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Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**

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3 Nevada Bar No.: 12982

4 JACOB G. LEAVITT, ESQ.

5 Nevada Bar No.: 12608

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18 Email: GHand@HandSullivan.com

19 *Attorneys for Plaintiffs*

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 TITINA FARRIS and PATRICK FARRIS,

23 Plaintiffs,

24 vs.

25 BARRY RIVES, M.D.; LAPAROSCOPIC
26 SURGERY OF NEVADA, LLC et al.,

27 Defendants.

CASE NO.: A-16-739464-C

DEPT. NO.: XXXI

28 **NOTICE OF CROSS-APPEAL**

Notice is hereby given that Titina Farris and Patrick Farris, Plaintiffs above named, hereby appeal to the Supreme Court of Nevada from the Entry of Judgement filed on November 19, 2019.

A copy of the Notice of Entry of Judgment and the Judgment on Verdict is attached hereto as **Exhibit**

“1.” Although Plaintiffs are the Prevailing Party in this matter, Plaintiffs are contesting the reduction

1 of the jury award. See *Ford v. Showboat Operating Co.*, 110 Nev. 752, 756, 877 P.2d 546, 548-49
2 (1994).

3 DATED this 30th day December, 2019.

4 **BIGHORN LAW**

5 By: /s/ Kimball Jones

6 **KIMBALL JONES, ESQ.**

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9 Nevada Bar No.: 12608

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Las Vegas, Nevada 89107

10 GEORGE F. HAND, ESQ.

11 Nevada Bar No.: 8483

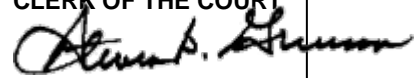
12 **HAND & SULLIVAN, LLC**

3442 N. Buffalo Drive

Las Vegas, Nevada 89129

13 *Attorneys for Plaintiff*

EXHIBIT “1”



1 **NEOJ**

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19 *Attorneys for Plaintiffs*

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 TITINA FARRIS and PATRICK FARRIS,

23 Plaintiffs,

24 vs.

25 BARRY RIVES, M.D.; LAPAROSCOPIC
26 SURGERY OF NEVADA, LLC et al.,

27 Defendants.

CASE NO.: A-16-739464-C

DEPT. NO.: XXXI

NOTICE OF ENTRY OF JUDGMENT

28 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that a Judgment on Verdict
was entered, in the above-entitled matter, on November 14, 2019, a copy of which is attached hereto.

DATED this 19th day of November, 2019.

BIGHORN LAW

By: /s/ Kimball Jones

KIMBALL JONES, ESQ.

Nevada Bar.: 12982

JACOB G. LEAVITT, ESQ.

Nevada Bar No.: 12608

716 S. Jones Blvd.

Las Vegas, Nevada 89107

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of
3 **BIGHORN LAW**, and on the 19th day of November, 2019, I served the foregoing ***NOTICE OF***
4 ***ENTRY OF JUDGMENT*** as follows:
5

6 ☒ Electronic Service – By serving a copy thereof through the Court’s electronic
7 service system; and/or

8 ☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage
9 prepaid and addressed as listed below:

10 Kim Mandelbaum, Esq.
11 MANDELBAUM ELLERTON & ASSOCIATES
12 2012 Hamilton Lane
13 Las Vegas, Nevada 89106
14 &
15 Thomas J. Doyle, Esq.
16 Chad C. Couchot, Esq.
17 SCHUERING ZIMMERMAN & DOYLE, LLP
18 400 University Avenue
19 Sacramento, California 95825
20 *Attorneys for Defendants*
21
22
23
24
25
26
27
28

/s/ *Erickson Finch*
An employee of **BIGHORN LAW**



JGJV

KIMBALL JONES, ESQ.

Nevada Bar No.: 12982

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Attorneys for Plaintiffs

TITINA FARRIS and PATRICK FARRIS

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS,

Plaintiffs,

vs.

**BARRY RIVES, M.D., LAPAROSCOPIC
SURGERY OF NEVADA LLC; DOES I-V,
inclusive; and ROE CORPORATIONS I-V,
inclusive,**

Defendants.

Case No.: A-16-739464-C

Dept. No.: 31

JUDGMENT ON VERDICT

The above-entitled matter having come on for trial by jury on October 14, 2019, before the Honorable Joanna S. Kishner, District Court Judge, presiding. Plaintiffs TITINA FARRIS and PATRICK FARRIS ("Plaintiffs"), appeared in person with their counsel of record, KIMBALL JONES, ESQ. and JACOB LEAVITT, ESQ., of the law firm of Bighorn Law, and GEORGE HAND, ESQ., of the law firm of Hand & Sullivan, LLC. Defendants BARRY J. RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC ("Defendants") appeared by and through their counsel of record, THOMAS DOYLE, ESQ., of the law firm of Schuering, Zimmerman & Doyle,

1 LLP.

2 Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the
3 merits of their cases. The jury rendered a verdict in favor of Plaintiffs and against the Defendants as
4 to claims concerning medical malpractice in the following amounts:

- 5 1. \$1,063,006.94 for TITINA FARRIS' past medical and related expenses;
- 6 2. \$4,663,473.00 for TITINA FARRIS' future medical and related expenses;
- 7 3. \$1,571,000.00 for TITINA FARRIS' past physical and mental pain, suffering,
8 anguish, disability and loss of enjoyment of life;
- 9 4. \$4,786,000.00 for TITINA FARRIS' future physical and mental pain, suffering,
10 anguish, disability and loss of enjoyment of life;
- 11 5. \$821,000.00 for PATRICK' past loss of companionship, society, comfort and
12 consortium; and
- 13 6. \$736,000.00 for PATRICK' future loss of companionship, society, comfort and
14 consortium.

15 The Defendants requested that the jury be polled, and the Court found that seven (7) out of
16 the eight (8) jurors were in agreement with the verdict.

17 NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the Plaintiffs
18 and against the Defendants as follows:

19 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs shall have and recover
20 against Defendants non-economic damages of \$350,000.00 pursuant to NRS 41A.035, economic
21 damages of \$5,726,479.94, and the pre-judgment interest of \$291,325.58, calculated as follows:

- 22 1. \$1,063,006.94 for TITINA FARRIS' past medical and related expenses, plus
23 prejudgment interest in the amount of \$258,402.69 (interest calculated at 5.50%
24 prime plus 2% for a total of 7.50% from date of service August 16, 2016 to
25 November 12, 2019, for a total of 1,183 days = \$218.43 per day) pursuant to NRS
26 17.130 for a total judgment of \$1,321,409.63; with daily post-judgment interest
accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained
by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be
adjusted accordingly on each January 1 and July 1 thereafter until the judgment is
satisfied;

27 ///

28 ///

2. \$4,663,473.00 for TITINA FARRIS' future medical and related expenses, plus post-judgment interest accruing at \$958.25 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;
3. \$43,225.00 for TITINA FARRIS' past physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus prejudgment interest in the amount of \$10,505.04 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = \$8.88 per day) pursuant to NRS 17.130 for a total judgment of \$53,730.04; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;
4. \$131,775.00 for TITINA FARRIS' future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus post-judgment interest accruing at \$27.07 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;
5. \$92,225.00 for PATRICK FARRIS' past loss of companionship, society, comfort and consortium, plus prejudgment interest in the amount of \$22,417.85 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = \$18.95 per day) pursuant to NRS 17.130 for a total judgment of \$114,642.85; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied; and
6. \$82,775.00 for PATRICK FARRIS' future loss of companionship, society, comfort and consortium, plus post-judgment interest accruing at \$17.00 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

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///

1 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs TITINA FARRIS and
2 PATRICK FARRIS has judgment against Defendants BARRY RIVES, M.D. and
3 LAPAROSCOPIC SURGERY OF NEVADA LLC as follows:

4 Principal \$ 6,076,479.94

5 Pre-Judgment Interest \$ 291,325.58 (1,183 days @ 7.50%)

6 **TOTAL JUDGMENT of:** \$ **6,367,805.52**

7 Pursuant to NRS 17.130, the judgment shall continue to accrue daily post-judgment interest
8 at \$1,248.58 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%); daily post-
9 judgment interest shall accrue at a rate equal to the prime rate at the largest bank in Nevada as
10 ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted
11 accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

12 SO ORDERED this 12 day of November, 2019.

13
14  JOANNA S. KISHNER
15 HONORABLE JOANNA S. KISHNER
16 District Court Judge

17 Respectfully Submitted by:

Approved as to form and content:

18 Dated this 11th day of November, 2019.

Dated this 11th day of November, 2019.

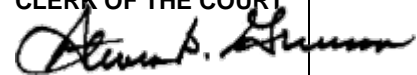
19
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26 George F. Hand, Esq.
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Attorneys for Plaintiffs

SCHUERING ZIMMERMAN & DOYLE, LLP

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Barry J. Rives, M.D.;
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19 *Attorneys for Plaintiffs*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 TITINA FARRIS and PATRICK FARRIS,

17 Plaintiffs,

18 vs.

19 BARRY RIVES, M.D.; LAPAROSCOPIC
20 SURGERY OF NEVADA, LLC et al.,

21 Defendants.

CASE NO.: A-16-739464-C
DEPT. NO.: XXXI

22 **CASE APPEAL STATEMENT**

23 **1. Name of Appellant filing this Case Appeal Statement:**

24 Cross-Appellants, Titina Farris and Patrick Farris

25 **2. Identify the Judge Issuing the Decision, Judgment, or Order appealed from:**

26 Honorable Joanna S. Kishner of the Eighth Judicial District Court, Clark County, Nevada.
27
28

Judgment Upon Verdict.

3. **Identify all parties to the proceedings in the district court (the use of et al. to denote parties is prohibited):**

Titina Farris and Patrick Farris, Plaintiffs

Barry Rives, M.D.; Laparoscopic Surgery of Nevada, LLC, Defendants.

4. **Identify all parties involved in this appeal (the use of et al. to denote parties is prohibited):**

Appellants, Barry Rives, M.D.; Laparoscopic Surgery of Nevada, LLC;

Cross-Appellants, Titina Farris and Patrick Farris;

5. **Set forth the name, law firm, address, and telephone number of all counsels on appeal and identify the party or parties whom they represent:**

KIMBALL JONES, ESQ.

Nevada Bar No.: 12982

JACOB G. LEAVITT, ESQ.

Nevada Bar No.: 12608

BIGHORN LAW

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Phone: (702) 656-5814

Attorney for Plaintiffs/Cross-Appellants Titina Farris and Patrick Farris

Kim Mandelbaum, Esq.

MANDELBAUM ELLERTON & ASSOCIATES

2012 Hamilton Lane

Las Vegas, Nevada 89106

&

Thomas J. Doyle, Esq.

Chad C. Couchot, Esq.

SCHUERING ZIMMERMAN & DOYLE, LLP

400 University Avenue
Sacramento, California 95825
Attorney for Defendants/Appellants Barry Rives, M.D.; Laparoscopic Surgery of
Nevada, LLC;

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

Cross-appellant was represented by retained counsel.

7. Indicate whether cross-appellant was represented by appointed or retained counsel on appeal:

Cross-appellant was represented by retained counsel.

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

Cross-appellant has not sought leave to proceed in forma pauperis.

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

Complaint filed July 1, 2016 in Eighth Judicial District Court, Clark County, Nevada.

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

Trial in this matter concluded with the jury awarding Plaintiffs/Cross-Appellants damages in the amount of \$13,640,479.94. The Court reduced this award to a judgment of \$6,365,830.84 based upon the damages “cap” of \$350,000.00 noted in NRS 41A.035. Plaintiffs/Cross-Appellants appeal this reduction since the NRS 41A.035 “cap” of \$350,000.00 for noneconomic damages is specifically preempted by federal law in this case. The cap is unconstitutional, not only as drafted, but also as applied in this matter.

1 The Equal Protection Clause of the Fourteenth Amendment states, “No state shall
2 make or enforce any law which shall abridge the privileges or immunities of citizens of
3 the United States; nor shall any state deprive any person of life, liberty, or property,
4 without due process of law; nor deny to any person within its jurisdiction the equal
5 protection of the laws.” The Damage Cap as applied in this case violates the equal
6 protection clause. Furthermore, the Damage Cap discriminates based upon the
7 classification of plaintiffs in tort litigation.
8

9 The preemption doctrine, which provides that federal law supersedes
10 conflicting state law, arises from the Supremacy Clause of the United States
11 Constitution. The Supremacy Clause, found in Article VI, requires that “the
12 Laws of the United States ... shall be the supreme Law of the Land; ... any
13 Thing in the Constitution or Laws of any State to the Contrary
14 notwithstanding.” Thus, when a conflict exists between federal and state
15 law, valid federal law overrides, *i.e.*, preempts, an otherwise valid state law.

16 *Nanopierce Techs., Inc. v. Depository Tr. & Clearing Corp.*, 123 Nev. 362, 370, 168 P.3d
17 73, 79 (2007)

18 The Nevada Supreme Court noted that Nevada Medical Malpractice law is preempted
19 by ERISA as to evidence of collateral source benefits:

20 Federal law complicates matters. 42 U.S.C. § 2651(a) provides that when
21 the United States is required to pay for medical treatment on behalf of an
22 individual, and the hospital becomes liable in tort to that individual, “the
23 United States shall have a right to recover ... the reasonable value of the care
24 and treatment so furnished,” and the United States’ right to payment is
25 subrogated to the individual’s claim against the hospital. In short, § 2651(a)
26 allows the United States to recover from a plaintiff who prevails in a
27 medical malpractice suit the Medicaid payments the plaintiff received—
28 exactly what NRS 42.021(2) prohibits. When state and federal law directly
29 conflict, federal law governs.

30 *McCrosky v. Carson Tahoe Reg'l Med. Ctr.*, 133 Nev. 930, 936–37, 408 P.3d 149, 154–
31 55 (2017).

32 Just as the Supreme Court in *McCrosky* noted that economic damages under NRS

42.021 are preempted by Federal law, the \$350,000.00 cap noted for noneconomic damages in NRS 41A.035 runs afoul of ERISA in this case.

Plaintiff's "ERISA" Plan notes:

"Recoveries" means all monies paid to the Covered Person—or to any agent, attorney or beneficiary of, or trustee for, such Covered Person—by way of judgment, settlement, or otherwise to compensate for all losses caused by an injury or sickness, whether or not said losses reflect Covered Expenses. "Recoveries" further includes, but is not limited to, recoveries for medical, dental or other expenses, attorneys' fees, costs and expenses, pain and suffering, loss of consortium, wrongful death, lost wages and any other recovery of any form of damages or compensation whatsoever. All such payments received from any sources shall be deemed to be first for Covered Expenses regardless of whether the payments are so designated by the parties, and regardless of any limitations on the ability of the Covered Person to collect medical expenses from the Third Party. The Plan shall be reimbursed in full, regardless of whether the Covered Person has been made whole, before any amounts (including attorney fees and court costs) are deducted from such payments.

As such, this "potential" conflict between ERISA and Nevada's statutory cap for noneconomic damages is realized here, as the plan calls for reimbursement from any source, including non-economic damages—and yet, State Law precludes non-economic damages of more than \$350,000.

Given the above, the cap on non-economic damages is unconstitutional as applied in this matter as Plaintiff/Cross-Appellant Titina Farris' health plan is an ERISA plan. Plaintiffs/Cross-Appellants therefore appeal the reduction of the jury award by the Court as this cap violates both the Supremacy Clause and the Equal Protection Clause of the United States Constitution. The jury awards given by the jury are properly upheld, and not reduced.

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

The case has never previously been the subject an appeal to or original writ proceeding in

1 the Supreme Court.

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

3 This case does not involve child custody or visitation.

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

5 This is a civil case. Cross-appellants/Plaintiffs seek a settlement.

6 DATED this 30th day December, 2019.

7 **BIGHORN LAW**

8 By: /s/ Kimball Jones

9 **KIMBALL JONES, ESQ.**

10 Nevada Bar No.: 12982

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15 GEORGE F. HAND, ESQ.

16 Nevada Bar No.: 8483

17 **HAND & SULLIVAN, LLC**

18 3442 N. Buffalo Drive

19 Las Vegas, Nevada 89129

20 *Attorneys for Plaintiff*

CASE SUMMARY**CASE NO. A-16-739464-C**

Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

§
§
§
§
§
§

Location: **Department 31**
Judicial Officer: **Kishner, Joanna S.**
Filed on: **07/01/2016**
Case Number History:
Cross-Reference Case **A739464**
Number:
Supreme Court No.: **80271**

CASE INFORMATION

Statistical Closures
11/19/2019 Verdict Reached

Case Type: **Malpractice - Medical/Dental**

Case
Status: **11/19/2019 Closed**





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

Case Number A-16-739464-C
Court Department 31
Date Assigned 08/09/2018
Judicial Officer Kishner, Joanna S.

PARTY INFORMATION















		<i>Lead Attorneys</i>
Plaintiff	Farris, Patrick	Jones, Kimball <i>Retained</i> 702-333-1111(W)
	Farris, Titina	Jones, Kimball <i>Retained</i> 702-333-1111(W)
Defendant	Laparoscopic Surgery of Nevada LLC	Doyle, Thomas J. <i>Retained</i> 9165670400(W)
	Rives, Barry, M.D.	Doyle, Thomas J. <i>Retained</i> 9165670400(W)

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

07/01/2016	 Initial Appearance Fee Disclosure Filed By: Plaintiff Farris, Titina <i>Initial Appearance Fee Disclosure(NRS Chapter 19)</i>
07/01/2016	 Complaint Filed By: Plaintiff Farris, Titina <i>Complaint</i>
08/25/2016	 Affidavit of Service Filed By: Plaintiff Farris, Titina <i>Affidavit of Service</i>
09/14/2016	 Answer

CASE SUMMARY

CASE NO. A-16-739464-C

	<p>Filed By: Defendant Rives, Barry, M.D. <i>Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Answer to Complaint</i></p>
09/14/2016	<p> Demand for Jury Trial Filed By: Defendant Rives, Barry, M.D. <i>Demand for Jury Trial</i></p>
09/14/2016	<p> Initial Appearance Fee Disclosure Filed By: Defendant Rives, Barry, M.D. <i>Defendants' Initial Appearance Fee Disclosure</i></p>
09/29/2016	<p> Notice Filed By: Plaintiff Farris, Titina <i>Notice of Early Case Conference</i></p>
10/24/2016	<p> Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Defendant Rives, Barry, M.D. <i>Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Initial NRCP 16.1 Disclosure of Witnesses and Documents</i></p>
10/31/2016	<p> Joint Case Conference Report Filed By: Plaintiff Farris, Titina <i>Joint Case Conference Report</i></p>
11/28/2016	<p> Notice to Appear for Discovery Conference <i>Notice to Appear for Discovery Conference</i></p>
01/12/2017	<p> Order Setting Medical/Dental Malpractice Status Check <i>Order Setting Medical/Dental Malpractice Status Check and Trial Setting Conference</i></p>
01/12/2017	<p> Scheduling Order <i>Scheduling Order</i></p>
02/23/2017	<p> Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Setting Civil Jury Trial</i></p>
11/07/2017	<p> Stipulation to Extend Discovery Party: Plaintiff Farris, Titina <i>Stipulation and Order to Extend Discovery (First Request)</i></p>
11/09/2017	<p> Amended Order Setting Jury Trial <i>First Amended Order Setting Civil Jury Trial</i></p>
12/19/2017	<p> Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Setting Civil Jury Trial</i></p>
02/05/2018	<p> Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Stipulation and Order to Extend Discovery (Second Request)</i></p>
04/19/2018	<p> Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Order Setting Civil Jury Trial</i></p>

CASE SUMMARY

CASE NO. A-16-739464-C

04/20/2018	 Stipulation and Order Filed by: Defendant Rives, Barry, M.D. <i>Stipulation and Order to Continue Trial and Extend Discovery Deadlines and Trial Date</i>
09/21/2018	 Stipulation and Order <i>Stipulation and Order to Extend Discovery Deadlines (Fourth Request)</i>
09/26/2018	 Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (Fourth Request)</i>
10/04/2018	 Notice of Taking Deposition Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Notice of Taking the Deposition of Barry Rives, M.D.</i>
10/05/2018	 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call <i>Amended Order Setting Civil Jury Trial, Pre Trial Conference, Calendar Call and Status Check</i>
11/27/2018	 Stipulation and Order <i>Stipulation and Order to Extend Discovery Deadlines (Fifth Request)</i>
11/30/2018	 Notice of Entry of Stipulation and Order <i>Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (Fifth Request)</i>
01/22/2019	 Amended Order Setting Jury Trial <i>Amended Order Setting Jury Trial, Pre-Trial Conference, Calendar Call, and Status Check</i>
01/23/2019	 Stipulation and Order <i>Stipulation and Order to Reset Trial and Waive Three Year Trial Rule</i>
03/19/2019	 Stipulation and Order <i>Stipulation and Order to Extend Discovery Deadlines (Sixth Request)</i>
03/19/2019	 Notice of Entry <i>Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (Sixth Request)</i>
05/15/2019	 Objection <i>Defendants' Objection to Plaintiffs' Fifth Supplement to Early Case Conference Disclosure of Witnesses and Documents</i>
06/26/2019	 Stipulation and Order <i>Stipulation and Order to Extend Discovery Deadlines (Seventh Request)</i>
06/27/2019	 Notice of Entry <i>Notice of Entry of Stipulation and ORder to Extend Discovery Deadlines (Seventh Request)</i>
07/15/2019	 Notice of Association of Counsel <i>Notice of Association of Counsel</i>
07/16/2019	 Amended Notice of Taking Deposition Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC

CASE SUMMARY

CASE NO. A-16-739464-C

Amended Notice of Deposition of Dr. Michael Hurwitz

09/06/2019



Notice

Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Notice of 2.67 Conference

09/10/2019



Notice

Notice of Scheduling Settlement Conference

09/13/2019



Motion to Compel

Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on Order Shortening time

09/13/2019



Clerk's Notice of Hearing

Notice of Hearing

09/13/2019



Pre-Trial Disclosure

Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's NRCP 16.1(A)(3) Pretrial Disclosure

09/16/2019



Trial Subpoena

Trial Subpoena - Civil Regular

09/16/2019



Application

Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Application for an Order Shortening Time on Defendants Barry River MD's and Laparoscopic Surgery of Nevada LLC's Motion to Compel the Deposition of Gregg Ripplinger MD and Extend the Close of Discovery (9th Request)

09/18/2019



Motion for Sanctions

Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time

09/19/2019



Receipt of Copy

Filed by: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Receipt of Copy-Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time

09/19/2019



Motion to Strike

Plaintiffs Motion to Strike Defendants Rebuttal Witnesses Sarah Larsen, R.N., Bruce Adornato, M.D. and Scott Kush, M.D., and to Limit the Testimony of Lance Stone, D.O. and Kim Erlich, M.D., for Giving Improper Rebuttal Opinions, on Order Shortening Time

09/19/2019



Order

Order Denying Stipulation Regarding Motions in Limine and Order Setting hearing for September 26, 2019

09/20/2019



Objection

Plaintiffs Objections to Defendants Pre-Trial Disclosure Statement Pursuant to NRCP 16.1(a)(3)(C)

CASE SUMMARY

CASE NO. A-16-739464-C

09/20/2019	 Objection <i>Plaintiffs Objection to Defendants Second Amended Notice of Taking Deposition of Dr. Gregg Ripplinger</i>
09/20/2019	 Objection <i>Plaintiffs Objection to Defendants Trial Subpoena of Naomi Chaney, M.D.</i>
09/24/2019	 Opposition to Motion Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigatoin and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time</i>
09/24/2019	 Declaration <i>Declaration of Chad Couchot in Support of Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time</i>
09/24/2019	 Transcript of Proceedings <i>Transcript: Telephonic Conference 1/7/19</i>
09/24/2019	 Transcript of Proceedings <i>Transcript: Mandatory In-Person Status Check Per Court's Memo Dated August 30, 2019 - 9/5/19</i>
09/24/2019	 Transcript of Proceedings <i>Transcript of Proceedings Pretrial Conference 9/12/19</i>
09/25/2019	 Objection Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Objection to Plaintiffs' 9th Supplement to Early CAsE Conference Disclosure of Witnesses and Documents</i>
09/26/2019	 Objection <i>Plaintiffs Objection to Defendants Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents</i>
09/26/2019	 Objection Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Objections to Plaintiffs' Initial Pre-Trial Disclosures</i>
09/27/2019	 Opposition to Motion <i>Plaintiffs' Opposition to Defendants Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on an Order Shortening Time</i>
09/27/2019	 Motion to Strike Filed By: Plaintiff Farris, Titina <i>Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time</i>
09/27/2019	 Receipt of Copy <i>Receipt of Copy</i>















CASE SUMMARY

CASE NO. A-16-739464-C

09/30/2019	 Pre-trial Memorandum Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Separate Pretrial Memorandum</i>
09/30/2019	 Objection Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Supplemental Objection to Plaintiffs' Initial Pre-Trial Disclosures</i>
09/30/2019	 Supplement Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants 1st Supplemental NRCP 16.1(A)(3) Pretrial Disclosur</i>
09/30/2019	 Pre-trial Memorandum <i>Plaintiffs Pre-Trial Memorandum Pursuant to EDCR 2.67</i>
10/01/2019	 Transcript of Proceedings <i>Transcript: All Pending Motions 9/26/19</i>
10/02/2019	 Order Denying <i>Order Denying Defendants' Order Shortening Time</i>
10/02/2019	 Opposition to Motion Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time</i>
10/02/2019	 Declaration <i>Declaration of Chad Couchot in Support of Opposition to Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time</i>
10/02/2019	 Declaration <i>Declaration of Thomas J. Doyle in Support of Opposition to Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time</i>
10/03/2019	 Reply in Support <i>Reply in Support of Plaintiffs Motion to Strike Defendants Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time</i>
10/07/2019	 Proposed Voir Dire Questions Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Proposed Voir Dire</i>
10/07/2019	 Jury Instructions Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Joint Agreed Upon Jury Instructions</i>
10/07/2019	 Jury Instructions Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Proposed Special Jury Instructions Objected to by Plaintiffs (Cited)</i>

CASE SUMMARY

CASE NO. A-16-739464-C

10/07/2019	 Jury Instructions Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Proposed Special Jury Instructions Objected to by Plaintiff (Uncited)</i>
10/07/2019	 Exhibits Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Proposed Exhibit List</i>
10/10/2019	 Reply to Opposition Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Reply to Plaintiff's Opposition to Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on an Order Shortening Time</i>
10/14/2019	 Recorders Transcript of Hearing <i>Transcript: Status Check 7/16/19</i>
10/14/2019	 Recorders Transcript of Hearing <i>Transcript: All Pending Motions 10/7/19</i>
10/14/2019	 Recorders Transcript of Hearing <i>Transcript: Calendar Call 10/8/19</i>
10/14/2019	 Recorders Transcript of Hearing <i>Transcript: All Pending Motions 10/10/19</i>
10/14/2019	 Trial Brief Filed By: Defendant Rives, Barry, M.D. <i>Defendants Barry Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Trial Brief Regarding Their Request to Preclude Defendants Expert Witnesses Involvement as a Defendant in Medical Malpractice Actions</i>
10/14/2019	 Trial Brief Filed By: Defendant Rives, Barry, M.D. <i>Defendants Barry Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Trial Brief Regarding the Need to Limit Evidence of past Medical Expenses to Actual Out-of-Pocket Expenses or the Amounts Reimbursed</i>
10/14/2019	 Trial Brief Filed By: Defendant Rives, Barry, M.D. <i>Defendants Barry Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Trial Brief Regarding the Need to Preclude Evidence of the Cap on Non-Economic Damages</i>
10/16/2019	 Jury List
10/18/2019	 Motion to Strike <i>Plaintiffs' Motion to Strike Defendants' Trial Briefs On Order Shortening Time</i>
10/21/2019	 Opposition to Motion Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion to Strike Defendants' Trial Briefs on Order Shortening Time</i>
10/21/2019	 Audiovisual Transmission Equipment Appearance Consent

CASE SUMMARY

CASE NO. A-16-739464-C

Audiovisual Transmission Equipment Appearance Consent

10/21/2019



Audiovisual Transmission Equipment Appearance Request
Audiovisual Transmission Equipment Appearance Request

10/22/2019



Opposition to Motion
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Renewed Motion to Strike

10/22/2019



Reply in Support
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Reply in Support of, and Supplement to, Plaintiffs' Renewed Motion to Strike Defendants' Answer for Rule 37 Violations, Including Perjury and Discovery Violations on an Order Shortening Time

10/22/2019



Trial Brief
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendant's Trial Brief in Support of their Position Regarding The Property of Dr. Rives' Responses to Plaintiffs' Counsel's Questions Eliciting Insurance Information

10/23/2019



Trial Brief
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Trial Brief Regarding Improper Arguments, Including "Medical Judgment", "Risk of Procedure" and "Assumption of Risk"

10/23/2019



Notice of Entry of Order
Notice of Entry of Order

10/23/2019



Order
Order on Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplements to NRCP 16.1 Disclosures

10/24/2019



Trial Brief
Plaintiffs Trial Brief on Rebuttal Experts Must Only be Limited to Rebuttal Opinions Not Initial Opinions

10/27/2019



Trial Brief
Plaintiffs Trial Brief on Admissibility of Malpractice Lawsuits Against an Expert Witness

10/28/2019



Trial Brief
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Trial Brief Regarding Disclosure Requirements for Non-Retained Experts

10/28/2019



Trial Brief
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Barry Rivas, MD's and Laparoscopic Surgery of Nevada, LLC's Trial Brief on Rebuttal Experts Being Limited to Rebuttal Opinions Not Initial Opinions

10/29/2019



Trial Brief
Plaintiffs' Trial Brief on Defendants' Retained Rebuttal Experts' Testimony




10/29/2019



Trial Subpoena
Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Trial Subpoena - Civil Regular

CASE SUMMARY

CASE NO. A-16-739464-C

10/29/2019	 Trial Brief Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants' Barry Rivas, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Trial Brief Regarding Propriety of Disclosure of Naomi Chaney, M.D. as a Non-retained Expert Witness</i>
10/29/2019	 Objection <i>Plaintiffs Objection to Defendants Misleading Demonstratives (11-17)</i>
10/29/2019	 Trial Brief <i>Plaintiffs Trial Brief Regarding the Testimony of Dr. Barry Rives</i>
10/29/2019	 Motion to Quash Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Plaintiffs Motion to Quash Trial Subpoena of Dr. Naomi Chaney on Order Shortening Time</i>
10/30/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
10/31/2019	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
10/31/2019	 Amended Jury List
11/01/2019	 Special Verdict Form
11/01/2019	 Jury List <i>Second Amended Jury List</i>
11/01/2019	 Jury Instructions
11/04/2019	 Miscellaneous Filing Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Correspondence from Schuering Zimmerman & Doyle, LLP</i>
11/05/2019	 Order to Show Cause <i>Order to Show Cause</i>
11/14/2019	 Recorders Transcript of Hearing <i>Partial Transcript: Jury Trial Day 5 - Testimony of Michael Hurwitz, M.D. 10/18/19</i>
11/14/2019	 Recorders Transcript of Hearing <i>Partial Transcript: Jury Trial Day 8 - Testimony of Michael Hurwitz, M.D. 10/23/19</i>
11/14/2019	 Judgment on Jury Verdict Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Judgment on Verdict</i>
11/19/2019	 Order to Statistically Close Case <i>Civil Order to Statistically Close Case on Judgment on Jury Verdict</i>
11/19/2019	 Notice of Entry of Judgment

CASE SUMMARY








CASE NO. A-16-739464-C

Notice of Entry of Judgment

11/19/2019	 Memorandum of Costs and Disbursements <i>Plaintiffs Verified Memorandum of Costs and Disbursements</i>
11/20/2019	 Transcript of Proceedings <i>Partial Transcript: Trial by Jury - Day 4 - Testimony of Justin Willer, M.D. 10/17/19</i>
11/22/2019	 Motion to Retax Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants Barry J Rivers MD's and Laraposcopic Surgery of Nevada LLC's Motion to Re-Tax and Settle Plaintiffs Costs</i>
11/22/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
11/22/2019	 Motion for Attorney Fees and Costs Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Plaintiffs Motion for Fees and Costs</i>
11/25/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
11/26/2019	 Opposition to Motion Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick <i>Plaintiffs' Opposition to Defendants Barry J. Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Motion to Re-Tax and Settle Plaintiffs Costs</i>
11/27/2019	 Reply to Opposition Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants Barry J Rives MD's and Laparoscopic Surgery of Nevada LLC's Reply to Plaintiffs' Opposition to Motion to Re-Tax and Settle Plaintiffs' Costs</i>
12/02/2019	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
12/02/2019	 Opposition to Motion Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Defendants Barry J. Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion for Fees and Costs</i>
12/02/2019	 Transcript of Proceedings <i>Transcript: Status Check: Judgment / Show Cause Hearing 11/7/19</i>
12/05/2019	 Recorders Transcript of Hearing <i>Transcript: All Pending Motions 11/13/19</i>
12/05/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript of All Pending Motions 11/14/19</i>
12/05/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript of All Pending Motions 11/20/19</i>

CASE SUMMARY


CASE NO. A-16-739464-C

12/18/2019	 Notice of Appeal <i>Notice of Appeal</i>
12/18/2019	 Case Appeal Statement Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Case Appeal Statement</i>
12/18/2019	 Notice of Filing Cost Bond Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC <i>Notice of Filing Cost Bond</i>
12/18/2019	 Notice Filed By: Defendant Rives, Barry, M.D. <i>Notice of Filing Supersedeas Bond</i>
12/30/2019	 Notice of Appeal <i>Notice of Cross-Appeal</i>
12/30/2019	 Case Appeal Statement <i>Case Appeal Statement</i>
12/31/2019	 Reply in Support <i>Reply in Support of Plaintiffs Motion for Fees and Costs</i>

DISPOSITIONS

11/01/2019	Verdict (Judicial Officer: Kishner, Joanna S.) Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant) Creditors: Titina Farris (Plaintiff) Judgment: 11/01/2019, Docketed: 11/08/2019 Total Judgment: 12,083,479.94 Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant) Creditors: Patrick Farris (Plaintiff) Judgment: 11/01/2019, Docketed: 11/08/2019 Total Judgment: 1,557,000.00
11/14/2019	Judgment Upon the Verdict (Judicial Officer: Kishner, Joanna S.) Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant) Creditors: Titina Farris (Plaintiff) Judgment: 11/14/2019, Docketed: 11/15/2019 Total Judgment: 6,170,387.67 Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant) Creditors: Patrick Farris (Plaintiff) Judgment: 11/14/2019, Docketed: 11/15/2019 Total Judgment: 197,417.85 Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant) Creditors: Titina Farris (Plaintiff), Patrick Farris (Plaintiff) Judgment: 11/14/2019, Docketed: 11/15/2019 Total Judgment: 6,367,805.52

HEARINGS

12/13/2016	 Discovery Conference (8:55 AM) (Judicial Officer: Bulla, Bonnie) Scheduling Order Will Issue; Journal Entry Details: <i>Counsel anticipate 7 to 10 days for trial re: Medical malpractice; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 2/7/18; adding parties, amended pleadings, and initial expert disclosures DUE 11/7/17; rebuttal expert disclosures DUE 12/7/17; FILE dispositive motions by 3/7/18; Trial ready 4/23/18. Scheduling Order will</i>
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EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-739464-C

issue. No Medicare / Medicaid. Insurance information exchanged, and counsel are communicating about authorizations. Commissioner Bulla will hear discovery disputes.;

02/06/2017



Status Check: Medical/Dental Malpractice (1:00 PM) (Judicial Officer: Wiese, Jerry A.)

Matter Heard;

Journal Entry Details:

Court advised the case had been reassigned to another department due to the unavailability of the Judge. COURT ORDERED, trial date 7/9/18; case REASSIGNED to Department 26. Counsel estimated 10 days for trial.;

06/07/2018

CANCELED Calendar Call (9:00 AM) (Judicial Officer: Sturman, Gloria)

Vacated - per Order

07/09/2018

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Sturman, Gloria)

Vacated - per Order

08/08/2018



Status Check: Medical/Dental Malpractice (1:00 PM) (Judicial Officer: Wiese, Jerry A.)

Matter Heard;

Journal Entry Details:

The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Mr. Hand advised he had a conflict with the current trial date and requested trial date be vacated and reset. Court stated it would reassign the case and directed Mr. Hand to file a motion with his new trial judge. Mr. Hand advised 5 - 7 days for trial, Ms. Clark Newberry advised 7 - 10 days. COURT ORDERED, trial date STANDS. Pursuant to EDCR 1.30, due to unavailability of Dept. or counsel, CHIEF JUDGE ORDERED, case REASSIGNED to Dept. 31. 3/18/19 JURY TRIAL (DEPT 31);

09/20/2018

CANCELED Calendar Call (9:00 AM) (Judicial Officer: Sturman, Gloria)

Vacated - per Stipulation and Order

09/24/2018

CANCELED Status Check (10:30 AM) (Judicial Officer: Jones, David M)

Vacated

10/08/2018

CANCELED Pre Trial Conference (10:30 AM) (Judicial Officer: Jones, David M)

Vacated

10/15/2018

CANCELED Jury Trial (9:30 AM) (Judicial Officer: Sturman, Gloria)

Vacated - per Stipulation and Order

10/17/2018

CANCELED Calendar Call (10:30 AM) (Judicial Officer: Jones, David M)

Vacated

10/22/2018

CANCELED Jury Trial (10:30 AM) (Judicial Officer: Jones, David M)

Vacated

12/18/2018



Status Check (9:00 AM) (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

Journal Entry Details:

Court stated there was a firm trial setting of March 18, 2019 in this case, and also a construction defect trial starting in February, stated more would be known by February 11, 2019, and advised counsel they may reach out to counsel on the construction defect trial for status. Counsel stated they discussed potentially moving the trial due to the document review and experts. Colloquy regarding continuing trial and potential dates. Court stated a telephonic hearing would be set; advised counsel to confer and send a letter with potential dates and times for the telephonic hearing for the week of January 7, 2019; advised counsel to prepare a stipulation regarding extending the 3-year rule to a particular date. CLERK'S NOTE: Minutes completed using JAVS by Court Clerk Elizabeth Vargas. //ev 12/28/18;

01/07/2019



Telephonic Conference (9:30 AM) (Judicial Officer: Kishner, Joanna S.)

Telephonic Conference Regarding Resetting Trial

CASE SUMMARY

CASE NO. A-16-739464-C

Matter Heard;

Journal Entry Details:

Counsel requested the trial be continued to January 2020, with the parties stipulating to a waive of the three year rule. The Court noted under Rule 1.90 it would be more than three years after the case was commenced and inquired if the parties could agree to the Fall of 2019. Ms. Clark Newberry indicated that there were other cases up against their five year rule and with the number of depositions to be completed in this case, that early 2020 is their reasonable estimate to be ready for trial. Court stated it could not push the case to January but with a waive would consider September 2019. Ms. Clark Newberry inquired regarding November 2019. Counsel anticipate 10 days for trial. The Court inquired if the parties could agree to October 14, 2019, otherwise it would be September 18, 2019. Ms. Clark Newberry then contacted her office and returned to the conference call with all parties and indicated that the October 14, 2019 date was their best option. Mr. Hand had no objection. The Court indicated that provided the parties submit a stipulation to the Court waiving the three year rule through October 2019, the Trial Date would be continued to October 14, 2019; with Pre Trial Conference on September 12, 2019; and Calendar Call October 8, 2019; that the Judicial Executive Assistant would set a additional Status Check with the new Trial Order and the Motions In Limine deadline will be tied tot he new trial date, eight weeks prior to trial. Ms. Clark Newberry to prepare the Stipulation, circulate it to Mr. Hand and submit it to the Court by week's end.;


02/14/2019 **CANCELED Pre Trial Conference (10:15 AM)** (Judicial Officer: Kishner, Joanna S.)
Vacated - per Stipulation and Order

02/21/2019 **CANCELED Calendar Call (9:00 AM)** (Judicial Officer: Sturman, Gloria)
Vacated

03/12/2019 **CANCELED Calendar Call (9:00 AM)** (Judicial Officer: Kishner, Joanna S.)
Vacated - per Stipulation and Order

03/18/2019 **CANCELED Jury Trial (9:00 AM)** (Judicial Officer: Sturman, Gloria)
Vacated


03/18/2019 **CANCELED Jury Trial (9:00 AM)** (Judicial Officer: Kishner, Joanna S.)
Vacated - per Stipulation and Order
Moving Trial to 10/14/19 pending receipt of Stipulation waiving 3 year rule thru October 2019

07/16/2019  **Status Check (9:00 AM)** (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

Journal Entry Details:

Court reminded parties about the upcoming trial date. Mr. Jones stated additional discovery is needing to be done; and requested the trial be extended out a couple of months. Ms. Clark Newberry stated defense is not in the position to move the trial date, and defense is still evaluating Plaintiff's counsel's request. Court DENIED the request; and noted the current waiver on the five year rule is good until November, 2019, therefore the Court cannot grant the request to move the trial date out, and the Court will not change anything unless there is a stipulation submitted by the parties. Court inquired to the parties whether a settlement conference / mediation was done; and stated the parties have a lot of options. Mr. Jones stated it does not appear there is a likelihood the case will settle. Mr. Jones added the remaining depositions will go outside of the discovery date; and requested Court to consider an extension of the deadline date. Court DENIED the request; and stated it cannot allow an extension unless there is an agreement by the parties. Ms. Clark Newberry stated parties can meet and confer to see what can be done, and defense would prefer to submit things in writing. COURT ORDERED, trial date for October 14, 2019 STANDS. Trial handout was provided to counsel in open Court. ;

09/05/2019  **Status Check (9:00 AM)** (Judicial Officer: Kishner, Joanna S.)

Mandatory In-Person Status Check per Court's Memo Dated August 30, 2019

Matter Heard;

Journal Entry Details:

Court explained to the parties why the status check hearing was scheduled for today, and noted the Court was inclined to deny the eighth request to continue the trial date. Arguments by counsel. Objections were also made by counsel, which were noted by Court. COURT

CASE SUMMARY

CASE NO. A-16-739464-C

ORDERED, trial date STANDS, as there has been no good cause shown to continue the trial date. Court noted it is not precluding the parties whatsoever from doing their discovery.;

09/12/2019



Pre Trial Conference (10:15 AM) (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

Journal Entry Details:

Plaintiff's counsel announced ready for trial. Court orally provided a trial schedule. Mr. Doyle stated there was an agreement by parties to have the deposition of Dr. Hurwitz taken next week, further noting defense was seeking to have the deposition of Dr. Ripplinger taken first, and it has been scheduled, however, Plaintiff is now objecting to defense having the deposition of Dr. Ripplinger taken. Court stated it cannot address this; and any issue needs to be raised by proper motion and by the rules. Court also reminded both sides not to send impermissible letters to the Court. Mr. Doyle argued there were discussions made with the parties about a briefing schedule on motions in limine. Court stated counsel is to raise things properly under the rules. 10/02/19 9:00 A.M. SETTLEMENT CONFERENCE (SENIOR JUDGE) 10/08/19 9:00 A.M. CALENDAR CALL 10/14/19 9:00 A.M. TRIAL BY JURY (#1);

09/20/2019



Minute Order (3:15 PM) (Judicial Officer: Truman, Erin)

Minute Order: Vacate Plaintiffs' Motion to Strike set 9-25-19

Minute Order - No Hearing Held; Minute Order: Vacate Plaintiffs' Motion to Strike set 9-25-19

Journal Entry Details:

Plaintiffs' Motion to Strike was VACATED. (9-25-19 Hearing in Discovery was VACATED in Odyssey on 9-20-19.) CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl CLERK'S NOTE: Minute Order amended 9-25-19, and electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl;

09/25/2019

CANCELED Motion to Strike (9:30 AM) (Judicial Officer: Truman, Erin)

Vacated

Plaintiffs Motion to Strike Defendants Rebuttal Witnesses Sarah Larsen, R.N., Bruce Adornato, M.D. and Scott Kush, M.D., and to Limit the Testimony of Lance Stone, D.O. and Kim Erlich, M.D., for Giving Improper Rebuttal Opinions, on Order Shortening Time

09/26/2019



Motion for Sanctions (10:00 AM) (Judicial Officer: Kishner, Joanna S.)

09/26/2019, 10/07/2019, 10/10/2019

Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time

Evidentiary Hearing;

Continued;

Denied in Part;

Evidentiary Hearing;

Continued;

Denied in Part;

Evidentiary Hearing;

Continued;

Denied in Part;

Journal Entry Details:

Arguments by counsel regarding allegations of intentional concealment of defense, deposition of Dr. Rives, and Plaintiff's request for sanctions and punitive damages. Court stated its findings; and offered to set an evidentiary hearing for Dr. Rives to appear. Court noted punitive damages are not appropriate on a sanction basis based on what was provided to the Court at this juncture and applicable case law. Following statements by counsel regarding scheduling, Plaintiff's counsel estimated no more than an hour for the hearing. COURT ORDERED, matter SET for evidentiary hearing. Parties to notify the Court in advance by no later than noon on October 3, 2019, confirming whether or not they want the evidentiary hearing to go forward; and the Court will issue a ruling, if the evidentiary hearing does not go forward. Issues not addressed today may be addressed at time of Calendar Call. 10/07/19 8:30 A.M. EVIDENTIARY HEARING 10/08/19 9:00 A.M. CALENDAR CALL 10/14/19 9:00 A.M. TRIAL BY JURY (MED MAL #1);

CASE SUMMARY

CASE NO. A-16-739464-C

10/02/2019	 Settlement Conference (10:00 AM) (Judicial Officer: Bixler, James) Not Settled; Journal Entry Details: <i>Pursuant to the Sr. Judge Executive Assistant at 11:21 AM. Senior Judge Bixler conducted the settlement conference and a settlement was not reached. The sign in sheet will be left side filed in the case file.;</i>
10/07/2019	Evidentiary Hearing (8:30 AM) (Judicial Officer: Kishner, Joanna S.) Matter Heard;
10/07/2019	Motion to Strike (8:30 AM) (Judicial Officer: Kishner, Joanna S.) 10/07/2019, 10/10/2019 <i>Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time</i> Continued; Granted; Continued; Granted;
10/07/2019	Hearing (8:30 AM) (Judicial Officer: Kishner, Joanna S.) 10/07/2019, 10/10/2019 <i>Continued Hearing from September 26, 2019 Re: Non Compliance (Per Order Filed September 19, 2019)</i> Continued; Matter Heard; Continued; Matter Heard;
10/07/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Kishner, Joanna S.) <i>All Pending Motions (10/07/2019)</i> Matter Heard; Journal Entry Details: <i>Court addressed the matters on for today; and also addressed the supplemental pleadings filed October 4, 2019 by defense, and non-compliance issues. Mr. Jones requested Court not to consider the supplemental pleadings. Arguments by Mr. Doyle. Court stated findings; and determined the supplemental pleadings are rogue documents, and cannot be considered by the Court. COURT ORDERED, Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Supplemental Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time filed October 4, 2019, and Declaration of Thomas J. Doyle in Support of Supplemental Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time filed October 4, 2019, are STRICKEN. EVIDENTIARY HEARING...PLAINTIFFS' MOTION FOR SANCTIONS UNDER RULE 37 FOR DEFENDANTS' INTENTIONAL CONCEALMENT OF DEFENDANT RIVES' HISTORY OF NEGLIGENCE AND LITIGATION AND MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD CLAIM FOR PUNITIVE DAMAGES ON ORDER SHORTENING TIME Defendant Barry Rives, M.D., sworn and testified. Counsel provided binders of documents to the Court during testimony. After testimony concluded, Court determined it had done what the parties had asked for, in regards to today's hearing. Court noted it will issue its ruling on October 10, 2019; and provided a short version of its analysis on the Motion for sanctions. COURT ORDERED, Motion CONTINUED to October 10, 2019, for remaining matters to be addressed, for sanction components to be discussed, and for Court's ruling to issue. PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH SUPPLEMENT TO NRCP 16.1 DISCLOSURE OF WITNESSES AND DOCUMENTS ON ORDER SHORTENING TIME...CONTINUED HEARING FROM SEPTEMBER 26, 2019 RE: NON COMPLIANCE (PER ORDER FILED SEPTEMBER 19, 2019) COURT ORDERED, matters CONTINUED to October 10, 2019 at 1:30 P.M. ;</i>
10/08/2019	 Calendar Call (9:00 AM) (Judicial Officer: Kishner, Joanna S.) Matter Heard;

CASE SUMMARY

CASE NO. A-16-739464-C

Journal Entry Details:

Statements by counsel regarding 2.67 conference and supplemental meetings having been done. Discussions as to proposed trial exhibits, including what has and has not been stipulated to for admission. Trial exhibits, demonstrative exhibits, deposition transcripts, proposed voir dire, proposed jury instructions, proposed verdict forms and thumb drives, were provided by both sides. Parties agreed to have 70 jurors ordered for trial. Court provided the general voir dire handouts to both sides.;

10/10/2019



All Pending Motions (1:30 PM) (Judicial Officer: Kishner, Joanna S.)

All Pending Motions (10/10/2019)

Matter Heard;

Journal Entry Details:

CONTINUED HEARING FROM September 26, 2019 RE: NON COMPLIANCE (PER ORDER FILED September 19, 2019)...PLAINTIFFS' MOTION FOR SANCTIONS UNDER RULE 37 FOR DEFENDANTS' INTENTIONAL CONCEALMENT OF DEFENDANT RIVES' HISTORY OF NEGLIGENCE AND LITIGATION AND MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD CLAIM FOR PUNITIVE DAMAGES ON ORDER SHORTENING TIME...PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH SUPPLEMENT TO NRCP 16.1 DISCLOSURE OF WITNESSES AND DOCUMENTS ON ORDER SHORTENING TIME Discussions regarding status of trial exhibits and there having been document confusion by counsel on Exhibit 1. Court determined nothing additional was provided by either side by end of day after Calendar Call. COURT ORDERED, nothing additional can be added to Exhibit 1 and nothing from proposed Exhibit 8 or 9 that was not in the hard bound, can come in; and the exhibit binders as presented in their proposed format at time of Calendar Call are the only things that could be potentially be brought in as proposed trial exhibits. Plaintiffs' Motion to Strike was addressed. Arguments by counsel. Discussions as to Rule 37 (c) (1). Court stated its findings. COURT ORDERED, Motion to strike GRANTED. The reports of Dr. Juell and Dr. Adornato were addressed. Court stated additional findings. Court addressed the Motion for sanctions under Rule 37 for Defendants' intentional concealment of Defendant Rives' history of negligence and litigation. Court also addressed Plaintiffs' alternative relief request regarding terminating sanctions and to strike the Answer. Court stated findings; and gave its ruling not to impose punitive damages. Court also issued its ruling including that it would defer on monetary fees being imposed pending trial proceedings, and the Court DENIED the request to strike the Answer. Court also addressed the Order Denying the Stipulation Regarding Motions in Limine filed September 19, 2019, and Order Denying Defendants' Order Shortening Time filed October 2, 2019. Statements by Mr. Leavitt in support of the Answer being stricken. Mr. Doyle stated the Court should impose a substantial monetary sanction against Defendants to punish and deter, but not strike the Answer. Arguments by counsel. Discussions as to language in two written declarations provided by counsel, voir dire, and trial schedule. At request of defense counsel, COURT ORDERED, Defendants' Motion to Compel Deposition of Gregg Ripplinger, M.D., and Extend the Close of Discovery (9th Request) on Order Shortening Time scheduled for October 15, 2019 WITHDRAWN. Counsel made statements to Court regarding Exhibit 1. Court provided EDCR Rule 2.67. Mr. Doyle requested to have additional exhibits marked for record on appeal. Court stated there is no record on appeal. Mr. Doyle requested to submit a written declaration to the Court, to provide an explanation. Discussion as to additional documents not having been provided at Rule 2.67 conference. Court reminded parties on the directive the Court gave at Calendar Call in regards to trial exhibits. Arguments by parties. COURT ORDERED, the exhibits received Tuesday, October 8, 2019 are the only things coming into this case for trial.;

10/14/2019

CANCELED Jury Trial - FIRM (8:30 AM) (Judicial Officer: Kishner, Joanna S.)

Vacated - Duplicate Entry

10/14/2019



Jury Trial (8:30 AM) (Judicial Officer: Kishner, Joanna S.)

10/14/2019-10/18/2019, 10/21/2019-10/24/2019, 10/28/2019-11/01/2019

Jury Trial - Med Mal #1

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

CASE SUMMARY

CASE NO. A-16-739464-C

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Jury Instructions and proposed Verdict Forms were addressed. Objections were placed on the record. JURY INSTRUCTIONS SETTLED. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Lunch recess. OUTSIDE PRESENCE OF JURY: Colloquy as to status of finalized jury instructions and verdict forms. Counsel provided the finalized jury instructions to the Court. Colloquy regarding Juror No. 6 having a scheduled training appointment all day tomorrow. By agreement of counsel, COURT ORDERED, Juror No. 6 will remain on the panel until end of day today, and Alternate Juror No. 9 will replace Juror No. 6. Amended Jury List FILED IN OPEN COURT. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Discussions as to Plaintiffs' counsel seeking to play a video clip from the Vickie Center civil case to the Jury for impeachment purposes. Following arguments by counsel, Court stated its findings. COURT ORDERED, the audio clip can be played to the Jury, but not the video clip. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Defense rested. Jury was admonished and excused by the Court for the evening, to return tomorrow at the given time, being 8:30 A.M. OUTSIDE PRESENCE OF JURY: Both sides moved for direct verdict under Rule 50. Following arguments by parties, Court stated its findings. COURT ORDERED, Plaintiffs' Motion for Direct Verdict GRANTED IN PART as to damages for past medical and related expenses and life care plan; and Motion DENIED IN PART as to remaining portion of Plaintiffs' Motion. FURTHER, Defendants' Motion for Direct Verdict DENIED. A modified proposed verdict form to be provided to the Court. Court directed both sides to appear in the courtroom tomorrow for trial, at 8:20 A.M. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 11/01/19 8:30 A.M. TRIAL BY JURY ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;

Journal Entry Details:

Mr. Hand and Defendant Barry Rives, not present. Robert Eisenberg, present with defense counsel and seated in the gallery. OUTSIDE PRESENCE OF JURY: Colloquy as to witness line up for today. Objections placed on the record in regards to there being a Leavitt vs. Siems issue. Arguments by counsel. Mr. Hand present in Court. Discussions as to service of

CASE SUMMARY

CASE NO. A-16-739464-C

subpoena issue, defense witness Dr. Chaney, and NRCP 45. Defendant Barry Rives present in Court. Further arguments by counsel as to ex parte communication issue with defense counsel and Plaintiffs' treating provider. Following statements by Court, additional arguments were made by counsel as to there having been no agreement as to some testimony from witness Erik Volk, and calculations not having been disclosed. Arguments by Mr. Doyle. Discussions as to testimony of Erik Volk to be limited. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Statements by Mr. Jones as to Defendants' Exhibit A not being resolved. Arguments by counsel. Court stated findings; and ORDERED, Defendants' Motion to introduce Exhibit A DENIED WITHOUT PREJUDICE. Subpoena and service issue as to Dr. Chaney were addressed further. Attorney Todd Wise, Esq., present; and made statements to Court. Arguments by Mr. Jones as to non-compliance by defense counsel, Rule 16.1 issue, and testimony of Dr. Chaney being problematic. Arguments by Mr. Doyle in support of the testimony being given by the witness. Dr. Naomi Chaney present in Court. Court canvassed the witness in regards to the subpoena. Thereafter, the witness was excused by Court after Court's questions were asked. Objections placed on the record. Arguments by defense counsel as to requirements having been satisfied to have the witness appear and testify for trial. Opposition by Plaintiffs' counsel. Mr. Doyle made offer of proof as to what the witness will testify to. Arguments by counsel as to Callister case law. Court stated findings. Discussions as to testimony of Dr. Chaney to be limited. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Colloquy regarding trial schedule, due to tomorrow being Nevada Day and Halloween. Court directed both sides to appear in Court tomorrow at 8:00 a.m., to resolve and finalize jury instructions. Both sides to meet after trial to work out the ongoing issues that were raised to the Court earlier when standard objections were raised, and to also work out the jury instructions. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury was admonished and excused for the evening to return tomorrow morning at the time given, being 10:15 A.M. OUTSIDE PRESENCE OF JURY: Court addressed the scheduling for tomorrow; and reminded both sides of their obligations prior to tomorrow morning. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 10/31/19 8:00 A.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in the gallery. OUTSIDE PRESENCE OF JURY: Court addressed trial briefs submitted by counsel, plus the October 14, 2019 proceedings and case law from McCrosky vs. Carson Tahoe Regional Medical Center. Arguments were made by the parties as to alleged continued violations with defense counsel, and collateral source issue. Court stated findings; and noted collateral source will not be mentioned in front of the Jury. Court deferred Plaintiffs' request for sanctions. Discussions as to Hallmark standards and witness line up. Plaintiffs' counsel objected to defense counsel having Dr. Stone appear to testify; and moved to strike. Arguments by Mr. Doyle. Court SUSTAINED Plaintiffs' objection. Mr. Doyle agreed to release Dr. Larson from the subpoena; and Plaintiffs' counsel made no objection. Defense counsel provided courtesy copy of trial brief to the Court in regards to Dr. Chaney. JURY PRESENT: Testimony presented (See Worksheets.). Plaintiffs' rested. OUTSIDE PRESENCE OF JURY: Court stated a request from a juror was received to conclude trial for the day before 5:00 P.M. By agreement of both sides, Court stated trial will conclude for the evening at 4:30 P.M., today. Lunch recess. OUTSIDE PRESENCE OF JURY: Objections were placed on record. Plaintiffs' counsel moved to strike an additional defense witness; and argued in support of relief requested. Arguments and responses were made by Mr. Doyle. Discussions as to prior disclosure not having been made. Court stated findings; and noted Dr. Adornato's testimony would be limited. JURY PRESENT: Testimony presented; and deposition was published (See Worksheets.). OUTSIDE PRESENCE OF JURY: At request of counsel, Dr. Adornato was directed by Court to exit the Courtroom and remain in the ante room, until further order. Dr. Adornato exited the Courtroom. Shortly

CASE SUMMARY

CASE NO. A-16-739464-C

thereafter, Mr. Leavitt informed the Court Dr. Adornato allegedly brushed up against him while walking out of the Courtroom; and stated he wants to press charges against the witness. Following discussions, Court recessed and all parties left the Courtroom for the afternoon break. CASE RECALLED. Attorney Jacqueline Bittrell, Esq., was present; and made statements to the Court regarding what she observed on the witness contact in the courtroom being alleged by Plaintiffs' counsel. Further colloquy as to prior objection made during testimony. Plaintiffs' counsel requested Court to admonish the witness regarding Court's order on causation and the testimony. Witness was admonished by Court about its prior order; and the witness was also admonished by Court not to review documents at any inappropriate time including during bench conferences, while on the stand. JURY PRESENT: Further testimony presented (See Worksheets.). Jury was admonished and excused by Court for the evening, to return tomorrow at the given time, being 9:00 A.M. OUTSIDE PRESENCE OF JURY: Colloquy as to subpoena issue with Dr. Chaney to be addressed further tomorrow at 8:30 A.M. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 10/30/19 8:30 A.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in the gallery. Defendant Barry Rives not present. OUTSIDE PRESENCE OF JURY: Colloquy regarding status of what exhibits have been admitted, witness line up and limited testimony with Dr. Juell. Defendant Barry Rives present in Court. Court addressed the medical malpractice issue and 7.27 trial briefs. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Court addressed the medical malpractice issue. The 7.27 trial briefs that were submitted to the Court previously, were evaluated. Counsel stated objections and made arguments on the record. Lunch recess. OUTSIDE PRESENCE OF JURY: Discussions as to limited testimony of Dr. Juell. Colloquy as to witness line up. Objections were made on the record by Plaintiffs' counsel regarding alleged violation by defense counsel. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Objections were placed on record as to examination of Dr. Juell, and defense seeking to call Dr. Chaney to testify. Attorney Todd Wise, Esq., present in Court on behalf of witness Naomi Chaney, M.D; and addressed the subpoena issue, and also made statements to the Court regarding Dr. Chaney having canceled appointments with patients to appear to testify in this matter. Arguments by counsel. Colloquy as to there having been no agreement with the parties to have Dr. Chaney appear to testify. Relief was sought by Plaintiffs' counsel. Further discussions as to subpoena issue. Court stated it has no information for Court to rule on. Both sides to meet and confer during afternoon break to get a plan in place on the witness issues. Colloquy as to trial schedule. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury was admonished and excused by Court for the evening, to return tomorrow morning at the time given. OUTSIDE PRESENCE OF JURY: Courtesy copy of additional trial brief was provided to Court. Colloquy as to witness line up for tomorrow, and scheduling on when to address additional expert witness issues. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 10/29/19 9:00 A.M. TRIAL BY JURY ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

CASE SUMMARY

CASE NO. A-16-739464-C

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling inclusive of when to hold the sanctions hearing, scope of witness testimony, and CONFERENCES AT BENCH.

JURY PANEL PRESENT: Testimony PRESENTED, Deposition PUBLISHED (see worksheets). CONFERENCES AT BENCH. COURT ORDERED, Trial CONTINUES.

CONTINUED TO: 10/28/19 8:30 A.M.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Colloquy regarding witness line up for today, and status of witness scheduled to appear by video conference at 2:00 P.M. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Objections were placed on record as to there having been no agreement between the parties as to specific documents, for Dr. Juell's testimony. Discussions as to demonstrative exhibits, films, and deposition testimony. Arguments by counsel. Further discussions as to Exhibit No. 8. Court stated the witness cannot make a reference to the document at issue, until verification is made by the parties about whether the document was previously disclosed. Discussions as to trial schedule for the afternoon and witness line up. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Statements by counsel as to Plaintiffs' Exhibit No. 8. Objections placed on the record. Discussions as to demonstrative exhibits for Dr. Juell's examination. At request of counsel, COURT ORDERED, Plaintiffs' renewed Motion to Strike Defendants' Answer CONTINUED to be addressed outside the presence of the Jury, at a later date. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Objections placed on the record by Plaintiffs' counsel as to defense counsel addressing specific language in regards to a deposition during testimony. Mr. Doyle requested to have a deposition lodged; and argued in support of relief requested. Discussion regarding what was said to the Court by counsel earlier. Counsel was cautioned by Court not to make inadvertently improper or inaccurate statements in front of the Jury. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Evening recess. TRIAL CONTINUES. 10/24/19 10:15 A.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Mr. Leavitt not present. Juror questions were addressed.

CASE SUMMARY**CASE NO. A-16-739464-C**

Mr. Jones requested juror questions be asked to Defendant Dr. Rives, when he testifies again during Defendant's case in chief. Arguments by Mr. Doyle in support of the questions being asked during current testimony in Plaintiffs' case in chief. Court stated findings; and noted this presents a challenge to have the questions read to the witness at this juncture. Court also stated if there is an agreement by the parties, or a joint request, the Court will consider it. Colloquy as to witness line up. JURY PRESENT: Mr. Leavitt present in Court. Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Counsel addressed the examination of Plaintiff Titina Farris; and objections were placed on the record. Plaintiffs' Exhibit No. 1 and the Calendar Call proceedings were addressed. Mr. Jones provided the proposed Order on Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplements to NRCP 16.1 Disclosures, to the Court. Colloquy as to witness line up for the afternoon. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Courtesy copy of pleadings and trial brief were provided to the Court by counsel. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury admonished and excused by Court to return tomorrow by 9:45 A.M. OUTSIDE PRESENCE OF JURY: Upon Court's inquiry, both sides confirmed on the admission to Plaintiffs' Exhibit No. 1 having been done by stipulation. Objections were placed on the record. Following discussions as to specific pages from Exhibit No. 1, earlier bench conference, ERISA plan, discovery, and witness testimony, Court reminded both sides any objections regarding a witness need to be addressed, before the witness takes the Stand. Further discussions as to case law from McCrosky vs. Carson Tahoe Regional Medical Center. Evening recess. TRIAL CONTINUES. 10/23/19 9:45 A.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Counsel provided courtesy copy of responsive pleadings to Court in regards to Plaintiffs' pending Motion to Strike. Colloquy as to witness line up. Court reminded both sides to follow the rules as to witnesses and witness binders for the witness stand. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Deposition of Alex Barchuk, M.D., was FILED AND PUBLISHED IN OPEN COURT. OUTSIDE PRESENCE OF JURY: Objections placed on record by Plaintiffs' counsel as to alleged misconduct from opposing counsel during cross examination earlier. Mr. Jones requested a curative instruction be given to the Jury by Court. Arguments by counsel. Discussions as to earlier bench conference and the witness testimony. Court stated findings. Colloquy as to witness line up. Court noted it had received another OST request from counsel this morning, addressing Plaintiffs' renewed Motion to strike. Court inquired whether a date for the Motion was agreed upon by the parties. Statements by counsel as to proposed briefing schedule having been discussed. Court stated this will be revisited. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Lunch recess. OUTSIDE PRESENCE OF JURY: Court stated it will keep the extra copy of the pleadings that were provided by counsel on Plaintiffs' renewed Motion to strike Defendants' Answer. COURT ORDERED, hearing SET on the Motion for October 23, 2019 at 1:00 P.M. Statements by Mr. Doyle as to status of written opposition to be filed. Order Shortening Time SIGNED IN OPEN COURT. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Deposition of Barry Rives, M.D. SIGNED AND PUBLISHED IN OPEN COURT. OUTSIDE PRESENCE OF JURY: Defendant Barry Rives, M.D., present on witness stand. Objections placed on record by Plaintiffs' counsel regarding testimony from the witness and insurance information having been allegedly elicited during testimony by Defendant. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Plaintiffs' counsel moved for mistrial, and alternatively requested Court to strike Defendants' Answer. Following arguments by counsel, and discussions as to what was previously discussed before the Court earlier, the matter was deferred to a later date, for both sides to have an opportunity to submit additional briefing on the Motion to strike, including additional briefing on the witness and insurance information issue, and Plaintiffs' renewed Motion to strike Defendants' Answer. Mr. Jones

CASE SUMMARY

CASE NO. A-16-739464-C

requested Defendant not to discuss insurance information in front of the Jury. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow at the time given by Court. OUTSIDE PRESENCE OF JURY: Court reminded both sides the deadline dates to file pleadings on pending Motions. Evening recess. TRIAL CONTINUES. 10/22/19 10:30 A.M. TRIAL BY JURY ;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Colloquy between the Court and counsel regarding Joint Jury Instructions, Interrogatories, and Verifications 18 and 19 to be used for impeachment purposes. JURY PRESENT: Barry Rives sworn and testified. OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record regarding legal conclusion and relevance on ethics question. JURY PRESENT: Michael Hurwitz sworn and testified. OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record regarding new opinions and failure to disclose timely. COURT ORDERED, GRANTED IN PART and DENIED IN PART. JURY PRESENT: Further testimony by Michael Hurwitz. Court excused the jury for the evening. OUTSIDE THE PRESENCE OF THE JURY: Court admonished Defense counsel for making statements regarding the transcript against the Court's directive and would consider a mistrial for his conduct. Trial CONTINUED 10/21/19. ;

Trial Continues;
Trial Continues;
Trial Continues;
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Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Colloquy as to witness line up and trial exhibits. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow by 9:00 A.M. OUTSIDE PRESENCE OF JURY: Plaintiff's counsel moved to strike Defendant's Answer. Arguments by counsel. Court deferred the Motion to a later date, to allow parties to talk to reach other about scheduling on having the Motion to strike addressed further. Evening recess. TRIAL CONTINUES. 10/18/19 9:00 A.M. TRIAL BY JURY;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

CASE SUMMARY

CASE NO. A-16-739464-C

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in gallery. Juror consultant Amy Hanegan, present in Court. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Objections placed on record as to Mary Jane Langan testifying; which was sustained by Court. Court addressed the general rules regarding objections. Both sides gave a time estimate on their opening statements. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. Lunch recess until 1:15 p.m. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: No parties were present in Court as required at 1:21 p.m. Thereafter, parties arrived in the courtroom and were admonished by Court regarding timeliness. Parties confirmed on having completed their peremptory challenges during the lunch hour. Court reviewed peremptory challenges; and verified the names of remaining jurors for the seated jury panel. Discussions as to proposed curative pre-instruction to be read to the Jury by Court. PROSPECTIVE JURY PANEL PRESENT: JURY SELECTED and SWORN by Clerk. Court instructed Jury. OUTSIDE PRESENCE OF JURY: Tech checks were done in open Court. Further discussions as to language of the proposed curative pre-instruction. Objections were placed on record. Court stated findings. JURY PRESENT: Court read pre-instruction to Jury. Court's Exhibit ADMITTED (See Worksheets.). Opening statements by counsel. Evening recess. TRIAL CONTINUES. 10/17/19 12:30 P.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in gallery. Juror consultant Amy Hanegan, present at defense counsel's table with Mr. Doyle. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Discussions as to missing jurors. Defense counsel requested Court to instruct the jurors not to consider anything with regards to various counsel arriving in and out of the courtroom at various times, throughout trial. Discussions as to unavailability of witness Mary Jayne Langan and records review. Objections were made by Plaintiff's counsel. Court stated it will revisit this. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Challenge for cause was addressed; and objections were placed on record. Court deferred ruling. Court addressed proposed jury instruction requirements. Court cautioned counsel not to make inaccurate statements in front of the jury panel. Objections were made by counsel regarding trial briefs submitted by defense counsel; and noted Plaintiff will have briefing prepared with an order shortening time for the Court. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. Evening recess. TRIAL CONTINUES. 10/16/19 9:30 A.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

CASE SUMMARY

CASE NO. A-16-739464-C

Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in gallery. Mr. Hand and Plaintiffs not present. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Discussions as to pre-trial matters, including voir dire procedures, number of peremptory challenges for each side, and parties agreeing to have two alternate jurors for this trial. Plaintiff's counsel objected to defense counsel having a juror consultant to assist at trial. Arguments by Mr. Doyle. Court provided the rules for juror consultants; and indicated each side can have individuals accurately identified seated in Court. Court TRAILED and RECALLED matter for the prospective jury panel to be lined up by Jury Services and brought up to Court. Mr. Hand present in Court with the Plaintiffs. Juror consultant Amy Hanegan, present at defense counsel's table with Mr. Doyle. Discussions as to proposed voir dire and proposed statement by counsel to the jury panel. Court's Exhibit ADMITTED (See Worksheets.). PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court. Clerk called roll. PROSPECTIVE JURY PANEL SWORN. Voir Dire commenced. Introductory statements by counsel. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Juror excusals were addressed. Objections were made regarding defense counsel's three trial briefs filed October 14, 2019. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Additional juror excusals were addressed. At request of counsel, Court noted trial will start tomorrow at 1:00 p.m. Mr. Doyle presented an additional deposition to be provided to the Clerk for trial. Objections by Mr. Leavitt. Court noted counsel can let the Court tomorrow as to whether the name of the deponent was previously disclosed. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. Court admonished and excused the prospective jury panel for the evening to return to Court by 12:45 P.M. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Additional juror excusals were addressed. Parties were directed to arrive to Court tomorrow by 12:40 P.M. Evening recess. TRIAL CONTINUES. 10/15/19 1:00 P.M. TRIAL BY JURY;

10/15/2019

CANCELED Motion to Compel (9:00 AM) (Judicial Officer: Kishner, Joanna S.)

Vacated

Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on Order Shortening time

10/22/2019



Motion to Strike (1:00 PM) (Judicial Officer: Kishner, Joanna S.)

Plaintiffs' Motion to Strike Defendants' Trial Briefs on Order Shortening Time

Denied Without Prejudice;

Journal Entry Details:

Court addressed EDCR 7.27, and stated its findings. Statements by counsel. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE; the Court will review briefs under EDCR 7.27, and the Court will look at the trial briefs and treat them as Rule 7.27 briefs.;

10/23/2019



Motion to Strike (1:00 PM) (Judicial Officer: Kishner, Joanna S.)

10/23/2019, 11/01/2019, 11/07/2019, 11/13/2019-11/14/2019

Plaintiffs' Renewed Motion to Strike

Continued;

Motion Not Addressed;

Trial concluded 11/01/19 sb

Continued;

Continued;

Decision Made;

Continued;

Motion Not Addressed;

Trial concluded 11/01/19 sb

Continued;

Continued;

Decision Made;

Continued;



Motion Not Addressed;

Trial concluded 11/01/19 sb

Continued;

CASE SUMMARY

CASE NO. A-16-739464-C

	Continued; Decision Made; Continued; Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made; Continued; Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made; Journal Entry Details: <i>COURT ORDERED, Motion CONTINUED.;</i>
11/01/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Kishner, Joanna S.) Verdict for Plaintiff; Journal Entry Details: <i>JURY TRIAL...PLAINTIFF'S RENEWED MOTION TO STRIKE OUTSIDE THE PRESENCE OF THE JURY. The Court noted it directed counsel to present a new Special Verdict form and since this has not been done, COURT ORDERED, the form presented by the Plaintiff will be used. IN THE PRESENCE OF THE JURY. The Court instructed jurors on the law of the case. Closing arguments by Mr. Jones. Closing arguments by Mr. Doyle. Rebuttal arguments by Mr. Jones. At the hour of 12:35 PM the jury retired to deliberate. At the hour of 2:20 PM the jury returned with a verdict in favor of plaintiff. Plaintiff's Renewed Motion to Strike CONTINUED and matter SET for a status check regarding judgment. CONTINUED TO: 11/7/19 9:30 AM;</i>
11/04/2019	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated</i>
11/07/2019	Status Check (9:30 AM) (Judicial Officer: Kishner, Joanna S.) <i>Status Check: Judgment</i> Matter Heard;
11/07/2019	Show Cause Hearing (9:30 AM) (Judicial Officer: Kishner, Joanna S.) 11/07/2019, 11/13/2019-11/14/2019 Hearing Continued; Continued; Decision Made; Hearing Continued; Continued; Decision Made; Hearing Continued; Continued; Decision Made;
11/07/2019	 All Pending Motions (9:30 AM) (Judicial Officer: Kishner, Joanna S.) <i>All Pending Motions (11/07/2019)</i> Matter Heard; Journal Entry Details: <i>Court reminded the parties regarding the EDCR provisions that outline courtesy copy requirements. Statements by counsel. Upon Court's inquiry, both sides acknowledged courtesy copies of their documents that were filed within 24 hours, were not provided to the Court. Court stated findings, including that there has been no good cause shown, both sides waived anything written in their objections, and both sides are in non-compliance for failing to provide courtesy copies of the filed pleadings to the Court. COURT ORDERED, Plaintiffs' Objection to Defendants Proposed Judgment on Verdict filed November 6, 2019, and Defendants' Objection to Plaintiffs' Proposed Judgment on Jury Verdict filed November 6, 2019 are ORDERED, STRICKEN as rogue pleadings, and documents being improperly filed.</i>

CASE SUMMARY**CASE NO. A-16-739464-C**

Court also noted there was no request given to Court by counsel to file such documents and there was no basis to file such documents. STATUS CHECK: JUDGMENT Court acknowledged receiving courtesy copies of proposed judgments on verdicts from both sides. Discussion as to non-economic damages, case law from Tam, McGrosky, and Zhang, NRS 41A, NRS 42.021 (1) and NRS 42.021 (2). Arguments by counsel. Court stated its findings; and ORDERED, numeric breakdown as follows: damages for Plaintiff Titina Farris's past physical and mental pain, suffering, anguish, disability and loss of enjoyment of life will be in the amount of \$43,225.00; damages for Plaintiff Titina Farris's future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life will be in the amount of \$131,775.00; damages for Plaintiff Patrick Farris's past loss of companionship, society, comfort, and consortium will be in the amount of \$92,225.00; and, damages for Plaintiff Patrick Farris's future loss of companionship, society, comfort, and consortium will be in the amount of \$82,775.00, for a grand total of \$350,000.00. Parties agreed on the percentages rate, and the language will be included in the written Judgment which will be submitted to the Court. Plaintiffs' counsel to prepare the written judgment; and defense counsel to approve form and content. SHOW CAUSE HEARING Upon Court's inquiry, both sides confirmed having rested each of their cases in chief at time of trial. Court noted it will have to continue this matter to another day, due to the Court having a scheduled commitment this morning and the Court needing to adjourn. Following discussions as to scheduling, COURT ORDERED, Show Cause Hearing CONTINUED. Court noted this continuance does not impact the filing of the written judgment. Parties acknowledged. Remaining portion of Plaintiffs' Renewed Motion to Strike CONTINUED. 11/13/19 10:30 A.M. PLAINTIFFS' MOTION FOR SANCTIONS...SHOW CAUSE HEARING...PLAINTIFFS' RENEWED MOTION TO STRIKE CLERK'S NOTE: Plaintiffs' Renewed Motion to Strike Defendants' Answer was not addressed, and was continued to November 13, 2019 at 10:15 a.m. sb;

11/13/2019

**Motion for Sanctions** (10:15 AM) (Judicial Officer: Kishner, Joanna S.)**11/13/2019-11/14/2019, 11/20/2019***Plaintiffs' Motion for Sanctions**Continued;**Continued;**Matter Heard;**Journal Entry Details:*

Court indicated the hearing today was to address counsel submitting multiple inadmissible documents. Court gave a brief history of the case. Mr. Leavitt indicated he was willing to accept a sanction payable to the Law Library or Legal Aid. Mr. Doyle mirrored Mr. Leavitt's comments and did not wish to add anything. Colloquy regarding Court's previous trial order. Court indicated it was not inclined to issue sanctions to Plaintiff counsel. Mr. Leavitt advised he would prefer to give \$500.00 to the Law Library. Colloquy regarding Mr. Doyle continuing to submit impermissible filings. Colloquy regarding electronically signed document used at trial. Mr. Doyle indicated he did not know the specific acts or failures to act that Court is using for basis for sanctions. Court offered to continue the matter; however, Mr. Doyle declined. Upon Court's inquiry, Mr. Doyle indicated the filings were a clerical oversight and a mistake on part of his office. Colloquy regarding Mr. Doyle's readiness for the hearing. Mr. Doyle stated he did not want to look into the issues and wanted to hear the Court's ruling. Colloquy regarding possibly continuing the hearing. Upon Court's inquiry, Mr. Doyle declined to respond individually or globally. Upon Court's inquiry, Mr. Leavitt indicated Ms. Clark Newberry and Mr. Couchot's conduct was egregious in a number of aspects and requested heavy monetary sanctions. Court advised it is not taking this case back to discovery. Court stated its findings and advised it would issue the order at the time of the hearing on fees and costs. Parties to submit their proposals in Word to the Judicial Executive Assistant and CC opposing counsel.;

*Continued;**Continued;**Matter Heard;**Continued;**Continued;**Matter Heard;*


11/13/2019

**All Pending Motions** (10:15 AM) (Judicial Officer: Kishner, Joanna S.)*All Pending Motions (11/13/2019)**Matter Heard;**Journal Entry Details:**Court confirmed the written judgment was signed. Parties acknowledged. SHOW CAUSE*

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-739464-C

	<p><i>HEARING Court addressed defense counsel's seven offers of proof that were filed in the case November 1, 2019. Statements by Mr. Doyle in support of these proofs having been filed in the case. Court canvassed counsel the November 1, 2019 filings. Discussions as to trial proceedings. Mr. Doyle objected to the order to show cause; and made arguments. Further discussions as to Court's rulings from trial on October 14, 2019 and October 29, 2019, and EDCR 2.69. COURT ORDERED, matter CONTINUED to November 14, 2019 at 1:30 p.m. PLAINTIFFS' MOTION FOR SANCTIONS...PLAINTIFFS' RENEWED MOTION TO STRIKE COURT ORDERED, matters CONTINUED to November 14, 2019 at 1:30 P.M.;</i></p>
11/14/2019	<p> All Pending Motions (1:30 PM) (Judicial Officer: Kishner, Joanna S.)</p> <p><i>All Pending Motions (11/14/19)</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>PLAINTIFFS' RENEWED MOTION TO STRIKE Arguments by Mr. Leavitt. Opposition by Mr. Doyle. Reply by Mr. Leavitt. Discussions as to transcript from September 26, 2019. Court stated findings. A trial proceedings clip dated October 18, 2019 at 4:44:54 P.M. was played back in open Court. COURT ORDERED, Motion DENIED IN PART as to striking Defendants' Answer. ORDER TO SHOW CAUSE Court addressed the remaining of seven offers of proof filed by defense counsel dated November 1, 2019. Following responses and arguments made by counsel, Court gave an analysis and stated its findings. There being no good cause shown as to why the offers of proof were filed without any notice given to the Court, COURT ORDERED, the Offer of Proof Re: Defendants' Exhibit C filed November 1, 2019, Offer of Proof Re: Brian Juell, M.D., filed November 1, 2019, Offer of Proof Re: Sarah Larsen filed November 1, 2019; Offer of Proof Re: Michael Hurwitz, M.D. filed November 1, 2019, Offer of Proof Re: Lance Stone, D.O. filed November 1, 2019, Offer of Proof Re: Erik Volk filed November 1, 2019, and, Offer of Proof Re: Bruce Adornato, M.D.'s Testimony filed November 1, 2019 are ORDERED, STRICKEN as rogue documents. PLAINTIFFS' MOTION FOR SANCTIONS COURT ORDERED, Motion CONTINUED to November 20, 2019 at 1:30 P.M. ;</i></p>
12/03/2019	<p>CANCELED Motion to Quash (9:00 AM) (Judicial Officer: Kishner, Joanna S.)</p> <p><i>Vacated - Moot</i></p> <p><i>Plaintiff's Motion to Quash Trial Subpoena of Dr. Naomi Chaney on Order Shortening Time</i></p>
01/07/2020	<p>Motion to Retax (10:00 AM) (Judicial Officer: Kishner, Joanna S.)</p> <p><i>Defendants Barry J. Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Re-Tax and Settle Plaintiffs' Costs</i></p>
01/07/2020	<p>Motion for Attorney Fees and Costs (10:00 AM) (Judicial Officer: Kishner, Joanna S.)</p> <p><i>Plaintiffs' Motion for Fees and Costs</i></p>

DATE

FINANCIAL INFORMATION

Defendant Laparoscopic Surgery of Nevada LLC	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 1/3/2020	0.00
Defendant Rives, Barry, M.D.	
Total Charges	257.50
Total Payments and Credits	257.50
Balance Due as of 1/3/2020	0.00
Plaintiff Farris, Patrick	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 1/3/2020	0.00
Plaintiff Farris, Titina	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 1/3/2020	0.00
Defendant Rives, Barry, MD	
Appeal Bond Balance as of 1/3/2020	500.00

CASE SUMMARY

CASE NO. A-16-739464-C

DISTRICT COURT CIVIL COVER SHEET

A-16-739464-C

CLARK

County, Nevada

XXI I

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Tatina Farris	Barry Rives, M.D.
Patrick Farris	Laparoscopic Surgery of Nevada LLC
Attorney (name/address/phone):	Attorney (name/address/phone):
George F. Hand	
3442 N. Buffalo Dr.	
Las Vegas, NV 89129	

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

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

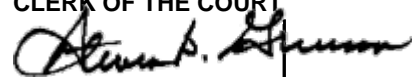
Business Court filings should be filed using the Business Court civil coversheet.

07/01/16

Date

Signature of initiating party or representative

See other side for family-related case filings.



JGJV

KIMBALL JONES, ESQ.

Nevada Bar No.: 12982

JACOB G. LEAVITT, ESQ.

Nevada Bar No. 12608

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Attorneys for Plaintiffs

TITINA FARRIS and PATRICK FARRIS

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS,

Plaintiffs,

vs.

BARRY RIVES, M.D., LAPAROSCOPIC
SURGERY OF NEVADA LLC; DOES I-V,
inclusive; and ROE CORPORATIONS I-V,
inclusive,

Defendants.

Case No.: A-16-739464-C

Dept. No.: 31

JUDGMENT ON VERDICT

The above—entitled matter having come on for trial by jury on October 14, 2019, before the Honorable Joanna S. Kishner, District Court Judge, presiding. Plaintiffs TITINA FARRIS and PATRICK FARRIS (“Plaintiffs”), appeared in person with their counsel of record, KIMBALL JONES, ESQ. and JACOB LEAVITT, ESQ., of the law firm of Bighorn Law, and GEORGE HAND, ESQ., of the law firm of Hand & Sullivan, LLC. Defendants BARRY J. RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC (“Defendants”) appeared by and through their counsel of record, THOMAS DOYLE, ESQ., of the law firm of Schuering, Zimmerman & Doyle,

1 LLP.

2 Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the
3 merits of their cases. The jury rendered a verdict in favor of Plaintiffs and against the Defendants as
4 to claims concerning medical malpractice in the following amounts:

- 5 1. \$1,063,006.94 for TITINA FARRIS' past medical and related expenses;
- 6 2. \$4,663,473.00 for TITINA FARRIS' future medical and related expenses;
- 7 3. \$1,571,000.00 for TITINA FARRIS' past physical and mental pain, suffering,
8 anguish, disability and loss of enjoyment of life;
- 9 4. \$4,786,000.00 for TITINA FARRIS' future physical and mental pain, suffering,
10 anguish, disability and loss of enjoyment of life;
- 11 5. \$821,000.00 for PATRICK' past loss of companionship, society, comfort and
12 consortium; and
- 13 6. \$736,000.00 for PATRICK' future loss of companionship, society, comfort and
14 consortium.

15 The Defendants requested that the jury be polled, and the Court found that seven (7) out of
16 the eight (8) jurors were in agreement with the verdict.

17 NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the Plaintiffs
18 and against the Defendants as follows:

19 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs shall have and recover
20 against Defendants non-economic damages of \$350,000.00 pursuant to NRS 41A.035, economic
21 damages of \$5,726,479.94, and the pre-judgment interest of \$291,325.58, calculated as follows:

- 22 1. \$1,063,006.94 for TITINA FARRIS' past medical and related expenses, plus
23 prejudgment interest in the amount of \$258,402.69 (interest calculated at 5.50%
24 prime plus 2% for a total of 7.50% from date of service August 16, 2016 to
25 November 12, 2019, for a total of 1,183 days = \$218.43 per day) pursuant to NRS
26 17.130 for a total judgment of \$1,321,409.63; with daily post-judgment interest
accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained
by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be
adjusted accordingly on each January 1 and July 1 thereafter until the judgment is
satisfied;

27 ///

28 ///

- 1 2. \$4,663,473.00 for TITINA FARRIS' future medical and related expenses, plus post-
2 judgment interest accruing at \$958.25 per day (interest calculated at 5.50% prime
3 plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the
4 judgment with daily post-judgment interest accruing at a rate equal to the prime rate
5 at the largest bank in Nevada as ascertained by the Commissioner of Financial
6 Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1
7 and July 1 thereafter until the judgment is satisfied;
- 8 3. \$43,225.00 for TITINA FARRIS' past physical and mental pain, suffering, anguish,
9 disability and loss of enjoyment of life, plus prejudgment interest in the amount of
10 \$10,505.04 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from
11 date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days =
12 \$8.88 per day) pursuant to NRS 17.130 for a total judgment of \$53,730.04; with daily
13 post-judgment interest accruing at a rate equal to the prime rate at the largest bank in
14 Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent.
15 The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until
16 the judgment is satisfied;
- 17 4. \$131,775.00 for TITINA FARRIS' future physical and mental pain, suffering,
18 anguish, disability and loss of enjoyment of life, plus post-judgment interest accruing
19 at \$27.07 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%)
20 pursuant to NRS 17.130 from the time of entry of the judgment with daily post-
21 judgment interest accruing at a rate equal to the prime rate at the largest bank in
22 Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent.
23 The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until
24 the judgment is satisfied;
- 25 5. \$92,225.00 for PATRICK FARRIS' past loss of companionship, society, comfort and
26 consortium, plus prejudgment interest in the amount of \$22,417.85 (interest
27 calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August
28 16, 2016 to November 12, 2019, for a total of 1,183 days = \$18.95 per day) pursuant
to NRS 17.130 for a total judgment of \$114,642.85; with daily post-judgment interest
accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained
by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be
adjusted accordingly on each January 1 and July 1 thereafter until the judgment is
satisfied; and
6. \$82,775.00 for PATRICK FARRIS' future loss of companionship, society, comfort
and consortium, plus post-judgment interest accruing at \$17.00 per day (interest
calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130
from the time of entry of the judgment with daily post-judgment interest accruing at a
rate equal to the prime rate at the largest bank in Nevada as ascertained by the
Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted
accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.
- ///
///
///

1 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs TITINA FARRIS and
2 PATRICK FARRIS has judgment against Defendants BARRY RIVES, M.D. and
3 LAPAROSCOPIC SURGERY OF NEVADA LLC as follows:

4 Principal \$ 6,076,479.94

5 Pre-Judgment Interest \$ 291,325.58 (1,183 days @ 7.50%)

6 **TOTAL JUDGMENT of:** \$ **6,367,805.52**

7 Pursuant to NRS 17.130, the judgment shall continue to accrue daily post-judgment interest
8 at \$1,248.58 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%); daily post-
9 judgment interest shall accrue at a rate equal to the prime rate at the largest bank in Nevada as
10 ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted
11 accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

12 SO ORDERED this 12 day of November, 2019.

13
14  JOANNA S. KISHNER
15 HONORABLE JOANNA S. KISHNER
16 District Court Judge

17 Respectfully Submitted by:

Approved as to form and content:

18 Dated this 11th day of November, 2019.

Dated this 11th day of November, 2019.

19
20 **BIGHORN LAW**

SCHUERING ZIMMERMAN & DOYLE, LLP

21 By:  (8483)

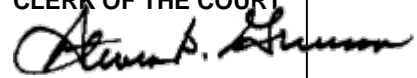
By: /s/ Thomas J. Doyle, Esq.

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23 Nevada Bar No. 12982
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26 Las Vegas, NV 89129
27 Attorneys for Plaintiffs

400 University Avenue
Sacramento, CA 95825
Attorneys for Defendants
Barry J. Rives, M.D.;
Laparoscopic Surgery of Nevada, LLC



1 **NEOJ**

2 KIMBALL JONES, ESQ.

3 Nevada Bar No.: 12982

4 JACOB G. LEAVITT, ESQ.

5 Nevada Bar No.: 12608

6 **BIGHORN LAW**

7 716 S. Jones Blvd.

8 Las Vegas, Nevada 89107

9 Phone: (702) 333-1111

10 Email: Kimball@BighornLaw.com

11 Jacob@BighornLaw.com

12 GEORGE F. HAND, ESQ.

13 Nevada Bar No.: 8483

14 **HAND & SULLIVAN, LLC**

15 3442 N. Buffalo Drive

16 Las Vegas, Nevada 89129

17 Phone: (702) 656-5814

18 Email: GHand@HandSullivan.com

19 *Attorneys for Plaintiffs*

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 TITINA FARRIS and PATRICK FARRIS,

23 Plaintiffs,

24 vs.

25 BARRY RIVES, M.D.; LAPAROSCOPIC
26 SURGERY OF NEVADA, LLC et al.,

27 Defendants.

CASE NO.: A-16-739464-C

DEPT. NO.: XXXI

NOTICE OF ENTRY OF JUDGMENT

28 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that a Judgment on Verdict
was entered, in the above-entitled matter, on November 14, 2019, a copy of which is attached hereto.

DATED this 19th day of November, 2019.

BIGHORN LAW

By: /s/ Kimball Jones

KIMBALL JONES, ESQ.

Nevada Bar.: 12982

JACOB G. LEAVITT, ESQ.

Nevada Bar No.: 12608

716 S. Jones Blvd.

Las Vegas, Nevada 89107

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of
3 **BIGHORN LAW**, and on the 19th day of November, 2019, I served the foregoing ***NOTICE OF***
4 ***ENTRY OF JUDGMENT*** as follows:
5

6 ☒ Electronic Service – By serving a copy thereof through the Court’s electronic
7 service system; and/or

8 ☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage
9 prepaid and addressed as listed below:

10 Kim Mandelbaum, Esq.
11 MANDELBAUM ELLERTON & ASSOCIATES
12 2012 Hamilton Lane
13 Las Vegas, Nevada 89106
14 &
15 Thomas J. Doyle, Esq.
16 Chad C. Couchot, Esq.
17 SCHUERING ZIMMERMAN & DOYLE, LLP
18 400 University Avenue
19 Sacramento, California 95825
20 *Attorneys for Defendants*
21
22
23
24
25
26
27
28

29 /s/ Erickson Finch
30 An employee of **BIGHORN LAW**



JGJV

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Attorneys for Plaintiffs

TITINA FARRIS and PATRICK FARRIS

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS,

Plaintiffs,

vs.

**BARRY RIVES, M.D., LAPAROSCOPIC
SURGERY OF NEVADA LLC; DOES I-V,
inclusive; and ROE CORPORATIONS I-V,
inclusive,**

Defendants.

Case No.: A-16-739464-C

Dept. No.: 31

JUDGMENT ON VERDICT

The above-entitled matter having come on for trial by jury on October 14, 2019, before the Honorable Joanna S. Kishner, District Court Judge, presiding. Plaintiffs TITINA FARRIS and PATRICK FARRIS ("Plaintiffs"), appeared in person with their counsel of record, KIMBALL JONES, ESQ. and JACOB LEAVITT, ESQ., of the law firm of Bighorn Law, and GEORGE HAND, ESQ., of the law firm of Hand & Sullivan, LLC. Defendants BARRY J. RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC ("Defendants") appeared by and through their counsel of record, THOMAS DOYLE, ESQ., of the law firm of Schuering, Zimmerman & Doyle,

1 LLP.

2 Testimony was taken, evidence was offered, introduced and admitted. Counsel argued the
3 merits of their cases. The jury rendered a verdict in favor of Plaintiffs and against the Defendants as
4 to claims concerning medical malpractice in the following amounts:

- 5 1. \$1,063,006.94 for TITINA FARRIS' past medical and related expenses;
- 6 2. \$4,663,473.00 for TITINA FARRIS' future medical and related expenses;
- 7 3. \$1,571,000.00 for TITINA FARRIS' past physical and mental pain, suffering,
8 anguish, disability and loss of enjoyment of life;
- 9 4. \$4,786,000.00 for TITINA FARRIS' future physical and mental pain, suffering,
10 anguish, disability and loss of enjoyment of life;
- 11 5. \$821,000.00 for PATRICK' past loss of companionship, society, comfort and
12 consortium; and
- 13 6. \$736,000.00 for PATRICK' future loss of companionship, society, comfort and
14 consortium.

15 The Defendants requested that the jury be polled, and the Court found that seven (7) out of
16 the eight (8) jurors were in agreement with the verdict.

17 NOW, THEREFORE, judgment upon the verdict is hereby entered in favor of the Plaintiffs
18 and against the Defendants as follows:

19 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs shall have and recover
20 against Defendants non-economic damages of \$350,000.00 pursuant to NRS 41A.035, economic
21 damages of \$5,726,479.94, and the pre-judgment interest of \$291,325.58, calculated as follows:

- 22 1. \$1,063,006.94 for TITINA FARRIS' past medical and related expenses, plus
23 prejudgment interest in the amount of \$258,402.69 (interest calculated at 5.50%
24 prime plus 2% for a total of 7.50% from date of service August 16, 2016 to
25 November 12, 2019, for a total of 1,183 days = \$218.43 per day) pursuant to NRS
26 17.130 for a total judgment of \$1,321,409.63; with daily post-judgment interest
accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained
by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be
adjusted accordingly on each January 1 and July 1 thereafter until the judgment is
satisfied;

27 ///

28 ///

2. \$4,663,473.00 for TITINA FARRIS' future medical and related expenses, plus post-judgment interest accruing at \$958.25 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;
3. \$43,225.00 for TITINA FARRIS' past physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus prejudgment interest in the amount of \$10,505.04 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = \$8.88 per day) pursuant to NRS 17.130 for a total judgment of \$53,730.04; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;
4. \$131,775.00 for TITINA FARRIS' future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus post-judgment interest accruing at \$27.07 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;
5. \$92,225.00 for PATRICK FARRIS' past loss of companionship, society, comfort and consortium, plus prejudgment interest in the amount of \$22,417.85 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = \$18.95 per day) pursuant to NRS 17.130 for a total judgment of \$114,642.85; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied; and
6. \$82,775.00 for PATRICK FARRIS' future loss of companionship, society, comfort and consortium, plus post-judgment interest accruing at \$17.00 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

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///

1 IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs TITINA FARRIS and
2 PATRICK FARRIS has judgment against Defendants BARRY RIVES, M.D. and
3 LAPAROSCOPIC SURGERY OF NEVADA LLC as follows:

4 Principal \$ 6,076,479.94

5 Pre-Judgment Interest \$ 291,325.58 (1,183 days @ 7.50%)

6 **TOTAL JUDGMENT of:** \$ **6,367,805.52**

7 Pursuant to NRS 17.130, the judgment shall continue to accrue daily post-judgment interest
8 at \$1,248.58 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%); daily post-
9 judgment interest shall accrue at a rate equal to the prime rate at the largest bank in Nevada as
10 ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted
11 accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

12 SO ORDERED this 12 day of November, 2019.

13
14  JOANNA S. KISHNER
15 HONORABLE JOANNA S. KISHNER
16 District Court Judge

17 Respectfully Submitted by:

Approved as to form and content:

18 Dated this 11th day of November, 2019.

Dated this 11th day of November, 2019.

19
20 **BIGHORN LAW**

21 By: George F. Hand (8483)
22 Kimball Jones, Esq.
23 Nevada Bar No. 12982
716 S. Jones Blvd
Las Vegas, NV 89107

24 George F. Hand, Esq.
25 Nevada Bar No. 8483
3442 N. Buffalo Drive
26 Las Vegas, NV 89129
27 Attorneys for Plaintiffs
28

SCHUERING ZIMMERMAN & DOYLE, LLP

By: /s/ Thomas J. Doyle, Esq.
Thomas J. Doyle, Esq.
Nevada Bar No. 1120
Aimee Clark Newberry, Esq.
Nevada Bar No. 11084
400 University Avenue
Sacramento, CA 95825
Attorneys for Defendants
Barry J. Rives, M.D.;
Laparoscopic Surgery of Nevada, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

December 13, 2016

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

December 13, 2016 8:55 AM Discovery Conference

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Clark-Newberry, Aimee Lea Attorney
 Cohen, Nelson L. Attorney

JOURNAL ENTRIES

- Counsel anticipate 7 to 10 days for trial re: Medical malpractice; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 2/7/18; adding parties, amended pleadings, and initial expert disclosures DUE 11/7/17; rebuttal expert disclosures DUE 12/7/17; FILE dispositive motions by 3/7/18; Trial ready 4/23/18. Scheduling Order will issue. No Medicare / Medicaid. Insurance information exchanged, and counsel are communicating about authorizations. Commissioner Bulla will hear discovery disputes.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

February 06, 2017

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

**February 06, 2017 1:00 PM Status Check:
Medical/Dental
Malpractice**

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson
Fernanda Kriese
Denise Duron
Cassidy Wagner

RECORDER:

REPORTER:

PARTIES

PRESENT: Clark-Newberry, Aimee Lea Attorney
 Hand, George F. Attorney

JOURNAL ENTRIES

- Court advised the case had been reassigned to another department due to the unavailability of the Judge. COURT ORDERED, trial date 7/9/18; case REASSIGNED to Department 26. Counsel estimated 10 days for trial.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

August 08, 2018

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

**August 08, 2018 1:00 PM Status Check:
Medical/Dental
Malpractice**

HEARD BY: Wiese, Jerry A. **COURTROOM:** RJC Courtroom 14A

COURT CLERK: Vanessa Medina
Sharyne Suehiro
Michaela Tapia
Dauriana Simpson

RECORDER:

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
Hand, George F. Attorney

JOURNAL ENTRIES

- The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Mr. Hand advised he had a conflict with the current trial date and requested trial date be vacated and reset. Court stated it would reassign the case and directed Mr. Hand to file a motion with his new trial judge. Mr. Hand advised 5 - 7 days for trial, Ms. Clark Newberry advised 7 - 10 days. COURT ORDERED, trial date STANDS. Pursuant to EDCR 1.30, due to unavailability of Dept. or counsel, CHIEF JUDGE ORDERED, case REASSIGNED to Dept. 31.

3/18/19 JURY TRIAL (DEPT 31)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

December 18, 2018

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

December 18, 2018 9:00 AM Status Check

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Tena Jolley

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
 Hand, George F. Attorney

JOURNAL ENTRIES

- Court stated there was a firm trial setting of March 18, 2019 in this case, and also a construction defect trial starting in February, stated more would be known by February 11, 2019, and advised counsel they may reach out to counsel on the construction defect trial for status. Counsel stated they discussed potentially moving the trial due to the document review and experts. Colloquy regarding continuing trial and potential dates. Court stated a telephonic hearing would be set; advised counsel to confer and send a letter with potential dates and times for the telephonic hearing for the week of January 7, 2019; advised counsel to prepare a stipulation regarding extending the 3-year rule to a particular date.

CLERK'S NOTE: Minutes completed using JAVS by Court Clerk Elizabeth Vargas. //ev 12/28/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental**COURT MINUTES****January 07, 2019**

A-16-739464-C Titina Farris, Plaintiff(s)
 vs.
 Barry Rives, M.D., Defendant(s)

January 07, 2019 9:30 AM Telephonic Conference

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Tena Jolley

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
 Hand, George F. Attorney

JOURNAL ENTRIES

- Counsel requested the trial be continued to January 2020, with the parties stipulating to a waive of the three year rule. The Court noted under Rule 1.90 it would be more than three years after the case was commenced and inquired if the parties could agree to the Fall of 2019. Ms. Clark Newberry indicated that there were other cases up against their five year rule and with the number of depositions to be completed in this case, that early 2020 is their reasonable estimate to be ready for trial. Court stated it could not push the case to January but with a waive would consider September 2019. Ms. Clark Newberry inquired regarding November 2019. Counsel anticipate 10 days for trial. The Court inquired if the parties could agree to October 14, 2019, otherwise it would be September 18, 2019. Ms. Clark Newberry then contacted her office and returned to the conference call with all parties and indicated that the October 14, 2019 date was their best option. Mr. Hand had no objection. The Court indicated that provided the parties submit a stipulation to the Court waiving the three year rule through October 2019, the Trial Date would be continued to October 14, 2019; with Pre Trial Conference on September 12, 2019; and Calendar Call October 8, 2019; that the Judicial Executive Assistant would set a additional Status Check with the new Trial Order and the Motions In Limine deadline will be tied tot he new trial date, eight weeks prior to trial. Ms. Clark Newberry to prepare the Stipulation, circulate it to Mr. Hand and submit it to the Court by week's end.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental**COURT MINUTES****July 16, 2019**

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

July 16, 2019 9:00 AM Status Check

HEARD BY: Kishner, Joanna S.**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Susan Botzenhart**RECORDER:** Sandra Harrell**REPORTER:****PARTIES**

PRESENT: Clark Newberry, Aimee Lea Attorney
Herbeck, Samantha A. Attorney
Jones, Kimball Attorney

JOURNAL ENTRIES

- Court reminded parties about the upcoming trial date. Mr. Jones stated additional discovery is needing to be done; and requested the trial be extended out a couple of months. Ms. Clark Newberry stated defense is not in the position to move the trial date, and defense is still evaluating Plaintiff's counsel's request. Court DENIED the request; and noted the current waiver on the five year rule is good until November, 2019, therefore the Court cannot grant the request to move the trial date out, and the Court will not change anything unless there is a stipulation submitted by the parties. Court inquired to the parties whether a settlement conference / mediation was done; and stated the parties have a lot of options. Mr. Jones stated it does not appear there is a likelihood the case will settle. Mr. Jones added the remaining depositions will go outside of the discovery date; and requested Court to consider an extension of the deadline date. Court DENIED the request; and stated it cannot allow an extension unless there is an agreement by the parties. Ms. Clark Newberry stated parties can meet and confer to see what can be done, and defense would prefer to submit things in writing. COURT ORDERED, trial date for October 14, 2019 STANDS. Trial handout was provided to counsel in open Court.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

September 05, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

September 05, 2019 9:00 AM Status Check

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Leavitt, Jacob G	Attorney

JOURNAL ENTRIES

- Court explained to the parties why the status check hearing was scheduled for today, and noted the Court was inclined to deny the eighth request to continue the trial date. Arguments by counsel. Objections were also made by counsel, which were noted by Court. COURT ORDERED, trial date STANDS, as there has been no good cause shown to continue the trial date. Court noted it is not precluding the parties whatsoever from doing their discovery.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

September 12, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

September 12, 2019 10:15 AM Pre Trial Conference

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
Doyle, Thomas J. Attorney
Jones, Kimball Attorney
Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- Plaintiff's counsel announced ready for trial. Court orally provided a trial schedule. Mr. Doyle stated there was an agreement by parties to have the deposition of Dr. Hurwitz taken next week, further noting defense was seeking to have the deposition of Dr. Ripplinger taken first, and it has been scheduled, however, Plaintiff is now objecting to defense having the deposition of Dr. Ripplinger taken. Court stated it cannot address this; and any issue needs to be raised by proper motion and by the rules. Court also reminded both sides not to send impermissible letters to the Court. Mr. Doyle argued there were discussions made with the parties about a briefing schedule on motions in limine. Court stated counsel is to raise things properly under the rules.

10/02/19 9:00 A.M. SETTLEMENT CONFERENCE (SENIOR JUDGE)

10/08/19 9:00 A.M. CALENDAR CALL

10/14/19 9:00 A.M. TRIAL BY JURY (#1)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

September 20, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

**September 20, 2019 3:15 PM Minute Order Minute Order: Vacate
Plaintiffs' Motion to
Strike set 9-25-19**

HEARD BY: Truman, Erin

COURTROOM: No Location

COURT CLERK: Jennifer Lott

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiffs' Motion to Strike was VACATED. (9-25-19 Hearing in Discovery was VACATED in Odyssey on 9-20-19.)

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl

CLERK'S NOTE: Minute Order amended 9-25-19, and electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

September 26, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

September 26, 2019 10:00 AM Motion for Sanctions

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
 Couchot, Chad C. Attorney
 Jones, Kimball Attorney
 Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding allegations of intentional concealment of defense, deposition of Dr. Rives, and Plaintiff's request for sanctions and punitive damages. Court stated its findings; and offered to set an evidentiary hearing for Dr. Rives to appear. Court noted punitive damages are not appropriate on a sanction basis based on what was provided to the Court at this juncture and applicable case law. Following statements by counsel regarding scheduling, Plaintiff's counsel estimated no more than an hour for the hearing. COURT ORDERED, matter SET for evidentiary hearing. Parties to notify the Court in advance by no later than noon on October 3, 2019, confirming whether or not they want the evidentiary hearing to go forward; and the Court will issue a ruling, if the evidentiary hearing does not go forward. Issues not addressed today may be addressed at time of Calendar Call.

10/07/19 8:30 A.M. EVIDENTIARY HEARING

10/08/19 9:00 A.M. CALENDAR CALL

10/14/19 9:00 A.M. TRIAL BY JURY (MED MAL #1)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 02, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 02, 2019 10:00 AM Settlement Conference

HEARD BY: Bixler, James **COURTROOM:** No Location

COURT CLERK: Kimberly Estala

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to the Sr. Judge Executive Assistant at 11:21 AM. Senior Judge Bixler conducted the settlement conference and a settlement was not reached. The sign in sheet will be left side filed in the case file.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental**COURT MINUTES****October 07, 2019**

A-16-739464-C Titina Farris, Plaintiff(s)
 vs.
 Barry Rives, M.D., Defendant(s)

October 07, 2019 8:30 AM All Pending Motions

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Couchot, Chad C.	Attorney
	Doyle, Thomas J.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Court addressed the matters on for today; and also addressed the supplemental pleadings filed October 4, 2019 by defense, and non-compliance issues. Mr. Jones requested Court not to consider the supplemental pleadings. Arguments by Mr. Doyle. Court stated findings; and determined the supplemental pleadings are rogue documents, and cannot be considered by the Court. COURT ORDERED, Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Supplemental Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time filed October 4, 2019, and Declaration of Thomas J. Doyle in Support of Supplemental Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time filed October 4, 2019, are STRICKEN.

EVIDENTIARY HEARING...PLAINTIFFS' MOTION FOR SANCTIONS UNDER RULE 37 FOR

DEFENDANTS' INTENTIONAL CONCEALMENT OF DEFENDANT RIVES' HISTORY OF NEGLIGENCE AND LITIGATION AND MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD CLAIM FOR PUNITIVE DAMAGES ON ORDER SHORTENING TIME

Defendant Barry Rives, M.D., sworn and testified. Counsel provided binders of documents to the Court during testimony. After testimony concluded, Court determined it had done what the parties had asked for, in regards to today's hearing. Court noted it will issue its ruling on October 10, 2019; and provided a short version of its analysis on the Motion for sanctions. COURT ORDERED, Motion CONTINUED to October 10, 2019, for remaining matters to be addressed, for sanction components to be discussed, and for Court's ruling to issue.

PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH SUPPLEMENT TO NRCP 16.1 DISCLOSURE OF WITNESSES AND DOCUMENTS ON ORDER SHORTENING TIME...CONTINUED HEARING FROM SEPTEMBER 26, 2019 RE: NON COMPLIANCE (PER ORDER FILED SEPTEMBER 19, 2019)

COURT ORDERED, matters CONTINUED to October 10, 2019 at 1:30 P.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 08, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 08, 2019 9:00 AM Calendar Call

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
Doyle, Thomas J. Attorney
Hand, George F. Attorney
Jones, Kimball Attorney
Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- Statements by counsel regarding 2.67 conference and supplemental meetings having been done. Discussions as to proposed trial exhibits, including what has and has not been stipulated to for admission. Trial exhibits, demonstrative exhibits, deposition transcripts, proposed voir dire, proposed jury instructions, proposed verdict forms and thumb drives, were provided by both sides. Parties agreed to have 70 jurors ordered for trial. Court provided the general voir dire handouts to both sides.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 10, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 10, 2019 1:30 PM All Pending Motions

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Clark Newberry, Aimee Lea Attorney
 Couchot, Chad C. Attorney
 Doyle, Thomas J. Attorney
 Jones, Kimball Attorney
 Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- CONTINUED HEARING FROM September 26, 2019 RE: NON COMPLIANCE (PER ORDER FILED September 19, 2019)...PLAINTIFFS' MOTION FOR SANCTIONS UNDER RULE 37 FOR DEFENDANTS' INTENTIONAL CONCEALMENT OF DEFENDANT RIVES' HISTORY OF NEGLIGENCE AND LITIGATION AND MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD CLAIM FOR PUNITIVE DAMAGES ON ORDER SHORTENING TIME...PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH SUPPLEMENT TO NRCP 16.1 DISCLOSURE OF WITNESSES AND DOCUMENTS ON ORDER SHORTENING TIME

Discussions regarding status of trial exhibits and there having been document confusion by counsel on Exhibit 1. Court determined nothing additional was provided by either side by end of day after Calendar Call. COURT ORDERED, nothing additional can be added to Exhibit 1 and nothing from proposed Exhibit 8 or 9 that was not in the hard bound, can come in; and the exhibit binders as presented in their proposed format at time of Calendar Call are the only things that could be potentially be brought in as proposed trial exhibits.

Plaintiffs' Motion to Strike was addressed. Arguments by counsel. Discussions as to Rule 37 (c) (1). Court stated its findings. COURT ORDERED, Motion to strike GRANTED. The reports of Dr. Juell and Dr. Adornato were addressed. Court stated additional findings.

Court addressed the Motion for sanctions under Rule 37 for Defendants' intentional concealment of Defendant Rives' history of negligence and litigation. Court also addressed Plaintiffs' alternative relief request regarding terminating sanctions and to strike the Answer. Court stated findings; and gave its ruling not to impose punitive damages. Court also issued its ruling including that it would defer on monetary fees being imposed pending trial proceedings, and the Court DENIED the request to strike the Answer.

Court also addressed the Order Denying the Stipulation Regarding Motions in Limine filed September 19, 2019, and Order Denying Defendants' Order Shortening Time filed October 2, 2019. Statements by Mr. Leavitt in support of the Answer being stricken. Mr. Doyle stated the Court should impose a substantial monetary sanction against Defendants to punish and deter, but not strike the Answer. Arguments by counsel. Discussions as to language in two written declarations provided by counsel, voir dire, and trial schedule.

At request of defense counsel, COURT ORDERED, Defendants' Motion to Compel Deposition of Gregg Ripplinger, M.D., and Extend the Close of Discovery (9th Request) on Order Shortening Time scheduled for October 15, 2019 WITHDRAWN.

Counsel made statements to Court regarding Exhibit 1. Court provided EDCR Rule 2.67. Mr. Doyle requested to have additional exhibits marked for record on appeal. Court stated there is no record on appeal. Mr. Doyle requested to submit a written declaration to the Court, to provide an explanation. Discussion as to additional documents not having been provided at Rule 2.67 conference. Court reminded parties on the directive the Court gave at Calendar Call in regards to trial exhibits. Arguments by parties. COURT ORDERED, the exhibits received Tuesday, October 8, 2019 are the only things coming into this case for trial.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental**COURT MINUTES****October 14, 2019**

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 14, 2019 8:30 AM Jury Trial

HEARD BY: Kishner, Joanna S.**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Susan Botzenhart**RECORDER:** Sandra Harrell**REPORTER:****PARTIES**

PRESENT:	Doyle, Thomas J.	Attorney
	Farris, Patrick	Plaintiff
	Farris, Titina	Plaintiff
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Robert Eisenberg, present with defense counsel and seated in gallery.

Mr. Hand and Plaintiffs not present.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Discussions as to pre-trial matters, including voir dire procedures, number of peremptory challenges for each side, and parties agreeing to have two alternate jurors for this trial. Plaintiff's counsel objected to defense counsel having a juror consultant to assist at trial. Arguments by Mr. Doyle. Court provided the rules for juror consultants; and indicated each side can have individuals accurately identified seated in Court. Court TRAILED and RECALLED matter for the prospective jury panel to be lined up by Jury Services and brought up to Court. Mr. Hand present in Court with the Plaintiffs. Juror consultant Amy Hanegan, present at defense counsel's table with Mr. Doyle. Discussions as to proposed voir dire

and proposed statement by counsel to the jury panel. Court's Exhibit ADMITTED (See Worksheets.).

PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court. Clerk called roll. PROSPECTIVE JURY PANEL SWORN. Voir Dire commenced. Introductory statements by counsel.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Juror excusals were addressed. Objections were made regarding defense counsel's three trial briefs filed October 14, 2019.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Additional juror excusals were addressed. At request of counsel, Court noted trial will start tomorrow at 1:00 p.m. Mr. Doyle presented an additional deposition to be provided to the Clerk for trial. Objections by Mr. Leavitt. Court noted counsel can let the Court tomorrow as to whether the name of the deponent was previously disclosed.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. Court admonished and excused the prospective jury panel for the evening to return to Court by 12:45 P.M.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Additional juror excusals were addressed. Parties were directed to arrive to Court tomorrow by 12:40 P.M.

Evening recess. TRIAL CONTINUES.

10/15/19 1:00 P.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 15, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 15, 2019 1:00 PM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Farris, Patrick	Plaintiff
	Farris, Titina	Plaintiff
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Robert Eisenberg, present with defense counsel and seated in gallery.

Juror consultant Amy Hanegan, present at defense counsel's table with Mr. Doyle.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Discussions as to missing jurors. Defense counsel requested Court to instruct the jurors not to consider anything with regards to various counsel arriving in and out of the courtroom at various times, throughout trial. Discussions as to unavailability of witness Mary Jayne Langan and records review. Objections were made by Plaintiff's counsel. Court stated it will revisit this.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Challenge for cause was addressed; and objections were placed on record. Court deferred ruling. Court addressed proposed jury instruction requirements. Court cautioned counsel not to make inaccurate statements in front of the jury panel. Objections were made by counsel regarding trial briefs submitted by defense counsel; and noted Plaintiff will have briefing prepared with an order shortening time for the Court.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

Evening recess. TRIAL CONTINUES.

10/16/19 9:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 16, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 16, 2019 9:30 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Robert Eisenberg, present with defense counsel and seated in gallery.

Juror consultant Amy Hanegan, present in Court.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Objections placed on record as to Mary Jane Langan testifying; which was sustained by Court. Court addressed the general rules regarding objections. Both sides gave a time estimate on their opening statements.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

Lunch recess until 1:15 p.m.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: No parties were present in Court as required at 1:21 p.m. Thereafter, parties arrived in the courtroom and were admonished by Court

regarding timeliness. Parties confirmed on having completed their peremptory challenges during the lunch hour. Court reviewed peremptory challenges; and verified the names of remaining jurors for the seated jury panel. Discussions as to proposed curative pre-instruction to be read to the Jury by Court.

PROSPECTIVE JURY PANEL PRESENT: JURY SELECTED and SWORN by Clerk. Court instructed Jury.

OUTSIDE PRESENCE OF JURY: Tech checks were done in open Court. Further discussions as to language of the proposed curative pre-instruction. Objections were placed on record. Court stated findings.

JURY PRESENT: Court read pre-instruction to Jury. Court's Exhibit ADMITTED (See Worksheets.). Opening statements by counsel.

Evening recess. TRIAL CONTINUES.

10/17/19 12:30 P.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 17, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 17, 2019 12:30 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Colloquy as to witness line up and trial exhibits.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow by 9:00 A.M.

OUTSIDE PRESENCE OF JURY: Plaintiff's counsel moved to strike Defendant's Answer. Arguments by counsel. Court deferred the Motion to a later date, to allow parties to talk to reach other about scheduling on having the Motion to strike addressed further.

Evening recess. TRIAL CONTINUES.

10/18/19 9:00 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 18, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 18, 2019 9:00 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Alice Jacobson

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Colloquy between the Court and counsel regarding Joint Jury Instructions, Interrogatories, and Verifications 18 and 19 to be used for impeachment purposes.

JURY PRESENT: Barry Rives sworn and testified.

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record regarding legal conclusion and relevance on ethics question.

JURY PRESENT: Michael Hurwitz sworn and testified.

OUTSIDE THE PRESENCE OF THE JURY: Objections put on the record regarding new opinions and failure to disclose timely. COURT ORDERED, GRANTED IN PART and DENIED IN PART.

JURY PRESENT: Further testimony by Michael Hurwitz. Court excused the jury for the evening.

OUTSIDE THE PRESENCE OF THE JURY: Court admonished Defense counsel for making statements regarding the transcript against the Court's directive and would consider a mistrial for his conduct.

Trial CONTINUED 10/21/19.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental**COURT MINUTES****October 21, 2019**

A-16-739464-C Titina Farris, Plaintiff(s)
 vs.
 Barry Rives, M.D., Defendant(s)

October 21, 2019 9:00 AM Jury Trial

HEARD BY: Kishner, Joanna S.**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Susan Botzenhart**RECORDER:** Sandra Harrell**REPORTER:****PARTIES**

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Counsel provided courtesy copy of responsive pleadings to Court in regards to Plaintiffs' pending Motion to Strike. Colloquy as to witness line up. Court reminded both sides to follow the rules as to witnesses and witness binders for the witness stand.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Deposition of Alex Barchuk, M.D., was FILED AND PUBLISHED IN OPEN COURT.

OUTSIDE PRESENCE OF JURY: Objections placed on record by Plaintiffs' counsel as to alleged misconduct from opposing counsel during cross examination earlier. Mr. Jones requested a curative instruction be given to the Jury by Court. Arguments by counsel. Discussions as to earlier bench conference and the witness testimony. Court stated findings. Colloquy as to witness line up. Court noted it had received another OST request from counsel this morning, addressing Plaintiffs' renewed Motion to strike. Court inquired whether a date for the Motion was agreed upon by the parties. Statements by counsel as to proposed briefing schedule having been discussed. Court stated this

will be revisited.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

Lunch recess.

OUTSIDE PRESENCE OF JURY: Court stated it will keep the extra copy of the pleadings that were provided by counsel on Plaintiffs' renewed Motion to strike Defendants' Answer. COURT ORDERED, hearing SET on the Motion for October 23, 2019 at 1:00 P.M. Statements by Mr. Doyle as to status of written opposition to be filed. Order Shortening Time SIGNED IN OPEN COURT.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Deposition of Barry Rives, M.D. SIGNED AND PUBLISHED IN OPEN COURT.

OUTSIDE PRESENCE OF JURY: Defendant Barry Rives, M.D., present on witness stand. Objections placed on record by Plaintiffs' counsel regarding testimony from the witness and insurance information having been allegedly elicited during testimony by Defendant.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Plaintiffs' counsel moved for mistrial, and alternatively requested Court to strike Defendants' Answer. Following arguments by counsel, and discussions as to what was previously discussed before the Court earlier, the matter was deferred to a later date, for both sides to have an opportunity to submit additional briefing on the Motion to strike, including additional briefing on the witness and insurance information issue, and Plaintiffs' renewed Motion to strike Defendants' Answer. Mr. Jones requested Defendant not to discuss insurance information in front of the Jury.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow at the time given by Court.

OUTSIDE PRESENCE OF JURY: Court reminded both sides the deadline dates to file pleadings on pending Motions.

Evening recess. TRIAL CONTINUES.

10/22/19 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 22, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 22, 2019 10:30 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Mr. Leavitt not present. Juror questions were addressed. Mr. Jones requested juror questions be asked to Defendant Dr. Rives, when he testifies again during Defendant's case in chief. Arguments by Mr. Doyle in support of the questions being asked during current testimony in Plaintiffs' case in chief. Court stated findings; and noted this presents a challenge to have the questions read to the witness at this juncture. Court also stated if there is an agreement by the parties, or a joint request, the Court will consider it. Colloquy as to witness line up.

JURY PRESENT: Mr. Leavitt present in Court. Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Counsel addressed the examination of Plaintiff Titina Farris; and objections were placed on the record. Plaintiffs' Exhibit No. 1 and the Calendar Call proceedings were addressed. Mr. Jones provided the proposed Order on Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplements to NRCP 16.1 Disclosures, to the Court. Colloquy as to witness line

up for the afternoon.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Courtesy copy of pleadings and trial brief were provided to the Court by counsel.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury admonished and excused by Court to return tomorrow by 9:45 A.M.

OUTSIDE PRESENCE OF JURY: Upon Court's inquiry, both sides confirmed on the admission to Plaintiffs' Exhibit No. 1 having been done by stipulation. Objections were placed on the record. Following discussions as to specific pages from Exhibit No. 1, earlier bench conference, ERISA plan, discovery, and witness testimony, Court reminded both sides any objections regarding a witness need to be addressed, before the witness takes the Stand. Further discussions as to case law from McCrosky vs. Carson Tahoe Regional Medical Center.

Evening recess. TRIAL CONTINUES.

10/23/19 9:45 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 22, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 22, 2019 1:00 PM Motion to Strike

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Court addressed EDCR 7.27, and stated its findings. Statements by counsel. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE; the Court will review briefs under EDCR 7.27, and the Court will look at the trial briefs and treat them as Rule 7.27 briefs.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 23, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 23, 2019 9:45 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Colloquy regarding witness line up for today, and status of witness scheduled to appear by video conference at 2:00 P.M.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Objections were placed on record as to there having been no agreement between the parties as to specific documents, for Dr. Juell's testimony. Discussions as to demonstrative exhibits, films, and deposition testimony. Arguments by counsel. Further discussions as to Exhibit No. 8. Court stated the witness cannot make a reference to the document at issue, until verification is made by the parties about whether the document was previously disclosed. Discussions as to trial schedule for the afternoon and witness line up.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Statements by counsel as to Plaintiffs' Exhibit No. 8. Objections placed on the record. Discussions as to demonstrative exhibits for Dr. Juell's examination. At request of counsel, COURT ORDERED, Plaintiffs' renewed Motion to Strike Defendants' Answer CONTINUED to be addressed outside the presence of the Jury, at a later date.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Objections placed on the record by Plaintiffs' counsel as to defense counsel addressing specific language in regards to a deposition during testimony. Mr. Doyle requested to have a deposition lodged; and argued in support of relief requested. Discussion regarding what was said to the Court by counsel earlier. Counsel was cautioned by Court not to make inadvertently improper or inaccurate statements in front of the Jury.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

Evening recess. TRIAL CONTINUES.

10/24/19 10:15 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 23, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 23, 2019 1:00 PM Motion to Strike

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- COURT ORDERED, Motion CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 24, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 24, 2019 10:15 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Shelley Boyle

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding scheduling inclusive of when to hold the sanctions hearing, scope of witness testimony, and CONFERENCES AT BENCH.

JURY PANEL PRESENT:

Testimony PRESENTED, Deposition PUBLISHED (see worksheets). CONFERENCES AT BENCH.
COURT ORDERED, Trial CONTINUES.

CONTINUED TO: 10/28/19 8:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 28, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 28, 2019 8:30 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Robert Eisenberg, present with defense counsel and seated in the gallery. Defendant Barry Rives not present.

OUTSIDE PRESENCE OF JURY: Colloquy regarding status of what exhibits have been admitted, witness line up and limited testimony with Dr. Juell. Defendant Barry Rives present in Court. Court addressed the medical malpractice issue and 7.27 trial briefs.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Court addressed the medical malpractice issue. The 7.27 trial briefs that were submitted to the Court previously, were evaluated. Counsel stated objections and made arguments on the record.

Lunch recess.

OUTSIDE PRESENCE OF JURY: Discussions as to limited testimony of Dr. Juell. Colloquy as to witness line up. Objections were made on the record by Plaintiffs' counsel regarding alleged violation by defense counsel.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Objections were placed on record as to examination of Dr. Juell, and defense seeking to call Dr. Chaney to testify.

Attorney Todd Wise, Esq., present in Court on behalf of witness Naomi Chaney, M.D; and addressed the subpoena issue, and also made statements to the Court regarding Dr. Chaney having canceled appointments with patients to appear to testify in this matter. Arguments by counsel. Colloquy as to there having been no agreement with the parties to have Dr. Chaney appear to testify. Relief was sought by Plaintiffs' counsel. Further discussions as to subpoena issue. Court stated it has no information for Court to rule on. Both sides to meet and confer during afternoon break to get a plan in place on the witness issues. Colloquy as to trial schedule.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury was admonished and excused by Court for the evening, to return tomorrow morning at the time given.

OUTSIDE PRESENCE OF JURY: Courtesy copy of additional trial brief was provided to Court. Colloquy as to witness line up for tomorrow, and scheduling on when to address additional expert witness issues.

Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED.

TRIAL CONTINUES.

10/29/19 9:00 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 29, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 29, 2019 9:00 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Robert Eisenberg, present with defense counsel and seated in the gallery.

OUTSIDE PRESENCE OF JURY: Court addressed trial briefs submitted by counsel, plus the October 14, 2019 proceedings and case law from McCrosky vs. Carson Tahoe Regional Medical Center. Arguments were made by the parties as to alleged continued violations with defense counsel, and collateral source issue. Court stated findings; and noted collateral source will not be mentioned in front of the Jury. Court deferred Plaintiffs' request for sanctions. Discussions as to Hallmark standards and witness line up. Plaintiffs' counsel objected to defense counsel having Dr. Stone appear to testify; and moved to strike. Arguments by Mr. Doyle. Court SUSTAINED Plaintiffs' objection. Mr. Doyle agreed to release Dr. Larson from the subpoena; and Plaintiffs' counsel made no objection. Defense counsel provided courtesy copy of trial brief to the Court in regards to Dr. Chaney.

JURY PRESENT: Testimony presented (See Worksheets.). Plaintiffs' rested.

OUTSIDE PRESENCE OF JURY: Court stated a request from a juror was received to conclude trial for the day before 5:00 P.M. By agreement of both sides, Court stated trial will conclude for the evening at 4:30 P.M., today.

Lunch recess.

OUTSIDE PRESENCE OF JURY: Objections were placed on record. Plaintiffs' counsel moved to strike an additional defense witness; and argued in support of relief requested. Arguments and responses were made by Mr. Doyle. Discussions as to prior disclosure not having been made. Court stated findings; and noted Dr. Adornato's testimony would be limited.

JURY PRESENT: Testimony presented; and deposition was published (See Worksheets.).

OUTSIDE PRESENCE OF JURY: At request of counsel, Dr. Adornato was directed by Court to exit the Courtroom and remain in the ante room, until further order. Dr. Adornato exited the Courtroom. Shortly thereafter, Mr. Leavitt informed the Court Dr. Adornato allegedly brushed up against him while walking out of the Courtroom; and stated he wants to press charges against the witness. Following discussions, Court recessed and all parties left the Courtroom for the afternoon break. CASE RECALLED. Attorney Jacqueline Bittrell, Esq., was present; and made statements to the Court regarding what she observed on the witness contact in the courtroom being alleged by Plaintiffs' counsel. Further colloquy as to prior objection made during testimony. Plaintiffs' counsel requested Court to admonish the witness regarding Court's order on causation and the testimony. Witness was admonished by Court about its prior order; and the witness was also admonished by Court not to review documents at any inappropriate time including during bench conferences, while on the stand.

JURY PRESENT: Further testimony presented (See Worksheets.). Jury was admonished and excused by Court for the evening, to return tomorrow at the given time, being 9:00 A.M.

OUTSIDE PRESENCE OF JURY: Colloquy as to subpoena issue with Dr. Chaney to be addressed further tomorrow at 8:30 A.M.

Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES.

10/30/19 8:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 30, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 30, 2019 8:30 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- Mr. Hand and Defendant Barry Rives, not present.

Robert Eisenberg, present with defense counsel and seated in the gallery.

OUTSIDE PRESENCE OF JURY: Colloquy as to witness line up for today. Objections placed on the record in regards to there being a Leavitt vs. Siems issue. Arguments by counsel. Mr. Hand present in Court. Discussions as to service of subpoena issue, defense witness Dr. Chaney, and NRCP 45. Defendant Barry Rives present in Court. Further arguments by counsel as to ex parte communication issue with defense counsel and Plaintiffs' treating provider. Following statements by Court, additional arguments were made by counsel as to there having been no agreement as to some testimony from witness Erik Volk, and calculations not having been disclosed. Arguments by Mr. Doyle. Discussions as to testimony of Erik Volk to be limited.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Statements by Mr. Jones as to Defendants' Exhibit A not being resolved. Arguments by counsel. Court stated findings; and ORDERED, Defendants' Motion to introduce Exhibit A DENIED WITHOUT PREJUDICE. Subpoena and service issue as to Dr. Chaney were addressed further. Attorney Todd Wise, Esq., present; and made statements to Court. Arguments by Mr. Jones as to non-compliance by defense counsel, Rule 16.1 issue, and testimony of Dr. Chaney being problematic. Arguments by Mr. Doyle in support of the testimony being given by the witness. Dr. Naomi Chaney present in Court. Court canvassed the witness in regards to the subpoena. Thereafter, the witness was excused by Court after Court's questions were asked. Objections placed on the record. Arguments by defense counsel as to requirements having been satisfied to have the witness appear and testify for trial. Opposition by Plaintiffs' counsel. Mr. Doyle made offer of proof as to what the witness will testify to. Arguments by counsel as to Callister case law. Court stated findings. Discussions as to testimony of Dr. Chaney to be limited.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Colloquy regarding trial schedule, due to tomorrow being Nevada Day and Halloween. Court directed both sides to appear in Court tomorrow at 8:00 a.m., to resolve and finalize jury instructions. Both sides to meet after trial to work out the ongoing issues that were raised to the Court earlier when standard objections were raised, and to also work out the jury instructions.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury was admonished and excused for the evening to return tomorrow morning at the time given, being 10:15 A.M.

OUTSIDE PRESENCE OF JURY: Court addressed the scheduling for tomorrow; and reminded both sides of their obligations prior to tomorrow morning.

Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES.

10/31/19 8:00 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 31, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

October 31, 2019 8:00 AM Jury Trial

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Clark Newberry, Aimee Lea	Attorney
	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney
	Rives, Barry, M.D.	Defendant

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Jury Instructions and proposed Verdict Forms were addressed. Objections were placed on the record. JURY INSTRUCTIONS SETTLED.

JURY PRESENT: Testimony and Exhibits presented (See Worksheets.).

Lunch recess.

OUTSIDE PRESENCE OF JURY: Colloquy as to status of finalized jury instructions and verdict forms. Counsel provided the finalized jury instructions to the Court. Colloquy regarding Juror No. 6 having a scheduled training appointment all day tomorrow. By agreement of counsel, COURT ORDERED, Juror No. 6 will remain on the panel until end of day today, and Alternate Juror No. 9 will replace Juror No. 6. Amended Jury List FILED IN OPEN COURT.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Discussions as to Plaintiffs' counsel seeking to play a video clip from the Vickie Center civil case to the Jury for impeachment purposes. Following arguments by counsel, Court stated its findings. COURT ORDERED, the audio clip can be played to the Jury, but not the video clip.

JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Defense rested. Jury was admonished and excused by the Court for the evening, to return tomorrow at the given time, being 8:30 A.M.

OUTSIDE PRESENCE OF JURY: Both sides moved for direct verdict under Rule 50. Following arguments by parties, Court stated its findings. COURT ORDERED, Plaintiffs' Motion for Direct Verdict GRANTED IN PART as to damages for past medical and related expenses and life care plan; and Motion DENIED IN PART as to remaining portion of Plaintiffs' Motion. FURTHER, Defendants' Motion for Direct Verdict DENIED. A modified proposed verdict form to be provided to the Court. Court directed both sides to appear in the courtroom tomorrow for trial, at 8:20 A.M.

Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED.

TRIAL CONTINUES.

11/01/19 8:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

November 01, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

November 01, 2019 8:30 AM All Pending Motions

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Denise Husted

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Jones, Kimball	Attorney
	Leavitt, Jacob G	Attorney

JOURNAL ENTRIES

- JURY TRIAL...PLAINTIFF'S RENEWED MOTION TO STRIKE

OUTSIDE THE PRESENCE OF THE JURY. The Court noted it directed counsel to present a new Special Verdict form and since this has not been done, COURT ORDERED, the form presented by the Plaintiff will be used.

IN THE PRESENCE OF THE JURY. The Court instructed jurors on the law of the case. Closing arguments by Mr. Jones. Closing arguments by Mr. Doyle. Rebuttal arguments by Mr. Jones.

At the hour of 12:35 PM the jury retired to deliberate.

At the hour of 2:20 PM the jury returned with a verdict in favor of plaintiff.

Plaintiff's Renewed Motion to Strike CONTINUED and matter SET for a status check regarding judgment.

CONTINUED TO: 11/7/19 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

November 07, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

November 07, 2019 9:30 AM All Pending Motions

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Doyle, Thomas J. Attorney
 Hand, George F. Attorney
 Jones, Kimball Attorney
 Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- Court reminded the parties regarding the EDCR provisions that outline courtesy copy requirements. Statements by counsel. Upon Court's inquiry, both sides acknowledged courtesy copies of their documents that were filed within 24 hours, were not provided to the Court. Court stated findings, including that there has been no good cause shown, both sides waived anything written in their objections, and both sides are in non-compliance for failing to provide courtesy copies of the filed pleadings to the Court. COURT ORDERED, Plaintiffs' Objection to Defendants Proposed Judgment on Verdict filed November 6, 2019, and Defendants' Objection to Plaintiffs' Proposed Judgment on Jury Verdict filed November 6, 2019 are ORDERED, STRICKEN as rogue pleadings, and documents being improperly filed. Court also noted there was no request given to Court by counsel to file such documents and there was no basis to file such documents.

STATUS CHECK: JUDGMENT

Court acknowledged receiving courtesy copies of proposed judgments on verdicts from both sides. Discussion as to non-economic damages, case law from Tam, McGrosky, and Zhang, NRS 41A, NRS

42.021 (1) and NRS 42.021 (2). Arguments by counsel. Court stated its findings; and ORDERED, numeric breakdown as follows: damages for Plaintiff Titina Farris's past physical and mental pain, suffering, anguish, disability and loss of enjoyment of life will be in the amount of \$43,225.00; damages for Plaintiff Titina Farris's future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life will be in the amount of \$131,775.00; damages for Plaintiff Patrick Farris's past loss of companionship, society, comfort, and consortium will be in the amount of \$92,225.00; and, damages for Plaintiff Patrick Farris's future loss of companionship, society, comfort, and consortium will be in the amount of \$82,775.00, for a grand total of \$350,000.00.

Parties agreed on the percentages rate, and the language will be included in the written Judgment which will be submitted to the Court.

Plaintiffs' counsel to prepare the written judgment; and defense counsel to approve form and content.

SHOW CAUSE HEARING

Upon Court's inquiry, both sides confirmed having rested each of their cases in chief at time of trial. Court noted it will have to continue this matter to another day, due to the Court having a scheduled commitment this morning and the Court needing to adjourn. Following discussions as to scheduling, COURT ORDERED, Show Cause Hearing CONTINUED. Court noted this continuance does not impact the filing of the written judgment. Parties acknowledged.

Remaining portion of Plaintiffs' Renewed Motion to Strike CONTINUED.

11/13/19 10:30 A.M. PLAINTIFFS' MOTION FOR SANCTIONS...SHOW CAUSE HEARING...PLAINTIFFS' RENEWED MOTION TO STRIKE

CLERK'S NOTE: Plaintiffs' Renewed Motion to Strike Defendants' Answer was not addressed, and was continued to November 13, 2019 at 10:15 a.m. sb

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

November 13, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

November 13, 2019 10:15 AM All Pending Motions

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Doyle, Thomas J. Attorney
 Hand, George F. Attorney
 Jones, Kimball Attorney
 Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- Court confirmed the written judgment was signed. Parties acknowledged.

SHOW CAUSE HEARING

Court addressed defense counsel's seven offers of proof that were filed in the case November 1, 2019. Statements by Mr. Doyle in support of these proofs having been filed in the case. Court canvassed counsel the November 1, 2019 filings. Discussions as to trial proceedings. Mr. Doyle objected to the order to show cause; and made arguments. Further discussions as to Court's rulings from trial on October 14, 2019 and October 29, 2019, and EDCR 2.69. COURT ORDERED, matter CONTINUED to November 14, 2019 at 1:30 p.m.

PLAINTIFFS' MOTION FOR SANCTIONS...PLAINTIFFS' RENEWED MOTION TO STRIKE

COURT ORDERED, matters CONTINUED to November 14, 2019 at 1:30 P.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

November 14, 2019

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

November 14, 2019 1:30 PM All Pending Motions

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Doyle, Thomas J. Attorney
 Hand, George F. Attorney
 Jones, Kimball Attorney
 Leavitt, Jacob G Attorney

JOURNAL ENTRIES

- PLAINTIFFS' RENEWED MOTION TO STRIKE

Arguments by Mr. Leavitt. Opposition by Mr. Doyle. Reply by Mr. Leavitt. Discussions as to transcript from September 26, 2019. Court stated findings. A trial proceedings clip dated October 18, 2019 at 4:44:54 P.M. was played back in open Court. COURT ORDERED, Motion DENIED IN PART as to striking Defendants' Answer.

ORDER TO SHOW CAUSE

Court addressed the remaining of seven offers of proof filed by defense counsel dated November 1, 2019. Following responses and arguments made by counsel, Court gave an analysis and stated its findings. There being no good cause shown as to why the offers of proof were filed without any notice given to the Court, COURT ORDERED, the Offer of Proof Re: Defendants' Exhibit C filed November 1, 2019, Offer of Proof Re: Brian Juell, M.D., filed November 1, 2019, Offer of Proof Re: Sarah Larsen filed November 1, 2019; Offer of Proof Re: Michael Hurwitz, M.D. filed November 1,

2019, Offer of Proof Re: Lance Stone, D.O. filed November 1, 2019, Offer of Proof Re: Erik Volk filed November 1, 2019, and, Offer of Proof Re: Bruce Adornato, M.D.'s Testimony filed November 1, 2019 are ORDERED, STRICKEN as rogue documents.

PLAINTIFFS' MOTION FOR SANCTIONS

COURT ORDERED, Motion CONTINUED to November 20, 2019 at 1:30 P.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental**COURT MINUTES****November 20, 2019**

A-16-739464-C Titina Farris, Plaintiff(s)
vs.
Barry Rives, M.D., Defendant(s)

November 20, 2019 1:30 PM Motion for Sanctions

HEARD BY: Kishner, Joanna S.**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Michaela Tapia**RECORDER:** Sandra Harrell**REPORTER:****PARTIES**

PRESENT:	Doyle, Thomas J.	Attorney
	Hand, George F.	Attorney
	Leavitt, Jacob G	Attorney

JOURNAL ENTRIES

- Court indicated the hearing today was to address counsel submitting multiple inadmissible documents. Court gave a brief history of the case. Mr. Leavitt indicated he was willing to accept a sanction payable to the Law Library or Legal Aid. Mr. Doyle mirrored Mr. Leavitt's comments and did not wish to add anything. Colloquy regarding Court's previous trial order. Court indicated it was not inclined to issue sanctions to Plaintiff counsel. Mr. Leavitt advised he would prefer to give \$500.00 to the Law Library. Colloquy regarding Mr. Doyle continuing to submit impermissible filings. Colloquy regarding electronically signed document used at trial. Mr. Doyle indicated he did not know the specific acts or failures to act that Court is using for basis for sanctions. Court offered to continue the matter; however, Mr. Doyle declined. Upon Court's inquiry, Mr. Doyle indicated the filings were a clerical oversight and a mistake on part of his office. Colloquy regarding Mr. Doyle's readiness for the hearing. Mr. Doyle stated he did not want to look into the issues and wanted to hear the Court's ruling. Colloquy regarding possibly continuing the hearing. Upon Court's inquiry, Mr. Doyle declined to respond individually or globally. Upon Court's inquiry, Mr. Leavitt indicated Ms. Clark Newberry and Mr. Couchot's conduct was egregious in a number of aspects and requested heavy monetary sanctions. Court advised it is not taking this case back to discovery. Court stated its findings and advised it would issue the order at the time of the hearing on fees and costs. Parties to

submit their proposals in Word to the Judicial Executive Assistant and CC opposing counsel.

EXHIBIT(S) LIST

Case No.: A-16-739464

Trial Date: 10/17/19 - 11/1/19

Dept. No.: **XXXI**

Judge: **JOANNA S. KISHNER**

Court Clerk: Susan Botzenhart

Recorder: **SANDRA HARRELL**

Counsel for Plaintiff: Kimball Jones

Jacob Leavitt, George Hand

Counsel for Defendant: Thomas

Doyle

Titina Farris PLAINTIFF,

vs.

Barry Rives DEFENDANTS.

TRIAL BEFORE THE COURT

Plaintiff 'S EXHIBITS (See next page)

[illegible]

TABLE OF CONTENTS – PLAINTIFFS' TRIAL EXHIBITS

**TITINA FARRIS AND PATRICK FARRIS VS. BARRY RIVES, M.D. AND
LAPAROSCOPIC SURGERY OF NEVADA, LLC**

CASE NO.: A-16-739464-C

**PLAINTIFFS' COUNSEL – GEORGE HAND, ESQ.; KIMBALL JONES,
ESQ; AND JACOB LEAVITT, ESQ.**

**DEFENDANTS' COUNSEL – THOMAS J. DOYLE, ESQ. AND KIM
MANDELBAUM, ESQ.**

NO.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ACCEPTED
1.	St. Rose Dominican San Martin Hospital Medical Records and Billing	10-14-19	skip	10-14-19
2.	St. Rose Dominican Siena Hospital Billing	RETURNED TO COUNSEL		
3.	Bess Chang, M.D. – Medical Neurology Medical Records and Billing	RETURNED TO COUNSEL		
4.	Elizabeth Hamilton, M.D. Medical Records and Billing	RETURNED TO COUNSEL		
5.	Desert Valley Therapy Medical Records and Billing	RETURNED TO COUNSEL		
6.	CareMeridian Medical Records and Billing	10-22-19	yes	10-22-19
7.	Steinberg Diagnostic Medical Imaging Medical Records and Billing Records	RETURNED TO COUNSEL		
8.	Diagnostic films taken at St. Rose Dominican Hospital Disc	RETURNED TO COUNSEL		
9.	Photographs of Titina Farris	RETURNED TO COUNSEL		
10.	Video of Titina Farris taken by Lowell Pender on April 13, 2015	10-28-19	yes	10-28-19
11.	Videos of Titina Farris, Patrick Farris, Addison Durham, Lowell Pender and Sky Prince	RETURNED TO COUNSEL		
12.	Marriage Certificate	RETURNED TO COUNSEL		
13.	National Vital Statistics Reports United States Life Tables, 2015	RETURNED TO COUNSEL		

14.	Bolton, CF, Neuromuscular Manifestations of Critical Illness, Muscle & Nerve 32: 140-163, 2005	RETURNED TO COUNSEL		
15.	Govindarajan, R, Jones, D, Galvez, N, AANEM Case Study: Critical Illness Polyneuropathy, October 2014	RETURNED TO COUNSEL		
16.	Lacomis, D, Electrophysiology of Neuromuscular Disorders in critical illness, Muscle & Nerve 47:452-463, 2013	RETURNED TO COUNSEL		
17.	Koch, S, et. al., Long-term recovery in critical illness myopathy is complete, contrary to polyneuropathy, Muscle & Nerve 50:431-436	RETURNED TO COUNSEL		
18.	Verena, N., N. Kornmann, Bert van Ramshorst, Anke B.Smits, Thomas L. Bollen, Djamila Boerma, Beware of false-negative CT scan for anastomotic leakage after colonic surgery, International Journal of Colorectal Disease (2014) 29:445-451	RETURNED TO COUNSEL		

EXHIBIT INDEX

DEFENDANTS' TRIAL EXHIBITS

CASE NO. A-16-739464-C

TITINA FARRIS & PATRICK FARRIS

v.

BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC

PLAINTIFFS' COUNSEL: Kimball Jones
Jacob Leavitt
George Hamel

DEFENSE COUNSEL: Thomas Doyle

No.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
A	Portions of medical records from Laparoscopic Surgery of Nevada Bates: A000001 – A-000042	10-30-19	yes RETURNED TO COUNSEL	Not Admitted
B	Medical records from St. Rose Dominican Hospital - San Martin Campus, for the admission on August 7, 2014. Bates: B-000001 – B-000143		RETURNED TO COUNSEL	
C	Medical records from Spring Valley Internal Medicine (Dr. Naomi Chaney). Bates: C-000001 – C-000111		RETURNED TO COUNSEL	
D	Medical records from Advanced Orthopedics and Sports Medicine (Dr. Randall Yee / Dr. Tomman Kuruvilla) Bates: D-000001 – D-000011		RETURNED TO COUNSEL	
E	Imaging Study from St. Rose Dominican Hospital - San Martin Campus- July 5, 2015 CT scan of chest, abdomen, and pelvis		RETURNED TO COUNSEL	
F	Imaging Study from St. Rose Dominican Hospital - San Martin Campus- July 9, 2015 CT scan of chest, abdomen, and pelvis		RETURNED TO COUNSEL	
G	Imaging Study from St. Rose Dominican Hospital - San Martin Campus- July 15, 2015 CT scan of chest, abdomen, and pelvis		RETURNED TO COUNSEL	
H	Imaging Study from St. Rose Dominican Hospital – San Martin Camps – July 4, 2015 (15:51:10) – XR Chest 1 View AP or PA		RETURNED TO COUNSEL	

No.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
I	Imaging Study from St. Rose Dominican Hospital – San Martin Camps – July 4, 2015 (15:50:31) – XR Abdomen AP	RETURNED TO COUNSEL		
J	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 4, 2015 (20:04:51) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
K	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 4, 2015 (20:59:58) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
L	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 4, 2015 (20:59:58) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
M	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 6, 2015 (04:02:00) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
N	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 7, 2015 (03:11:25) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
O	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 8, 2015 (03:23:09) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
P	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 7, 2015 (03:11:25) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
Q	Imaging Study from St. Rose Dominican Hospital – San Martin Camps – July 9, 2015 (15:50:31) – XR Abdomen AP+DECUB+OR ERECT	RETURNED TO COUNSEL		
R	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 8, 2015 (20:30:56) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
S	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 10, 2015 (04:25:01) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
T	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 11, 2015 (03:57:39) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		

No.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
U	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 12, 2015 (03:55:06) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
V	Imaging Study from St. Rose Dominican Hospital – San Martin Camps – July 12, 2015 (09:16:42) – XR Abdomen AP+DECUB+OR ERECT	RETURNED TO COUNSEL		
W	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 14, 2015 (03:39:35) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
X	Imaging Study from St. Rose Dominican Hospital – San Martin Camps – July 13, 2015 (11:44:12) – XR Abdomen AP	RETURNED TO COUNSEL		
Y	Imaging Study from St. Rose Dominican Hospital – San Martin Campus – July 15, 2015 (03:30:33) – XR Chest 1 View AP or PA	RETURNED TO COUNSEL		
Z	Imaging Study from Steinberg Diagnostic Medical Imaging Centers – June 12, 2015- CT abdomen	RETURNED TO COUNSEL		
AA	Titina Farris' Responses to Defendants' First Set of Interrogatories Bates: AA-000001 – AA-000012	RETURNED TO COUNSEL		
BB	Patrick Farris' Responses to Defendants' First Set of Interrogatories Bates: BB-000001 – BB-000009	RETURNED TO COUNSEL		
CC	Expert reports by Bart Carter, M.D., P.C. Bates: CC-0000001 – CC-000012	RETURNED TO COUNSEL		
DD	Expert reports by Brian E. Juell, M.D. Bates: DD-000001 – DD-000008	RETURNED TO COUNSEL		
EE	Expert reports by Lance Stone, D.O. Bates: EE-000001 – EE-000006	RETURNED TO COUNSEL		
FF	Expert reports by Sarah Larsen, RN Bates: FF-000001 – FF-000020	RETURNED TO COUNSEL		

No.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
GG	Expert reports by Bruce Adornato, M.D. Bates: GG-000001 – GG-000005	RETURNED TO COUNSEL		
HH	Expert reports by Kim Erlich, M.D. Bates: HH-000001 – HH-000006	RETURNED TO COUNSEL		
II	Expert reports by Scott Kush, M.D. Bates: II-000001 – II-000019	RETURNED TO COUNSEL		
JJ	Expert reports by Erik Volk Bates: JJ-000001 – JJ-000025	RETURNED TO COUNSEL		
KK	Expert Reports by Michael Hurwitz, M.D. Bates: KK-000001 – KK-000008	RETURNED TO COUNSEL		
LL	Expert file of Michael Hurwitz, M.D. Bates: LL-000001 – LL-000028	RETURNED TO COUNSEL		
MM	Expert fee schedule of Michael Hurwitz, M.D.	RETURNED TO COUNSEL		
NN	Expert case list of Michael Hurwitz, M.D.	RETURNED TO COUNSEL		
OO	Expert Reports by Justin Willer, M.D. Bates: OO-000001 – OO-000010	RETURNED TO COUNSEL		
PP	Expert file of Justin Willer, M.D. Bates: PP-000001 – PP-000003	RETURNED TO COUNSEL		
QQ	Expert fee schedule of Justin Willer, M.D.	RETURNED TO COUNSEL		
RR	Expert case list of Justin Willer, M.D.	RETURNED TO COUNSEL		
SS	Expert Reports by Alan J. Stein, M.D. Bates: SS-000001 – SS-000008	RETURNED TO COUNSEL		
TT	Expert fee schedule of Alan J. Stein, M.D.	RETURNED TO COUNSEL		
UU	Expert case list of Alan J. Stein, M.D.	RETURNED TO COUNSEL		

No.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
VV	Expert Reports by Dawn Cook, R.N. Bates: VV-000001 – VV-000085		RETURNED TO COUNSEL	
WW	Expert file of Dawn Cook, R.N. Bates: WW-000001 – WW-000011		RETURNED TO COUNSEL	
XX	Expert fee schedule of Dawn Cook, R.N.		RETURNED TO COUNSEL	
YY	Expert case list of Dawn Cook, R.N. Bates: YY-000001 – YY-000003		RETURNED TO COUNSEL	
ZZ	Expert Reports by Terrence M. Clauretie Bates: ZZ-000001 – ZZ-000018		RETURNED TO COUNSEL	
AAA	Expert file of Terrence M. Clauretie Bates: AAA-000001 – AAA-000066		RETURNED TO COUNSEL	
BBB	Expert fee schedule of Terrence M. Clauretie		RETURNED TO COUNSEL	
CCC	Expert case list of Terrence M. Clauretie Bates: CCC-000001 – CCC-000024		RETURNED TO COUNSEL	
DDD	Expert Reports by Alex Barchuk, M.D. Bates: DDD-000001 – DDD-000032		RETURNED TO COUNSEL	
EEE	Expert file of Alex Barchuk, M.D. Bates: EEE-000001 – EEE-000060		RETURNED TO COUNSEL	
FFF	Expert fee schedule of Alex Barchuk, M.D.		RETURNED TO COUNSEL	
GGG	Expert case list of Alex Barchuk, M.D. Bates: GGG-000001 – GGG-000010		RETURNED TO COUNSEL	

EXHIBIT(S) LIST

Case No.: A-16-739464-C

Trial Date: 10/14/19

Dept. No.: XXXI

Judge: JOANNA S. KISHNER

Titina Farris
PLAINTIFF,

Court Clerk: Susan Botzenhart

Recorder: Sandra Harrell

Counsel for Plaintiff: Randall Jones,

vs.

Jacob Leavitt + George Hand

Barry Rives, M.D.
DEFENDANTS.

Counsel for Defendant: Thomas Doyle

Jury TRIAL BEFORE THE COURT

Court 'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1.	Statement to Jury from Counsel	10-14-19	no	10-14-19	B3
2.	Proposed Instruction not given	10-16-19	no	10-16-19	B5
3.	Juror Question	10-17-19	no	10-17-19	B3
4.	Juror Question	10-17-19	no	10-17-19	B3
5.	Juror Question	10-17-19	no	10-17-19	B3
6.	Verification	10-18-19	no	10-18-19	B3
7.	Transcript 10-7-19	1	1	1	B3
8.	Juror Question	10-21-19	no	10-21-19	B3
9.	Juror Question	10-21-19	no	10-21-19	B3
10.	Juror Question	10-21-19	no	10-21-19	B3
11.	Juror Question	10-21-19	no	10-21-19	B3
12.	Juror Question	10-21-19	no	10-21-19	B3
13.	Insurance Documents	10-21-19	no	10-21-19	B3
14.	Juror Question	10-21-19	no	10-21-19	B3
15.	Juror Question	10-21-19	no	10-21-19	B3
16.	Juror Question	10-21-19	no	10-21-19	B3
17.	Juror Question	10-21-19	no	10-21-19	B3

EXHIBIT(S) LIST

A739464

titina farri's

vs. Barry Rines M.D.

Court

'S EXHIBITS

Page 2

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
18.	Juror Question	10-21-19	no	10-21-19	AB
19.	Juror Question	10-22-19	no	10-22-19	AB
20.	Juror Question	10-22-19	no	10-22-19	AB
21.	Juror Question	10-22-19	no	10-22-19	AB
22.	Juror Question	10-22-19	no	10-22-19	AB
23.	Juror Question	10-23-19	no	10-23-19	AB
24.	Juror Question	10-23-19	no	10-23-19	AB
25.	Juror Question	10-23-19	no	10-23-19	AB
26.	Juror Question	10-23-19	no	10-23-19	AB
27.	Juror Question	10-23-19	no	10-23-19	AB
28.	Juror Question	10-23-19	no	10-23-19	AB
29.	Juror Question	10-23-19	no	10-23-19	AB
30.	Juror Question	10-23-19	no	10-23-19	AB
31.	Juror Question	10-23-19	no	10-23-19	AB
32.	Juror question	10-24-19	no	10-24-19	AB
33.	Juror question	10-24-19	no	10-24-19	AB
34.	Juror question	10-24-19	no	10-24-19	AB
35.	Juror question	10-24-19	no	10-24-19	AB
36.	Juror Question	10-28-19	no	10-28-19	AB
37.	Juror Question	10-28-19	no	10-28-19	AB
38.	Juror Question	10-28-19	no	10-28-19	AB
39.	Juror Question	10-28-19	no	10-28-19	AB
40.	Juror Question	10-30-19	no	10-30-19	AB
41.	Juror Question	10-30-19	no	10-30-19	AB
42.	Juror Question	10-30-19	no	10-30-19	AB

EXHIBIT(S) LIST

Titina farris

vs. Barry Rives, M.D.

Court's

'S EXHIBITS

[illegible]



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

KIMBALL JONES, ESQ.
716 S. JONES BLVD.
LAS VEGAS, NV 89107

DATE: January 3, 2020
CASE: A-16-739464-C

RE CASE: TITINA FARRIS; PATRICK FARRIS vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA, LLC

NOTICE OF APPEAL FILED: December 30, 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 (g) 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 CROSS-APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; JUDGMENT ON VERDICT; NOTICE OF ENTRY OF JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

TITINA FARRIS; PATRICK FARRIS,

Plaintiff(s),

vs.

BARRY RIVES, M.D.; LAPAROSCOPIC
SURGERY OF NEVADA, LLC,

Defendant(s),

Case No: A-16-739464-C

Dept No: XXXI

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 3 day of January 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk