

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

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

Appellants/Cross-Respondents,

vs.

TITINA FARRIS and PATRICK FARRIS,

Respondents/Cross-Appellants.

Electronically Filed
Jan 13 2020 09:52 a.m.
No. 80271 Elizabeth A. Brown
Clerk of Supreme Court

DOCKETING STATEMENT

CIVIL APPEAL

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conference, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously,

they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District: Eighth

County: Clark

District Ct. Case No.: A-16-739464-C

Department: 31

Judge: Hon. Joanna S. Kishner

2. Attorneys filing this docketing statement:

Attorney: Robert L. Eisenberg, Esq.

Telephone: (775) 786-6868

Firm: Lemons, Grundy, & Eisenberg

Address: 6005 Plumas Street, Third Floor

Reno, Nevada 89519

Client(s) BARRY M. RIVES, M.D. AND LAPAROSCOPIC SURGERY OF
NEVADA, LLC

Attorney: Thomas J. Doyle, Esq.

Telephone: (916) 567-0400

Firm: Schuering Zimmerman & Doyle, LLP

Address: 400 University Avenue

Sacramento, California 95825-6502

Client(s): BARRY M. RIVES, M.D. AND LAPAROSCOPIC SURGERY OF
NEVADA, LLC

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney: Kimball J. Jones, Esq.

Telephone: (702) 333-1111

Firm: Bighorn Law

Address: 716 S. Jones Blvd.

Las Vegas, Nevada 89107

Client(s): TITINA FARRIS AND PATRICK FARRIS

Attorney: George F. Hand, Esq.

Telephone: (702) 656-5814

Firm: Hand Page Sullivan Martin, LLC

Address: 3442 N. Buffalo Drive

Las Vegas, Nevada 89129

Client(s): TITINA FARRIS AND PATRICK FARRIS

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input checked="" type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify):_____ |

5. Does this appeal raise issues concerning any of the following? N/A

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

N/A

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

N/A

8. Nature of the action. Briefly describe the nature of the action and the result below: Medical malpractice; judgment for Plaintiffs (\$6,367,805.52).

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9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Whether the district court made erroneous rulings regarding sanctions, including a jury instruction allowing an adverse inference.
2. Whether the district court erred in allowing evidence regarding another case in which Dr. Rives was a defendant.
3. Whether the district court erred in precluding the use of an expert's deposition transcript at trial.
4. Whether the district court erred in precluding the use of defense experts dealing with damages.
5. Whether the district court erred in ruling that Dr. Rives violated the collateral source rule during his testimony.
6. Whether the district court erred by excluding certain medical records.
7. Whether the district court erred by inserting numbers into the verdict form, essentially ruling that, as a matter of law, the plaintiffs were entitled to nearly \$6 million in past and future medical expenses.
8. Whether the district court erred by not allowing medical experts to refer to their records while testifying.
9. Whether the district court erred in its ruling regarding efforts by Plaintiff's counsel to rely on a reptile theory.
10. Whether the district court erred by allowing Plaintiffs to recover damages for amounts billed, as opposed to amounts paid by her health insurance company.
11. Whether the district court erred by striking offers of proof.
12. Whether the district court exhibited pervasive bias and prejudice at trial, preventing Dr. Rives from obtaining a fair trial.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Rives v. Center; No. 79699; issue involving recovery of medical expenses billed versus paid.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: _____

This appeal involves issues of first impression and public policy involving application of sanctions, including a jury instruction allowing an adverse inference based upon alleged non-disclosed evidence. The appeal also involves a significant issue regarding admissibility of evidence of another lawsuit against Dr. Rives. The appeal also involves an unusual issue dealing with a limitation on defense counsel's ability to use a deposition transcript for impeachment of an expert. Finally, the appeal involves an extremely unusual situation in which the judge essentially filled out the numbers on the verdict form, requiring the jury to award medical expenses and future life care plan expenses totaling nearly \$5.7 million.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This case should be retained by the Supreme Court, because the appeal involves a tort judgment of more than \$6 million, which exceeds the presumptive limit in NRAP 17(b)(5).

14. Trial. If this action proceeded to trial, how many days did the trial last?

14 days.

Was it a bench or jury trial? Jury.

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from: November 14, 2019.

17. Date written notice of entry of judgment or order was served: November 19, 2019.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59): N/A

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing:

☐ NRCP 52(b) Date of filing:

☐ NRCP 59 Date of filing:

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion:

(c) Date written notice of entry of order resolving tolling motion was served:

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed: December 18, 2019.

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

Cross-Appeal filed December 31, 2019.

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) _____

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(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) provides an appeal may be taken from a final judgment entered in an action.

22. List all parties involved in the action or consolidated actions in the district court:

Parties:

- (a) TITINA FARRIS
- (b) PATRICK FARRIS
- (c) BARRY RIVES, M.D.
- (d) LAPAROSCOPIC SURGERY OF NEVADA, LLC

(e) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

N/A

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

TITINA AND PATRICK FARRIS: Complaint for medical malpractice; judgment on jury verdict November 14, 2019

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

- ☒ Yes
- ☐ No

25. If you answered "No" to question 24, complete the following: N/A

- (a) Specify the claims remaining pending below:
- (b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered “No” to any part of question 25, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)): N/A

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims.
- Any tolling motion(s) and order(s) resolving tolling motion(s).
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal.
- Any other order challenged on appeal.
- Notices of entry for each attached order.

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VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

BARRY M. RIVES, M.D.

Name of appellant

ROBERT L. EISENBERG, ESQ.

Name of counsel of record

Jan. 13, 2020

Date

Robert L. Eisenberg

Signature of counsel of record

WASHOE COUNTY, NEVADA

State and county where signed

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of LEMONS, GRUNDY & EISENBERG, and on this date the foregoing *Docketing Statement - Civil Appeal* was electronically filed with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Kim Mandelbaum
George Hand
Kimball Jones
Jacob Leavitt
Chad Couchot
Thomas Doyle

I further certify that on this date I served a copy of the foregoing *Docketing Statement - Civil Appeal* by depositing a true and correct copy, postage prepaid via U.S. mail to:

Hon. Stephen Haberfeld
8224 Blackburn Avenue, Suite 100
Los Angeles, CA 90048

Aimee Clark Newberry
400 University Avenue
Sacramento, CA 95825-6502

DATED this 13 day of January, 2020.

LEMONS, GRUNDY & EISENBERG

A handwritten signature in black ink, appearing to read "Lelia Geppert", written over a horizontal line.

Lelia Geppert, Assistant to
ROBERT EISENBERG, ESQ.

List of Documents attached:

1. Complaint, Arbitration Exemption Claimed: MEDICAL MALPRACTICE
Filed: July 1, 2016
2. Judgment on Jury Verdict
Filed: November 14, 2019
3. Notice of Entry of Judgment
Filed: November 19, 2019

ATTACHMENT “1”

ATTACHMENT “1”


CLERK OF THE COURT

COMP

George F. Hand, Esq.
Nevada State Bar No. 8483
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Michael E. Bowman, Esq.
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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.: XXI I

COMPLAINT

Arbitration Exemption Claimed:
MEDICAL MALPRACTICE

Plaintiffs, TITINA FARRIS and PATRICK FARRIS, by and through their attorneys,
George F. Hand, Esq. and Michael E. Bowman, Esq. of Hand & Sullivan, LLC, complains of
Defendants, and each of them, and alleges as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to NRS 4.370 and Nevada
Constitution, Art. VI, § 6.

2. This Court is the proper venue pursuant to NRS 13.040.

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3. Where applicable, all matters set forth herein are incorporated by reference in the various causes of action which follow.

PARTIES

4. Plaintiff TITINA FARRIS is and was at all times relevant hereto a resident of the County of Clark, State of Nevada.

5. Plaintiff, PATRICK FARRIS, is and was at all times relevant hereto a resident of the County of Clark, State of Nevada.

6. That TITINA FARRIS and PATRICK FARRIS are, and at all times relevant herein were, duly married and living together in the County of Clark, State of Nevada.

7. Defendant BARRY RIVES, M.D. (hereinafter sometimes referred to as ("DR. RIVES")), is and was at all relevant times a physician licensed to practice medicine within the State of Nevada, as defined by N.R.S. Chapter 630, et seq.

8. Upon information and belief, it is alleged that at all times relevant hereto Defendant LAPAROSCOPIC SURGERY OF NEVADA LLC was, and still is, a domestic Limited Liability Company regularly doing business in the County of Clark, State of Nevada.

9. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES I through V, inclusive, and ROE CORPORATIONS I through V, inclusive, are unknown to the Plaintiff, who therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated herein as a Does I through V, inclusive, and/or Roe Corporations I through V, inclusive, is responsible in some manner for the events and happenings herein referred to and caused injury and damages proximately thereby to Plaintiff as herein alleged, and Plaintiff will ask leave of this Court to amend this Complaint to insert the true names and capacities of Defendants DOE and/or ROE CORPORATION when the same have been ascertained by Plaintiff, together with appropriate charging allegations, and adjoin such Defendants in this action.

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10. At all relevant times, Defendants, and each of them, were the agents, ostensible agents, servants, employees, employers, partners, co-owners, and/or joint venturers of each other and of their co-defendants, and were acting within the color, purpose and scope of their employment, agency, ownership and/or joint ventures and by reason of such relationships the Defendants, and each of them, are vicariously and jointly and severally responsible and liable for the acts and/or omissions of their co-Defendants.

GENERAL ALLEGATIONS

11. Plaintiff incorporates by reference the above paragraphs as though set forth fully hereunder.

12. From on or about July 31, 2014 to July 16, 2015, Plaintiff was under the care of Defendants.

13. That the Defendants, their agents and/or employees, represented themselves to be competent to perform all professional services, treatments and tests that were to be rendered to the Plaintiff, .

14. That at all times herein mentioned, Defendant BARRY RIVES, M.D. was employed by co-defendant LAPAROSCOPIC SURGERY OF NEVADA LLC and acting within the scope of his employment.

FIRST CAUSE OF ACTION

(Medical Malpractice)

15. Plaintiff incorporates by reference the above paragraphs as though set forth fully hereunder.

16. That at all times pertinent hereto, Defendants had a duty to adequately and properly evaluate, diagnose and/or otherwise provide competent medical care within the accepted standard of care to TITINA FARRIS, as well as properly supervise, monitor, communicate with others, and otherwise ensure her health and safety while this patient was under their care.

17. Defendants, each individually, breached the standard of care they owed to Plaintiff TITINA FARRIS by failing to provide reasonable and competent medical treatment and monitoring.

1 18. In support of the allegations contained within this Complaint, Plaintiff has attached
2 as Exhibit 1 the *Affidavit of Vincent E. Pesiri, M.D.* and as Exhibit 2, his *Curriculum Vitae*. Dr.
3 Pesiri was at the time of the events alleged herein, and still is, Board Certified in Surgery. Dr.
4 Pesiri has reviewed the relevant medical records. Based upon his training, background, knowledge
5 and experience, he is familiar with the applicable standards of care for the treatment of individuals
6 demonstrating the symptoms and conditions presented by Plaintiff TITINA FARRIS. Further, he is
7 qualified on the basis of his training, background, knowledge, and experience to offer an expert
8 medical opinion regarding those accepted standards of medical care, the breaches thereof in this
9 case, and any resulting injuries and damages arising therefrom.

10 19. Dr. Pesiri has opined in the attached Exhibit 1 that, to a reasonable degree of
11 medical probability, Defendants fell below the accepted standard of care in their treatment of
12 Plaintiff. On July 3, 2015, Barry Rives, M.D. of Laparoscopic Surgery of Nevada performed a
13 laparoscopic reduction and repair of incarcerated incisional hernia on Titina Farris at St. Rose
14 Dominican Hospital – San Martin Campus. Post-operatively, the patient, Titina Farris became
15 septic as a result of a perforated colon. Dr. Pesiri opined that Dr. Rives deviated from the accepted
16 standard of care in his treatment of Titina Farris. The records indicate Titina Farris was a type 2
17 diabetic, obese and had a history of c-sections. On August 7, 2014, Dr. Rives performed an
18 excision of abdominal wall lipoma with repair of ventral hernia with mesh on Titina Farris. After
19 the August, 2014 surgery, Titina Farris indicated that she thought there was a recurrence of the
20 hernia. After a CT scan in June, 2015, it was determined by Dr. Rives that there was a recurrent
21 abdominal wall hernia. Dr. Rives recommended laparoscopic ventral hernia repair with mesh.

22 20. On July 3, 2015, Dr. Rives performed “1. Laparoscopic reduction and repair of
23 incarcerated incisional hernia with mesh; and 2. Colonorrhaphy x2.” on Titina Farris, a 52 year old
24 female. The operative report of Dr. Rives indicates that the transverse colon was severely stuck
25 and adhered to prior mesh repair. The mesh would not come free from the skin. A small tear was
26 created in the colon using a Endo-GIA blue load. Dr. Rives stapled across the small colotomy. A
27 second small colotomy was also noticeable and was repaired. Dr. Rives noted that after successive
28 firings, the staple lines appeared to be intact. He noted no further serosal or full-thickness injuries

1 to the colon. A piece of mesh was placed in the intrabdominal cavity. The colon was noted to be
2 healthy, viable with no further injuries or tears. The patient was extubated in the OR and noted to
3 be in stable condition.

4 21. After the July 3, 2015 surgery, Titina Farris was noted to have an extremely high
5 WBC. Titina Farris was transferred to the ICU on July 4, 2015. Titina Farris continued to
6 deteriorate. She was noted to have respiratory failure, atrial fibrillation, fever, leukocytosis and
7 ileus. There was evidence of sepsis. Dr. Rives did not determine the cause of the infection post-
8 operatively and Titina Farris did not improve. Titina Farris was placed on a ventilator and received
9 a tracheostomy. Dr. Elizabeth Hamilton was called in for a second opinion.

10 22. On July 16, 2015, Dr. Hamilton operated on Titina Farris. The procedure performed
11 was: 1. Exploratory laparotomy; 2. Removal of prosthetic mesh and washout of abdomen; 3.
12 Partial colectomy and right ascending colon end ileostomy; 4. Extensive lysis of adhesions over 30
13 minutes; 5. Retention suture placement; 6. Decompression of the stool from the right colon into
14 the ostomy; The postoperative diagnosis was: 1. Perforated viscus with free intra-abdominal air;
15 2. Sepsis; 3. Respiratory failure; 4. Anasarca; 5. Fever; 6. Leukocytosis; 7. Fecal disimpaction
16 of the rectum. Of significance, the operative report states: "Decision was made that she had
17 evidence of perforation and likely perforation of the colon from the previous colon injuries. A
18 decision was made that it would be in her best interest to take her to the operating room to evaluate
19 this and try to get rid of the source of continued sepsis in this patient, who is failing". The
20 transverse colon was visualized and there was an approximately quarter-size or 2.5 to 3 cm hole.
21 Around it was an active leak of green feculent material and free air. Feculent material was noted
22 on the mesh with 3 cm colotomy in the transverse colon at the staple line. Titina Farris currently
23 has bilateral foot drop as well as a colostomy. Dr. Pesiri opined that Dr. Rives fell beneath the
24 accepted standard of care as follows: a. Intraoperative technique; b. Failure to adequately repair
25 bowel perforations at the time of July 3, 2015 surgery; c. Poor post-operative management of
26 perforated bowel and resultant sepsis.

31. As a proximate result of these actions and/or omissions, TITINA FARRIS has had to endure extreme pain and suffering.

32. As a proximate result of these actions and/or omissions, TITINA FARRIS will incur future medical and other special expense, in an amount to be determined at trial.

33. As a result of these actions and/or omissions, TITINA FARRIS is entitled to be compensated in an amount to be determined at the time of trial of this matter, but which is in excess of TEN THOUSAND DOLLARS (\$10,000.00).

34. That as a direct result of these actions and/or omissions, TITINA FARRIS was required to retain the services of an attorney and seeks reimbursement for attorney's fees and costs.

THIRD CAUSE OF ACTION

(Loss of Consortium)

35. Plaintiff incorporates by reference the above paragraphs as though set forth fully hereunder.

36. That TITINA FARRIS suffered injuries as a direct result of Defendants actions as alleged herein.

37. At the time of the events complained of in the Plaintiffs' Complaint, the Plaintiffs were married and that the Plaintiffs continue to be married.

38. That as a result of the wrongful and negligent acts of the Defendants, and each of them, the Plaintiffs were caused to suffer, and will continue to suffer in the future, loss of consortium, loss of society, affection, assistance, and conjugal fellowship, all to the detriment of their marital relationship.

39. That all the aforesaid injuries and damages were caused solely and proximately by the negligence of the Defendants.

WHEREFORE, Plaintiffs prays for judgment against the Defendants, and each of them, as follows:

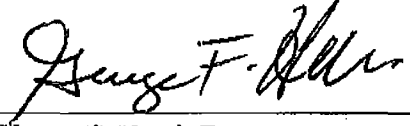
1. For general damages and loss in an amount in excess of TEN THOUSAND DOLLARS (\$10,000);

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2. For special damages in an amount to be determined at time of trial;
3. For reasonable attorneys fees, pre and post-judgment interest, and costs of suit; and
4. For such other and further relief as the Court may deem just and proper.

Dated: July / , 2016

HAND & SULLIVAN, LLC

By: 

George F. Hand, Esq.
Nevada State Bar No. 8483
Michael E. Bowman, Esq.
Nevada State Bar No. 13833
3442 North Buffalo Drive
Las Vegas, Nevada 89129
Attorneys for Plaintiffs
TITINA FARRIS and PATRICK
FARRIS

ATTACHMENT “2”

ATTACHMENT “2”



JGJV

KIMBALL JONES, ESQ.

Nevada Bar No.: 12982

JACOB G. LEAVITT, ESQ.

Nevada Bar No. 12608

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Nevada Bar No. 8483

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Phone: (702) 656-5814

ghand@handsullivan.com

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;

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- 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.

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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

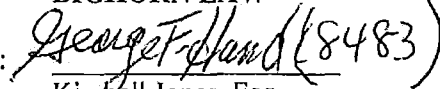
17 Respectfully Submitted by:

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:  (8483)
22 Kimball Jones, Esq.
23 Nevada Bar No. 12982
24 716 S. Jones Blvd
25 Las Vegas, NV 89107

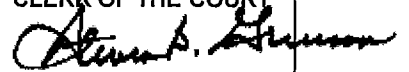
26 George F. Hand, Esq.
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28 3442 N. Buffalo Drive
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ATTACHMENT “3”

ATTACHMENT “3”



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19 *Attorneys for Plaintiffs*

DISTRICT COURT

CLARK COUNTY, NEVADA

20 TITINA FARRIS and PATRICK FARRIS,

21 Plaintiffs,

22 vs.

23 BARRY RIVES, M.D.; LAPAROSCOPIC
24 SURGERY OF NEVADA, LLC et al.,

25 Defendants.

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

NOTICE OF ENTRY OF JUDGMENT

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

28 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

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

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

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