email from law clerk Per 10/30/18 email from law clerk
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Plaintiffs' Motion in Limine No. 17: to Exclude Reference to and Evidence of Medical Liens</i> Matter Continued; Per 10/29/18 email from law clerk Per 10/30/18 email from law clerk
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Plaintiffs' Motion in Limine No. 18: for Judicial Notice of Life Expectancy Table</i> Denied;
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Villani, Michael) 10/03/2018, 12/05/2018 <i>Defendant's Motion in Limine No. 1: Regarding Specific Statements and Claims of the Parties</i> Matter Continued; Per 10/29/18 email from law clerk Motion Denied; Matter Continued; Per 10/29/18 email from law clerk Motion Denied;
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Defendant's Motion in Limine No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics</i> Granted in Part;
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Defendant's Motion in Limine No. 4: To Prohibit Questions Regarding Verdict Amounts During Voir Dire, and to Impose Reasonable Limitations on the Scope and Duration of Voir Dire (Parts 1-2)</i> Matter Continued; Per 10/29/18 email from law clerk Per 10/30/18 email from law clerk
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Defendant's Motion in Limine No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs' Claims for Damages (Parts 1-4)</i> Matter Continued; Per 10/29/18 email from law clerk Per 10/30/18 email from law clerk
10/03/2018	Motion in Limine (10:00 AM) (Judicial Officer: Becker, Nancy) <i>Defendant's Motion in Limine No. 5: Regarding Expert Testimony</i> Matter Continued; Per 10/30/18 email from law clerk
10/03/2018	 All Pending Motions (10:00 AM) (Judicial Officer: Becker, Nancy) Matter Heard; Journal Entry Details: <i>James Trummell, Esq., present on behalf of Plaintiff. PLAINTIFFS' MOTIONS IN LIMINE NOS. 1-11 As to excluding medical records prior to the motor vehicle accident, COURT ORDERED, to the extent that Plaintiffs want to prohibit Dr. Schifini or Dr. Wang from making statements, Motion GRANTED IN PART and DENIED IN PART as it is suggested that somehow there were records out there that weren't given and it is believed that is not an issue; however, Dr. Schifini can state the fact that someone may not have gone for treatment which does not mean they did not have symptoms. As to the secondary gain evidence and the issue that it's a psychological diagnosis, COURT FURTHER ORDERED, GRANTED to the extent that they can not say malingering or secondary gain evidence; to the extent that Dr. Schifini or Dr. Wang want to simply say that the medical records don't support that she received an acute traumatic spinal injury as a result of this accident and at most she received a</i>

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sprained strain, Motion GRANTED; Motion DENIED to the extent that somehow this is limited to a psychiatrist or other people with mental health or psychological background. As to Plaintiff's Motion in Limine No. 4, COURT ORDERED, Motion CONTINUED for argument. As to Plaintiff's Motion in Limine No. 5, COURT ORDERED, Motion DENIED. As to Plaintiff's Motion in Limine No. 6, Court noted the law clearly says that you cannot make arguments solely for the basis of inflaming the passion of the jury and this Court is not going to grant the Motion as there will not be a forced objection. As to Plaintiff's Motion in Limine No. 7, Motion GRANTED IN PART and DENIED IN PART; an attorney being sought and retained is not attorney/client privilege; however, when an attorney is retained and/or when visited does not come in. As to Plaintiff's Motion in Limine No. 8 and attorney advertising limited to voir dire, COURT ORDERED, Motion GRANTED; however, it should not be mentioned in the remainder of the trial or obsessed upon in voir dire. As to Plaintiff's Motion in Limine No. 9, COURT STATED that would be improper argument and ORDERED, Motion GRANTED. As to Plaintiff's Motion in Limine No. 10 and asking limited questions in voir dire as to employment, COURT ORDERED, Motion GRANTED; any further direction is to come from Judge Villani. As to Plaintiff's Motion in Limine No. 11, to the extent of cross-examination and wanting to talk about having a relationship in terms of doing cases on medical liens, COURT STATED there is a broad basis for asking these kinds of questions and it should be allowed; trying to talk about other cases would not be allowed. PLAINTIFFS' MOTION IN LIMINE NO. 12: TO LIMIT DEFENDANT'S RETAINED EXPERTS' TESTIMONY TO THE OPINIONS AND BASES SET FORTH IN THEIR EXPERT REPORTS COURT ORDERED, Motion DENIED to the extent that the experts are limited only to what they said in their reports; however, expert is free to change their opinion based upon new information that was presented at trial or that was presented to them subsequent to the report. PLAINTIFFS' MOTION IN LIMINE NO. 13 TO EXCLUDE ARGUMENT, REFERENCE, OR EXPERT OPINION THAT PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN WAS SYMPTOMATIC DURING THE IMMEDIATE YEARS PRIOR TO AND IMMEDIATELY BEFORE THE SUBJECT COLLISION COURT ORDERED, Motion CONTINUED. PLAINTIFFS' MOTION IN LIMINE NO. 14 TO PRECLUDE DEFENDANT FROM CHARACTERIZING PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN FOLLOWING THE SUBSEQUENT July 10, 2016 MOTOR VEHICLE ACCIDENT AS ANYTHING OTHER THAN A TEMPORARY EXACERBATION COURT ORDERED, Motion CONTINUED. PLAINTIFFS' MOTION IN LIMINE NO. 15 TO EXCLUDE IRRELEVANT AND/OR UNDULY PREJUDICIAL INFORMATION COURT ORDERED, Motion CONTINUED. PLAINTIFFS' MOTION IN LIMINE NO. 16 TO LIMIT TESTIMONY AND OPINIONS OF DEFENDANT'S RETAINED MEDICAL EXPERT, JOSEPH J. SCHIFINI, M.D. COURT ORDERED, Motion CONTINUED. PLAINTIFFS' MOTION IN LIMINE NO. 17: TO EXCLUDE REFERENCE TO AND EVIDENCE OF MEDICAL LIENS COURT ORDERED, Motion CONTINUED. PLAINTIFFS' MOTION IN LIMINE NO. 18: FOR JUDICIAL NOTICE OF LIFE EXPECTANCY TABLE COURT ORDERED, Motion DENIED. DEFENDANT'S MOTION IN LIMINE NO. 1: REGARDING SPECIFIC STATEMENTS AND CLAIMS OF THE PARTIES COURT ORDERED, Part C & D of Motion CONTINUED; as to what the Defendant charging nurse states in terms of her observations, Motion GRANTED IN PART and DENIED IN PART, as she can talk about what she observed about the two Defendant's post-accident, as to the opinion that it is not believe that the Defendant's had sustained any injury based upon her observations; however, cannot testify to doing a triage or a medical procedure in that observation; DENIED as to the extent of her testifying to something using words like triage or other medical terminology under the circumstances. DEFENDANT'S MOTION IN LIMINE NO. 2: TO PROHIBIT THE USE OF UNFAIRLY PREJUDICIAL TRIAL TACTICS COURT ORDERED, Motion GRANTED to the extent that if counsel going to use specific words, counsel has to use them in the context of their fact-driven argument. In regards to avoiding responsibility argument, COURT ORDERED, Motion GRANTED IN PART and DENIED IN PART; GRANTED to the extent that you cannot argue that this matter is in trial because they re trying to avoid responsibility. As to the term "safety rules", COURT ORDERED, Motion DENIED. As to conscience of the community, COURT ORDERED, it is not to be argued that the jury is the conscience of the community; Motion DENIED to exclude just the general argument that when you violate the rules of the road you re endangering people on the roadway in general; Motion GRANTED to the extent that you cannot make an argument that suggests that other people were threatened or harmed just by the conduct of the Defendant in this case unless you have facts to show that. DEFENDANT'S MOTION IN LIMINE NO. 3: TO ADMIT AND EXCLUDE CERTAIN INFORMATION REGARDING THE PLAINTIFFS' CLAIMS FOR DAMAGES (PARTS 1-4) COURT ORDERED, as to dealing with treatment on medical liens COURT ORDERED, Motion DEFERRED and to be heard at the time Plaintiff's Motion in Limine number 17 as they all involve the same topic. As to the Motion to Exclude the Per Diem Argument, COURT ORDERED, Motion DENIED. As to, continued medical specials, COURT ORDERED, medical specials to the May 4th, 2018 are not to be limited, except that if there have been no disclosures thereafter, it is to be limited. As to speculative damage, COURT ORDERED, Motion to Exclude is DENIED as it is too vague. DEFENDANT'S MOTION IN

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LIMINE NO. 4: TO PROHIBIT QUESTIONS REGARDING VERDICT AMOUNTS DURING VOIR DIRE, AND TO IMPOSE REASONABLE LIMITATIONS ON THE SCOPE AND DURATION OF VOIR DIRE (PARTS 1-2) COURT ORDERED, Motion CONTINUED. DEFENDANT'S MOTION IN LIMINE NO. 5: REGARDING EXPERT TESTIMONY COURT ORDERED, Motion GRANTED to the extent that a treating physician has now reviewed documents and wants to act as a rebuttal witness or done things outside of the scope of treatment, then, no, they can't do that. As to Dr. Khavkin, Motion DENIED and will not be excluded as being cumulative. Court noted a continued date will be served to the parties upon review of the Court's calendar.;

10/31/2018

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

11/01/2018



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

Minute Order - No Hearing Held;
Journal Entry Details:


The Court having reviewed the pleadings and finds the factual and legal argument is sufficient to rule on the motions as follows: Plaintiffs Omnibus Motion in Limine No. 1 Granted. All hypothetical questions must be based upon evidence adduced at trial. All experts are limited to their opinions contained within their reports, deposition testimony. Plaintiffs Omnibus Motion in Limine No. 4 Granted. Plaintiff's treating physicians can testify consistent with FCH1, LLC Rodriguez, 335 P.3d 183 (2014) Specifically, they are allowed, if properly, disclosed pursuant to NRCp 16.1 (a)(2)(B), to testify as to causation, diagnosis, prognosis, future treatment and extent of disability. Also, they are able to defend their own treatment. Plaintiff's Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiiau s Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision The Court requests oral argument on Wednesday, November 21, 2018 at 8:30 a.m. Plaintiff's Motion in Limine No. 14: To Preclude Defendant From Characterizing Plaintiff Desire Evans-Waiiau s Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident as Anything Other than a Temporary Exacerbation The Court requests oral argument on Wednesday, November 21, 2018 at 8:30 a.m. Plaintiff's Motion in Limine No. 15: To Exclude Irrelevant and/or Unduly Prejudicial Information a) Termination from the Cromwell: Unless Defendant can establish that Plaintiff was terminated as opposed to resigned the evidence is excluded. The mere fact that Plaintiff thought she was terminated is contrary to the documentary evidence received from the Cromwell specifically stating that Plaintiff resigned. b) Termination from Bed Bath and Beyond and Spacecraft: Since neither Plaintiff or Defendant's experts address Plaintiff's termination from Bed Bath and Beyond and SPACECRAFT in relationship to Plaintiff's earning capacity, it is deemed irrelevant and is excluded. c) Injuries, if any, relating to the May 10, 2010 and July 10, 2016 may be relevant based upon the various expert's' opinions. The fact that Plaintiff previously filed claims" or "lawsuit" is irrelevant and therefore, excluded. Plaintiff's Motion in Limine No. 16: To Limit Testimony and Opinions of Defendant's Retained Medical Expert, Joseph J. Schifini, M.D. Dr. Schifini can rely on the photographs and property damage reports regarding Plaintiff's vehicle as one item in forming his opinions. Since the appraisal reports identifies the areas of damage from the accident and the cost of repair for the same he can testify accordingly as to the basis of his opinion. The fact that the vehicle had prior damage is not part of his opinion and is therefore irrelevant and excluded. Plaintiff's Motion in Limine No. 17 To Exclude Reference to and Evidence of Medical Liens: Granted in part and denied in part. Evidence of insurance, Medicare, Medicaid, Obamacare, etc. is precluded as well as any evidence that that liens were sold to a third party for any type of a discount or other write off issues. See Khoury v. Seastrand, 377 P.3d 81 (2016). Evidence that treatment may have been provided on a lien basis is allowed. Defendant's Motion in Limine No. 1: Regarding Specific Statements of the Parties c. Testimony regarding alleged injuries to the minor children: Denied. Evidence that Plaintiff's children were injured the accident is relevant to the issue of severity of the impact between the two vehicles. If Plaintiff is seeking to elicit the fact that her passengers were injured then Defendant can elicit testimony that she was not injured. The amount of medical expenses incurred by the children are excluded as said relevant information is outweighed by the unfair prejudicial value. d. The Court requests oral argument on Wednesday, November 21, 2018 at 8:30 a.m. Defendant's Motion in Limine No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs Claims for Damages Part 1: Evidence of Treatment on a Litigation Lien is admissible. See the Court's above ruling on Plaintiff's Motion in Limine No.17 To Exclude Reference to and Evidence of Medical Liens. The court previously ruled on Parts 2-4 on 10/3/2018. Defendant's Motion in Limine No. 4: To Prohibit Questions Regarding Verdict Amounts During Voir Dire, and to Impose Reasonable Limitations on the Scope and Duration of Voir Dire (Parts 1-2) Inquiring from a juror regarding verdict amounts is allowed

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so long as the questioning does not rise to the level of juror indoctrination. Mentioning from the outset of voir dire a range or specific amount Plaintiff is seeking is permissible. See *Khoury v Seastrand*. The Court has presided over numerous personal injury trials and has found that some attorneys seek to challenge a juror for cause merely because they could not award a "large or substantial verdict amount" without emphasizing to the juror "if said amount was supported by the evidence and law." The parties are free to question a juror's life experience to determine any bias. In *Whitlock v Salmon*, 104 Nev. 210 (1988), the Nevada Supreme Court stated that the trial court has inherent power to govern its own procedures and to place upon the parties reasonable limitations on voir dire. The Court will address the extent and length of voir dire during the trial. Defendant's Motion in Limine No. 5: Regarding Expert Testimony (Parts 1-4) Part 3: Granted. All experts in this case are limited to their expert reports and deposition testimony. The parties are aware that an expert is not merely allowed to parrot their reports but do have some latitude in explaining the foundation of their opinions. If either party believes that the other is seeking to elicit information or opinions that are outside of the mandates of NRCP 16.1 they are to object at the time of the trial. However, an expert is free to modify his or her opinion based on new information that they learn during the course of trial. Part 4: See the Court's above ruling on Plaintiff's Omnibus Motion in Limine No. 1. The Court previously ruled on Parts 1-2 on 10/3/2018. Counsel for each party is directed to submit a proposed order for their respective motions consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/01/18;

11/13/2018 **CANCELED Jury Trial** (10:00 AM) (Judicial Officer: Villani, Michael)
Vacated

12/05/2018  **All Pending Motions** (8:30 AM) (Judicial Officer: Villani, Michael)

Matter Heard;

Journal Entry Details:

DEFENDANT'S MOTION IN LIMINE NO. 1: REGARDING SPECIFIC STATEMENTS AND CLAIMS OF THE PARTIES ... PLAINTIFFS' MOTION IN LIMINE NO. 14 TO PRECLUDE DEFENDANT FROM CHARACTERIZING PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN FOLLOWING THE SUBSEQUENT July 10, 2016 MOTOR VEHICLE ACCIDENT AS ANYTHING OTHER THAN A TEMPORARY EXACERBATION ... PLAINTIFFS' MOTION IN LIMINE NO. 13 TO EXCLUDE ARGUMENT, REFERENCE, OR EXPERT OPINION THAT PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN WAS SYMPTOMATIC DURING THE IMMEDIATE YEARS PRIOR TO AND IMMEDIATELY BEFORE THE SUBJECT COLLISION James Trummell, Esq., also present on behalf of Defendant. Arguments by counsel regarding Plaintiff's Motion in Limine No. 14, Plaintiff's Motion in Limine No. 13 and Defendant's Motion in Limine No. 1. **COURT ORDERED, Motion in Limine No. 14 GRANTED** to the extent that defense is free to argue that neither the subject accident nor the July 10th accident is the cause of the surgery and Defense is allowed to have the experts that's in the reports testify that there was an increase in symptoms. **COURT FURTHER ORDERED, Motions in Limine No. 13 and Motions in Limine No. 1, TAKEN UNDER ADVISEMENT. ;**

01/18/2019  **Minute Order** (3:00 PM) (Judicial Officer: Villani, Michael)

Defendant's Motion in Limine No. 1: Regarding Specific Statements and Claims of the Parties...Plaintiffs' Motion in Limine No. 13 to Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision

Decision Made;

Journal Entry Details:

Plaintiff's Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision and Defendant's Motion in Limine No. 1D: Plaintiff Evans-Waiau's Subsequent Injuries and Claims Are Relevant and Admissible came before this Court on December 5, 2018 Oral Calendar at 8:30 a.m. The Court took the matter under advisement and now rules as follows: Plaintiff's Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision At issue is a motor vehicle accident that occurred in 2010, 5 years prior to the subject accident. After the 2010 accident, Plaintiff received 2 months of chiropractic treatment

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and underwent one medical examination with a physician that diagnosed her with possible cervical radiculopathy. The evidence shows that Plaintiff did not undergo any further treatment for neck pain between July 13, 2010 and October 30, 2015. "In order for evidence of a prior injury or preexisting conditions to be admissible, a defendant must present by competent evidence a causal connection between the prior injury and the injury at issue." *FGA, INC. v. Giglio*, 128 Nev. 271, 283 (2012). Further, once the plaintiff has demonstrated a prima facie case and met his or her burden, the defendant can traverse the plaintiff's case in three ways. The defendant may (1) cross-examine the plaintiff's expert, (2) contradict the expert's testimony with his own expert, and/or (3) propose an independent alternative causation theory. *Id.* If the defendant chooses the third approach, his or her expert's testimony is subject to the reasonable degree of medical probability. *Williams v. Eight Judicial Dist. Court*, 127 Nev. 518, 530 (2011). There is no evidence to establish that the 2010 accident was the cause of the alleged injuries sustained in the subject collision. Defendant's two medical experts (Dr. Wang and Dr. Schifini) do not opine to an alternative theory of causation in their respective reports. Neither doctor opined that Plaintiff's prior cervical spine injury is the cause of her current injuries or pain complaints. Neither expert has established a causal connection between the 2010 accident and the subject accident to the injuries claimed. Moreover, if expert testimony is offered to contradict the plaintiff's expert's opinion, the testimony must be supported by competent medical research and relevant evidence. *FGA, Inc.*, 128 Nev. at 284. "If the defense expert does not consider the plaintiff's theory of causation at all, then the defense expert must state any independent alternative causes to a reasonable degree of medical probability." *Williams*, 127 Nev. 518 at 531. Although both experts reviewed Plaintiff's medical records from the 2010 accident, it does not appear that Defendant's retained experts consider Plaintiff's theory of medical causation in their reports. Defendant's experts opine that Plaintiff did not suffer an acute, traumatic injury to her cervical disc. Since Defendant's experts did not consider plaintiff's theory of causation or provide the 2010 accident as an alternative theory of causation in their reports, Plaintiff's motion is GRANTED and Defendants are precluded from arguing that Plaintiff was symptomatic in the immediate years prior to the subject accident unless disclosed witnesses have testified to the contrary. Defendant's Motion in Limine No. 1D: Plaintiff Evans-Waiiau's Subsequent Injuries and Claims Are Relevant and Admissible At issue is a July 10, 2016 accident that Plaintiff was involved in which occurred nine months after the subject accident. Defendant references a portion of a 2018 Complaint that Plaintiff filed for the 2016 accident where she alleges injuries to her shoulders and back. The Court notes that the Complaint in A777152 is not a verified complaint. The Court does not find the statements in said Complaint to be a party admission but rather legal conclusions made by Plaintiff's attorney. Additionally, Evans-Waiiau's cervical recommendation was made prior to this 2016 accident. Moreover, Defendant's experts do not opine that the 2016 accident caused or contributed to the alleged injuries sustained in the subject collision. For those reasons, Defendant's Motion in Limine 1D is DENIED. The Court previously addressed the issue of the 2016 accident on 12/5/18 when the Court granted Plaintiffs' Motion in Limine to preclude defendant from characterizing Evans-Waiiau's neck pain following the subsequent July 10, 2016 accident as anything other than a temporary exacerbation. The Court ruled that the Defense experts are free to testify that there was an increase in symptoms after the 2016 accident. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. LAW CLERK NOTE: The delay in this decision was due to a calendaring error. CLERK'S NOTE: A copy of the foregoing minute order has been electronically distributed to all registered parties.//ob/01/18/19 ;

01/30/2019

**Calendar Call (9:00 AM)** (Judicial Officer: Holthus, Mary Kay)

Matter Heard;

Journal Entry Details:

James Trummell, Esq., also present on behalf of Plaintiff. Mr. Prince announced parties are ready for trial. Colloquy regarding scheduling issues and conflicts. COURT ORDERED, trial dates VACATED and RESET; all pending motions VACATED and RESET. 04/10/19 9:00 AM CALENDAR CALL & ALL PENDING MOTIONS 04/22/19 9:00 AM JURY TRIAL;

02/11/2019

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Villani, Michael)*Vacated - per Judge*



04/10/2019

Motion in Limine (9:00 AM) (Judicial Officer: Holthus, Mary Kay)

Plaintiffs' Motion In Limine No. 19: To Exclude Sub Rosa Surveillance Video Of Plaintiff Desire Evans-Waiiau And Any Testimony Or Reference To The Same

CASE SUMMARY

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	Denied;
04/10/2019	<p>Motion in Limine (9:00 AM) (Judicial Officer: Holthus, Mary Kay)</p> <p><i>Plaintiff's Motion In limine No. 20: To Exclude The Testimony And Opinions Of Defendant's Retained Expert Kevin Kirkendall, CPA</i></p> <p>Withdrawn;</p>
04/10/2019	<p>Calendar Call (9:00 AM) (Judicial Officer: Holthus, Mary Kay)</p> <p>Matter Heard;</p>
04/10/2019	<p> All Pending Motions (9:00 AM) (Judicial Officer: Holthus, Mary Kay)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p>CALENDAR CALL...PLAINTIFF'S MOTION IN LIMINE NO.19: TO EXCLUDE SUB ROSA SURVEILLANCE VIDEO OF PLAINTIFF DESIRE EVANS-WAIAU AND ANY TESTIMONY OR REFERENCE TO THE SAME...PLAINTIFF'S MOTION IN LIMINE NO. 20: TO EXCLUDE THE TESTIMONY AND OPTIONS OF DEFENDANT'S RETAINED EXPERT KEVIN KIRKENDALL, CPA Mr. Winner advised his experts are available on May 6, 7, and 8, 2019; which two would be coming from out of state and two are local. Mr. Prince indicated he was trial ready if it were to start on April 22, 2019. Further, Mr. Prince indicated he anticipated a couple of days to pick the jury. Court inquired if Mr. Prince wanted to start the trial on April 29, 2019; however, he noted he has another trial starting May 20, 2019 and needed at least a week between to prepare. Court advised parties could start the trial at 1:00 pm on April 22, 2019. Both parties agreed. Upon Court's inquiry, Mr. Prince indicated he was anticipating 3 weeks for trial. Court noted it would be dark May 2 and 3, 2019. PLAINTIFF'S MOTION IN LIMINE NO.19: TO EXCLUDE SUB ROSA SURVEILLANCE VIDEO OF PLAINTIFF DESIRE EVANS-WAIAU AND ANY TESTIMONY OR REFERENCE TO THE SAME Mr. Prince indicated the instant Motion is in reference to video that was taken post surgery. Further statements by Mr. Prince requesting it be excluded due to being impeachment and couldn't use. Mr. Winner disagreed and stated Plaintiff is more than capable of work activities and the video was relevant to support their claims; therefore, it would be inappropriate to exclude it. Following colloquy between parties, Court advised it was inclined to not keep the video out as a matter of law. COURT ORDERED, the instant Motion was hereby DENIED. PLAINTIFF'S MOTION IN LIMINE NO. 20: TO EXCLUDE THE TESTIMONY AND OPTIONS OF DEFENDANT'S RETAINED EXPERT KEVIN KIRKENDALL, CPA Mr. Prince indicated the instant Motion be withdrawn. COURT SO ORDERED. ;</p>
04/22/2019	<p> Jury Trial (1:00 PM) (Judicial Officer: Holthus, Mary Kay)</p> <p>04/22/2019-04/26/2019</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Mistrial;</p> <p>Journal Entry Details:</p> <p>OUTSIDE THE PRESENCE OF THE JURY: Court inquired if there was an expert from the defense side that would base symptoms of the 2010 accident including the radiculopathy, with the probability that the instant case had the same injuries. Mr. Winner indicated those words weren't not used. Mr. Winner advised the expert stated it looked as though the Plaintiff had the same symptoms from before; therefore, it was a relevant fact. Arguments by Mr. Prince. Court noted 2010 was out. Mr. Henriod inquired if that meant that it was not to be mentioned. COURT ORDERED, 2010 was out per Judge Villani, which the ruling STANDS and that matter is not to be mentioned in opening statements. Colloquy between parties regarding opening statements. JURY PRESENT: Pre-Jury instructions read. Opening statements by Mr. Prince. Upon Court's inquiry, Mr. Prince requested the EXCLUSIONARY RULE INVOKED. CONFERENCE AT BENCH. Mr. Winner requested that the statement regarding Deft. not admitting to what she did, be stricken. COURT SO ORDERED. Opening statements by Mr. Degree. OUTSIDE THE PRESENCE OF THE JURY JURY PRESENT: CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY: Juror #9 questioned by counsel as to work relation with Deft. Following statements by Juror #9, Mr. Prince indicated he was concerned with Juror #9 possibly working with the Deft; however, Juror #9 had no recollection of seeing Deft. at his work location. Following colloquy, COURT ORDERED,</p>

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*Juror #9 to remain on the Jury panel. Statements by Mr. Prince. JURY PRESENT: CONFERENCE AT BENCH. Opening statements by Mr. Winner. OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince indicated Mr. Winner had filed Motions by his office excluding citations; however, Mr. Winner mentioned in his opening statement that neither side received a citation. Mr. Prince further indicated that statement was misconduct and there was no way to fix it; therefore, requested a mistrial. Arguments by Mr. Winner in opposition stating that *Frias v. Valle* indicated if someone were to get a ticket that would be inadmissible. MATTER TRAILED. MATTER RECALLED. Court noted upon reading the *Frias* case it was an error to admit police report. Further Court noted, the argument was to be keep it out; however, not only did Mr. Winner say it, but said it in all caps. Court believed the statement was planted in jurors minds and there was no way to unring that bell; therefore, COURT ORDERED, a MISTRIAL was hereby declared. Mr. Prince requested that the page of Mr. Winner's powerpoint at question, be admitted as a Court's exhibit. Arguments by Mr. Henriod indicating Plaintiff counsel should have filed a Motion in Limine in reference to the police report; however, they didn't. Mr. Winner noted the police officers didn't see the accident as a big deal; therefore, they didn't write a ticket. Mr. Prince advised he wanted to start over with a new trial and file new Motions. Further, Mr. Prince requested a status check to set a new trial date. Mr. Henriod indicated Mr. Prince could file whatever Motions needed; however, Mr. Henriod didn't think there were any fees warranted. Further, Mr. Henriod stated the way it was handled, there wasn't a clear violation. Following colloquy, Statements by Mr. Winner indicating he wasn't in agreeance with the Court's ruling. JURY PRESENT: Court advised the Jury that the trial had concluded and they were excused. OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED, matter SET for a status check to agree on a new trial date. 4/30/19 9:00 AM STATUS CHECK: RE-TRIAL SETTING;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Mistrial;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted it had previously ruled; however, parties were trying to amend the ruling set forth. Mr. Henriod indicated he was seeking clarification. Statements by Mr. Henriod in regards to Judge Villani's order, which was in reference to Plaintiff's Motion in Limine in regards to 2010 accident. Court inquired about the reason for Mr. Henriod bringing in 2010 accident. Further statements by Mr. Henriod. Following colloquy, COURT ORDERED, the 2016 accident was in. Furtherl, Court excused Juror 774. PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court inquired if there were any objections to Jury Instructions, which Mr. Prince indicated he had an objection to Jury Instruction #7. Colloquy between parties. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. The parties passed the panel for cause. Peremptory challenges conducted. Preliminary instructions read to the twenty prospective jurors by the Court. A jury and two alternates SELECTED and SWORN. COURT RECESSED for the evening; TRIAL CONTINUED. 4/26/19 10:00 AM TRIAL CONTINUED;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Mistrial;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court inquired if there were any additions to briefing; further indicated it didn't see anything erroneous. Court noted it did see a road for impeachment and it had concerns with 2016 accident. Mr. Winner advised the 2016 accident was out for the second plaintiff. Colloquy between parties regarding 2016 accident as related to the first plaintiff. Statements by Mr. Prince as to keeping 2016 accident out. Arguments by Mr. Henriod in opposition. Further statements by Mr. Prince suggesting the 2010 accident not be discussed; however, the 2016 accident would come in for a limited purpose. Court indicated the orders by Judge Villani were sufficient on their face; therefore, COURT ORDERED, Judge Villani's ruling STANDS. Mr. Henriod inquired if 2010 accident could be mentioned at all; which, Court noted not unless Deft. opened the door on those issues or for impeachment purposes. PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. COURT RECESSED for the evening; TRIAL CONTINUED. 4/25/19 1:00 PM JURY TRIAL CONTINUED;

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Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Upon Court's inquiry, Mr. Prince indicated they would be filing an opposition on the current day. Court noted all prospective jurors excused on April 22, 2019 were at the request of parties. *PROSPECTIVE JURY PANEL PRESENT:* Voir dire conducted. *CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL:* Colloquy between parties regarding questions that were asked during Voir Dire, and Mr. Winner indicated it would be difficult for him to ask follow up questions if he were to wait a few days. Court inquired if at the present time, Mr. Prince had any jurors anticipated for cause challenge, which Mr. Prince advised he didn't. Mr. Winner indicated if Mr. Prince believed there were grounds for cause, then he would like the opportunity to follow up before moving on. Colloquy between parties regarding for cause challenge and readiness to proceed. Mr. Prince noted he wanted to get more on the record for challenge to be clear. *PROSPECTIVE JURY PANEL PRESENT:* Voir dire conducted. *CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL:* Court noted it had looked at the trial brief; however, further inquired if parties were looking to bring in the 2016 accident. Mr. Prince indicated there were limitations to bringing in 2016. Statements by Mr. Winner regarding the 2010 accident. *COURT RECESSED for the evening; TRIAL CONTINUED. 4/24/19 1:00 PM JURY TRIAL CONTINUED;*

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Mistrial;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding procedures. Court noted it provided both parties with copies of the Order prepared by the Court with Motion In Limine. Court indicated proposed orders should have been done before calendar call. Mr. Prince concurred, indicating it should have been done and parties are trial ready; however, they would have time following proceedings to resolve issues. Colloquy between parties regarding trial brief which was received prior to the start of trial. Mr. Henriod indicated Defense anticipated making an oral Motion to consider admissibility before opening statements on causation and Prima Facie. Mr. Prince indicated counsel was arguing for the Court to reconsider Judge Villani's ruling. Mr. Henriod advised the Court it was allowed to fix any error before entry of final judgement. Colloquy between parties regarding the effects of what would be allowed in. Mr. Prince indicated it wouldn't effect jury selection and could be done before opening statements. Upon Court's inquiry, Mr. Prince noted jury should be informed trial would last three weeks due to the Court's calendar. Colloquy between parties regarding expert witnesses schedules. Further colloquy regarding questions for the jury. *PROSPECTIVE JURY PANEL PRESENT:* Roll call taken by the Clerk. Voir dire oath ADMINISTERED. Voir dire conducted. *CONFERENCE AT BENCH. Jurors excused and replaced. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL. PROSPECTIVE JURY PANEL PRESENT:* Voir dire conducted. *OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL:* Statements by Mr. Prince regarding Motions in Limine. Order Regarding Plaintiff's Motions in Limine SIGNED IN OPEN COURT. *COURT RECESSED for the evening; TRIAL CONTINUED. 4/23/19 1:00 PM JURY TRIAL CONTINUED;*

04/30/2019



Status Check (9:00 AM) (Judicial Officer: Holthus, Mary Kay)

Matter Heard;

Journal Entry Details:

Counsel announced ready for trial. Due to expert availability, COURT ORDERED, trial date SET 5/14/19 1:00pm.;

05/14/2019



Jury Trial (1:00 PM) (Judicial Officer: Holthus, Mary Kay)

05/14/2019-05/17/2019, 05/20/2019-05/23/2019, 05/28/2019-05/31/2019, 06/03/2019

Trial Continues;
Trial Continues;

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Trial Continues;
Trial Continues;
TIME CHANGE
Trial Continues;
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Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Prince indicated his closing powerpoint had been updated and he supplied opposing counsel with a copy. Mr. Winner indicated he objected to the testimony of Dr. Garber. Court noted it didn't believe there was previously an objection to that. JURY PANEL PRESENT: Plaintiff RESTED. Defense RESTED. Court read jury instructions 1 through 50 to the Jury Panel. Closing arguments by Mr. Prince. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL. JURY PANEL PRESENT: Closing arguments by Mr. Winner. CONFERENCE AT BENCH. Court Marshal and Judicial Executive Assistant SWORN to take charge of the jury. The Jury RETIRED TO DELIBERATE at the hour of 1:01 PM. OUTSIDE THE PRESENCE OF THE JURY PANEL. JURY PANEL PRESENT: The Jury RETURNED with a VERDICT for the DEFENDANT at 3:25 PM. The Jury polled at the request of Mr. Prince. Court thanked and excused the Jury. COURT RECESSED. ;

Trial Continues;
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TIME CHANGE
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Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy regarding Proposed Jury Instructions. Jury instructions settled on the record. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL. Colloquy between parties regarding Adjacent Segment issue. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. Jury panel excused. OUTSIDE THE PRESENCE OF THE JURY PANEL: Jury instructions further settled on the record. COURT RECESSED for the weekend; TRIAL CONTINUED. 6/3/19 9:00 AM TRIAL CONTINUED ;

Trial Continues;
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TIME CHANGE
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Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Parties indicated there was an issue with

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Jury Instructions and Court noted it would have to do it the following morning. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL. Colloquy between parties regarding Jury Instructions. Statements by Mr. Prince objecting to video with audio coming in due to hearsay. Following colloquy, COURT ORDERED, video was now coming in. Mr. Winner mentioned the Motion regarding the Sub Rosa video which hadn't been ruled on; further noting if Mr. Prince was not opening door Mr. Winner would drop it. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Winner indicated parties speaking about video not being relevant; therefore, requested that video be viewed. Mr. Prince noted there was no basis at that point. COURT ORDERED, based on testimony, Motion to Exclude Sub Rosa Video was hereby GRANTED. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED. 5/31/19 10:00 AM TRIAL CONTINUED ;

Trial Continues;

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Trial Continues;

TIME CHANGE

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Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Parties agreed to billing records. Mr. Prince noted it wasn't a disk issue and he wanted to see billing. Court noted it would put away Motion for Protective Order. Colloquy regarding doctor's examination of Plaintiff. Following colloquy, Mr. Winner indicated he was having issues contacting Keith Lewis who was set to be a witness. Colloquy between parties regarding proof of service. Court noted it would like to set a Show Cause Hearing. JURY PANEL PRESENT: Babylyn Tate's Deposition PUBLISHED IN OPEN COURT. Testimony and exhibits presented (see worksheet). CONFERENCE AT BENCH. Questions submitted by jurors. OUTSIDE THE PRESENCE OF THE JURY PANEL. Mr. Prince had questions regarding why Mr. Winner objected his demonstrative slide. Arguments by Mr. Winner in support of his objection stating the demonstrative slide depicted what Deft. was doing at the time. Following colloquy, Mr. Prince indicated in response to juror questions, he would like to put Deft. back on the stand to speak about lane change at Koval. Court noted the Deposition was already in; therefore, COURT ORDERED, Mr. Prince's request was hereby DENIED, due to the evidence already being in. JURY PANEL PRESENT: Testimony presented (see worksheet). Gudalupe Parra-Mendez's Deposition PUBLISHED IN OPEN COURT. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy between parties regarding billing for Dr. Shifini. Court noted it would be allowing full compensation. COURT RECESSED for the evening; TRIAL CONTINUED. 5/30/19 1:00 PM TRIAL CONTINUED ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Statements by Mr. Prince regarding a lien and the fact that parties have agreed to a curative instruction. Colloquy between parties

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regarding Motion for Protective Order Regarding Dr. Wang and the billing. Court noted the service to Mr. Winner's office for Dr. Wang was not proper service. Further colloquy between parties. Arguments by Mr. Prince in opposition to Mr. Winner's Motion for Protective Order. Court FINDS it to be more probative and didn't believe it was relevant; further, doesn't have anything to do with Dr. Wang's medical opinion. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Statements by Mr. Winner regarding Plaintiff's Video Exhibit #79. Mr. Prince indicated the video was taken at Plaintiff's home. Colloquy between parties regarding whether the video was taken at Plaintiff's home or the scene of the accident. Video played outside the presence of the jury. Colloquy between parties, COURT ORDERED, video could come in without audio. Statements by Mr. Winner. Further colloquy between parties regarding deposition that Plaintiff's husband coming to scene of accident. COURT FURTHER ORDERED, statements by Plaintiff's husband were inadmissible. JURY PANEL PRESENT: Deposition PUBLISHED IN OPEN COURT (see worksheet). Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Statements by Mr. Winner regarding Dr. Garber's testimony. Arguments by Mr. Prince regarding Dr. Wang's testimony and disc protrusion. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Winner indicated Keith Lewis was subpoenaed to appear at the instant court hearing; however, he might have violated the subpoena. Statements by Mr. Prince. COURT RECESSED for the evening; TRIAL CONTINUED. 5/29/19 10:30 AM TRIAL CONTINUED ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding letters from Prospective Juror #399, #323 and #450. PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted it wanted both parties to exchange powerpoints for opening statements to make sure there were no issues or possible mistrials. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. Prospective Jurors excused. The parties passed the panel for cause. Peremptory challenges conducted. A jury and two alternates SELECTED and SWORN. COURT RECESSED for the evening; TRIAL CONTINUED. 5/21/19 1:00 PM TRIAL CONTINUED;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy between parties regarding adjacent segment disease. Court advised Mr. Prince he must keep that portion general. JURY PANEL PRESENT: Testimony and exhibits presented (see worksheet). CONFERENCE AT

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BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Henriod indicated there was now an issue with the third surgery, which was not disclosed; therefore Plaintiff's Motion for sanctions for the Mistrial should be denied. Colloquy between parties. COURT RECESSED for the weekend; TRIAL CONTINUED. 5/28/19 1:00 PM TRIAL CONTINUED ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Prince moved to the admission of Exhibit #81. COURT ORDERED, admission was GRANTED. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY PANEL: Court inquired when Mr. Prince became aware Plaintiff was seeking second surgery. Mr. Prince indicated it was before the mistrial. Further statements by Mr. Prince. Court further inquired why that was not mentioned at the last trial. Mr. Prince advised the Court he stated it in his opening statement. Court noted it was not to a degree of medical certainty; therefore, COURT ORDERED, the second surgery would not be allowed in. Further colloquy between parties regarding second surgery. JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED. 5/23/19 1:00 PM TRIAL CONTINUED ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy regarding Opening powerpoint. Following colloquy, Court noted as to trial brief to Exclude DMV Manual COURT ORDERED, it was inclined to GRANT that portion limited to reptile information. Statements by Mr. Winner. Further, Mr. Winner indicated after reviewing Mr. Prince's powerpoint, he noted slide 35 through 39 was argumentative; however, Court advised it didn't see any issues with them. Arguments by Mr. Winner. Statements by Mr. Prince. JURY PANEL PRESENT: Jury Instructions read. EXCLUSIONARY RULE INVOKED. CONFERENCE AT BENCH. Opening Statements by Mr. Prince. CONFERENCE AT BENCH. Opening Statements by Mr. Degree. OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Prince indicated he had objections to Mr. Winner's Opening powerpoint as to statute and the fact of it being argumentative. COURT ORDERED, objection was OVERRULED. Arguments by Mr. Prince regarding mentions of a litigation lien. Mr. Henriod indicated it was admissible and had fact to it. Further arguments by Mr. Prince . Following colloquy, Court noted that information was still coming in. Statements by Mr. Winner indicating Mr. Prince previously only disclosed an amount of \$285,000.00 which he was seeking; however, that amount suddenly doubled at the beginning of trial. Mr. Prince concurred. Statements by Mr. Prince supporting why amount

CASE SUMMARY

CASE NO. A-16-736457-C

increased. Court noted to Mr. Winner, that he would need to object during statements. Following colloquy, Arguments between counsel regarding 2010 accident; which, Court advised parties they would need to brief that issue. Colloquy between parties as to what Mr. Prince was seeking in medical care and when second surgery came up. Mr. Prince noted it was during conversation with doctor. Court inquired if Plaintiff was still treating, which Mr. Prince indicated not actively. JURY PANEL PRESENT: Opening statements by Mr. Winner. OUTSIDE THE PRESENCE OF THE JURY PANEL: Parties stipulated to the admission of exhibits. JURY PANEL PRESENT: Testimony and exhibits presented (see worksheets). CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED. 5/22/19 1:00 PM TRIAL CONTINUED ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding witness. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding Deft. accepting the responsibility for damage. Mr. Winner indicated Mr. Prince used frivolous defense; however, when Mr. Winner used it in one sense, Mr. Prince was ready to make a sanction. Further arguments by Mr. Winner. Court noted Mr. Prince did violated the order regarding attorney advertising; however, it was at Mr. Prince's request. Further colloquy between parties regarding Deft.'s responsibility in the accident. Court noted both parties have violated Court's order; therefore, if parties would agree on responsibility argument coming in; however, if not, Court would sustain and strike comment. Mr. Prince indicated he agreed to bring the comment in; however, Mr. Winner indicated he didn't want it in. Following colloquy, COURT ORDERED, any statement or question in regards to Deft. accepting responsibility be STRICKEN. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. COURT RECESSED for the weekend; TRIAL CONTINUED. 5/20/19 10:00 AM TRIAL CONTINUED;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding excusal letters from Prospective Juror #385, Prospective Juror #293, and Prospective Juror #352; which #293 and #352 were excused by agreement of counsel. Statements by Mr. Winner indicated Mr. Prince told Plaintiff to go to the doctor. Court noted it believed that certain evidence could come in. Arguments by Mr. Winner regarding attorney referral to doctor. Statements by Mr. Prince. Following colloquy regarding lawyer advertising, COURT ORDERED, Motion regarding Lawyer advertising was hereby MOOT and parties

CASE SUMMARY

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could not voir dire about lawyer advertising. Statements by Mr. Prince. Court requested that Mr. Prince not use the word insurance. Mr. Winner advised if insurance was brought up in questioning, he would request a mistrial. Outside the presence of other prospective jurors, Prospective juror #385 CANVASED; FURTHER, COURT ORDERED, Prospective Juror #385 released as stipulated by parties. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Upon Court's inquiry, Prospective Juror #279 CANVASED. CONFERENCE AT BENCH. Court noted, based on statements by Prospective Juror #279, it believed she could not be fair. COURT ORDERED, Prospective Juror #279 REMOVED for cause. Arguments by Mr. Winner. PROSPECTIVE JURY PANEL PRESENT: CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED. 5/17/19 10:00 AM TRIAL CONTINUED;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Prospective Juror #392 questioned and parties stipulated for juror to be excused. PROSPECTIVE JURY PANEL PRESENT: CONFERENCE AT BENCH. Voir dire conducted. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding jurors behavior. Juror #309 presented letter to the Court. Mr. Prince objected to the excusal of juror. Mr. Prince indicated he would be requesting a cause challenge for Prospective Juror #277. Mr. Winner objected. Mr. Prince further indicated a cause challenge for #304 which Mr. Winner objected. Mr. Prince indicated he was requesting Prospective Juror #307 for cause.

Statements by Mr. Winner. Following colloquy, Mr. Prince withdrew cause challenge for Prospective Juror #307. PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Arguments by Mr. Prince regarding insurance and why Plaintiff got an attorney. Mr. Winner noted if Mr. Prince were to ask about liability insurance there would be a mistrial. Colloquy between parties. Further arguments between counsel regarding insurance. COURT ORDERED, parties to have brief to the submitted by 10:00 am on May 16, 2019. 5/16/19 1:00 PM TRIAL CONTINUED ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

TIME CHANGE

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for the Defendant;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding procedures. Mr. Prince indicated Motions were delivered based on mistrial and defense counsel was served with them on May 14, 2019; further, requested a hearing date. Court inquired why it was set on order shortening time; however, the Court would need to do more research. Colloquy between parties. COURT ORDERED the following Briefing Schedule: Mr. Winner to file Opposition by June 3, 2019, Mr. Prince to file Reply by June 18, 2019, and matter SET for Argument. Court noted it didn't believe it was orally presidial ; therefore,

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

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	<i>would give Deft. a chance to brief it. Mr. Prince noted he would like another pre-instruction. Arguments by Mr. Winner. PROSPECTIVE JURY PANEL PRESENT: Roll call taken by the Clerk. Voir dire oath ADMINISTERED. Voir dire conducted. COURT RECESSED for the evening; TRIAL CONTINUED. CONTINUED TO: 5/15/19 1:00 PM 6/25/19 11:00 AM HEARING;</i>
05/28/2019	Motion (12:45 PM) (Judicial Officer: Holthus, Mary Kay) <i>Defendant Tate's Motion to Permit Dr. Jeffrey Wang to testify out of order, if necessary on Order Shortening Time</i>
05/30/2019	Hearing (12:00 PM) (Judicial Officer: Holthus, Mary Kay) <i>Order to Show Cause</i> Vacate - Moot;
06/19/2019	CANCELED Motion for Protective Order (9:00 AM) (Judicial Officer: Holthus, Mary Kay) <i>Vacated</i> <i>Defendant's Motion for Protective Order and Objection to Subpoenas on Order Shortening Time</i>
06/25/2019	CANCELED Hearing (11:00 AM) (Judicial Officer: Holthus, Mary Kay) <i>Vacated - per Attorney or Pro Per</i> HEARING: ATTORNEY'S FEES AND COSTS
08/21/2019	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Holthus, Mary Kay)

DATE

FINANCIAL INFORMATION

Subject Minor Parra, Alliyah	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 8/15/2019	0.00
Subject Minor Parra, Mayra	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 8/15/2019	0.00
Subject Minor Parra, Sienna	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 8/15/2019	0.00
Defendant Tate, Babylyn	
Total Charges	247.50
Total Payments and Credits	247.50
Balance Due as of 8/15/2019	0.00
Plaintiff Evans-Waiiau, Desire	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 8/15/2019	0.00
Plaintiff Parra-Mendez, Guadalupe	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 8/15/2019	0.00

DISTRICT COURT CIVIL COVER SHEET A- 16- 736457- C

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

XVII

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Desire Evans-Waiiau, Guadalupe Parra-Mendez,	Babylyn Tate
Jorge Parra-Meza, as guardian for Mayra Parra	
Jorge Parra-Meza, as guardian for Aaliyah Parra	
Jorge Parra-Meza, as guardian for Sienna Parra	
Attorney (name/address/phone):	Attorney (name/address/phone):
Paul Powell, Esq. - The Powell Law Firm	N/A
6785 W. Russell Road, Suite 210	
Las Vegas, Nevada 89118	
(702) 728-5500	

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 checked="" type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input 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.

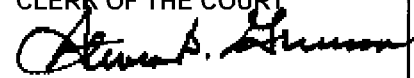
5/10/2016

Date

/s/ Paul Powell

Signature of initiating party or representative

See other side for family-related case filings.



1 ORDR

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 EVANS-WAIAU ET AL.

5 vs.

Case No.

A-16-736457-C

6 BABLYN TATE

Dept. No.

XVIII

9
10 **ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE**

11 Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ's
12 Motions in Limine were brought for hearing in front of Department 17 of the Eighth Judicial
13 District Court, before The Honorable Senior Judge Nancy Becker, on the 3rd day of October,
14 2018; and before The Honorable Judge Michael P. Villani, in chambers, on the 1st day of
15 November, 2018; and for hearing on the 5th day of December 2018; and in chambers, on the
16 18th day of January, 2019, with Dennis M. Prince, Esq., James A. Trummell, Esq., and
17 Kevin T. Strong, Esq. of EGLET PRINCE, appearing on behalf of Plaintiffs DESIRE
18 EVANS-WAIAU and GUADALUPE PARRA-MENDEZ; and Thomas E. Winner, Esq. of
19 ATKIN WINNER & SHERROD, appearing on behalf of Defendant BABYLYN TATE.
20 The Court having reviewed the pleadings and papers on file herein, having heard oral
21 argument, and being duly advised in the premises, hereby orders:
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23
24

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 1: Exclude Hypothetical Medical Conditions that are Not Based in
27 Evidence is **GRANTED**. All hypothetical questions must be based upon the evidence
28

MARY KAY HOLTHUS
DISTRICT JUDGE
DEPARTMENT XVIII

1 adduced at trial. All experts are limited to the opinions articulated within their respective
2 reports and deposition testimony.

3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
4 Motion in Limine No. 2: Exclude Reference to Any Absence of Medical Records Before the
5 Subject Collision is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her
6 counsel, and her witnesses are precluded from offering any statement, argument or reference
7 that suggests other medical records of Plaintiffs exist and that they were not provided with
8 those medical records. Defendant's retained medical experts may testify that their medical
9 causation opinions and opinions regarding Plaintiffs' need for future medical treatment
10 remain unchanged even in the absence of prior medical records.

13 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
14 Motion in Limine No. 3: Exclude Reference to Plaintiffs Being Malingerers, Magnifying
15 Symptoms, or Manifesting Secondary Gain Motives Because There is No Competent
16 Evidence to Support Such Reference is **GRANTED, IN PART** and **DENIED, IN PART**.
17 Defendant's retained medical experts are precluded from offering any testimony, opinions or
18 references that Plaintiffs are malingerers, symptom magnifiers, or manifest secondary gain
19 motives because those opinions are not contained within their reports, not because they lack
20 the qualifications as a psychiatrist or psychologist to offer the opinions. Defendant's
21 retained medical experts are allowed to rely on the medical records and the timing of
22 Plaintiffs' respective pain complaints to support their medical causation opinions so long as
23 those opinions are contained within their respective reports or deposition testimony.

27 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
28

1 Motion in Limine No. 4: Permit Treating Physicians to Testify as to Causation, Diagnosis,
2 Prognosis, Future Treatment, and Extent of Disability Without a Formal Expert Report is
3 **GRANTED**. Plaintiffs' treating physicians are allowed to testify as to causation, diagnosis,
4 prognosis, future treatment, and extent of disability pursuant to *FCHI, LLC v. Rodriguez*,
5 130 Nev. ___, 335 P.3d 183 (Nev. Oct. 2, 2014) and because they were properly disclosed
6 pursuant to NRCP 16.1(a)(2)(B).
7

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
9 Motion in Limine No. 5: Exclude Reference to Defense Medical Experts as "Independent"
10 Because They are Not is **DENIED**.
11

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
13 Motion in Limine No. 6: Exclude Argument that this Case is "Attorney Driven" or a
14 "Medical Buildup" Case Because There is No Such Evidence to Support Such Argument is
15 **DENIED**. Defendant, her counsel, and her witnesses cannot offer any statement, argument
16 or reference that Plaintiffs' injury claims or damages are "attorney-driven" or that this is a
17 "medical buildup case," without a supporting factual basis. However, Plaintiffs' counsel
18 must make an objection to any statement, argument or reference that Plaintiffs' injury claims
19 or damages are "attorney driven" or that this is a "medical buildup" case so that the Court
20 can determine whether the statement, argument or reference is fact-based or an attempt to
21 inflame the passions of the jury.
22
23
24

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 7: Exclude Evidence of When the Parties Contacted and Retained
27 Counsel is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her counsel, and
28

1 her witnesses are permitted to offer any statement, argument or reference about when
2 Plaintiffs contacted and retained counsel only in relation to any referrals from Plaintiffs'
3 counsel to their respective medical providers. Defendant, her counsel, and her witnesses are
4 precluded from offering any statement, argument or reference about when Plaintiffs
5 contacted and retained counsel for any other purpose, including, but not limited to, how
6 often Plaintiffs went to see their counsel.
7

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
9 Motion in Limine No. 8: Exclude Reference to Attorney Advertising (Except for Limited
10 References During Voir Dire) is **GRANTED**. The parties, their respective counsel, and their
11 respective witnesses shall be precluded from offering any references to attorney advertising
12 during the trial. The parties and their counsel shall be permitted to explore the topic of
13 attorney advertising with prospective jurors during voir dire only.
14
15

16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
17 Motion in Limine No. 9: Exclude Closing Argument that Plaintiffs are Requesting More
18 Money than They Expect to Receive is **GRANTED**. Defendant and her counsel shall be
19 precluded from making any closing argument or statement that Plaintiffs, during closing
20 argument, requested more money in damages than they expect to receive from the jury.
21 Defendant and her counsel are only permitted to make fact-based arguments against any
22 requested damages award Plaintiffs' counsel makes in his closing argument.
23
24

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 10: Allow Voir Dire Questioning About Employment with or
27 Financial Interest in any Insurance Company is **GRANTED**. All parties and their respective
28

1 counsel shall be permitted to ask good-faith questions to prospective jurors during voir dire
2 about their employment in the insurance claims industry and if they have any financial
3 interest, other than as a general mutual stockholder, in an insurance company pursuant to
4 *Silver State Disposal Co. v. Shelley*, 105 Nev. 309 (1989).
5

6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
7 Motion in Limine No. 11: Exclude Reference to Plaintiffs' Counsel Working with Plaintiffs'
8 Treating Physicians on Unrelated Cases is **GRANTED, IN PART** and **DENIED, IN**
9 **PART**. Defendant and her counsel are permitted to ask questions of Plaintiffs' medical
10 providers regarding the existence of any past working relationship with Plaintiffs' counsel
11 involving medical liens only. Defendant and her counsel are precluded from offering any
12 statement, argument or reference about Plaintiffs' medical providers involvement or
13 treatment of other past clients of Plaintiffs' counsel for any other purpose.
14
15

16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
17 Motion in Limine No. 12: To Limit Defendants' Retained Experts' Testimony to the
18 Opinions and Bases Set Forth in Their Expert Reports is **GRANTED, IN PART** and
19 **DENIED, IN PART**. The parties' retained experts' testimony at trial is solely limited to the
20 opinions and bases set forth in their reports and deposition testimony, and reasonable
21 inferences therefrom. The parties' retained experts may change the opinions outlined in their
22 reports or deposition testimony only if new information, theories, arguments, or conclusions
23 are presented during the trial that were not known or considered at the time the experts
24 drafted any of their initial reports or supplemental reports thereto.
25
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27 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
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1 Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff
2 Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to
3 and Immediately Before the Subject Collision is **GRANTED**.

4 Plaintiff Desire Evans-Waiiau ("Evans-Waiiau") was involved in a prior motor vehicle
5 accident in 2010. The evidence produced shows that Evans-Waiiau received two months of
6 chiropractic treatment following the 2010 accident. The evidence shows that Evans-Waiiau
7 underwent one medical examination with a physician who diagnosed her with a possible
8 cervical radiculopathy following the 2010 accident. There is no evidence that Evans-Waiiau
9 underwent any further treatment for neck pain between July 13, 2010 and October 30, 2015,
10 the date of the subject motor vehicle collision that gives rise to this action.

11 "In order for evidence of a prior injury or pre-existing condition to be admissible, a
12 defendant must present by competent evidence a causal connection between the prior injury
13 and the injury at issue." *FGA, Inc. v. Giglio*, 128 Nev. 271, 283 (2012). Once the plaintiff
14 has met her burden of proof as to medical causation, the defendant can traverse the plaintiff's
15 case in three ways. The defendant can: "(1) cross-examine the plaintiff's expert, (2)
16 contradict the expert's testimony with his own expert, and/or (3) propose an independent
17 alternative causation theory." *Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 530
18 (2011). If an expert proposes an independent alternative causation theory, then the expert
19 must state that opinion to a reasonable degree of medical probability. *Id.*

20 NRCP 16.1(a)(2)(B) requires retained experts to provide a complete statement of their
21 opinions and the bases supporting those opinions in their expert reports. Defendant retained
22 two medical experts in this case: Jeffrey Wang, M.D., and Joseph Schifini, M.D. Dr. Wang
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1 and Dr. Schifini do not offer an independent alternative causation theory for Evans-Waiiau's
2 present injuries to a reasonable degree of medical probability in their respective reports.
3 Therefore, Defendant has not established a causal connection between Evans-Waiiau's prior
4 cervical spine injury or prior 2010 motor vehicle accident and her current injuries and pain
5 complaints allegedly caused by the subject motor vehicle collision.
6

7 Alternatively, if expert testimony is offered to contradict the party opponent's medical
8 causation theory, the expert's testimony must be competent and supported by relevant
9 evidence or research. *FGA, Inc.*, 128 Nev. at 284. The defense expert must also include the
10 plaintiff's causation theory in his analysis if his testimony is used to contradict the plaintiff's
11 medical causation theory. *Id.* Otherwise, the testimony would be "incompetent not only
12 because it lacks the degree of probability necessary for admissibility but also because it does
13 nothing to controvert the evidence of [the plaintiff]." *Id.* Although both Dr. Wang and Dr.
14 Schifini reviewed Evans-Waiiau's medical records, including those records for treatment
15 following the 2010 motor vehicle accident, it does not appear that either of them considered
16 Plaintiff's theory of medical causation in their reports. Rather, Defendant's experts opine
17 that Plaintiff did not suffer an acute, traumatic injury to her cervical disc.
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19
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21 Defendant's retained medical experts fail to establish that Evans-Waiiau's 2010 motor
22 vehicle accident and the resulting cervical spine injury are medically relevant to her current
23 injuries and pain complaints required by *FGA, Inc.* and *Williams*. Defendant also possesses
24 no evidence that Evans-Waiiau's cervical spine was symptomatic between July 13, 2010 and
25 October 30, 2015. Therefore, Defendant is precluded from arguing that Evans-Waiiau was
26 symptomatic in the immediate years prior to the subject collision, unless disclosed witnesses
27
28

1 have testified to the contrary.

2 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
3 Motion in Limine No. 14: To Preclude Defendant from Characterizing Plaintiff Desire
4 Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident
5 as Anything Other than a Temporary Exacerbation is **GRANTED**. Defendant's retained
6 medical experts are allowed to testify that Plaintiff Desire Evans-Waiiau ("Evans-Waiiau")
7 experienced an increase in symptoms after the subsequent July 10, 2016 motor vehicle
8 accident so long as that opinion is articulated in their respective reports. Defendant and her
9 counsel are allowed to argue that neither the subject October 30, 2015 motor vehicle
10 collision, nor the subsequent July 10, 2016 motor vehicle accident caused any need for
11 Evans-Waiiau's cervical spine surgery.
12

13
14 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
15 Motion in Limine No. 15: To Exclude Irrelevant and/or Unduly Prejudicial Information is
16 **GRANTED**.
17

18 (1) Defendant, her counsel, and her witnesses are precluded from offering any
19 statement, argument or reference that Plaintiff Guadalupe Parra-Mendez ("Parra-Mendez")
20 was terminated from her employment at The Cromwell Hotel and Casino. The documentary
21 evidence produced establishes that Parra-Mendez was not terminated from The Cromwell,
22 but instead resigned.
23

24 (2) Defendant, her counsel, and her witnesses are precluded from offering any
25 statement, argument or reference that Plaintiff Desire Evans-Waiiau ("Evans-Waiiau") was
26 terminated from her employment with Bed Bath & Beyond and Spacecraft Components
27
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1 Corp. and the reasons for those terminations. This information is irrelevant because
2 Defendant's experts fail to address these terminations in relation to Evans-Waiiau's earning
3 capacity.

4 (3) Defendant, her counsel, and her witnesses are precluded from offering any
5 statement, argument or reference regarding Evans-Waiiau's claims and/or lawsuits arising
6 from the prior May 10, 2010 and subsequent July 10, 2016 motor vehicle accidents,
7 respectively. The Court Finds that the A-777152 Complaint to be unverified. The fact that
8 Evans-Waiiau made claims or filed lawsuits is irrelevant to the issues of fact that remain in
9 this action, because Defendant's experts do not affirmatively opine that the 2010 or 2016
10 accidents caused or contributed to any injury of a disc in the Plaintiff's cervical spine.

11 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
12 Motion in Limine No. 16: To Limit Testimony and Opinions of Defendant's Retained
13 Medical Expert, Joseph J. Schifini, M.D. is **GRANTED**. Dr. Schifini is precluded from
14 offering any statement, opinion or reference regarding any alleged damage Plaintiffs' motor
15 vehicle sustained prior to the subject October 30, 2015 motor vehicle collision. Dr. Schifini
16 is allowed to rely on the photographs and property damage estimate of Plaintiffs' vehicle as
17 a basis to support the opinions articulated in his reports.

18 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
19 Motion in Limine No. 17: To Exclude Reference to and Evidence of Medical Liens is
20 **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her counsel, and her
21 witnesses shall be precluded from offering any evidence, statement, argument or reference
22 related to any payment of Plaintiffs' medical bills and other expenses from the following
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1 collateral sources: (1) Health insurance, (2) Medicare, (3) Medicaid, (4) Obamacare/The
2 Affordable Healthcare Act, (5) Social Security disability, and (6) Self-funded employment
3 health insurance. Defendant, her counsel, and her witnesses shall be precluded from offering
4 any evidence, statement, argument or reference regarding any of Plaintiffs' medical provider
5 write-downs or discounted sales of liens to third-parties pursuant to *Khoury v. Seastrand*,
6 132 Nev.____, 377 P.3d 81 (2016). Evidence that Plaintiffs' medical treatment was provided
7 on a lien basis is admissible.
8

9
10 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
11 Motion in Limine No. 18: For Judicial Notice of Life Expectancy Table is **GRANTED, IN**
12 **PART and DENIED, IN PART.** The Court shall take judicial notice of the admissibility of
13 the life expectancy table itself as it relates to Plaintiffs' economic and non-economic
14 damages. However, the Court shall not take judicial notice of Plaintiffs' respective life
15 expectancy age as contained in the life expectancy table.
16

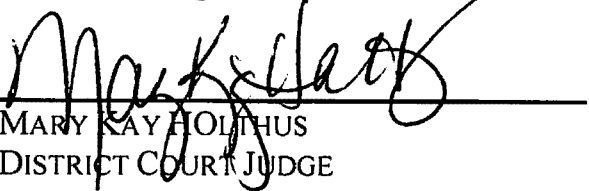
17 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Court's
18 decision on Plaintiff's Motion in Limine No. 19: To Exclude Sub Rosa Surveillance Video
19 of Plaintiff Desire Evans-Waiiau and Any Testimony or Reference to the Same is deferred
20 until the time of trial, to permit the Court to review the video and consider it in light of the
21 other evidence presented.
22

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Plaintiff's
24 Motion in Limine No. 20: To Exclude the Testimony and Opinions of Defendant's Retained
25 Expert, Kevin Kirkendall, CPA, is withdrawn. The parties have agreed in open court that Mr.
26 Kirkendall shall not offer any testimony or opinions regarding the legal standard for
27
28

admissible expert testimony pursuant to *Hallmark v. Eldridge*, 124 Nev. 492 (2008).

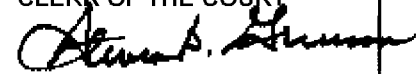
IT IS SO ORDERED

DATED this 22nd of April, 2019.



MARY KAY HOLTHUS
DISTRICT COURT JUDGE

MARY KAY HOLTHUS
DISTRICT JUDGE
DEPARTMENT XVIII



1 **NEO**
2 **DENNIS M. PRINCE, ESQ.**
3 Nevada Bar No. 5092
4 **JACK F. DEGREE, ESQ.**
5 Nevada Bar No. 11102
6 **EGLET PRINCE**
7 400 S. 7th Street, 4th Floor
8 Las Vegas, Nevada 89101
9 E-Mail: eservice@egletlaw.com
10 T: 702.450.5400
11 F: 702.450.5451
12 -and-
13 **PAUL D. POWELL, ESQ.**
14 Nevada Bar No. 7488
15 **THE POWELL LAW FIRM**
16 6785 W. Russell Road, Suite 210
17 Las Vegas, NV 89118
18 E-Mail: paul@tplf.com
19 T: 702.28.5500
20 F: 702.728.5501
21 *Attorneys for Plaintiffs Desire Evans-Waiiau*
22 *and Guadalupe Parra-Mendez*

13 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **DESIRE EVANS-WAIAU, individually,**
16 **GUADALUPE PARRA-MENDEZ,**
17 **individually; JORGE PARRA-MEZA as**
18 **guardian for MAYRA PARRA, a minor;**
19 **JORGE PARRA-MEZA, as guardian for**
20 **AALIYAH PARRA, a minor; and JORGE**
21 **PARRA-MEZA, as guardian for SIENNA**
22 **PARRA, a minor,**

20 **Plaintiffs,**

21 **vs.**

22 **BABYLYN TATE, individually, DOES I-X,**
23 **and ROE CORPORATIONS I-X, inclusive,**

24 **Defendants.**

CASE NO.: A-16-737457-C

DEPT. NO.: XVII

**NOTICE OF ENTRY OF ORDER
REGARDING PLAINTIFFS' MOTIONS
IN LIMINE**

25 ...

26 ...

27 ...

28 ...

EGLET PRINCE

1 PLEASE TAKE NOTICE that an Order Regarding Plaintiffs' Motions In Limine was
2 entered on April 22, 2019, a copy of which is attached hereto as Exhibit "1."

3 DATED this 22nd day of April, 2019.

4 **EGLET PRINCE**

5
6 /s/ Jack F. DeGree
7 DENNIS M. PRINCE, ESQ.
8 Nevada Bar No. 5092
9 JAMES A. TRUMMELL, ESQ.
10 Nevada Bar No. 14127
11 400 S. 7th Street, 4th Floor
12 Las Vegas, Nevada 89101
13 *Attorneys for Plaintiffs Desire Evans-Waiiau*
14 *and Guadalupe Parra-Mendez*
15
16
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CERTIFICATE OF SERVICE

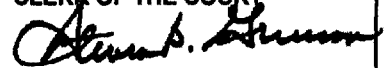
Pursuant to NRCP 5(b), I certify that I am an employee of the EGLET PRINCE and that on April 22, 2019, I did cause a true and correct copy of **NOTICE OF ENTRY OF ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE** to be e-filed and e-served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules entered on the Court's docket in the above-referenced matter.

Thomas E. Winner, Esq.
Caitlin J. Lorelli, Esq.
ATKIN WINNER & SHERROD
1117 S. Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Defendant Babylyn Tate


An Employee of EGLET PRINCE

EXHIBIT 1

EXHIBIT 1



1 ORDER

2 EIGHTH JUDICIAL DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 EVANS-WAIAU ET AL.

5
6 vs.

7 BABLYN TATE

Case No.

A-16-736457-C

Dept. No.

XVIII

8
9

10 **ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE**

11 Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ's
12 Motions in Limine were brought for hearing in front of Department 17 of the Eighth Judicial
13 District Court, before The Honorable Senior Judge Nancy Becker, on the 3rd day of October,
14 2018; and before The Honorable Judge Michael P. Villani, in chambers, on the 1st day of
15 November, 2018; and for hearing on the 5th day of December 2018; and in chambers, on the
16 18th day of January, 2019, with Dennis M. Prince, Esq., James A. Trummell, Esq., and
17 Kevin T. Strong, Esq. of EGLET PRINCE, appearing on behalf of Plaintiffs DESIRE
18 EVANS-WAIAU and GUADALUPE PARRA-MENDEZ; and Thomas E. Winner, Esq. of
19 ATKIN WINNER & SHERROD, appearing on behalf of Defendant BABYLYN TATE.
20 The Court having reviewed the pleadings and papers on file herein, having heard oral
21 argument, and being duly advised in the premises, hereby orders:
22
23
24

25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 1: Exclude Hypothetical Medical Conditions that are Not Based in
27 Evidence is **GRANTED**. All hypothetical questions must be based upon the evidence
28

MARY KAY HOLTHUS
DISTRICT JUDGE
DEPARTMENT XVIII

adduced at trial. All experts are limited to the opinions articulated within their respective reports and deposition testimony.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion in Limine No. 2: Exclude Reference to Any Absence of Medical Records Before the Subject Collision is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her counsel, and her witnesses are precluded from offering any statement, argument or reference that suggests other medical records of Plaintiffs exist and that they were not provided with those medical records. Defendant's retained medical experts may testify that their medical causation opinions and opinions regarding Plaintiffs' need for future medical treatment remain unchanged even in the absence of prior medical records.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion in Limine No. 3: Exclude Reference to Plaintiffs Being Malingerers, Magnifying Symptoms, or Manifesting Secondary Gain Motives Because There is No Competent Evidence to Support Such Reference is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant's retained medical experts are precluded from offering any testimony, opinions or references that Plaintiffs are malingerers, symptom magnifiers, or manifest secondary gain motives because those opinions are not contained within their reports, not because they lack the qualifications as a psychiatrist or psychologist to offer the opinions. Defendant's retained medical experts are allowed to rely on the medical records and the timing of Plaintiffs' respective pain complaints to support their medical causation opinions so long as those opinions are contained within their respective reports or deposition testimony.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiffs'

1 Motion in Limine No. 4: Permit Treating Physicians to Testify as to Causation, Diagnosis,
2 Prognosis, Future Treatment, and Extent of Disability Without a Formal Expert Report is
3 **GRANTED**. Plaintiffs' treating physicians are allowed to testify as to causation, diagnosis,
4 prognosis, future treatment, and extent of disability pursuant to *FCHI, LLC v. Rodriguez*,
5 130 Nev. ___, 335 P.3d 183 (Nev. Oct. 2, 2014) and because they were properly disclosed
6 pursuant to NRCP 16.1(a)(2)(B).
7

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
9 Motion in Limine No. 5: Exclude Reference to Defense Medical Experts as "Independent"
10 Because They are Not is **DENIED**.
11

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
13 Motion in Limine No. 6: Exclude Argument that this Case is "Attorney Driven" or a
14 "Medical Buildup" Case Because There is No Such Evidence to Support Such Argument is
15 **DENIED**. Defendant, her counsel, and her witnesses cannot offer any statement, argument
16 or reference that Plaintiffs' injury claims or damages are "attorney-driven" or that this is a
17 "medical buildup case," without a supporting factual basis. However, Plaintiffs' counsel
18 must make an objection to any statement, argument or reference that Plaintiffs' injury claims
19 or damages are "attorney driven" or that this is a "medical buildup" case so that the Court
20 can determine whether the statement, argument or reference is fact-based or an attempt to
21 inflame the passions of the jury.
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25 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion in Limine No. 7: Exclude Evidence of When the Parties Contacted and Retained
27 Counsel is **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her counsel, and
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1 her witnesses are permitted to offer any statement, argument or reference about when
2 Plaintiffs contacted and retained counsel only in relation to any referrals from Plaintiffs'
3 counsel to their respective medical providers. Defendant, her counsel, and her witnesses are
4 precluded from offering any statement, argument or reference about when Plaintiffs
5 contacted and retained counsel for any other purpose, including, but not limited to, how
6 often Plaintiffs went to see their counsel.
7

8 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
9 Motion in Limine No. 8: Exclude Reference to Attorney Advertising (Except for Limited
10 References During Voir Dire) is **GRANTED**. The parties, their respective counsel, and their
11 respective witnesses shall be precluded from offering any references to attorney advertising
12 during the trial. The parties and their counsel shall be permitted to explore the topic of
13 attorney advertising with prospective jurors during voir dire only.
14

15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
16 Motion in Limine No. 9: Exclude Closing Argument that Plaintiffs are Requesting More
17 Money than They Expect to Receive is **GRANTED**. Defendant and her counsel shall be
18 precluded from making any closing argument or statement that Plaintiffs, during closing
19 argument, requested more money in damages than they expect to receive from the jury.
20 Defendant and her counsel are only permitted to make fact-based arguments against any
21 requested damages award Plaintiffs' counsel makes in his closing argument.
22

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
24 Motion in Limine No. 10: Allow Voir Dire Questioning About Employment with or
25 Financial Interest in any Insurance Company is **GRANTED**. All parties and their respective
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1 counsel shall be permitted to ask good-faith questions to prospective jurors during voir dire
2 about their employment in the insurance claims industry and if they have any financial
3 interest, other than as a general mutual stockholder, in an insurance company pursuant to
4 *Silver State Disposal Co. v. Shelley*, 105 Nev. 309 (1989).
5

6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
7 Motion in Limine No. 11: Exclude Reference to Plaintiffs' Counsel Working with Plaintiffs'
8 Treating Physicians on Unrelated Cases is **GRANTED, IN PART** and **DENIED, IN**
9 **PART**. Defendant and her counsel are permitted to ask questions of Plaintiffs' medical
10 providers regarding the existence of any past working relationship with Plaintiffs' counsel
11 involving medical liens only. Defendant and her counsel are precluded from offering any
12 statement, argument or reference about Plaintiffs' medical providers involvement or
13 treatment of other past clients of Plaintiffs' counsel for any other purpose.
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16 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
17 Motion in Limine No. 12: To Limit Defendants' Retained Experts' Testimony to the
18 Opinions and Bases Set Forth in Their Expert Reports is **GRANTED, IN PART** and
19 **DENIED, IN PART**. The parties' retained experts' testimony at trial is solely limited to the
20 opinions and bases set forth in their reports and deposition testimony, and reasonable
21 inferences therefrom. The parties' retained experts may change the opinions outlined in their
22 reports or deposition testimony only if new information, theories, arguments, or conclusions
23 are presented during the trial that were not known or considered at the time the experts
24 drafted any of their initial reports or supplemental reports thereto.
25
26

27 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
28

1 Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff
2 Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to
3 and Immediately Before the Subject Collision is **GRANTED**.

4 Plaintiff Desire Evans-Waiiau ("Evans-Waiiau") was involved in a prior motor vehicle
5 accident in 2010. The evidence produced shows that Evans-Waiiau received two months of
6 chiropractic treatment following the 2010 accident. The evidence shows that Evans-Waiiau
7 underwent one medical examination with a physician who diagnosed her with a possible
8 cervical radiculopathy following the 2010 accident. There is no evidence that Evans-Waiiau
9 underwent any further treatment for neck pain between July 13, 2010 and October 30, 2015,
10 the date of the subject motor vehicle collision that gives rise to this action.

11 "In order for evidence of a prior injury or pre-existing condition to be admissible, a
12 defendant must present by competent evidence a causal connection between the prior injury
13 and the injury at issue." *FGA, Inc. v. Giglio*, 128 Nev. 271, 283 (2012). Once the plaintiff
14 has met her burden of proof as to medical causation, the defendant can traverse the plaintiff's
15 case in three ways. The defendant can: "(1) cross-examine the plaintiff's expert, (2)
16 contradict the expert's testimony with his own expert, and/or (3) propose an independent
17 alternative causation theory." *Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 530
18 (2011). If an expert proposes an independent alternative causation theory, then the expert
19 must state that opinion to a reasonable degree of medical probability. *Id.*

20 NRCP 16.1(a)(2)(B) requires retained experts to provide a complete statement of their
21 opinions and the bases supporting those opinions in their expert reports. Defendant retained
22 two medical experts in this case: Jeffrey Wang, M.D., and Joseph Schifini, M.D. Dr. Wang
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1 and Dr. Schifini do not offer an independent alternative causation theory for Evans-Waiiau's
2 present injuries to a reasonable degree of medical probability in their respective reports.
3 Therefore, Defendant has not established a causal connection between Evans-Waiiau's prior
4 cervical spine injury or prior 2010 motor vehicle accident and her current injuries and pain
5 complaints allegedly caused by the subject motor vehicle collision.
6

7 Alternatively, if expert testimony is offered to contradict the party opponent's medical
8 causation theory, the expert's testimony must be competent and supported by relevant
9 evidence or research. *FGA, Inc.*, 128 Nev. at 284. The defense expert must also include the
10 plaintiff's causation theory in his analysis if his testimony is used to contradict the plaintiff's
11 medical causation theory. *Id.* Otherwise, the testimony would be "incompetent not only
12 because it lacks the degree of probability necessary for admissibility but also because it does
13 nothing to controvert the evidence of [the plaintiff]." *Id.* Although both Dr. Wang and Dr.
14 Schifini reviewed Evans-Waiiau's medical records, including those records for treatment
15 following the 2010 motor vehicle accident, it does not appear that either of them considered
16 Plaintiff's theory of medical causation in their reports. Rather, Defendant's experts opine
17 that Plaintiff did not suffer an acute, traumatic injury to her cervical disc.
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21 Defendant's retained medical experts fail to establish that Evans-Waiiau's 2010 motor
22 vehicle accident and the resulting cervical spine injury are medically relevant to her current
23 injuries and pain complaints required by *FGA, Inc.* and *Williams*. Defendant also possesses
24 no evidence that Evans-Waiiau's cervical spine was symptomatic between July 13, 2010 and
25 October 30, 2015. Therefore, Defendant is precluded from arguing that Evans-Waiiau was
26 symptomatic in the immediate years prior to the subject collision, unless disclosed witnesses
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28

1 have testified to the contrary.

2 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
3 Motion in Limine No. 14: To Preclude Defendant from Characterizing Plaintiff Desire
4 Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident
5 as Anything Other than a Temporary Exacerbation is **GRANTED**. Defendant's retained
6 medical experts are allowed to testify that Plaintiff Desire Evans-Waiiau ("Evans-Waiiau")
7 experienced an increase in symptoms after the subsequent July 10, 2016 motor vehicle
8 accident so long as that opinion is articulated in their respective reports. Defendant and her
9 counsel are allowed to argue that neither the subject October 30, 2015 motor vehicle
10 collision, nor the subsequent July 10, 2016 motor vehicle accident caused any need for
11 Evans-Waiiau's cervical spine surgery.

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
13 Motion in Limine No. 15: To Exclude Irrelevant and/or Unduly Prejudicial Information is
14 **GRANTED**.

15 (1) Defendant, her counsel, and her witnesses are precluded from offering any
16 statement, argument or reference that Plaintiff Guadalupe Parra-Mendez ("Parra-Mendez")
17 was terminated from her employment at The Cromwell Hotel and Casino. The documentary
18 evidence produced establishes that Parra-Mendez was not terminated from The Cromwell,
19 but instead resigned.

20 (2) Defendant, her counsel, and her witnesses are precluded from offering any
21 statement, argument or reference that Plaintiff Desire Evans-Waiiau ("Evans-Waiiau") was
22 terminated from her employment with Bed Bath & Beyond and Spacecraft Components
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1 Corp. and the reasons for those terminations. This information is irrelevant because
2 Defendant's experts fail to address these terminations in relation to Evans-Waiiau's earning
3 capacity.

4 (3) Defendant, her counsel, and her witnesses are precluded from offering any
5 statement, argument or reference regarding Evans-Waiiau's claims and/or lawsuits arising
6 from the prior May 10, 2010 and subsequent July 10, 2016 motor vehicle accidents,
7 respectively. The Court Finds that the A-777152 Complaint to be unverified. The fact that
8 Evans-Waiiau made claims or filed lawsuits is irrelevant to the issues of fact that remain in
9 this action, because Defendant's experts do not affirmatively opine that the 2010 or 2016
10 accidents caused or contributed to any injury of a disc in the Plaintiff's cervical spine.
11

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
13 Motion in Limine No. 16: To Limit Testimony and Opinions of Defendant's Retained
14 Medical Expert, Joseph J. Schifini, M.D. is **GRANTED**. Dr. Schifini is precluded from
15 offering any statement, opinion or reference regarding any alleged damage Plaintiffs' motor
16 vehicle sustained prior to the subject October 30, 2015 motor vehicle collision. Dr. Schifini
17 is allowed to rely on the photographs and property damage estimate of Plaintiffs' vehicle as
18 a basis to support the opinions articulated in his reports.
19

20 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
21 Motion in Limine No. 17: To Exclude Reference to and Evidence of Medical Liens is
22 **GRANTED, IN PART** and **DENIED, IN PART**. Defendant, her counsel, and her
23 witnesses shall be precluded from offering any evidence, statement, argument or reference
24 related to any payment of Plaintiffs' medical bills and other expenses from the following
25
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1 collateral sources: (1) Health insurance, (2) Medicare, (3) Medicaid, (4) Obamacare/The
2 Affordable Healthcare Act, (5) Social Security disability, and (6) Self-funded employment
3 health insurance. Defendant, her counsel, and her witnesses shall be precluded from offering
4 any evidence, statement, argument or reference regarding any of Plaintiffs' medical provider
5 write-downs or discounted sales of liens to third-parties pursuant to *Khoury v. Seastrand*,
6 132 Nev.____, 377 P.3d 81 (2016). Evidence that Plaintiffs' medical treatment was provided
7 on a lien basis is admissible.
8

9
10 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
11 Motion in Limine No. 18: For Judicial Notice of Life Expectancy Table is **GRANTED, IN**
12 **PART and DENIED, IN PART.** The Court shall take judicial notice of the admissibility of
13 the life expectancy table itself as it relates to Plaintiffs' economic and non-economic
14 damages. However, the Court shall not take judicial notice of Plaintiffs' respective life
15 expectancy age as contained in the life expectancy table.
16


17 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Court's
18 decision on Plaintiff's Motion in Limine No. 19: To Exclude Sub Rosa Surveillance Video
19 of Plaintiff Desire Evans-Waiiau and Any Testimony or Reference to the Same is deferred
20 until the time of trial, to permit the Court to review the video and consider it in light of the
21 other evidence presented.
22

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Plaintiff's
24 Motion in Limine No. 20: To Exclude the Testimony and Opinions of Defendant's Retained
25 Expert, Kevin Kirkendall, CPA, is withdrawn. The parties have agreed in open court that Mr.
26 Kirkendall shall not offer any testimony or opinions regarding the legal standard for
27
28

admissible expert testimony pursuant to *Hallmark v. Eldridge*, 124 Nev. 492 (2008).

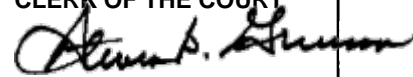
IT IS SO ORDERED

DATED this 22nd of April, 2019.



MARY KAY HOLTHUS
DISTRICT COURT JUDGE

MARY KAY HOLTHUS
DISTRICT JUDGE
DEPARTMENT XVIII



ORDER
THOMAS E. WINNER
Nevada Bar No. 5168
CAITLIN J. LORELLI
Nevada Bar No. 14571
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
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clorelli@awslawyers.com

Attorneys for Babylyn B. Tate

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guaridan for SIENNA
PARRA, a minor,

Plaintiff(s)

vs.

BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: IX

**ORDER REGARDING DEFENDANT
TATE'S MOTIONS *IN LIMINE***

Defendant BABYLYN TATE's Motions *in Limine* were brought for hearing in front of Department 17 of the Eighth Judicial District Court, before the Honorable Senior Judge Nancy Becker, on the 3rd day of October 2018; and before the Honorable Judge Michael P. Villani, in chambers, on the 1st day November, 2018, and for hearing on the 5th day of December, 2018 and 18th day of January, 2019, before the Honorable Judge Michael P. Villani with Dennis M. Prince, Esq., James A. Trummell, Esq., and Kevin T. Strong, Esq. of EGLET PRINCE appearing on behalf of Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ, and

1 Thomas E. Winner, Esq. of ATKIN WINNER & SHERROD appearing on behalf of Defendant
 2 BABYLYN TATE. The Court having reviewed the pleadings and papers on file herein, having
 3 heard oral argument, and being duly advised in the premises, hereby orders:

4 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 5 Motion *in Limine* No. 1: Regarding Specific Statements and Claims of the Parties is
 6 **GRANTED, IN PART and DENIED, IN PART.** Part (B) – Defendant Tate's Observations and
 7 Triage at Accident Scene - Defendant Tate is permitted to testify about what she observed after
 8 the subject accident occurred, including the actions of the Plaintiffs post-accident. Meaning,
 9 Defendant Tate is permitted to opine she does not believe Plaintiffs sustained any injury based
 10 upon her observations. In rendering her observations post-accident, Defendant Tate is not
 11 permitted to testify she performed a triage or a medical procedure.¹ Part (C) – Injuries of Minor
 12 Children – Evidence of injury to minor children is permissible to establish severity of impact
 13 only. Evidence of lack of injury to Defendant Tate is permissible to establish severity of impact.
 14 Evidence of minor children's medical expenses is inadmissible; relevance outweighed by unfair
 15 prejudice.² Part (D) – Plaintiff Evans-Waiiau's Subsequent Injuries – The defense may argue that
 16 neither the subject accident nor the subsequent accident on July 10, 2016 is the cause of Plaintiff
 17 Evans-Waiiau's surgery. The defense is permitted to have experts testify there was an increase in
 18 symptoms as set forth by the reports.³ However, Plaintiff Evans-Waiiau's 2018 Complaint,
 19 relative to the July 10, 2016 subsequent accident, wherein she alleges injuries to her shoulders
 20 and back, is not a verified complaint and the statements contained therein are deemed legal
 21 conclusions made by counsel rather than party admissions. The Court finds Plaintiff Evans-
 22 Waiiau's cervical recommendation was made prior to the 2016 accident and that Defendant
 23 Tate's experts do not opine the 2016 caused or contributed to the alleged injuries sustained in the

24
 25
 26 ¹ See Minute Order 10/3/2018.

27 ² See Minute Order 11/1/2018.

28 ³ See Minute Order 12/5/2018.

subject collision and on these bases and to that extent, Part 1D is denied.⁴

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Tate's Motion *in Limine* No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics is **GRANTED, IN PART and DENIED, IN PART**. Part (1) – Avoiding Responsibility – Counsel cannot argue this matter is in trial because Defendant Tate is trying to avoid her responsibility. Counsel may use the term "safety rule." However, to the extent counsel is going to use this specific terminology, counsel must use them in the context of their fact-driven argument.⁵ Part (2) – Negligence Posing a Risk to Persons Other Than Plaintiffs – Counsel may make the general argument that when a person violates the rules of the road, it endangers people on the roadway in general. However, counsel cannot argue or make argument that suggests other people were threatened or harmed by Defendant Tate's conduct absent facts to support this contention.⁶ Part (3) – "Send a Message" via Verdict – The Court did not specifically rule on this issue. Rather, the Court made a general ruling with regard to Motion *in Limine* No. 2 as a whole wherein the Court Granted Defendant Tate's motion *in limine* to the extent that if counsel is going to use specific words, counsel has to use them in the context of their fact-driven argument.⁷ Part (4) – Conscience of the Community – Counsel cannot argue that the jury is the conscience of the community.⁸

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Tate's Motion *in Limine* No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs' Claims for Damages is **GRANTED, IN PART and DENIED, IN PART**. Part (1) – Evidence of Medical Liens – Evidence of treatment on a litigation lien is admissible.⁹ Part (2) – Per Diem

⁴ See Minute Order on 1/18/2019.

⁵ See Minute Order 10/3/2018.

⁶ See Minute Order 10/3/2018.

⁷ See Minute Order 10/3/2018.

⁸ See Minute Order 10/3/2018.

⁹ See Minute Order 11/1/2018.

1 Calculations – Per diem arguments are permitted.¹⁰ Part (3) – Untimely Disclosures of Medical
2 Specials – Continued medical specials are not limited to May 4, 2018 unless there have been no
3 disclosures thereafter. Absent proper disclosure(s) continued medical specials are not
4 permitted.¹¹ Part (4) – Speculative Damages – Denied for vagueness.¹²

5 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
6 Motion *in Limine* No. 4: To Prohibit Questions Regarding Verdict Amounts During *Voir Dire*,
7 and to Impose Reasonable Limitations on the Scope and Duration of *Voir Dire* is **DENIED, IN**
8 **PART** and **DEFERRED, IN PART** Part (1) – Potential Jurors Willingness to Award Certain
9 Verdicts or Ranges – inquiring about potential verdict amounts from a potential juror is
10 admissible but may not rise to the level of juror indoctrination. Mentioning range or specific
11 verdict amount Plaintiffs are seeking is permissible from outset of *voir dire*. The parties are free
12 to a juror's life experience to determine any bias.¹³ Part (2) – Reasonable Limitations on Scope
13 and Duration of Voir Dire – the Court will address the extent and length of *voir dire* during
14 trial.¹⁴

15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
16 Motion *in Limine* No. 5: Regarding Expert Testimony is **GRANTED, IN PART** and **DENIED,**
17 **IN PART.** Part (1) – Non-Retained Experts Opinions Formed During Course and Scope of
18 Treatment, as Documented in their Records – A treating physician may not review documents
19 and act as a rebuttal witness. A treating physician cannot testify to things outside the scope of his
20 or her treatment.¹⁵ Part (2) – Cumulative Medical Testimony – Dr. Khavkin will not be excluded
21 on the basis of cumulative medical testimony.¹⁶ Part (3) – Expert Testimony Based on Reports

22
23 ¹⁰ See Minute Order 10/3/2018.

24 ¹¹ See Minute Order 10/3/2018.

25 ¹² See Minute Order 10/3/2018.

26 ¹³ See Minute Order 11/1/2018.

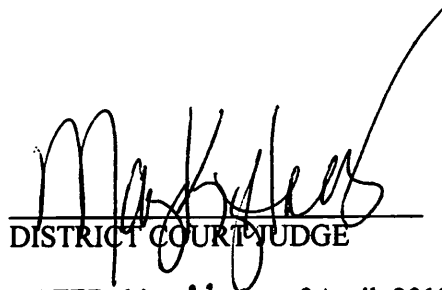
27 ¹⁴ See Minute Order 11/1/2018.

28 ¹⁵ See Minute Order 10/3/2018.

¹⁶ See Minute Order 10/3/2018.

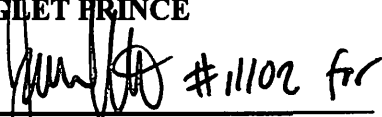
1 and Learned in Trial – All experts are limited to their expert reports and deposition testimony.
2 However, the expert is not only allowed to parrot their reports. Experts do have latitude in
3 explaining the foundation of their opinions. Each party has the right to object, at the time of trial,
4 if he or she believes the other is seeking to elicit information or opinions that are outside the
5 mandates of NRCP 16.1. Moreover, an expert may modify his or her opinion based on new
6 information learned during the course of trial.¹⁷ Part (4) – Experts and Relevant, Fact-Based
7 Hypothetical Questions – all hypothetical questions must be based upon evidence adduced at
8 trial. All experts are limited to their opinions contained within their reports and deposition
9 testimony.¹⁸

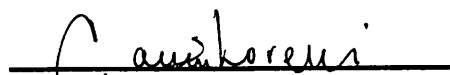
10
11 **IT IS SO ORDERED.**
12 DATED this 23 day of April, 2019.

13
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15
16
17
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19
20
21
22
23
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25
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27
28

DISTRICT COURT JUDGE

DATED this 20 day of April, 2019.
Approved as to Form and Content:
EGLET PRINCE

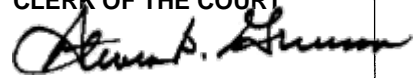
DATED this 23 day of April, 2019.
Respectfully Submitted By:
ATKIN WINNER & SHERROD

 #11102 fr
DENNIS M. PRINCE, ESQ.
Nevada Bar No. 5092
TRACY A. EGLET, ESQ.
Nevada Bar No. 6419
KEVIN T. STRONG, ESQ.
Nevada Bar No. 12107
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Tel. (702) 450-5400
Fax (702) 450-5451
Attorneys for Plaintiffs
Desire Evans-Waiiau and
Guadalupe Parra-Mendez


THOMAS E. WINNER, ESQ.
Nevada Bar No. 5168
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Nevada Bar No. 14571
1117 South Rancho Drive
Las Vegas, Nevada 89102
Tel. (702) 243-7000
Fax (702) 243-7059
Attorneys for Defendant
Babylun Tate

¹⁷ See Minute Order 11/1/2018.

¹⁸ See Minute Order 11/1/2018, referencing ruling on Plaintiffs' Omnibus Motion *in Limine* No. 1.



1 NEOJ
2 THOMAS E. WINNER
3 Nevada Bar No. 5168
4 CAITLIN J. LORELLI
5 Nevada Bar No. 14571
6 ATKIN WINNER & SHERROD
7 1117 South Rancho Drive
8 Las Vegas, Nevada 89102
9 Phone (702) 243-7000
10 Facsimile (702) 243-7059
11 twinner@awslawyers.com
12 clorelli@awslawyers.com

13 Attorneys for Defendant
14 Babylyn B. Tate

15 EIGHTH JUDICIAL DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 DESIRE EVANS-WAIAU, individually;
18 GUADALUPE PARRA-MENDEZ,
19 individually; JORGE PARRA-MEZA, as
20 guardian for MAYRA PARRA, a minor;
21 JORGE PARRA-MEZA, as guardian for
22 AALIYAH PARRA, a minor; and JORGE
23 PARRA, a minor,

24 Plaintiffs

25 vs.

26 BABYLYN TATE, individually, DOES I-
27 X, and ROE CORPORATIONS I-X,
28 inclusive,

Defendants

CASE NO.: A-16-736457-C
DEPT. NO.: 18

**NOTICE OF ENTRY OF ORDER
REGARDING DEFENDANT TATE'S
MOTIONS IN LIMINE**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE that the attached Order Regarding Defendant

///

///

///

///

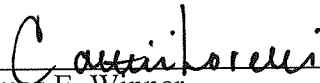
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///

1 Tate's Motions in Limine was entered by the Court on the 24th day of April, 2019.

2 DATED this 26 day of April, 2019.

4 ATKIN WINNER & SHERROD

6 
7 Thomas E. Winner
8 Nevada Bar No. 5168
9 Caitlin J. Lorelli
10 Nevada Bar No. 14571
11 1117 South Rancho Drive
12 Las Vegas, Nevada 89102
13 Attorneys for Babylyn B. Tate

CERTIFICATE OF SERVICE

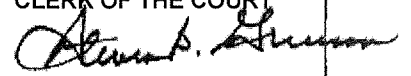
I certify that on this 26 day of April, 2019, the foregoing **NOTICE OF ENTRY OF ORDER REGARDING DEFENDANT TATE'S MOTIONS IN LIMINE** was served on the following by ☐ Electronic Service pursuant to NEFR 9 ☒ Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐ overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

Paul D. Powell
Michael Kristof
The Powell Law Firm
6785 West Russell Road, Suite 210
Las Vegas, NV 89118

And

Dennis Prince
Jack Degree
Eglet Prince
400 South 7th Street, Suite 400
Las Vegas, Nevada 89101
Attorney for Plaintiffs


An employee of ATKIN WINNER & SHERROD



ORDR
THOMAS E. WINNER
Nevada Bar No. 5168
CAITLIN J. LORELLI
Nevada Bar No. 14571
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
Facsimile (702) 243-7059
twinner@awslawyers.com
clorelli@awslawyers.com

Attorneys for Babylyn B. Tate

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guaridan for SIENNA
PARRA, a minor,

Plaintiff(s)

vs.

BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: IX

**ORDER REGARDING DEFENDANT
TATE'S MOTIONS *IN LIMINE***

Defendant BABYLYN TATE's Motions *in Limine* were brought for hearing in front of Department 17 of the Eighth Judicial District Court, before the Honorable Senior Judge Nancy Becker, on the 3rd day of October 2018; and before the Honorable Judge Michael P. Villani, in chambers, on the 1st day November, 2018, and for hearing on the 5th day of December, 2018 and 18th day of January, 2019, before the Honorable Judge Michael P. Villani with Dennis M. Prince, Esq., James A. Trummell, Esq., and Kevin T. Strong, Esq. of EGLET PRINCE appearing on behalf of Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ, and

1 Thomas E. Winner, Esq. of ATKIN WINNER & SHERROD appearing on behalf of Defendant
 2 BABYLYN TATE. The Court having reviewed the pleadings and papers on file herein, having
 3 heard oral argument, and being duly advised in the premises, hereby orders:

4 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 5 Motion *in Limine* No. 1: Regarding Specific Statements and Claims of the Parties is
 6 **GRANTED, IN PART** and **DENIED, IN PART**. Part (B) – Defendant Tate's Observations and
 7 Triage at Accident Scene - Defendant Tate is permitted to testify about what she observed after
 8 the subject accident occurred, including the actions of the Plaintiffs post-accident. Meaning,
 9 Defendant Tate is permitted to opine she does not believe Plaintiffs sustained any injury based
 10 upon her observations. In rendering her observations post-accident, Defendant Tate is not
 11 permitted to testify she performed a triage or a medical procedure.¹ Part (C) – Injuries of Minor
 12 Children – Evidence of injury to minor children is permissible to establish severity of impact
 13 only. Evidence of lack of injury to Defendant Tate is permissible to establish severity of impact.
 14 Evidence of minor children's medical expenses is inadmissible; relevance outweighed by unfair
 15 prejudice.² Part (D) – Plaintiff Evans-Waiiau's Subsequent Injuries – The defense may argue that
 16 neither the subject accident nor the subsequent accident on July 10, 2016 is the cause of Plaintiff
 17 Evans-Waiiau's surgery. The defense is permitted to have experts testify there was an increase in
 18 symptoms as set forth by the reports.³ However, Plaintiff Evans-Waiiau's 2018 Complaint,
 19 relative to the July 10, 2016 subsequent accident, wherein she alleges injuries to her shoulders
 20 and back, is not a verified complaint and the statements contained therein are deemed legal
 21 conclusions made by counsel rather than party admissions. The Court finds Plaintiff Evans-
 22 Waiiau's cervical recommendation was made prior to the 2016 accident and that Defendant
 23 Tate's experts do not opine the 2016 caused or contributed to the alleged injuries sustained in the

24
 25
 26 ¹ See Minute Order 10/3/2018.

27 ² See Minute Order 11/1/2018.

28 ³ See Minute Order 12/5/2018.

1 subject collision and on these bases and to that extent, Part 1D is denied.⁴

2 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
3 Motion *in Limine* No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics is **GRANTED,**
4 **IN PART** and **DENIED, IN PART.** Part (1) – Avoiding Responsibility – Counsel cannot argue
5 this matter is in trial because Defendant Tate is trying to avoid her responsibility. Counsel may
6 use the term “safety rule.” However, to the extent counsel is going to use this specific
7 terminology, counsel must use them in the context of their fact-driven argument.⁵ Part (2) –
8 Negligence Posing a Risk to Persons Other Than Plaintiffs – Counsel may make the general
9 argument that when a person violates the rules of the road, it endangers people on the roadway in
10 general. However, counsel cannot argue or make argument that suggests other people were
11 threatened or harmed by Defendant Tate's conduct absent facts to support this contention.⁶ Part
12 (3) – “Send a Message” via Verdict – The Court did not specifically rule on this issue. Rather,
13 the Court made a general ruling with regard to Motion *in Limine* No. 2 as a whole wherein the
14 Court Granted Defendant Tate's motion *in limine* to the extent that if counsel is going to use
15 specific words, counsel has to use them in the context of their fact-driven argument.⁷ Part (4) –
16 Conscience of the Community – Counsel cannot argue that the jury is the conscience of the
17 community.⁸

18 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
19 Motion *in Limine* No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs'
20 Claims for Damages is **GRANTED, IN PART** and **DENIED, IN PART.** Part (1) – Evidence of
21 Medical Liens – Evidence of treatment on a litigation lien is admissible.⁹ Part (2) – Per Diem
22
23

24 ⁴ See Minute Order on 1/18/2019.

25 ⁵ See Minute Order 10/3/2018.

26 ⁶ See Minute Order 10/3/2018.

27 ⁷ See Minute Order 10/3/2018.

28 ⁸ See Minute Order 10/3/2018.

⁹ See Minute Order 11/1/2018.

Order Regarding Defendant Tate's Motions *in Limine*

1 Calculations – Per diem arguments are permitted.¹⁰ Part (3) – Untimely Disclosures of Medical
 2 Specials – Continued medical specials are not limited to May 4, 2018 unless there have been no
 3 disclosures thereafter. Absent proper disclosure(s) continued medical specials are not
 4 permitted.¹¹ Part (4) – Speculative Damages – Denied for vagueness.¹²

5 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 6 Motion *in Limine* No. 4: To Prohibit Questions Regarding Verdict Amounts During *Voir Dire*,
 7 and to Impose Reasonable Limitations on the Scope and Duration of *Voir Dire* is **DENIED, IN**
 8 **PART** and **DEFERRED, IN PART** Part (1) – Potential Jurors Willingness to Award Certain
 9 Verdicts or Ranges – inquiring about potential verdict amounts from a potential juror is
 10 admissible but may not rise to the level of juror indoctrination. Mentioning range or specific
 11 verdict amount Plaintiffs are seeking is permissible from outset of *voir dire*. The parties are free
 12 to a juror's life experience to determine any bias.¹³ Part (2) – Reasonable Limitations on Scope
 13 and Duration of Voir Dire – the Court will address the extent and length of *voir dire* during
 14 trial.¹⁴

15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 16 Motion *in Limine* No. 5: Regarding Expert Testimony is **GRANTED, IN PART** and **DENIED,**
 17 **IN PART.** Part (1) – Non-Retained Experts Opinions Formed During Course and Scope of
 18 Treatment, as Documented in their Records – A treating physician may not review documents
 19 and act as a rebuttal witness. A treating physician cannot testify to things outside the scope of his
 20 or her treatment.¹⁵ Part (2) – Cumulative Medical Testimony – Dr. Khavkin will not be excluded
 21 on the basis of cumulative medical testimony.¹⁶ Part (3) – Expert Testimony Based on Reports
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23 ¹⁰ See Minute Order 10/3/2018.

24 ¹¹ See Minute Order 10/3/2018.

25 ¹² See Minute Order 10/3/2018.

26 ¹³ See Minute Order 11/1/2018.

27 ¹⁴ See Minute Order 11/1/2018.

28 ¹⁵ See Minute Order 10/3/2018.

¹⁶ See Minute Order 10/3/2018.

Order Regarding Defendant Tate's Motions *in Limine*

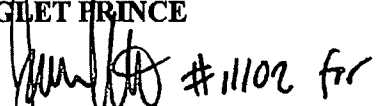
1 and Learned in Trial – All experts are limited to their expert reports and deposition testimony.
2 However, the expert is not only allowed to parrot their reports. Experts do have latitude in
3 explaining the foundation of their opinions. Each party has the right to object, at the time of trial,
4 if he or she believes the other is seeking to elicit information or opinions that are outside the
5 mandates of NRCP 16.1. Moreover, an expert may modify his or her opinion based on new
6 information learned during the course of trial.¹⁷ Part (4) – Experts and Relevant, Fact-Based
7 Hypothetical Questions – all hypothetical questions must be based upon evidence adduced at
8 trial. All experts are limited to their opinions contained within their reports and deposition
9 testimony.¹⁸

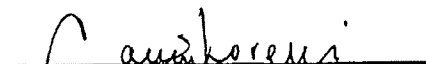
10
11 **IT IS SO ORDERED.**
12 DATED this 23 day of April, 2019.

13
14 
DISTRICT COURT JUDGE

15 DATED this 20 day of April, 2019.
16 Approved as to Form and Content:
17 EGLET PRINCE

18 DATED this 23 day of April, 2019.
19 Respectfully Submitted By:
20 ATKIN WINNER & SHERROD

21  #11102 for
22 DENNIS M. PRINCE, ESQ.
23 Nevada Bar No. 5092
24 TRACY A. EGLET, ESQ.
25 Nevada Bar No. 6419
26 KEVIN T. STRONG, ESQ.
27 Nevada Bar No. 12107
28 400 South 7th Street, 4th Floor
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Tel. (702) 450-5400
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Attorneys for Plaintiffs
Desire Evans-Waiiau and
Guadalupe Parra-Mendez

21 
22 THOMAS E. WINNER, ESQ.
23 Nevada Bar No. 5168
24 CAITLIN J. LORELLI, ESQ.
25 Nevada Bar No. 14571
26 1117 South Rancho Drive
27 Las Vegas, Nevada 89102
28 Tel. (702) 243-7000
Fax (702) 243-7059
Attorneys for Defendant
Babylyn Tate

¹⁷ See Minute Order 11/1/2018.

¹⁸ See Minute Order 11/1/2018, referencing ruling on Plaintiffs' Omnibus Motion *in Limine* No. 1.



1 **NEO**
2 **DENNIS M. PRINCE, ESQ.**
3 Nevada Bar No. 5092
4 **JACK F. DEGREE, ESQ.**
5 Nevada Bar No. 11102
6 **EGLET PRINCE**
7 400 S. 7th Street, 4th Floor
8 Las Vegas, Nevada 89101
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10 T: 702.450.5400
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12 -and-
13 **PAUL D. POWELL, ESQ.**
14 Nevada Bar No. 7488
15 **THE POWELL LAW FIRM**
16 6785 W. Russell Road, Suite 210
17 Las Vegas, NV 89118
18 E-Mail: paul@tplf.com
19 T: 702.28.5500
20 F: 702.728.5501
21 *Attorneys for Plaintiffs Desire Evans-Waiiau*
22 *and Guadalupe Parra-Mendez*

23 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 **DESIRE EVANS-WAIAU, individually,**
26 **GUADALUPE PARRA-MENDEZ,**
27 **individually; JORGE PARRA-MEZA as**
28 **guardian for MAYRA PARRA, a minor;**
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guardian for SIENNA
PARRA, a minor,

Plaintiffs,

vs.

BABYLYN TATE, individually, DOES I-X,
and ROE CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: A-16-736457-C

DEPT. NO.: XVII

NOTICE OF ENTRY OF ORDER
REGARDING DEFENDANT TATE'S
MOTIONS IN LIMINE

...

...

...

1 PLEASE TAKE NOTICE that an Order Regarding Defendant Tate's Motions In Limine
2 was entered on April 24, 2019, a copy of which is attached hereto as Exhibit "1."

3 DATED this 26th day of April, 2019.

4 **24RINCE**

5
6 /s/ Jack F. DeGree

DENNIS M. PRINCE, ESQ.

Nevada Bar No. 5092

JAMES A. TRUMMELL, ESQ.

Nevada Bar No. 14127

400 S. 7th Street, 4th Floor

Las Vegas, Nevada 89101

*Attorneys for Plaintiffs Desire Evans-Waiiau
and Guadalupe Parra-Mendez*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the EGLET PRINCE and that on April 26, 2019, I did cause a true and correct copy of **NOTICE OF ENTRY OF ORDER REGARDING DEFENDANT TATE'S MOTIONS IN LIMINE** to be e-filed and e-served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules entered on the Court's docket in the above-referenced matter.

Thomas E. Winner, Esq.
Caitlin J. Lorelli, Esq.
ATKIN WINNER & SHERROD
1117 S. Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Defendant Babylyn Tate


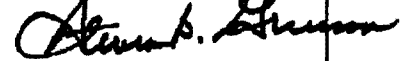

An Employee of EGLET PRINCE

EXHIBIT 1

EXHIBIT 1



ATKIN WINNER & SHERROD
A NEVADA LAW FIRM

ORDER
THOMAS E. WINNER
Nevada Bar No. 5168
CAITLIN J. LORELLI
Nevada Bar No. 14571
ATKIN WINNER & SHERROD
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twinner@awslawyers.com
clorelli@awslawyers.com

Attorneys for Babylyn B. Tate

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guardian for SIENNA
PARRA, a minor,

Plaintiff(s)

vs.

BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: IX

**ORDER REGARDING DEFENDANT
TATE'S MOTIONS *IN LIMINE***

Defendant BABYLYN TATE's Motions *in Limine* were brought for hearing in front of Department 17 of the Eighth Judicial District Court, before the Honorable Senior Judge Nancy Becker, on the 3rd day of October 2018; and before the Honorable Judge Michael P. Villani, in chambers, on the 1st day November, 2018, and for hearing on the 5th day of December, 2018 and 18th day of January, 2019, before the Honorable Judge Michael P. Villani with Dennis M. Prince, Esq., James A. Trummell, Esq., and Kevin T. Strong, Esq. of EGLET PRINCE appearing on behalf of Plaintiffs DESIRE EVANS-WAIAU and GUADALUPE PARRA-MENDEZ, and

Order Regarding Defendant Tate's Motions *in Limine*

1 Thomas E. Winner, Esq. of ATKIN WINNER & SHERROD appearing on behalf of Defendant
 2 BABYLYN TATE. The Court having reviewed the pleadings and papers on file herein, having
 3 heard oral argument, and being duly advised in the premises, hereby orders:

4 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
 5 Motion *in Limine* No. 1: Regarding Specific Statements and Claims of the Parties is
 6 **GRANTED, IN PART and DENIED, IN PART.** Part (B) – Defendant Tate's Observations and
 7 Triage at Accident Scene - Defendant Tate is permitted to testify about what she observed after
 8 the subject accident occurred, including the actions of the Plaintiffs post-accident. Meaning,
 9 Defendant Tate is permitted to opine she does not believe Plaintiffs sustained any injury based
 10 upon her observations. In rendering her observations post-accident, Defendant Tate is not
 11 permitted to testify she performed a triage or a medical procedure.¹ Part (C) – Injuries of Minor
 12 Children – Evidence of injury to minor children is permissible to establish severity of impact
 13 only. Evidence of lack of injury to Defendant Tate is permissible to establish severity of impact.
 14 Evidence of minor children's medical expenses is inadmissible; relevance outweighed by unfair
 15 prejudice.² Part (D) – Plaintiff Evans-Waiiau's Subsequent Injuries – The defense may argue that
 16 neither the subject accident nor the subsequent accident on July 10, 2016 is the cause of Plaintiff
 17 Evans-Waiiau's surgery. The defense is permitted to have experts testify there was an increase in
 18 symptoms as set forth by the reports.³ However, Plaintiff Evans-Waiiau's 2018 Complaint,
 19 relative to the July 10, 2016 subsequent accident, wherein she alleges injuries to her shoulders
 20 and back, is not a verified complaint and the statements contained therein are deemed legal
 21 conclusions made by counsel rather than party admissions. The Court finds Plaintiff Evans-
 22 Waiiau's cervical recommendation was made prior to the 2016 accident and that Defendant
 23 Tate's experts do not opine the 2016 caused or contributed to the alleged injuries sustained in the
 24
 25

26 ¹ See Minute Order 10/3/2018.

27 ² See Minute Order 11/1/2018.

28 ³ See Minute Order 12/5/2018.

Order Regarding Defendant Tate's Motions *in Limine*

subject collision and on these bases and to that extent, Part 1D is denied.⁴

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Tate's Motion *in Limine* No. 2: To Prohibit the Use of Unfairly Prejudicial Trial Tactics is GRANTED, IN PART and DENIED, IN PART. Part (1) – Avoiding Responsibility – Counsel cannot argue this matter is in trial because Defendant Tate is trying to avoid her responsibility. Counsel may use the term "safety rule." However, to the extent counsel is going to use this specific terminology, counsel must use them in the context of their fact-driven argument.⁵ Part (2) – Negligence Posing a Risk to Persons Other Than Plaintiffs – Counsel may make the general argument that when a person violates the rules of the road, it endangers people on the roadway in general. However, counsel cannot argue or make argument that suggests other people were threatened or harmed by Defendant Tate's conduct absent facts to support this contention.⁶ Part (3) – "Send a Message" via Verdict – The Court did not specifically rule on this issue. Rather, the Court made a general ruling with regard to Motion *in Limine* No. 2 as a whole wherein the Court Granted Defendant Tate's motion *in limine* to the extent that if counsel is going to use specific words, counsel has to use them in the context of their fact-driven argument.⁷ Part (4) – Conscience of the Community – Counsel cannot argue that the jury is the conscience of the community.⁸

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Tate's Motion *in Limine* No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs' Claims for Damages is GRANTED, IN PART and DENIED, IN PART. Part (1) – Evidence of Medical Liens – Evidence of treatment on a litigation lien is admissible.⁹ Part (2) – Per Diem

⁴ See Minute Order on 1/18/2019.

⁵ See Minute Order 10/3/2018.

⁶ See Minute Order 10/3/2018.

⁷ See Minute Order 10/3/2018.

⁸ See Minute Order 10/3/2018.

⁹ See Minute Order 11/1/2018.

Order Regarding Defendant Tate's Motions *in Limine*

1 Calculations – Per diem arguments are permitted.¹⁰ Part (3) – Untimely Disclosures of Medical
2 Specials – Continued medical specials are not limited to May 4, 2018 unless there have been no
3 disclosures thereafter. Absent proper disclosure(s) continued medical specials are not
4 permitted.¹¹ Part (4) – Speculative Damages – Denied for vagueness.¹²

5 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
6 Motion *in Limine* No. 4: To Prohibit Questions Regarding Verdict Amounts During *Voir Dire*,
7 and to Impose Reasonable Limitations on the Scope and Duration of *Voir Dire* is **DENIED, IN**
8 **PART** and **DEFERRED, IN PART** Part (1) – Potential Jurors Willingness to Award Certain
9 Verdicts or Ranges – inquiring about potential verdict amounts from a potential juror is
10 admissible but may not rise to the level of juror indoctrination. Mentioning range or specific
11 verdict amount Plaintiffs are seeking is permissible from outset of *voir dire*. The parties are free
12 to a juror's life experience to determine any bias.¹³ Part (2) – Reasonable Limitations on Scope
13 and Duration of Voir Dire – the Court will address the extent and length of *voir dire* during
14 trial.¹⁴

15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Tate's
16 Motion *in Limine* No. 5: Regarding Expert Testimony is **GRANTED, IN PART** and **DENIED,**
17 **IN PART.** Part (1) – Non-Retained Experts Opinions Formed During Course and Scope of
18 Treatment, as Documented in their Records – A treating physician may not review documents
19 and act as a rebuttal witness. A treating physician cannot testify to things outside the scope of his
20 or her treatment.¹⁵ Part (2) – Cumulative Medical Testimony – Dr. Khavkin will not be excluded
21 on the basis of cumulative medical testimony.¹⁶ Part (3) – Expert Testimony Based on Reports
22

23 ¹⁰ See Minute Order 10/3/2018.

24 ¹¹ See Minute Order 10/3/2018.

25 ¹² See Minute Order 10/3/2018.

26 ¹³ See Minute Order 11/1/2018.

27 ¹⁴ See Minute Order 11/1/2018.

28 ¹⁵ See Minute Order 10/3/2018.

¹⁶ See Minute Order 10/3/2018.

Order Regarding Defendant Tate's Motions *in Limine*

1 and Learned in Trial – All experts are limited to their expert reports and deposition testimony.
2 However, the expert is not only allowed to parrot their reports. Experts do have latitude in
3 explaining the foundation of their opinions. Each party has the right to object, at the time of trial,
4 if he or she believes the other is seeking to elicit information or opinions that are outside the
5 mandates of NRC 16.1. Moreover, an expert may modify his or her opinion based on new
6 information learned during the course of trial.¹⁷ Part (4) – Experts and Relevant, Fact-Based
7 Hypothetical Questions – all hypothetical questions must be based upon evidence adduced at
8 trial. All experts are limited to their opinions contained within their reports and deposition
9 testimony.¹⁸

10
11 IT IS SO ORDERED.
12 DATED this 23 day of April, 2019.

13
14
15 DATED this 20 day of April, 2019.
16 Approved as to Form and Content:
17 EGLET PRINCE

18 DENNIS M. PRINCE, ESQ.
19 Nevada Bar No. 5092
20 TRACY A. EGLET, ESQ.
21 Nevada Bar No. 6419
22 KEVIN T. STRONG, ESQ.
23 Nevada Bar No. 12107
24 400 South 7th Street, 4th Floor
25 Las Vegas, Nevada 89101
26 Tel. (702) 450-5400
27 Fax (702) 450-5451
28 Attorneys for Plaintiffs
Desire Evans-Waiiau and
Guadalupe Parra-Mendez

DISTRICT COURT JUDGE

DATED this 23 day of April, 2019.
Respectfully Submitted By:
ATKIN WINNER & SHERROD

THOMAS E. WINNER, ESQ.
Nevada Bar No. 5168
CAITLIN J. LORELLI, ESQ.
Nevada Bar No. 14571
1117 South Rancho Drive
Las Vegas, Nevada 89102
Tel. (702) 243-7000
Fax (702) 243-7059
Attorneys for Defendant
Babylon Tate

¹⁷ See Minute Order 11/1/2018.

¹⁸ See Minute Order 11/1/2018, referencing ruling on Plaintiffs' Omnibus Motion *in Limine* No. 1.

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JUN 03 2019 3:25 PM

BY, Dara Yorke
DARA YORKE, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, INDIVIDUALLY;
GUADALUPE PARRA-MENDEZ,
INDIVIDUALLY,

Plaintiffs,

vs.

BABYLYN TATE, INDIVIDUALLY,

Defendants.

Case No. A-16-736457-C

Dept. No. 18

GENERAL VERDICT FOR DEFENDANT

We, the jury, find for defendant Babylyn Tate and against plaintiffs
Desire Evans-Waiau and Guadalupe Parra-Mendez.

[Signature] Dylan Sweikert
JURY FOREPERSON

6-3-19
DATE

A-16-736457-C
VER
Verdict
4839968



ORIGINAL

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7/15/2019 3:55 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

THOMAS E. WINNER
Nevada Bar No. 5168
CAITLIN J. LORELLI
Nevada Bar No. 14571
ATKIN WINNER & SHERROD
1117 South Rancho Drive
Las Vegas, Nevada 89102
Phone (702) 243-7000
Facsimile (702) 243-7059
twinner@awslawyers.com
clorelli@awslawyers.com
Attorneys for Defendant
Babylyn Tate

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guaridan for SIENNA
PARRA, a minor,

Plaintiff(s)

vs.

BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: XVIII

JUDGMENT UPON JURY VERDICT

This action came on for trial before the Court and a jury, Honorable Mary Kay Holthus,
Eighth Judicial District Court Judge, presiding, and the issues having been duly tried and the jury
having duly rendered its verdict,

IT IS ORDERED ADJUDGED AND DECREED that the Plaintiffs take nothing, that the
action be dismissed on the merits, and that the Defendant, Babylyn Tate, recover of the plaintiffs,

///

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input type="checkbox"/> Non-Jury Judgment Reached	<input checked="" type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other - _____

1 ///


2 DESIRE EVANS-WAIAU AND GUADALUPE PARRA MENDEZ, her costs of action.

3 DATED this 11th day of July, 2019.

4 
5 _____
6 DISTRICT COURT JUDGE
7 

7 Submitted by:

8 Atkin Winner & Sherrod

9 
10 _____
11 Thomas E. Winner
12 Nevada Bar No. 5168
13 Caitlin J. Lorelli
14 Nevada Bar No. 14571
15 1117 South Rancho Drive
16 Las Vegas, Nevada 89102
17 *Attorneys for Defendant*
18 *Babylyn Tate*

20

21

22

23

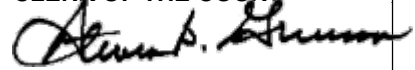
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1 THOMAS E. WINNER
Nevada Bar No. 5168
2 CAITLIN J. LORELLI
Nevada Bar No. 14571
3 ATKIN WINNER & SHERROD
1117 South Rancho Drive
4 Las Vegas, Nevada 89102
Phone (702) 243-7000
5 Facsimile (702) 243-7059
twinner@awslawyers.com
6 clorelli@awslawyers.com
Attorneys for Defendant Babylyn Tate

7
8 EIGHTH JUDICIAL DISTRICT COURT

9 CLARK COUNTY, NV

10 DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
11 individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
12 JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
13 PARRA-MEZA, as guaridan for SIENNA
PARRA, a minor,

14 Plaintiffs.

15 vs.

16 BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
17 inclusive,

18 Defendant.

CASE NO.: A-16-736457-C
DEPT. NO.: IX

**NOTICE OF ENTRY OF JUDGMENT
UPON JURY VERDICT**

19 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

20 YOU WILL PLEASE TAKE NOTICE that the attached Judgment Upon Jury Verdict
21 was entered by the Court on the 15th day of July, 2019.

22 DATED this 15th day of July, 2019.

23 ATKIN WINNER & SHERROD

24
25 /s/ Caitlin J. Lorelli
Thomas E. Winner
26 Nevada Bar No. 5168
Caitlin J. Lorelli
27 Nevada Bar No. 14571
1117 South Rancho Drive
28 Las Vegas, Nevada 89102
Attorneys for Defendant Babylyn B. Tate

1 CERTIFICATE OF SERVICE

2 I certify that on this 15th day of July, 2019, the foregoing **NOTICE OF ENTRY OF**
3 **JUDGMENT UPON JURY VERDICT** was served on the following by ☐ Electronic Service
4 pursuant to NEFR 9 ☒ Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐
5 overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las
6 Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as
7 follows:

8 Paul D. Powell
9 The Powell Law Firm
6785 West Russell Road, Suite 210
10 Las Vegas, NV 89118
Attorneys for Plaintiffs

11 Dennis M. Prince
12 Eglet Prince
400 S. 7th Street, 4th Floor
13 Las Vegas, NV 89101
Attorneys for Plaintiffs

14
15
16 /s/ Colette Thorne
17 An employee of ATKIN WINNER & SHERROD
18
19
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7/15/2019 3:55 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 THOMAS E. WINNER
Nevada Bar No. 5168
2 CAITLIN J. LORELLI
Nevada Bar No. 14571
3 ATKIN WINNER & SHERROD
1117 South Rancho Drive
4 Las Vegas, Nevada 89102
Phone (702) 243-7000
5 Facsimile (702) 243-7059
twinner@awslawyers.com
6 clorelli@awslawyers.com
Attorneys for Defendant
7 *Babylyn Tate*

8 EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DESIRE EVANS-WAIAU, individually;
GUADALUPE PARRA-MENDEZ,
individually; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor;
JORGE PARRA-MEZA, as guardian for
AALIYAH PARRA, a minor; and JORGE
PARRA-MEZA, as guaridan for SIENNA
PARRA, a minor,

Plaintiff(s)

vs.

BABYLYN TATE, Individually; DOES I-
X, and ROE CORPORATIONS I-X,
inclusive,

Defendant(s)

CASE NO.: A-16-736457-C
DEPT. NO.: XVIII

JUDGMENT UPON JURY VERDICT

20
21 This action came on for trial before the Court and a jury, Honorable Mary Kay Holthus,
22 Eighth Judicial District Court Judge, presiding, and the issues having been duly tried and the jury
23 having duly rendered its verdict,

24 IT IS ORDERED ADJUDGED AND DECREED that the Plaintiffs take nothing, that the
25 action be dismissed on the merits, and that the Defendant, Babylyn Tate, recover of the plaintiffs,
26

27 ///

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input type="checkbox"/> Non-Jury Judgment Reached	<input checked="" type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other - _____



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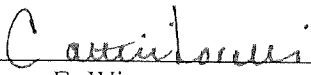
DESIRE EVANS-WAIAU AND GUADALUPE PARRA MENDEZ, her costs of action.

DATED this 11th day of July, 2019.


DISTRICT COURT JUDGE


Submitted by:

Atkin Winner & Sherrod


Thomas E. Winner
Nevada Bar No. 5168
Caitlin J. Lorelli
Nevada Bar No. 14571
1117 South Rancho Drive
Las Vegas, Nevada 89102
Attorneys for Defendant
Babylyn Tate

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 26, 2017

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

April 26, 2017 3:00 AM All Pending Motions

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

COURT CLERK: Olivia Black

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Paul Powell, Esq. and Nickolas Amon, Esq.//05/02/17.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 22, 2018

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

August 22, 2018 9:00 AM Calendar Call

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

COURT CLERK: Louisa Garcia

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Prince, Dennis M Attorney
Smith, Andrew D. Attorney
Strong, Kevin T. Attorney
Winner, Thomas E. Attorney

JOURNAL ENTRIES

- Colloquy regarding scheduling. Counsel anticipate two weeks. Pursuant to representations, COURT ORDERED, matter SET for status check; trial date VACATED and RESET.

9/19/18 8:30 AM STATUS CHECK: TRIAL READINESS

10/31/18 9:00 AM CALENDAR CALL

11/13/18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 28, 2018

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

August 28, 2018

1:43 PM

Minute Order

**Minute Order Re:
Continuance of Pltfs'
and Deft's Motions in
Limine**

HEARD BY: Villani, Michael

COURTROOM: Chambers

COURT CLERK: April Watkins

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Plaintiffs Motions in Limine 1-18 and Defendant s Motions in Limine 1-5 currently set for hearing on Wednesday, September 5, 2018 at 8:30 a.m. are CONTINUED to Wednesday, October 3, 2018 at 8:30 a.m.

CLERK S NOTE: This Minute Order was electronically served by Courtroom Clerk, April Watkins, to all registered parties for Odyssey File & serve. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 19, 2018

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

**September 19, 2018 8:30 AM Status Check Status Check: Trial
Readiness**

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 11A

COURT CLERK: April Watkins

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Winner, Thomas E. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Winner stated he believes case will be ready for trial. COURT ORDERED, calendar call date STANDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 03, 2018

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

October 03, 2018 10:00 AM All Pending Motions

HEARD BY: Becker, Nancy **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Haly Pannullo

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Prince, Dennis M Attorney
Winner, Thomas E. Attorney

JOURNAL ENTRIES

- James Trummell, Esq., present on behalf of Plaintiff.

PLAINTIFFS' MOTIONS IN LIMINE NOS. 1-11

As to excluding medical records prior to the motor vehicle accident, COURT ORDERED, to the extent that Plaintiffs want to prohibit Dr. Schifini or Dr. Wang from making statements, Motion GRANTED IN PART and DENIED IN PART as it is suggested that somehow there were records out there that weren't t given and it is believed that is not an issue; however, Dr. Schifini can state the fact that someone may not have gone for treatment which does not mean they did not have symptoms. As to the secondary gain evidence and the issue that it's a psychological diagnosis, COURT FURTHER ORDERED, GRANTED to the extent that they can not say malingering or secondary gain evidence; to the extent that Dr. Schifini or Dr. Wang want to simply say that the medical records don t support that she received an acute traumatic spinal injury as a result of this accident and at most she received a sprained strain, Motion GRANTED; Motion DENIED to the extent that somehow this is limited to a psychiatrist or other people with mental health or psychological background. As to Plaintiff's Motion in Limine No. 4, COURT ORDERED, Motion CONTINUED for argument. As to Plaintiff's Motion in Limine No. 5, COURT ORDERED, Motion DENIED. As to Plaintiff's Motion in Limine No. 6, Court noted the law clearly says that you cannot make arguments solely for the basis of inflaming the

passion of the jury and this Court is not going to grant the Motion as there will not be a forced objection. As to Plaintiff's Motion in Limine No. 7, Motion GRANTED IN PART and DENIED IN PART; an attorney being sought and retained is not attorney/client privilege; however, when an attorney is retained and/or when visited does not come in. As to Plaintiff's Motion in Limine No. 8 and attorney advertising limited to voir dire, COURT ORDERED, Motion GRANTED; however, it should not be mentioned in the remainder of the trial or obsessed upon in voir dire. As to Plaintiff's Motion in Limine No. 9, COURT STATED that would be improper argument and ORDERED, Motion GRANTED. As to Plaintiff's Motion in Limine No.10 and asking limited questions in voir dire as to employment, COURT ORDERED, Motion GRANTED; any further direction is to come from Judge Villani. As to Plaintiff's Motion in Limine No. 11, to the extent of cross-examination and wanting to talk about having a relationship in terms of doing cases on medical liens, COURT STATED there is a broad basis for asking these kinds of questions and it should be allowed; trying to talk about other cases would not be allowed.

PLAINTIFFS' MOTION IN LIMINE NO. 12: TO LIMIT DEFENDANT'S RETAINED EXPERTS' TESTIMONY TO THE OPINIONS AND BASES SET FORTH IN THEIR EXPERT REPORTS
COURT ORDERED, Motion DENIED to the extent that the experts are limited only to what they said in their reports; however, expert is free to change their opinion based upon new information that was presented at trial or that was presented to them subsequent to the report.

PLAINTIFFS' MOTION IN LIMINE NO. 13 TO EXCLUDE ARGUMENT, REFERENCE, OR EXPERT OPINION THAT PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN WAS SYMPTOMATIC DURING THE IMMEDIATE YEARS PRIOR TO AND IMMEDIATELY BEFORE THE SUBJECT COLLISION
COURT ORDERED, Motion CONTINUED.

PLAINTIFFS' MOTION IN LIMINE NO. 14 TO PRECLUDE DEFENDANT FROM CHARACTERIZING PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN FOLLOWING THE SUBSEQUENT July 10, 2016 MOTOR VEHICLE ACCIDENT AS ANYTHING OTHER THAN A TEMPORARY EXACERBATION
COURT ORDERED, Motion CONTINUED.

PLAINTIFFS' MOTION IN LIMINE NO. 15 TO EXCLUDE IRRELEVANT AND/OR UNDULY PREJUDICIAL INFORMATION
COURT ORDERED, Motion CONTINUED.

PLAINTIFFS' MOTION IN LIMINE NO. 16 TO LIMIT TESTIMONY AND OPINIONS OF DEFENDANT'S RETAINED MEDICAL EXPERT, JOSEPH J. SCHIFINI, M.D.
COURT ORDERED, Motion CONTINUED.

PLAINTIFFS' MOTION IN LIMINE NO. 17: TO EXCLUDE REFERENCE TO AND EVIDENCE OF MEDICAL LIENS
COURT ORDERED, Motion CONTINUED.

PLAINTIFFS' MOTION IN LIMINE NO. 18: FOR JUDICIAL NOTICE OF LIFE EXPECTANCY TABLE

COURT ORDERED, Motion DENIED.

DEFENDANT'S MOTION IN LIMINE NO. 1: REGARDING SPECIFIC STATEMENTS AND CLAIMS OF THE PARTIES

COURT ORDERED, Part C & D of Motion CONTINUED; as to what the Defendant charging nurse states in terms of her observations, Motion GRANTED IN PART and DENIED IN PART, as she can talk about what she observed about the two Defendant's post-accident, as to the opinion that it is not believe that the Defendant's had sustained any injury based upon her observations; however, cannot testify to doing a triage or a medical procedure in that observation; DENIED as to the extent of her testifying to something using words like triage or other medical terminology under the circumstances.

DEFENDANT'S MOTION IN LIMINE NO. 2: TO PROHIBIT THE USE OF UNFAIRLY PREJUDICIAL TRIAL TACTICS

COURT ORDERED, Motion GRANTED to the extent that if counsel going to use specific words, counsel has to use them in the context of their fact-driven argument. In regards to avoiding responsibility argument, COURT ORDERED, Motion GRANTED IN PART and DENIED IN PART; GRANTED to the extent that you cannot argue that this matter is in trial because they re trying to avoid responsibility. As to the term "safety rules", COURT ORDERED, Motion DENIED. As to conscience of the community, COURT ORDERED, it is not to be argued that the jury is the conscience of the community; Motion DENIED to exclude just the general argument that when you violate the rules of the road you re endangering people on the roadway in general; Motion GRANTED to the extent that you cannot make an argument that suggests that other people were threatened or harmed just by the conduct of the Defendant in this case unless you have facts to show that.

DEFENDANT'S MOTION IN LIMINE NO. 3: TO ADMIT AND EXCLUDE CERTAIN INFORMATION REGARDING THE PLAINTIFFS' CLAIMS FOR DAMAGES (PARTS 1-4)

COURT ORDERED, as to dealing with treatment on medical liens COURT ORDERED, Motion DEFERRED and to be heard at the time Plaintiff's Motion in Limine number 17 as they all involve the same topic. As to the Motion to Exclude the Per Diem Argument, COURT ORDERED, Motion DENIED. As to, continued medical specials, COURT ORDERED, medical specials to the May 4th, 2018 are not to be limited, except that if there have been no disclosures thereafter, it is to be limited. As to speculative damage, COURT ORDERED, Motion to Exclude is DENIED as it is too vague.

DEFENDANT'S MOTION IN LIMINE NO. 4: TO PROHIBIT QUESTIONS REGARDING VERDICT AMOUNTS DURING VOIR DIRE, AND TO IMPOSE REASONABLE LIMITATIONS ON THE SCOPE AND DURATION OF VOIR DIRE (PARTS 1-2)

COURT ORDERED, Motion CONTINUED.

DEFENDANT'S MOTION IN LIMINE NO. 5: REGARDING EXPERT TESTIMONY

COURT ORDERED, Motion GRANTED to the extent that a treating physician has now reviewed documents and wants to act as a rebuttal witness or done things outside of the scope of treatment, then, no, they can't do that. As to Dr. Khavkin, Motion DENIED and will not be excluded as being cumulative.

Court noted a continued date will be served to the parties upon review of the Court's calendar.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 01, 2018

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

November 01, 2018 12:30 AM Minute Order

HEARD BY: Villani, Michael

COURTROOM: Chambers

COURT CLERK: Haly Pannullo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court having reviewed the pleadings and finds the factual and legal argument is sufficient to rule on the motions as follows:

Plaintiffs Omnibus Motion in Limine No. 1

Granted. All hypothetical questions must be based upon evidence adduced at trial. All experts are limited to their opinions contained within their reports, deposition testimony.

Plaintiffs Omnibus Motion in Limine No. 4

Granted. Plaintiff s treating physicians can testify consistent with FCH1, LLC Rodriguez, 335 P.3d 183 (2014) Specifically, they are allowed, if properly, disclosed pursuant to NRCP 16.1 (a)(2)(B), to testify as to causation, diagnosis, prognosis, future treatment and extent of disability. Also, they are able to defend their own treatment.

Plaintiff s Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiau s Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision

The Court requests oral argument on Wednesday, November 21, 2018 at 8:30 a.m.

Plaintiff's Motion in Limine No. 14: To Preclude Defendant From Characterizing Plaintiff Desire Evans-Waiiau's Neck Pain Following the Subsequent July 10, 2016 Motor Vehicle Accident as Anything Other than a Temporary Exacerbation

The Court requests oral argument on Wednesday, November 21, 2018 at 8:30 a.m.

Plaintiff's Motion in Limine No. 15: To Exclude Irrelevant and/or Unduly Prejudicial Information

a) Termination from the Cromwell: Unless Defendant can establish that Plaintiff was terminated as opposed to resigned the evidence is excluded. The mere fact that Plaintiff thought she was terminated is contrary to the documentary evidence received from the Cromwell specifically stating that Plaintiff resigned.

b) Termination from Bed Bath and Beyond and Spacecraft: Since neither Plaintiff or Defendant's experts address Plaintiff's termination from Bed Bath and Beyond and SPACECRAFT in relationship to Plaintiff's earning capacity, it is deemed irrelevant and is excluded.

c) Injuries, if any, relating to the May 10, 2010 and July 10, 2016 may be relevant based upon the various expert's' opinions. The fact that Plaintiff previously filed "claims" or "lawsuit" is irrelevant and therefore, excluded.

Plaintiff's Motion in Limine No. 16: To Limit Testimony and Opinions of Defendant's Retained Medical Expert, Joseph J. Schifini, M.D.

Dr. Schifini can rely on the photographs and property damage reports regarding Plaintiff's vehicle as one item in forming his opinions. Since the appraisal reports identifies the areas of damage from the accident and the cost of repair for the same he can testify accordingly as to the basis of his opinion. The fact that the vehicle had prior damage is not part of his opinion and is therefore irrelevant and excluded.

Plaintiff's Motion in Limine No. 17 To Exclude Reference to and Evidence of Medical Liens:

Granted in part and denied in part. Evidence of insurance, Medicare, Medicaid, Obamacare, etc. is precluded as well as any evidence that that liens were sold to a third party for any type of a discount or other write off issues. See *Khoury v. Seastrand*, 377 P.3d 81 (2016). Evidence that treatment may have been provided on a lien basis is allowed.

Defendant's Motion in Limine No. 1: Regarding Specific Statements of the Parties

c. Testimony regarding alleged injuries to the minor children: Denied. Evidence that Plaintiff's children were injured the accident is relevant to the issue of severity of the impact between the two vehicles. If Plaintiff is seeking to elicit the fact that her passengers were injured then Defendant can elicit testimony that she was not injured. The amount of medical expenses incurred by the children are excluded as said relevant information is outweighed by the unfair prejudicial value.

d. The Court requests oral argument on Wednesday, November 21, 2018 at 8:30 a.m.

Defendant's Motion in Limine No. 3: To Admit and Exclude Certain Information Regarding the Plaintiffs' Claims for Damages

Part 1: Evidence of Treatment on a Litigation Lien is admissible. See the Court's above ruling on Plaintiff's Motion in Limine No. 17 To Exclude Reference to and Evidence of Medical Liens. The court previously ruled on Parts 2-4 on 10/3/2018.

Defendant's Motion in Limine No. 4: To Prohibit Questions Regarding Verdict Amounts During Voir Dire, and to Impose Reasonable Limitations on the Scope and Duration of Voir Dire (Parts 1-2)
Inquiring from a juror regarding verdict amounts is allowed so long as the questioning does not rise to the level of juror indoctrination. Mentioning from the outset of voir dire a range or specific amount Plaintiff is seeking is permissible. See *Khoury v Seastrand*. The Court has presided over numerous personal injury trials and has found that some attorneys seek to challenge a juror for cause merely because they could not award a "large or substantial verdict amount" without emphasizing to the juror "if said amount was supported by the evidence and law." The parties are free to question a juror's life experience to determine any bias. In *Whitlock v Salmon*, 104 Nev. 210 (1988), the Nevada Supreme Court stated that the trial court has inherent power to govern its own procedures and to place upon the parties reasonable limitations on voir dire. The Court will address the extent and length of voir dire during the trial.

Defendant's Motion in Limine No. 5: Regarding Expert Testimony (Parts 1-4)

Part 3: Granted. All experts in this case are limited to their expert reports and deposition testimony. The parties are aware that an expert is not merely allowed to parrot their reports but do have some latitude in explaining the foundation of their opinions. If either party believes that the other is seeking to elicit information or opinions that are outside of the mandates of NRC 16.1 they are to object at the time of the trial. However, an expert is free to modify his or her opinion based on new information that they learn during the course of trial.

Part 4: See the Court's above ruling on Plaintiffs' Omnibus Motion in Limine No. 1.

The Court previously ruled on Parts 1-2 on 10/3/2018.

Counsel for each party is directed to submit a proposed order for their respective motions consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Haly Pannullo, to all registered parties for Odyssey File & Serve hvp/11/01/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 05, 2018

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

December 05, 2018 8:30 AM All Pending Motions

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

COURT CLERK: Haly Pannullo

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Prince, Dennis M Attorney
Strong, Kevin T. Attorney
Winner, Thomas E. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION IN LIMINE NO. 1: REGARDING SPECIFIC STATEMENTS AND CLAIMS OF THE PARTIES ... PLAINTIFFS' MOTION IN LIMINE NO. 14 TO PRECLUDE DEFENDANT FROM CHARACTERIZING PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN FOLLOWING THE SUBSEQUENT July 10, 2016 MOTOR VEHICLE ACCIDENT AS ANYTHING OTHER THAN A TEMPORARY EXACERBATION ... PLAINTIFFS' MOTION IN LIMINE NO. 13 TO EXCLUDE ARGUMENT, REFERENCE, OR EXPERT OPINION THAT PLAINTIFF DESIRE EVANS-WAIAU'S NECK PAIN WAS SYMPTOMATIC DURING THE IMMEDIATE YEARS PRIOR TO AND IMMEDIATELY BEFORE THE SUBJECT COLLISION

James Trummell, Esq., also present on behalf of Defendant.

Arguments by counsel regarding Plaintiff's Motion in Limine No. 14, Plaintiff's Motion in Limine No. 13 and Defendant's Motion in Limini No. 1. COURT ORDERED, Motion in Limine No. 14 GRANTED to the extent that defense is free to argue that neither the subject accident nor the July 10th accident is the cause of the surgery and Defense is allowed to have the experts that's in the reports testify that there was an increase in symptoms. COURT FURTHER ORDERED, Motions in Limine No. 13 and

Motions in Limine No. 1, TAKEN UNDER ADVISEMENT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 18, 2019

A-16-736457-C	Desire Evans-Waiiau, Plaintiff(s) vs. Babylyn Tate, Defendant(s)
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January 18, 2019	3:00 PM	Minute Order
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HEARD BY: Villani, Michael

COURTROOM: Chambers

COURT CLERK: Olivia Black

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiff's Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision and Defendant's Motion in Limine No. 1D: Plaintiff Evans-Waiiau's Subsequent Injuries and Claims Are Relevant and Admissible came before this Court on December 5, 2018 Oral Calendar at 8:30 a.m. The Court took the matter under advisement and now rules as follows:

Plaintiff's Motion in Limine No. 13: To Exclude Argument, Reference, or Expert Opinion that Plaintiff Desire Evans-Waiiau's Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision

At issue is a motor vehicle accident that occurred in 2010, 5 years prior to the subject accident. After the 2010 accident, Plaintiff received 2 months of chiropractic treatment and underwent one medical examination with a physician that diagnosed her with possible cervical radiculopathy. The evidence shows that Plaintiff did not undergo any further treatment for neck pain between July 13, 2010 and October 30, 2015. "In order for evidence of a prior injury or preexisting conditions to be admissible, a defendant must present by competent evidence a causal connection between the prior injury and the injury at issue." FGA, INC. v. Giglio, 128 Nev. 271, 283 (2012). Further, once the plaintiff has

demonstrated a prima facie case and met his or her burden, the defendant can traverse the plaintiff's case in three ways. The defendant may (1) cross-examine the plaintiff's expert, (2) contradict the expert's testimony with his own expert, and/or (3) propose an independent alternative causation theory. *Id.* If the defendant chooses the third approach, his or her expert's testimony is subject to the reasonable degree of medical probability. *Williams v. Eight Judicial Dist. Court*, 127 Nev. 518, 530 (2011).

There is no evidence to establish that the 2010 accident was the cause of the alleged injuries sustained in the subject collision. Defendant's two medical experts (Dr. Wang and Dr. Schifini) do not opine to an alternative theory of causation in their respective reports. Neither doctor opined that Plaintiff's prior cervical spine injury is the cause of her current injuries or pain complaints. Neither expert has established a causal connection between the 2010 accident and the subject accident to the injuries claimed. Moreover, if expert testimony is offered to contradict the plaintiff's expert's opinion, the testimony must be supported by competent medical research and relevant evidence. *FGA, Inc.*, 128 Nev. at 284. "If the defense expert does not consider the plaintiff's theory of causation at all, then the defense expert must state any independent alternative causes to a reasonable degree of medical probability." *Williams*, 127 Nev. 518 at 531. Although both experts reviewed Plaintiff's medical records from the 2010 accident, it does not appear that Defendant's retained experts consider Plaintiff's theory of medical causation in their reports. Defendant's experts opine that Plaintiff did not suffer an acute, traumatic injury to her cervical disc.

Since Defendant's experts did not consider plaintiff's theory of causation or provide the 2010 accident as an alternative theory of causation in their reports, Plaintiff's motion is GRANTED and Defendants are precluded from arguing that Plaintiff was symptomatic in the immediate years prior to the subject accident unless disclosed witnesses have testified to the contrary.

Defendant's Motion in Limine No. 1D: Plaintiff Evans-Waiiau's Subsequent Injuries and Claims Are Relevant and Admissible

At issue is a July 10, 2016 accident that Plaintiff was involved in which occurred nine months after the subject accident. Defendant references a portion of a 2018 Complaint that Plaintiff filed for the 2016 accident where she alleges injuries to her shoulders and back. The Court notes that the Complaint in A777152 is not a verified complaint. The Court does not find the statements in said Complaint to be a party admission but rather legal conclusions made by Plaintiff's attorney. Additionally, Evans-Waiiau's cervical recommendation was made prior to this 2016 accident. Moreover, Defendant's experts do not opine that the 2016 accident caused or contributed to the alleged injuries sustained in the subject collision. For those reasons, Defendant's Motion in Limine 1D is DENIED.

The Court previously addressed the issue of the 2016 accident on 12/5/18 when the Court granted Plaintiffs' Motion in Limine to preclude defendant from characterizing Evans-Waiiau's neck pain

following the subsequent July 10, 2016 accident as anything other than a temporary exacerbation. The Court ruled that the Defense experts are free to testify that there was an increase in symptoms after the 2016 accident.

Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

LAW CLERK NOTE: The delay in this decision was due to a calendaring error.

CLERK'S NOTE: A copy of the foregoing minute order has been electronically distributed to all registered parties.//ob/01/18/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 30, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

January 30, 2019 9:00 AM Calendar Call

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Haly Pannullo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT: Prince, Dennis M Attorney
Winner, Thomas E. Attorney

JOURNAL ENTRIES

- James Trummell, Esq., also present on behalf of Plaintiff.

Mr. Prince announced parties are ready for trial. Colloquy regarding scheduling issues and conflicts.
COURT ORDERED, trial dates VACATED and RESET; all pending motions VACATED and RESET.

04/10/19 9:00 AM CALENDAR CALL & ALL PENDING MOTIONS

04/22/19 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 10, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

April 10, 2019 9:00 AM All Pending Motions

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT: Henriod, Joel D. Attorney
Prince, Dennis M Attorney
Smith, Andrew D. Attorney
Winner, Thomas E. Attorney

JOURNAL ENTRIES

- CALENDAR CALL...PLAINTIFF'S MOTION IN LIMINE NO.19: TO EXCLUDE SUB ROSA SURVEILLANCE VIDEO OF PLAINTIFF DESIRE EVANS-WAIAU AND ANY TESTIMONY OR REFERENCE TO THE SAME...PLAINTIFF'S MOTION IN LIMINE NO. 20: TO EXCLUDE THE TESTIMONY AND OPTIONS OF DEFENDANT'S RETAINED EXPERT KEVIN KIRKENDALL, CPA

Mr. Winner advised his experts are available on May 6, 7, and 8, 2019; which two would be coming from out of state and two are local. Mr. Prince indicated he was trial ready if it were to start on April 22, 2019. Further, Mr. Prince indicated he anticipated a couple of days to pick the jury. Court inquired if Mr. Prince wanted to start the trial on April 29, 2019; however, he noted he has another trial starting May 20, 2019 and needed at least a week between to prepare. Court advised parties could start the trial at 1:00 pm on April 22, 2019. Both parties agreed. Upon Court's inquiry, Mr. Prince indicated he was anticipating 3 weeks for trial. Court noted it would be dark May 2 and 3, 2019.

PLAINTIFF'S MOTION IN LIMINE NO.19: TO EXCLUDE SUB ROSA SURVEILLANCE VIDEO OF PLAINTIFF DESIRE EVANS-WAIAU AND ANY TESTIMONY OR REFERENCE TO THE SAME

Mr. Prince indicated the instant Motion is in reference to video that was taken post surgery. Further statements by Mr. Prince requesting it be excluded due to being impeachment and couldn't use. Mr. Winner disagreed and stated Plaintiff is more than capable of work activities and the video was relevant to support their claims; therefore, it would be inappropriate to exclude it. Following colloquy between parties, Court advised it was inclined to not keep the video out as a matter of law. COURT ORDERED, the instant Motion was hereby DENIED.

PLAINTIFF'S MOTION IN LIMINE NO. 20: TO EXCLUDE THE TESTIMONY AND OPTIONS OF DEFENDANT'S RETAINED EXPERT KEVIN KIRKENDALL, CPA

Mr. Prince indicated the instant Motion be withdrawn. COURT SO ORDERED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****April 22, 2019**

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
 vs.
 Babylyn Tate, Defendant(s)

April 22, 2019**1:00 PM****Jury Trial****HEARD BY:** Holthus, Mary Kay**COURTROOM:** RJC Courtroom 03F**COURT CLERK:** Dara Yorke**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES**

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding procedures. Court noted it provided both parties with copies of the Order prepared by the Court with Motion In Limine. Court indicated proposed orders should have been done before calendar call. Mr. Prince concurred, indicating it should have been done and parties are trial ready; however, they would have time following proceedings to resolve issues. Colloquy between parties regarding trial brief which was received prior to the start of trial. Mr. Henriod indicated Defense anticipated making an oral Motion to consider admissibility before opening statements on causation and Prima Facie. Mr. Prince indicated counsel was arguing for the Court to reconsider Judge Villani's ruling. Mr. Henriod advised the Court it was allowed to fix any error before entry of final judgement. Colloquy between parties regarding the effects of what would be allowed in. Mr. Prince indicated it wouldn't effect jury selection and could be done before opening statements. Upon Court's inquiry, Mr. Prince noted jury should be informed trial would last three weeks due to the Court's calendar. Colloquy between

parties regarding expert witnesses schedules. Further colloquy regarding questions for the jury.

PROSPECTIVE JURY PANEL PRESENT: Roll call taken by the Clerk. Voir dire oath ADMINISTERED. Voir dire conducted. CONFERENCE AT BENCH. Jurors excused and replaced.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Statements by Mr. Prince regarding Motions in Limine. Order Regarding Plaintiff's Motions in Limine SIGNED IN OPEN COURT. COURT RECESSED for the evening; TRIAL CONTINUED.

4/23/19 1:00 PM JURY TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 23, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

April 23, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

Degree, Jack, ESQ
Henriod, Joel D.
Prince, Dennis M
Tate, Babylyn
Winner, Thomas E.

Attorney
Attorney
Attorney
Defendant
Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Upon Court's inquiry, Mr. Prince indicated they would be filing an opposition on the current day. Court noted all prospective jurors excused on April 22, 2019 were at the request of parties.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding questions that were asked during Voir Dire, and Mr. Winner indicated it would be difficult for him to ask follow up questions if he were to wait a few days. Court inquired if at the present time, Mr. Prince had any jurors anticipated for cause challenge, which Mr. Prince advised he didn't. Mr. Winner indicated if Mr. Prince believed there were grounds for cause, then he would like the opportunity to follow up before moving on. Colloquy between parties regarding for cause challenge and readiness to proceed. Mr. Prince noted he wanted to get more on the record for challenge to be clear.

PRINT DATE: 08/15/2019

Page 22 of 56

Minutes Date: April 26, 2017

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted it had looked at the trial brief; however, further inquired if parties were looking to bring in the 2016 accident. Mr. Prince indicated there were limitations to bringing in 2016. Statements by Mr. Winner regarding the 2010 accident. COURT RECESSED for the evening; TRIAL CONTINUED.

4/24/19 1:00 PM JURY TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 24, 2019

A-16-736457-C	Desire Evans-Waiau, Plaintiff(s) vs. Babylyn Tate, Defendant(s)
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April 24, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

Degree, Jack, ESQ
Henriod, Joel D.
Prince, Dennis M
Tate, Babylyn
Winner, Thomas E.

Attorney
Attorney
Attorney
Defendant
Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court inquired if there were any additions to briefing; further indicated it didn't see anything erroneous. Court noted it did see a road for impeachment and it had concerns with 2016 accident. Mr. Winner advised the 2016 accident was out for the second plaintiff. Colloquy between parties regarding 2016 accident as related to the first plaintiff. Statements by Mr. Prince as to keeping 2016 accident out. Arguments by Mr. Henriod in opposition. Further statements by Mr. Prince suggesting the 2010 accident not be discussed; however, the 2016 accident would come in for a limited purpose. Court indicated the orders by Judge Villani were sufficient on their face; therefore, COURT ORDERED, Judge Villani's ruling STANDS. Mr. Henriod inquired if 2010 accident could be mentioned at all; which, Court noted not unless Deft. opened the door on those issues or for impeachment purposes.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. COURT RECESSED for the evening;
TRIAL CONTINUED.

4/25/19 1:00 PM JURY TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 25, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

April 25, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

Degree, Jack, ESQ

Attorney

Henriod, Joel D.

Attorney

Prince, Dennis M

Attorney

Tate, Babylyn

Defendant

Winner, Thomas E.

Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted it had previously ruled; however, parties were trying to amend the ruling set forth. Mr. Henriod indicated he was seeking clarification. Statements by Mr. Henriod in regards to Judge Villani's order, which was in reference to Plaintiff's Motion in Limine in regards to 2010 accident. Court inquired about the reason for Mr. Henriod bringing in 2010 accident. Further statements by Mr. Henriod. Following colloquy, COURT ORDERED, the 2016 accident was in. Furtherl, Court excused Juror 774.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court inquired if there were any objections to Jury Instructions, which Mr. Prince indicated he had an objection to Jury Instruction #7. Colloquy between parties.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. The parties passed the panel for

cause. Peremptory challenges conducted. Preliminary instructions read to the twenty prospective jurors by the Court. A jury and two alternates SELECTED and SWORN. COURT RECESSED for the evening; TRIAL CONTINUED.

4/26/19 10:00 AM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 26, 2019

A-16-736457-C	Desire Evans-Waiau, Plaintiff(s)
	vs.
	Babylyn Tate, Defendant(s)

April 26, 2019 10:00 AM Jury Trial

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Court inquired if there was an expert from the defense side that would base symptoms of the 2010 accident including the radiculopathy, with the probability that the instant case had the same injuries. Mr. Winner indicated those words weren't not used. Mr. Winner advised the expert stated it looked as though the Plaintiff had the same symptoms from before; therefore, it was a relevant fact. Arguments by Mr. Prince. Court noted 2010 was out. Mr. Henriod inquired if that meant that it was not to be mentioned. COURT ORDERED, 2010 was out per Judge Villani, which the ruling STANDS and that matter is not to be mentioned in opening statements. Colloquy between parties regarding opening statements.

JURY PRESENT: Pre-Jury instructions read. Opening statements by Mr. Prince. Upon Court's inquiry, Mr. Prince requested the EXCLUSIONARY RULE INVOKED. CONFERENCE AT BENCH. Mr. Winner requested that the statement regarding Deft. not admitting to what she did, be stricken. COURT SO ORDERED. Opening statements by Mr. Degree.

OUTSIDE THE PRESENCE OF THE JURY

JURY PRESENT: CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY: Juror #9 questioned by counsel as to work relation with Deft. Following statements by Juror #9, Mr. Prince indicated he was concerned with Juror #9 possibly working with the Deft; however, Juror #9 had no recollection of seeing Deft. at his work location. Following colloquy, COURT ORDERED, Juror #9 to remain on the Jury panel. Statements by Mr. Prince.

JURY PRESENT: CONFERENCE AT BENCH. Opening statements by Mr. Winner.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince indicated Mr. Winner had filed Motions by his office excluding citations; however, Mr. Winner mentioned in his opening statement that neither side received a citation. Mr. Prince further indicated that statement was misconduct and there was no way to fix it; therefore, requested a mistrial. Arguments by Mr. Winner in opposition stating that Frias v. Valle indicated if someone were to get a ticket that would be inadmissible. MATTER TRAILED.

MATTER RECALLED. Court noted upon reading the Frias case it was an error to admit police report. Further Court noted, the argument was to be keep it out; however, not only did Mr. Winner say it, but said it in all caps. Court believed the statement was planted in jurors minds and there was no way to unring that bell; therefore, COURT ORDERED, a MISTRIAL was hereby declared. Mr. Prince requested that the page of Mr. Winner's powerpoint at question, be admitted as a Court's exhibit. Arguments by Mr. Henriod indicating Plaintiff counsel should have filed a Motion in Limine in reference to the police report; however, they didn't. Mr. Winner noted the police officers didn't see the accident as a big deal; therefore, they didn't write a ticket. Mr. Prince advised he wanted to start over with a new trial and file new Motions. Further, Mr. Prince requested a status check to set a new trial date. Mr. Henriod indicated Mr. Prince could file whatever Motions needed; however, Mr. Henriod didn't think there were any fees warranted. Further, Mr. Henriod stated the way it was handled, there wasn't a clear violation. Following colloquy, Statements by Mr. Winner indicating he wasn't in agreeance with the Court's ruling.

JURY PRESENT: Court advised the Jury that the trial had concluded and they were excused.

OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED, matter SET for a status check to agree on a new trial date.

4/30/19 9:00 AM STATUS CHECK: RE-TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 30, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

April 30, 2019 9:00 AM Status Check

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Alice Jacobson

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT: Henriod, Joel D. Attorney
Prince, Dennis M Attorney
Winner, Thomas E. Attorney

JOURNAL ENTRIES

- Counsel announced ready for trial. Due to expert availability, COURT ORDERED, trial date SET 5/14/19 1:00pm.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 14, 2019**

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
 vs.
 Babylyn Tate, Defendant(s)

May 14, 2019**1:00 PM****Jury Trial****HEARD BY:** Holthus, Mary Kay**COURTROOM:** RJC Courtroom 03F**COURT CLERK:** Dara Yorke**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES**

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding procedures. Mr. Prince indicated Motions were delivered based on mistrial and defense counsel was served with them on May 14, 2019; further, requested a hearing date. Court inquired why it was set on order shortening time; however, the Court would need to do more research. Colloquy between parties. COURT ORDERED the following Briefing Schedule: Mr. Winner to file Opposition by June 3, 2019, Mr. Prince to file Reply by June 18, 2019, and matter SET for Argument. Court noted it didn't believe it was orally presiditilal ; therefore, would give Deft. a chance to brief it. Mr. Prince noted he would like another pre-instruction. Arguments by Mr. Winner.

PROSPECTIVE JURY PANEL PRESENT: Roll call taken by the Clerk. Voir dire oath ADMINISTERED. Voir dire conducted. COURT RECESSED for the evening; TRIAL CONTINUED.

CONTINUED TO: 5/15/19 1:00 PM

6/25/19 11:00 AM HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 15, 2019

A-16-736457-C	Desire Evans-Waiau, Plaintiff(s)
	vs.
	Babylyn Tate, Defendant(s)

May 15, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

Degree, Jack, ESQ

Attorney

Henriod, Joel D.

Attorney

Prince, Dennis M

Attorney

Tate, Babylyn

Defendant

Winner, Thomas E.

Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Prospective Juror #392 questioned and parties stipulated for juror to be excused.

PROSPECTIVE JURY PANEL PRESENT: CONFERENCE AT BENCH. Voir dire conducted.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding jurors behavior. Juror #309 presented letter to the Court. Mr. Prince objected to the excusal of juror. Mr. Prince indicated he would be requesting a cause challenge for Prospective Juror #277. Mr. Winner objected. Mr. Prince further indicated a cause challenge for #304 which Mr. Winner objected. Mr. Prince indicated he was requesting Prospective Juror #307 for cause. Statements by Mr. Winner. Following colloquy, Mr. Prince withdrew cause challenge for Prospective Juror #307.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Arguments by Mr. Prince regarding insurance and why Plaintiff got an attorney. Mr. Winner noted if Mr. Prince were to ask about liability insurance there would be a mistrial. Colloquy between parties. Further arguments between counsel regarding insurance. COURT ORDERED, parties to have brief to the submitted by 10:00 am on May 16, 2019.

5/16/19 1:00 PM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 16, 2019**

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
 vs.
 Babylyn Tate, Defendant(s)

May 16, 2019**1:00 PM****Jury Trial****HEARD BY:** Holthus, Mary Kay**COURTROOM:** RJC Courtroom 03F**COURT CLERK:** Dara Yorke**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES**

PRESENT:	Degree, Jack, ESQ	Attorney
	Henriod, Joel D.	Attorney
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding excusal letters from Prospective Juror #385, Prospective Juror #293, and Prospective Juror #352; which #293 and #352 were excused by agreement of counsel. Statements by Mr. Winner indicated Mr. Prince told Plaintiff to go to the doctor. Court noted it believed that certain evidence could come in. Arguments by Mr. Winner regarding attorney referral to doctor. Statements by Mr. Prince. Following colloquy regarding lawyer advertising, COURT ORDERED, Motion regarding Lawyer advertising was hereby MOOT and parties could not voir dire about lawyer advertising. Statements by Mr. Prince. Court requested that Mr. Prince not use the word insurance. Mr. Winner advised if insurance was brought up in questioning, he would request a mistrial. Outside the presence of other prospective jurors, Prospective juror #385 CANVASSED; FURTHER, COURT ORDERED, Prospective Juror #385 released as stipulated by parties.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Upon Court's inquiry, Prospective Juror #279 CANVASSED. CONFERENCE AT BENCH. Court noted, based on statements by Prospective Juror #279, it believed she could not be fair. COURT ORDERED, Prospective Juror #279 REMOVED for cause. Arguments by Mr. Winner.

PROSPECTIVE JURY PANEL PRESENT: CONFERENCE AT BENCH. COURT RECESSED for the evening; TRIAL CONTINUED.

5/17/19 10:00 AM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 17, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

May 17, 2019 10:00 AM Jury Trial

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding witness.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding Deft. accepting the responsibility for damage. Mr. Winner indicated Mr. Prince used frivolous defense; however, when Mr. Winner used it in one sense, Mr. Prince was ready to make a sanction. Further arguments by Mr. Winner. Court noted Mr. Prince did violated the order regarding attorney advertising; however, it was at Mr. Prince's request. Further colloquy between parties regarding Deft.'s responsibility in the accident. Court noted both parties have violated Court's order; therefore, if parties would agree on responsibility argument coming in; however, if not, Court would

sustain and strike comment. Mr. Prince indicated he agreed to bring the comment in; however, Mr. Winner indicated he didn't want it in. Following colloquy, COURT ORDERED, any statement or question in regards to Deft. accepting responsibility be STRICKEN.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. COURT RECESSED for the weekend; TRIAL CONTINUED.

5/20/19 10:00 AM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 20, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

May 20, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

Degree, Jack, ESQ	Attorney
Evans-Waiau, Desire	Plaintiff
Henriod, Joel D.	Attorney
Parra-Mendez, Guadalupe	Plaintiff
Prince, Dennis M	Attorney
Tate, Babylyn	Defendant
Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy between parties regarding letters from Prospective Juror #399, #323 and #450.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted it wanted both parties to exchange powerpoints for opening statements to make sure there were no issues or possible mistrials.

PROSPECTIVE JURY PANEL PRESENT: Voir dire conducted. CONFERENCE AT BENCH. Prospective Jurors excused. The parties passed the panel for cause. Peremptory challenges conducted. A jury and two alternates SELECTED and SWORN. COURT RECESSED for the evening;

TRIAL CONTINUED.

5/21/19 1:00 PM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 21, 2019**

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
 vs.
 Babylyn Tate, Defendant(s)

May 21, 2019**1:00 PM****Jury Trial****HEARD BY:** Holthus, Mary Kay**COURTROOM:** RJC Courtroom 03F**COURT CLERK:** Dara Yorke**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES**

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy regarding Opening powerpoint. Following colloquy, Court noted as to trial brief to Exclude DMV Manual COURT ORDERED, it was inclined to GRANT that portion limited to reptile information. Statements by Mr. Winner. Further, Mr. Winner indicated after reviewing Mr. Prince's powerpoint, he noted slide 35 through 39 was argumentative; however, Court advised it didn't see any issues with them. Arguments by Mr. Winner. Statements by Mr. Prince.

JURY PANEL PRESENT: Jury Instructions read. EXCLUSIONARY RULE INVOKED. CONFERENCE AT BENCH. Opening Statements by Mr. Prince. CONFERENCE AT BENCH. Opening Statements by Mr. Degree.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Prince indicated he had objections to Mr.

Winner's Opening powerpoint as to statute and the fact of it being argumentative. COURT ORDERED, objection was OVERRULED. Arguments by Mr. Prince regarding mentions of a litigation lien. Mr. Henriod indicated it was admissible and had fact to it. Further arguments by Mr. Prince . Following colloquy, Court noted that information was still coming in. Statements by Mr. Winner indicating Mr. Prince previously only disclosed an amount of \$285,000.00 which he was seeking; however, that amount suddenly doubled at the beginning of trial. Mr. Prince concurred. Statements by Mr. Prince supporting why amount increased. Court noted to Mr. Winner, that he would need to object during statements. Following colloquy, Arguments between counsel regarding 2010 accident; which, Court advised parties they would need to brief that issue. Colloquy between parties as to what Mr. Prince was seeking in medical care and when second surgery came up. Mr. Prince noted it was during conversation with doctor. Court inquired if Plaintiff was still treating, which Mr. Prince indicated not actively.

JURY PANEL PRESENT: Opening statements by Mr. Winner.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Parties stipulated to the admission of exhibits.

JURY PANEL PRESENT: Testimony and exhibits presented (see worksheets). CONFERENCE AT BENCH.

COURT RECESSED for the evening; TRIAL CONTINUED.

5/22/19 1:00 PM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 22, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

May 22, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Prince moved to the admission of Exhibit #81. COURT ORDERED, admission was GRANTED.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Court inquired when Mr. Prince became aware Plaintiff was seeking second surgery. Mr. Prince indicated it was before the mistrial. Further statements by Mr. Prince. Court further inquired why that was not mentioned at the last trial. Mr. Prince advised the Court he stated it in his opening statement. Court noted it was not to a degree of

medical certainty; therefore, COURT ORDERED, the second surgery would not be allowed in. Further colloquy between parties regarding second surgery.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

COURT RECESSED for the evening; TRIAL CONTINUED.

5/23/19 1:00 PM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 23, 2019

A-16-736457-C	Desire Evans-Waiau, Plaintiff(s) vs. Babylyn Tate, Defendant(s)
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May 23, 2019

1:00 PM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Degree, Jack, ESQ Henriod, Joel D. Prince, Dennis M Tate, Babylyn Winner, Thomas E.	Attorney Attorney Attorney Defendant Attorney
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JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy between parties regarding adjacent segment disease. Court advised Mr. Prince he must keep that portion general.

JURY PANEL PRESENT: Testimony and exhibits presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Henriod indicated there was now an issue with the third surgery, which was not disclosed; therefore Plaintiff's Motion for sanctions for the Mistrial should be denied. Colloquy between parties.

COURT RECESSED for the weekend; TRIAL CONTINUED.

5/28/19 1:00 PM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 28, 2019**

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
 vs.
 Babylyn Tate, Defendant(s)

May 28, 2019**1:00 PM****Jury Trial****HEARD BY:** Holthus, Mary Kay**COURTROOM:** RJC Courtroom 03F**COURT CLERK:** Dara Yorke**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES**

PRESENT:	Degree, Jack, ESQ	Attorney
	Evans-Waiau, Desire	Plaintiff
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Statements by Mr. Prince regarding a lien and the fact that parties have agreed to a curative instruction. Colloquy between parties regarding Motion for Protective Order Regarding Dr. Wang and the billing. Court noted the service to Mr. Winner's office for Dr. Wang was not proper service. Further colloquy between parties. Arguments by Mr. Prince in opposition to Mr. Winner's Motion for Protective Order. Court FINDS it to be more probative and didn't believe it was relevant; further, doesn't have anything to do with Dr. Wang's medical opinion.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Statements by Mr. Winner regarding Plaintiff's Video Exhibit #79. Mr. Prince indicated the video was taken at Plaintiff's home. Colloquy between

parties regarding whether the video was taken at Plaintiff's home or the scene of the accident. Video played outside the presence of the jury. Colloquy between parties, COURT ORDERED, video could come in without audio. Statements by Mr. Winner. Further colloquy between parties regarding deposition that Plaintiff's husband coming to scene of accident. COURT FURTHER ORDERED, statements by Plaintiff's husband were inadmissible.

JURY PANEL PRESENT: Deposition PUBLISHED IN OPEN COURT (see worksheet). Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Statements by Mr. Winner regarding Dr. Garber's testimony. Arguments by Mr. Prince regarding Dr. Wang's testimony and disc protrusion.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Winner indicated Keith Lewis was subpoenaed to appear at the instant court hearing; however, he might have violated the subpoena. Statements by Mr. Prince.

COURT RECESSED for the evening; TRIAL CONTINUED.

5/29/19 10:30 AM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 29, 2019**

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
 vs.
 Babylyn Tate, Defendant(s)

May 29, 2019**10:30 AM****Jury Trial****HEARD BY:** Holthus, Mary Kay**COURTROOM:** RJC Courtroom 03F**COURT CLERK:** Dara Yorke**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES**

PRESENT:	Degree, Jack, ESQ	Attorney
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Parties agreed to billing records. Mr. Prince noted it wasn't a disk issue and he wanted to see billing. Court noted it would put away Motion for Protective Order. Colloquy regarding doctor's examination of Plaintiff. Following colloquy, Mr. Winner indicated he was having issues contacting Keith Lewis who was set to be a witness. Colloquy between parties regarding proof of service. Court noted it would like to set a Show Cause Hearing.

JURY PANEL PRESENT: Babylyn Tate's Deposition PUBLISHED IN OPEN COURT. Testimony and exhibits presented (see worksheet). CONFERENCE AT BENCH. Questions submitted by jurors.

OUTSIDE THE PRESENCE OF THE JURY PANEL. Mr. Prince had questions regarding why Mr. Winner objected his demonstrative slide. Arguments by Mr. Winner in support of his objection stating the demonstrative slide depicted what Deft. was doing at the time. Following colloquy, Mr. Prince indicated in response to juror questions, he would like to put Deft. back on the stand to speak

about lane change at Koval. Court noted the Deposition was already in; therefore, COURT ORDERED, Mr. Prince's request was hereby DENIED, due to the evidence already being in.

JURY PANEL PRESENT: Testimony presented (see worksheet). Gudalupe Parra-Mendez's Deposition PUBLISHED IN OPEN COURT. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy between parties regarding billing for Dr. Shifini. Court noted it would be allowing full compensation.

COURT RECESSED for the evening; TRIAL CONTINUED.

5/30/19 1:00 PM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 30, 2019

A-16-736457-C	Desire Evans-Waiau, Plaintiff(s) vs. Babylyn Tate, Defendant(s)
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May 30, 2019 12:00 AM Jury Trial

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Henriod, Joel D. Parra-Mendez, Guadalupe Prince, Dennis M Tate, Babylyn Winner, Thomas E.	Attorney Plaintiff Attorney Defendant Attorney
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JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Parties indicated there was an issue with Jury Instructions and Court noted it would have to do it the following morning.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL. Colloquy between parties regarding Jury Instructions. Statements by Mr. Prince objecting to video with audio coming in due to hearsay. Following colloquy, COURT ORDERED, video was now coming in. Mr. Winner mentioned the Motion regarding the Sub Rosa video which hadn't been ruled on; further noting if Mr. Prince was not opening door Mr. Winner would drop it.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Winner indicated parties speaking about

video not being relevant; therefore, requested that video be viewed. Mr. Prince noted there was no basis at that point. COURT ORDERED, based on testimony, Motion to Exclude Sub Rosa Video was hereby GRANTED.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

COURT RECESSED for the evening; TRIAL CONTINUED.

5/31/19 10:00 AM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 31, 2019

A-16-736457-C	Desire Evans-Waiau, Plaintiff(s) vs. Babylyn Tate, Defendant(s)
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May 31, 2019 10:00 AM Jury Trial

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Degree, Jack, ESQ	Attorney
	Henriod, Joel D.	Attorney
	Parra-Mendez, Guadalupe	Plaintiff
	Prince, Dennis M	Attorney
	Tate, Babylyn	Defendant
	Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Colloquy regarding Proposed Jury Instructions. Jury instructions settled on the record.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL. Colloquy between parties regarding Adjacent Segment issue.

JURY PANEL PRESENT: Testimony presented (see worksheet). CONFERENCE AT BENCH. Jury panel excused.

OUTSIDE THE PRESENCE OF THE JURY PANEL: Jury instructions further settled on the record.

COURT RECESSED for the weekend; TRIAL CONTINUED.

6/3/19 9:00 AM TRIAL CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 03, 2019

A-16-736457-C Desire Evans-Waiau, Plaintiff(s)
vs.
Babylyn Tate, Defendant(s)

June 03, 2019

9:00 AM

Jury Trial

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

Degree, Jack, ESQ	Attorney
Evans-Waiau, Desire	Plaintiff
Henriod, Joel D.	Attorney
Parra-Mendez, Guadalupe	Plaintiff
Prince, Dennis M	Attorney
Winner, Thomas E.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY PANEL: Mr. Prince indicated his closing powerpoint had been updated and he supplied opposing counsel with a copy. Mr. Winner indicated he objected to the testimony of Dr. Garber. Court noted it didn't believe there was previously an objection to that.

JURY PANEL PRESENT: Plaintiff RESTED. Defense RESTED. Court read jury instructions 1 through 50 to the Jury Panel. Closing arguments by Mr. Prince. CONFERENCE AT BENCH.

OUTSIDE THE PRESENCE OF THE JURY PANEL.

JURY PANEL PRESENT: Closing arguments by Mr. Winner. CONFERENCE AT BENCH. Court Marshal and Judicial Executive Assistant SWORN to take charge of the jury. The Jury RETIRED TO DELIBERATE at the hour of 1:01 PM.

OUTSIDE THE PRESENCE OF THE JURY PANEL.

JURY PANEL PRESENT: The Jury RETURNED with a VERDICT for the DEFENDANT at 3:25 PM. The Jury polled at the request of Mr. Prince. Court thanked and excused the Jury. COURT RECESSED.

EXHIBIT(S) LIST

Case No.: A736457

Trial Date: 4/22/19

Dept. No.: XVIII

Judge: Mary Kay Holthus

Court Clerk: Dara Yorke

Plaintiff: Desire Evans-Waiau

Recorder: Yvette Sison

Counsel for Plaintiff: Dennis Prince

vs.

Defendant: Babylyn Tate

Counsel for Defendant: Thomas Winner

JURY TRIAL

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	JUROR ISSUE - DON'T WANT ON RECORD	4/22/19	—	4/22/19	wa
2	EXCUSAL LETTER - BADGE #549	4/24/19	—	4/24/19	wa
3	EXCUSAL LETTER - BADGE #774	4/25/19	—	4/25/19	wa
4	EXCUSAL LETTER - BADGE #538	4/25/19	—	4/25/19	wa
5	QUESTION: JUROR #9	4/26/19	—	4/26/19	wa
6	DEPT. POWERPOINT (1-PAGE)	4/26/19	—	4/26/19	wa
7	PLAINTIFFS OPENING POWERPOINT (DISC)	4/29/19	—	4/29/19	wa
8	DEFENDANT'S OPENING POWERPOINT	5/9/19	—	5/9/19	wa

PLAINTIFFS EXHIBIT LIST**TRIAL DATE: MAY 14, 2019**

Case No. A-16-736457-C	Clerk: DARA YORKE
Dept. XVIII MARY KAY HOLTHUS	Recorder: YVETTE SISON
Pltf(s): DESIRE EVANS-WAIAU, individually; GUADALUPE PARRA-MENDEZ, individually; JORGE PARRA-MEZA, as guardian for MAYRA PARRA, a minor; JORGE PARRA-MEZA, as guardian for AALIYAH PARRA, a minor; and JORGE PARRA-MEZA, as guardian for SIENNA PARRA, a minor, v. Deft(s): BABYLYN TATE, individually; DOES I-X, and ROE CORPORATIONS I-X, inclusive,	Pltf's Counsel: DENNIS M. PRINCE, ESQ. JACK F. DEGREE, ESQ. PAUL D. POWELL, ESQ. Deft's Counsel: THOMAS E. WINNER, ESQ. ANDREW D. SMITH, ESQ. JOEL HENROID, ESQ. DANIEL POLSENBERG, ESQ. ABRAHAM G. SMITH, ESQ.

Ex No.	Description	Date Offered	Obj.	Admit	Date Admitted
1.	LVMPD Driver's Exchange Card (000001 – 000002)		X		
2.	LVMPD COR re 10/30/15 Event Search (000003 – 000006)				
3.	LVMPD COR re 10/30/15 Event Search cd (000007)				
4.	Color Photo of Defendants 2014 Acura (000008)	5/21/19		X	5/21/19
5.	Color Photo of Defendants 2014 Acura (000009)			X	
6.	Color Photo of Defendants 2014 Acura (000010)			X	
7.	Color Photo of Defendants 2014 Acura (000011)			X	
8.	Color Photo of Defendants 2014 Acura (000012)			X	
9.	Color Photo of Defendants 2014 Acura (000013)			X	
10.	Color Photo of Defendants 2014 Acura (000014)			X	
11.	Color Photo of Defendants 2014 Acura (000015)	✓		X	✓

Ex No.	Description	Date Offered	Obj.	Admit	Date Admitted	
12.	Color photo of Defendants 2014 Acura produced by Plaintiff (000016)	5/21/19		X	5/21/19	KS
13.	Color photo of Defendants 2014 Acura produced by Plaintiff (000017)			X		KS
14.	Color Photo of Plaintiffs 1998 Honda (000018)			X		KS
15.	Color Photo of Plaintiffs 1998 Honda (000019)			X		KS
16.	Color Photo of Plaintiffs 1998 Honda (000020)			X		KS
17.	Color Photo of Plaintiffs 1998 Honda (000021)			X		KS
18.	Color Photo of Plaintiffs 1998 Honda (000022)			X		KS
19.	Color Photo of Plaintiffs 1998 Honda (000023)			X		KS
20.	Color Photo of Plaintiffs 1998 Honda (000024)			X		KS
21.	Color Photo of Plaintiffs 1998 Honda (000025)			X		KS
22.	Color Photo of Plaintiffs 1998 Honda (000026)			X		KS
23.	Color Photograph of Plaintiff property damage (000027)			X		KS
24.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000028)			X		KS
25.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000029)			X		KS
26.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000030)			X		KS
27.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000031)			X		KS
28.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000032)			X		KS

Ex No.	Description	Date Offered	Obj.	Admit	Date Admitted
29.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000033)	5/21/19		X	5/21/19
30.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000034)			X	
31.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000035)			X	
32.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000036)			X	
33.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000037)			X	
34.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000038)			X	
35.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000039)			X	
36.	Color photo of Plaintiffs 1998 Honda produced by Plaintiff (000040)			X	
37.	Color accident scene photos (000041)			X	
38.	Color accident scene photos (000042)			X	
39.	Color accident scene photos (000043)			X	
40.	Color accident scene photos (000044)			X	
41.	Property Damage Estimate of Defendant's 2014 Acura (000045 - 000062)			X	
42.	Property Damage Estimate of Plaintiffs 1998 Honda (000063 - 000068)			X	
43.	Transcript of recorded Statement of Babylyn Tate (000069 - 000074)				

Ex No.	Description	Date Offered	Obj.	Admit	Date Admitted
44.	Medical records for Align Chiropractic/Align Med for Desire Evans-Waiau (000075 - 000151)	5/21/19		X	5/21/19
45.	Medical records for Align Med MRI for Desire Evans-Waiau (000152 - 000157; 000159 - 000168)			X	
46.	Medical records for NLV Pain Management for Desire Evans-Waiau (000169 - 000195)			X	
47.	Medical records for Interventional Pain & Spine for Desire Evans-Waiau (000196 - 000237; 000935)			X	
48.	Medical records for Surgical Arts Center for Desire Evans-Waiau (000238 - 000273)			X	
49.	Medical records for Khavkin Clinic for Desire Evans-Waiau (000274 - 000282)			X	
50.	Medical records for Western Regional Center Brain & Spine for Desire Evans-Waiau (000767 - 000934; 000936 - 000938)			X	
51.	Medical records for Valley Hospital for Desire Evans-Waiau (key documents) (000301 - 000310)			X	
52.	Medical records for Monitoring Associates for Desire Evans-Waiau (000311 - 000320)			X	
53.	Medical records for Steinberg Diagnostic Medical for Desire Evans-Waiau (000321 - 000327)			X	
54.	Medical Specials for Desire Evans-Waiau (000328)			X	
55.	Billing for Align Med Chiropractic and MRI for Desire Evans-Waiau (000329 - 000335)			X	
56.	Billing for NLV Pain Management for Desire Evans-Waiau (000336)			X	
57.	Billing for Interventional Pain for Desire Evans-Waiau (000337 - 000338)			X	
58.	Billing for Surgical Arts Surgery for Desire Evans-Waiau (000339 - 000340)			X	

Ex No.	Description	Date Offered	Obj.	Admit	Date Admitted
59.	Billing for Khavkin Clinic for Desire Evans-Waiau (000341)	5/21/19		X	5/21/19
60.	Billing for Western Regional Center Brain & Spine for Desire Evans-Waiau (000342 - 000347)			X	
61.	Billing for Valley Hospital for Desire Evans-Waiau (000348 - 000351)			X	
62.	Billing for Monitoring Associates for Desire Evans-Waiau (000352)			X	
63.	Billing for Neuromonitoring Associates for Desire Evans-Waiau (000353 - 000354)			X	
64.	Billing for Surgical Anesthesia for Desire Evans-Waiau (000355 - 000356)			X	
65.	Medical records for Align Chiropractic/Align Med for Guadalupe Parra-Mendez (000357 - 000405)			X	
66.	Medical records for Align Med MRI for Guadalupe Parra-Mendez (000406 - 000413)			X	
67.	Medical records for NLV Pain Management for Guadalupe Parra-Mendez (000414 - 000420)			X	
68.	Medical records for Interventional Pain & Spine for Guadalupe Parra-Mendez (000421 - 000426)			X	
69.	Medical Specials for Guadalupe Parra-Mendez (000427)			X	
70.	Billing for Align Med Chiropractic and MRI for Guadalupe Parra-Mendez (000428 - 000432)			X	
71.	Billing for NLV Pain Management for Guadalupe Parra-Mendez (000433)			X	
72.	Billing for Interventional Pain for Guadalupe Parra-Mendez (000434)			X	
73.	Life Expectancy Table (000435 - 000498)		X		

Ex No.	Description	Date Offered	Obj.	Admit	Date Admitted
74.	Align Med Films for Desire Evans-Waiiau (000499)				
75.	Steinberg Diagnostic Films for Desire Evans-Waiiau (000500)				
76.	Valley Hospital Films for Desire Evans-Waiiau (000501)				
77.	Align Med Films for Guadalupe Parra-Mendez (000502)				
78.	Sub Rosa video of Desire Evans-Waiiau (000503)		X		
79.	Video taken by Plaintiff of Honda property damage (000504)		X		
80.	Medical records for Valley Hospital for Desire Evans-Waiiau (000505 – 000766)	5/21/19		X	5/21/19 K
81.	Medical records for Bonanza Back Center for Desire Evans-Waiiau (000939 – 000972)	5/22/19		X	5/22/19 M

EXHIBIT INDEX

Case No. A-16-736457-C

Dept No. XVIII

Trial Date: 5/14, 2019

Judge: Mary Kay Holthus

Court Clerk: Dara Yorke

Recorder/Reporter:

Plaintiff: Desire Evans- Waiau and Guadalupe Parra Mendez

Vs.

Plaintiff's Counsel: Dennis Prince Esq.

Defendant: Babylyn Tate

Defense Counsel: Thomas E. Winner, Esq.

Exhibit #	Description	Date Offered	Objection	Date Admitted
A.	Complaint (000001-000004)			
B.	Transcript of Babylyn Tate Statement (000001-000006)			
C1.	Color Photographs of Accident Scene (000001)			
C2	Color Photographs of Accident Scene (000002)			
C3.	Color Photographs of Accident Scene (000003)			
C4.	Color Photographs of Accident Scene (000004)			
C5.	Color Photographs of Accident Scene (000005)			
C6.	Color Photographs of Accident Scene (000006)			
C7.	Color Photographs of Accident Scene (000007)			
D1.	Color Photographs of Defendant's vehicle (000001)			
D2.	Color Photographs of Defendant's vehicle (000002)			
D3	Color Photographs of Defendant's vehicle (000003)			
D4.	Color Photographs of Defendant's vehicle (000004)			
D5.	Color Photographs of Defendant's vehicle (000005)			
D6.	Color Photographs of Defendant's vehicle (000006)			
D7.	Color Photographs of Defendant's vehicle (000007)			
D8.	Color Photographs of Defendant's vehicle (000008)			
D9.	Color Photographs of Defendant's vehicle (000009)			

EXHIBIT INDEX

Case No. A-16-736457-C
Dept No. XVIII

Trial Date: May 14, 2019
Judge: Mary Kay Holthus
Court Clerk: Dara Yorke
Recorder/Reporter:

Plaintiff: Desire Evans- Waiau and Guadalupe Parra Mendez
Vs.

Plaintiff's Counsel: Dennis Prince Esq.
Defense Counsel: Thomas E. Winner, Esq.

Defendant: Babylyn Tate

D10.	Color Photographs of Defendant's vehicle (000010)				WA
D11.	Color Photographs of Defendant's vehicle (000011)				WA
D12.	Color Photographs of Defendant's vehicle (000012)				WA
D13.	Color Photographs of Defendant's vehicle (000013)				WA
D14.	Color Photographs of Defendant's vehicle (000014)				WA
D15.	Color Photographs of Defendant's vehicle (000015)				WA
D16.	Color Photographs of Defendant's vehicle (000016)				WA
D17.	Color Photographs of Defendant's vehicle (000017)				WA
D18.	Color Photographs of Defendant's vehicle (000018)				WA
D19.	Color Photographs of Defendant's vehicle (000019)				WA
D20.	Color Photographs of Defendant's vehicle (000020)				WA
D21.	Color Photographs of Defendant's vehicle (000021)				WA
D22.	Color Photographs of Defendant's vehicle (000022)				WA
D23.	Color Photographs of Defendant's vehicle (000023)				WA
D24.	Color Photographs of Defendant's vehicle (000024)				WA
D25.	Color Photographs of Defendant's vehicle (000025)				WA
D26.	Color Photographs of Defendant's vehicle (000026)				WA
<u>D27.</u>	Color Photographs of Defendant's vehicle (000027)				WA
D28.	Color Photographs of Defendant's vehicle (000028)				WA

EXHIBIT INDEX

Case No. A-16-736457-C
Dept No. XVIII

Trial Date: MAY 14, 2019
Judge: Mary Kay Holthus
Court Clerk: Dara Yorke

Plaintiff: Desire Evans- Waiau and Guadalupe Parra Mendez
Vs.
Defendant: Babylyn Tate

Recorder/Reporter:
Plaintiff's Counsel: Dennis Prince Esq.
Defense Counsel: Thomas E. Winner, Esq.

D29.	Color Photographs of Defendant's vehicle (000029)				WA
E1.	Color Photographs of Plaintiff's vehicle (000001)				WA
E2.	Color Photographs of Plaintiff's vehicle (000002)				WA
E3.	Color Photographs of Plaintiff's vehicle (000003)				WA
E4.	Color Photographs of Plaintiff's vehicle (000004)				WA
E5.	Color Photographs of Plaintiff's vehicle (000005)				WA
E6.	Color Photographs of Plaintiff's vehicle (000006)				WA
E7.	Color Photographs of Plaintiff's vehicle (000007)				WA
E8.	Color Photographs of Plaintiff's vehicle (000008)				WA
E9.	Color Photographs of Plaintiff's vehicle (000009)				WA
E10.	Color Photographs of Plaintiff's vehicle (000010)				WA
E11.	Color Photographs of Plaintiff's vehicle (000011)				WA
E12.	Color Photographs of Plaintiff's vehicle (000012)				WA
E13.	Color Photographs of Plaintiff's vehicle (000013)				WA
E14.	Color Photographs of Plaintiff's vehicle (000014)				WA
E15.	Color Photographs of Plaintiff's vehicle (000015)				WA
E16.	Color Photographs of Plaintiff's vehicle (000016)				WA
E17.	Color Photographs of Plaintiff's vehicle (000017)				WA
E18.	Color Photographs of Plaintiff's vehicle (000018)				WA

EXHIBIT INDEX

Case No. A-16-736457-C
Dept No. XVIII

Trial Date: MAY 14, 2019
Judge: Mary Kay Holthus
Court Clerk: Dara Yorke
Recorder/Reporter:

Plaintiff: Desire Evans- Waiau and Guadalupe Parra Mendez
Vs.

Plaintiff's Counsel: Dennis Prince Esq.
Defense Counsel: Thomas E. Winner, Esq.

Defendant: Babylyn Tate

F.	Deficit Invoice for Plaintiffs' vehicle (000001)				WA
G.	LVMPD 911 Call - Log (000001-000002)				WA
H.	Property Damage/Estimate Documentation regarding Defendant's vehicle (000001 - 000008)				WA
I.	Property Damage/Estimate Documentation for Plaintiffs' vehicle (000001-000006)				WA
J.	Supplement to Property Damage/Estimate Documentation for Defendant's vehicle (000001-000010)				WA
K.	Desire Evans-Waiiau's Driver's Exchange Card (000001-000002)				WA
L..	Align Med MRI records for Desire Evans Waiau (000001-000111)				WA
M.	Bed Bath & Beyond employment records for Desire Evans Waiau (000001-000057)				WA
N.	Centennial Pain Relief Network records for Desire Evans Waiau (000001-000032)				WA
O.	CVS Pharmacy records for Desire Evans Waiau (000001-000011)				WA
P.	Geico records regarding 2016 MVA for Desire Evans Waiau (000001-000048)				WA
Q.	Interventional Pain & Spine Institute records for Desire Evans Waiau (000001-000039)				WA
R.	IRS Records for Desire Evans-Waiiau for tax years 2013, 2014, 2015 and 2016 (000001-000020)				WA
S.	Dr. Yenveniy Khavkin records for Desire Evans Waiau (000001-000010)	5/23/19	NO	5/23/19	WA
T.	Las Vegas Review Journal employment records for Desire Evans				WA

EXHIBIT INDEX

Case No. A-16-736457-C
Dept No. XVIII

Trial Date: MAY 14, 2019

Judge: Mary Kay Holthus

Court Clerk: Dara Yorke

Plaintiff: Desire Evans- Waiau and Guadalupe Parra Mendez

Recorder/Reporter:

Vs.

Plaintiff's Counsel: Dennis Prince Esq.

Defendant: Babylyn Tate

Defense Counsel: Thomas E. Winner, Esq.

	Waiau (000001-000075)				
U.	NLV Pain Management records for Desire Evans Waiau (000001-000026)				WA
V.	Red Rock Medical Center CNR for Desire Evans Waiau (000001)				WA
W.	Space Craft Component employment records for Desire Evans Waiau (000001-000143)				WA
X.	Steinberg Diagnostic Imaging records For Desire Evans Waiau (000001-000008)				WA
Y.	Sunrise Hospital records for Desire Evans Waiau (000001-000202)				WA
Z.	Surgical Arts Center records for Desire Evans Waiau (000001-000042)				WA
AA.	Southwest Medical Associates records for Desire Evans Waiau (000001-000039)				WA
BB.	Valley Hospital records for Desire Evans Waiau (000001-000267)				WA
CC	Vegas Valley Chiropractic Center records for Desire Evans Waiau (000001-000039)				WA
DD.	Western Regional Center for Brain & Spine Surgery records for Desire Evans Waiau (000001-000168)	5/23/19	YES	5/23/19	WA
EE.	Align Med records for Guadalupe Parra Mendez (000001-000169)				WA
FF.	Cromwell Hotel employment records for Guadalupe Parra Mendez (000001-000018)				WA
GG.	Desert Springs Hospital records for Guadalupe Parra Mendez (000001-000518)				WA
HH.	Interventional Pain & Spine Institute records for Guadalupe Parra Mendez (000001-000017)				WA

EXHIBIT INDEX

Case No. A-16-736457-C
Dept No. XVIII

Trial Date: ~~MAY~~ 2019
Judge: Mary Kay Holthus
Court Clerk: Dara Yorke
Recorder/Reporter:
Plaintiff's Counsel: Dennis Prince Esq.
Defense Counsel: Thomas E. Winner, Esq.

Plaintiff: Desire Evans- Waiau and Guadalupe Parra Mendez
Vs.
Defendant: Babylyn Tate

II	Liberty Mutual records for Guadalupe Parra-Mendez (000001-000167)				WA
JJ.	NLV Pain Management records for Guadalupe Parra Mendez (000001-000006)				WA
KK.	Partell Pharmacy records for Guadalupe Parra Mendez (000001-000002)				WA
LL.	Space Craft Component employment records for Guadalupe Parra Mendez (000001-000064)				WA
MM.	Surgical Arts Center records for Guadalupe Parra Mendez (000001-000026)				WA
NN.	Align Med MRI radiographic films for Desire Evans Waiau (000001)				WA
OO.	Steinberg Diagnostic Imaging radiographic films for Desire Evans Waiau (000001)				WA
PP.	Sunrise Hospital radiographic films for Desire Evans Waiau (000001-000002)				WA
QQ.	Valley Hospital radiographic flms for Desire Evans-Waiiau (000001)				WA
RR.	Align Med MRI radiographic films for Guadalupe Parra Mendez (000001)				WA
SS.	Desert Springs Hospital radiographic films for Guadalupe Parra Mendez (000001)				WA
TT.	Sub Rosa Video pertaining to Desire Evans-Waiiau (taken 05/03/18, 05/16/18, 05/21/18 and 05/30/18)				WA

EXHIBIT(S) LIST

Case No.: A736457

Re-Trial Date: 5/14/19

Dept. No.: XVIII

Judge: Mary Kay Holthus

Court Clerk: Dara Yorke

Plaintiff: Desire Evans-Waiiau

Recorder: Yvette Sison

Counsel for Plaintiff: Dennis Prince

vs.

Defendant: Babyllyn Tate

Counsel for Defendant: Thomas Winner

JURY TRIAL

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	Juror #354 EXCUSAL NOTE	5/15/19	—	5/15/19	us
2	Juror #458 DR. EXCUSE	5/15/19	—	5/15/19	us
3	Juror #363 EXCUSAL NOTE	5/15/19	—	5/15/19	us
4	Juror #458 EXCUSAL NOTE	5/15/19	—	5/15/19	us
5	Juror #471 EXCUSAL NOTE	5/15/19	—	5/15/19	us
6	Juror #374 EXCUSAL NOTE	5/15/19	—	5/15/19	us
7	Juror #392 EXCUSAL NOTE	5/15/19	—	5/15/19	us
8	Juror #309 EXCUSAL NOTE	5/15/19	—	5/15/19	us
9	Juror #450 EXCUSAL NOTE (NOT ADMITTED)	5/16/19	—	5/16/19	us
10	Juror #451 EXCUSAL NOTE (NOT ADMITTED)	5/16/19	—	5/16/19	us
11	Juror #415 EXCUSAL NOTE	5/16/19	—	5/16/19	us
12	Juror #352 EXCUSAL NOTE	5/16/19	—	5/16/19	us
13	Juror #332 EXCUSAL NOTE	5/16/19	—	5/16/19	us
14	Juror #373 EXCUSAL NOTE	5/16/19	—	5/16/19	us
15	Juror #293 EXCUSAL NOTE (STALLATED)	5/14/19	—	5/14/19	us
16	Juror #385 EXCUSAL NOTE (STALLATED)	5/16/19	—	5/16/19	us
17	Juror #323 EXCUSAL NOTE	5/20/19	—	5/20/19	us

EXHIBIT(S) LIST

Case No: **A736457**

Desire Evans-Waiau

VS.

Babylyn Tate

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
18	JUROR #399 EXCUSAL NOTE	5/20/19	—	5/20/19	wa
19	PLAINTIFF'S OPENING STATEMENT (EVANS)	5/21/19	—	5/21/19	wa
20	PLAINTIFF'S OPENING STATEMENT (PARRA-MENDEZ)	5/21/19	—	5/21/19	wa
21	QUESTION - JUROR #8	5/21/19	—	5/21/19	wa
22	DEFENDANT'S OPENING STATEMENT	5/21/19	—	5/21/19	wa
23	QUESTION - JUROR #4	5/22/19	—	5/22/19	wa
24	QUESTION - JUROR #8	5/22/19	✓	5/22/19	wa
25	QUESTION - JUROR #3	5/23/19	—	5/23/19	wa
26	QUESTION - JUROR #9 (asked)	5/23/19	—	5/23/19	wa
27	QUESTION - JUROR #2 (asked)	↓	—	↓	wa
28	QUESTION - JUROR #8 (asked)	↓	—	↓	wa
29	QUESTION - JUROR #4 (asked)	↓	—	↓	wa
30	QUESTION - JUROR #8 (NOT ASKED)	5/23/19	—	5/23/19	wa
31	QUESTION - JUROR #6 (NOT ASKED)	↓	—	↓	wa
32	QUESTION - JUROR #9 (ASKED)	↓	—	↓	wa
33	QUESTION - JUROR #7 (ASKED)	↓	—	↓	wa
34	PROPOSED CURATIVE INSTRUCTION NO. 1	5/28/19	—	5/28/19	wa
35	QUESTION - JUROR #8 (ASKED)	5/29/19	—	5/29/19	wa
36	QUESTION - JUROR #3 (ASKED)	5/29/19	—	5/29/19	wa
37	QUESTION - JUROR #4 (ASKED)	5/29/19	—	5/29/19	wa
38	QUESTION - JUROR #8 (ASKED)	5/30/19	—	5/30/19	wa
39	QUESTION - JUROR #8 (NOT ASKED)	5/30/19	—	5/30/19	wa
40	QUESTION - JUROR #8 (ASKED)	5/30/19	—	5/30/19	wa
41	GUADALUPE PARRA-MENDEZ MEDICAL REPORT	5/30/19	—	5/30/19	wa
42	DESIRE EVANS-WAIAU MEDICAL REPORT	5/30/19	—	5/30/19	wa

EXHIBIT(S) LIST

Case No: A736457

Desire Evans-Waiau

VS.

Babylyn Tate

COURT'S EXHIBITS

[illegible]



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

DENNIS M. PRINCE
8816 SPANISH RIDGE AVE.
LAS VEGAS, NV 89148

DATE: August 15, 2019
CASE: A-16-736457-C

RE CASE: DESIRE EVANS-WAIAU; GUADALUPE PARRA-MENDEZ; JORGE PARRA-MEZA, as guardian for MAYRA PARRA, a minor; JORGE PARRA-MEZA, a guardian for ALLIYAH PARRA, a minor; JORGE PARRA-MEZA, as guardian for SIENNA PARRA, a minor vs. BABYLYN TATE

NOTICE OF APPEAL FILED: August 14, 2019

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☐ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE; NOTICE OF ENTRY OF ORDER REGARDING PLAINTIFFS' MOTIONS IN LIMINE; ORDER REGARDING DEFENDANT TATE'S MOTIONS IN LIMINE; NOTICE OF ENTRY OF ORDER REGARDING DEFENDANT TATE'S MOTIONS IN LIMINE; NOTICE OF ENTRY OF ORDER REGARDING DEFENDANT TATE'S MOTIONS IN LIMINE; GENERAL VERDICT FOR DEFENDANT; JUDGMENT UPON JURY VERDICT; NOTICE OF ENTRY OF JUDGMENT UPON JURY VERDICT; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

DESIRE EVANS-WAIAU; GUADALUPE
PARRA-MENDEZ; JORGE PARRA-MEZA, as
guardian for MAYRA PARRA, a minor; JORGE
PARRA-MEZA, a guardian for ALLIYAH
PARRA, a minor; JORGE PARRA-MEZA, as
guardian for SIENNA PARRA, a minor,

Plaintiff(s),

vs.

BABYLYN TATE,

Defendant(s),

Case No: A-16-736457-C

Dept No: XVIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 15 day of August 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

10029

BANK OF NEVADA
A division of Western Alliance Bank,
Member FDIC.

94-177/1224

2134
CHECK
TRAUD PROTECTION

DENNIS M. PRINCE A PROFESSIONAL CORP.
DBA PRINCE LAW GROUP
OPERATING ACCOUNT
8816 SPANISH RIDGE AVE.
LAS VEGAS, NV 89148

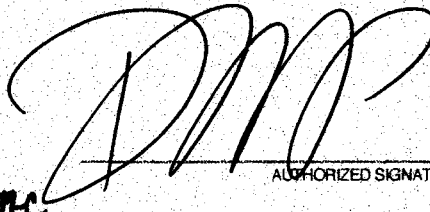
08/14/2019

PAY TO THE
ORDER OF Clerk of the Supreme Court

\$ **250.00

Two hundred fifty and 00/100***** DOLLARS

Clerk of the Supreme Court



AUTHORIZED SIGNATURE

MEMO

1000.012 Evans-Waiiau v. Tate Dist. Ct. Case No.:A-16-73657-C

⑈010029⑈ ⑆122401778⑆ 8366316595⑈

DENNIS M. PRINCE A PROFESSIONAL CORP.

DBA PRINCE LAW GROUP

10029

08/14/2019

Clerk of the Supreme Court

1000.012 Notice of Appeal Filing Fee

250.00

General Operating Account

1000.012 Evans-Waiiau v. Tate Dist. Ct. Case No.:A-16-736457-C 250.00