

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants/Cross-Respondents,
vs.

TITINA FARRIS and PATRICK FARRIS,
Respondents/Cross-Appellants.

No.: 80271

Appeal from the Eighth Judicial District
Court, the Honorable Joanna S. Kishner
Presiding

Electronically Filed
Feb 10 2021 06:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

vs.

TITINA FARRIS and PATRICK FARRIS,
Respondents.

No.: 81052

Appeal from the Eighth Judicial District
Court, the Honorable Joanna S. Kishner
Presiding

RESPONDENTS/CROSS-APPELLANTS' APPENDIX, VOLUME 9
(Nos. 1154–1173)

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Attorneys for Respondents/Cross-Appellants, Titina Farris and Patrick Farris

INDEX TO RESPONDENTS/CROSS-APPELLANTS'
ANSWERING APPENDIX

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
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1	Defendants Barry J. Rives, M.D. and Laparoscopic Surgery of Nevada, LLC’s Rebuttal Disclosure of Expert Witnesses and Reports (served 12/19/2018)	Vol. 1, 40–44
2	Sarah Larsen, R.N., M.S.N., F.N.P., C.L.C.P. Life Care Plan Report (dated 12/19/2018)	Vol. 1, 45–76
3	Scott J. Kush, M.D., JD, MPH Life Expectancy Report of (dated 12/19/2018)	Vol. 1, 77–109
4	Report of Bruce T. Adornato, M.D. (dated 12/18/2018)	Vol. 1, 110–128
5	Lance R. Stone, DO Report (dated 12/19/2018)	Vol. 1, 129–142
6	Kim S. Erlich M.D. Report (dated 11/26/2018)	Vol. 1, 143–158
7	Brian E. Juell M.D., F.A.C.S. Report (dated 12/16/2018)	Vol. 1, 159–162

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8	Bart J. Carter, M.D., F.A.C.S. Report (dated 12/19/2018)	Vol. 1, 163–165
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Exhibit	Document Description	
1	Notice Vacating the Deposition of Gregg Ripplinger, M.D.	Vol. 2, 174–177
Plaintiffs’ Trial Exhibits List		Vol. 2, 178–185
Plaintiffs’ Trial Exhibits		
Exhibit	Document Description	
1	St. Rose Dominican San Martin Hospital Medical Records and Billing	Vol. 3, 186–355 Vol. 4, 356–505 Vol. 5, 506–655 Vol. 6, 656–818
6	CareMeridian Medical Records and Billing	Vol. 7, 819–845

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
10	Video of Titina Farris taken by Lowell Pender on April 13, 2015 (<i>See</i> Supreme Court Order Granting Motions, dated 11/10/2020, allowing Trial Exhibit 10 to be filed.	
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Court's Trial Exhibits		
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2	Proposed Instruction Not Given (dated 10/16/2019)	Vol. 7, 850
3	Juror [Fossile, Badge No. 444] Question (dated 10/17/2019)	Vol. 7, 851
4	Juror [Fossile, Badge No. 444] Question (dated 10/17/2019)	Vol. 7, 852–853
5	Juror Collins [Badge No. 450] Question (dated 10/17/2019)	Vol. 7, 854
6	Verification (dated 10/18/2019)	Vol. 7, 855
7	October 7, 2019 Transcript of Pending Motions	Vol. 7, 856–937
8	Juror [Collins, Badge No. 450] Question (dated 10/21/2019)	Vol. 7, 938
9	Juror No. 9 [Peacock] Question (dated 10/21/2019)	Vol. 7, 939

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10	Juror [Crenshaw, Badge No. 455] Question (dated 10/21/2019)	Vol. 7, 940–941
11	Juror [Crenshaw, Badge No. 455] Question (dated 10/21/2019)	Vol. 7, 942
12	Juror [Crenshaw, Badge No. 455] Question (dated 10/21/2019)	Vol. 7, 943
13	Insurance Documents (dated 10/21/2019)	Vol. 7, 944–950
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17	Juror [Root, Badge No. 361] Question (dated 10/21/2019)	Vol. 7, 957–958
18	Juror [Collins, Badge No. 450] Question (dated 10/21/2019)	Vol. 7, 959–960
19	Juror [Root, Badge No. 361] Question (dated 10/22/2019)	Vol. 7, 961
20	Juror [Fossile, Badge No. 444] Question (dated 10/22/2019)	Vol. 7, 962
21	Juror No. 9 [Peacock] Question (dated 10/22/2019)	Vol. 7, 963–964

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25	Juror [Crenshaw, Badge No. 455] Question (dated 10/23/2019)	Vol. 7, 967
26	Juror [Root, Badge No. 361] Question (dated 10/23/2019)	Vol. 7, 968
27	Juror [Barrios, Badge No. 366] Question (dated 10/23/2019)	Vol. 7, 969
28	Juror No. 9 [Peacock] Question (dated 10/23/2019)	Vol. 7, 970–971
29	Juror No. 9 [Peacock] Question (dated 10/23/2019)	Vol. 7, 972
30	Juror [Fossile, Badge No. 444] Question (dated 10/23/2019)	Vol. 7, 973
31	Juror No. 9 [Peacock] Question (dated 10/23/2019)	Vol. 7, 974
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33	Juror No. 9 [Peacock] Question (dated 10/24/2019)	Vol. 7, 976

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37	Juror [Thomas, Badge 418] Question (dated 10/28/2019)	Vol. 7, 980
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40	Juror No. 9 [Peacock] Question (dated 10/30/2019)	Vol. 7, 983
41	Juror [Collins, Badge No. 450] Question (dated 10/30/2019)	Vol. 7, 984
42	Juror [Crenshaw, Badge No. 455] Question (dated 10/30/2019)	Vol. 7, 985
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44	Juror [Crenshaw, Badge No. 455] Question (dated 10/31/2019)	Vol. 7, 987–988

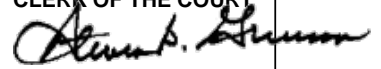
<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
45	Juror [Fossile, Badge No. 444] Question (dated 10/31/2019)	Vol. 7, 989
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Defendants Barry J. Rives, M.D.’s and Laparoscopic Surgery of Nevada, LLC’s Motion to Re-Tax and Settle Plaintiffs’ Costs (filed 11/22/2019)	Vol. 12, 1509–1522

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
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 (filed 11/26/2019)		Vol. 12, 1523–1533
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Exhibit	Document Description	
1	Judgment on Verdict (filed 11/14/2019)	Vol. 12, 1534–1538
2	Plaintiffs' Verified Memorandum of Costs and Disbursements (filed 11/19/2019)	Vol. 12, 1539–1547
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Plaintiffs' Supplemental Opposition to Defendants Barry J. Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Re-Tax and Settle Plaintiffs' Costs (filed 01/21/2020)		Vol. 16, 1942–1956

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
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Exhibit	Document Description	
1(a)	Dr. Hurwitz's Report, Billing Rate and CV	Vol. 16, 1957–1969
1(b)	Proof of Payment Issued to Dr. Hurwitz Totaling \$11,000.00 for Fees	Vol. 16, 1970–1973
2(a)	Dr. Willer's Report, Billing Rate and CV	Vol. 16, 1974–1991
2(b)	Proof of Payment Issued to Dr. Willer Totaling 17,425.00 for Fees	Vol. 16, 1992–1995
3(a)	Dr. Barchuk's Report, Billing Rate and CV	Vol. 16, 1996–2063
3(b)	Proof of Payment Issued to Dr. Barchuk Totaling \$26,120.00 for Fees	Vol. 16, 2064–2068
4(a)	Dawn Cook's Life Care Plan Report, Billing Rate and CV	Vol. 16, 2069–2104 Vol. 17, 2105–2162
4(b)	Proof of Payment Issued to Dawn Cook Totaling \$17,957.03 for Fees	Vol. 17, 2163–2168
5(a)	Dr. Stein's Report, Billing Rate and CV	Vol. 17, 2169–2179
5(b)	Proof of Payment Issued to Dr. Stein Totaling \$19,710.00 for Fees	Vol. 17, 2180–2185
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<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
7(a)	Dr. Clauretie's Report, Billing Rate and CV	Vol. 17, 2188–2206
7(b)	Proof of Payment Issued to Dr. Clauretie Totaling \$1,575.00 for Fees	Vol. 17, 2207–2208
8	Plaintiffs' Supplemental Memorandum of Costs and Disbursements (filed 01/21/2020)	Vol. 17, 2209–2267 Vol. 18, 2268–2429 Vol. 19, 2430–2592
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Minutes of February 11, 2020 Hearing on Defendants Barry J. Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Re-Tax and Settle Plaintiffs' Costs		Vol. 20, 2604
District Court Docket Case No. A-16-739464-C		Vol. 20, 2605–2614



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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 ORDER

26 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that an Order was entered, in
27 the above-entitled matter, on October 23, 2019, a copy of which is attached hereto.

28 DATED this 23rd day of October, 2019.

BIGHORN LAW

By: /s/ Kimball Jones

KIMBALL JONES, ESQ.

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Attorneys for Plaintiffs

Page 1 of 2

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 23rd day of October, 2019, I served the foregoing ***NOTICE OF ENTRY***
4 ***OF ORDER*** 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.
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21
22 /s/ Erickson Finch
23 An employee of **BIGHORN LAW**
24
25
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1 **ORDR**

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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 **ORDER ON PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH
SUPPLEMENTS TO NRCP 16.1 DISCLOSURES**

Plaintiffs' Motions to Strike Defendants' Fourth and Fifth Supplements to NRCP 16.1 disclosures having come on for hearing before this Honorable Court on the 10th day of October, 2019, at 1:30 p.m., with KIMBALL JONES, ESQ. and JACOB G. LEAVITT, ESQ. with the Law Offices of **BIGHORN LAW**, appearing on behalf of Plaintiffs, and THOMAS J. DOYLE, ESQ., CHAD C. COUCHOT, ESQ. and AIMEE CLARK NEWBERRY, ESQ., with the Law Offices of **SCHUERING**

1 ZIMMERMAN & DOYLE, LLP, appearing on behalf of Defendants, and with the Honorable Court
2 having reviewed the pleadings and papers on file herein and with hearing the arguments of counsel:

3 Discovery in this matter closed on July 24, 2019. Defendants submitted their Fourth
4 Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on September 12, 2019— fifty
5 (50) days after the close of discovery. On September 23, 2019, Defendants submitted their Fifth
6 Supplement to NRCP 16.1 Disclosure of Witnesses and Documents. The witnesses were known
7 prior to the close of discovery on should have been known based
8 As to the witnesses disclosed in Defendants' 4th and 5th Supplemental NRCP 16.1 disclosures, on the
9 the Court found Defendants' late disclosure was not "harmless" and Defendants did not meet their records,
10 burden of proving the disclosures was substantially justified. documents,
11 and
12 facts of
13 the case.
14 Jdk

15 The striking of these untimely disclosed supplements is supported by NRCP 37(c)(1), which
16 states, "(1) A party that without substantial justification fails to disclose information required by Rule
17 16.1, 16.2, or 26(e)(1), or to amend a prior response to discovery as required by Rule 26(e)(2), is not,
18 unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any
19 witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion
20 and after affording an opportunity to be heard, may impose other appropriate sanctions. In addition to
21 requiring payment of reasonable expenses, including attorney's fees, caused by the failure, these
22 sanctions may include any of the actions authorized under Rule 37(b)(2)(A), (B), and (C) and may
23 include informing the jury of the failure to make the disclosure."

24 As Plaintiffs were harmed by this late disclosure of witnesses, and as Defendants were unable
25 to justify their late submission, AND NO Alternative Relief would be applicable in
26 the witnesses and documents disclosed therein (not including expert light
27 reports) are properly stricken and excluded from trial. Regarding the supplemented expert reports, the of the
28 Court will not strike the reports, but the experts are not permitted to expound upon the opinions therein. trial
date
of the
Medical
Malpractice
case,
Jdk

///

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1 THEREFORE, IT IS HEREBY ORDERED that Plaintiffs' Motion to Strike Defendants'
2 Fourth and Fifth Supplements to NRCP 16.1 Disclosures is GRANTED IN PART AND DENIED IN
3 PART.

4 IT IS FURTHER ORDERED that the witnesses and documents, excepting Defendants'
5 supplemental expert reports, are hereby stricken; the witnesses may not be called and the documents
6 may not be used at trial.

7 IT IS FURTHER ORDERED that Defendants' supplemental expert reports are not stricken,
8 though the experts are not permitted to expound upon the opinions therein.

9 DATED this 21 day of October, 2019.

10
11
12 
13 _____
14 DISTRICT COURT JUDGE

15 Respectfully Submitted By:

16 **BIGHORN LAW
17 HAND & SULLIVAN, LLC**

18 
19 **KIMBALL JONES, ESQ.
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28 Approved as to Form and Content By:

29 **SCHUERING ZIMMERMAN & DOYLE, LLP
30 MANDELBAUM ELLERTON &
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40 Sacramento, California 95825
41 *Attorneys for Defendants*

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

October 24, 2019 10:15 AM Jury Trial - Med Mal #1

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

COURT CLERK: Boyle, Shelley

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

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

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 08:30 AM Jury Trial - Med Mal #1

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

COURT CLERK: Botzenhart, Susan

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

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

Printed Date: 10/31/2019

Page 1 of 2

Minutes Date:

October 28, 2019

Prepared by: Susan Botzenhart

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

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 09:00 AM Jury Trial - Med Mal #1

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

COURT CLERK: Botzenhart, Susan

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

Barry Rives, M.D.	Defendant
George F. Hand	Attorney for Plaintiff
Jacob G Leavitt	Attorney for Plaintiff
Kimball Jones	Attorney for Plaintiff
Thomas J. Doyle	Attorney for 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.).

Printed Date: 10/31/2019

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Minutes Date:

October 29, 2019

Prepared by: Susan Botzenhart

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

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 08:30 AM Jury Trial - Med Mal #1

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

COURT CLERK: Botzenhart, Susan

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

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

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Minutes Date:

October 30, 2019

Prepared by: Susan Botzenhart

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

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 08:00 AM Jury Trial - Med Mal #1

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

COURT CLERK: Botzenhart, Susan

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

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

Printed Date: 11/5/2019

Page 1 of 2

Minutes Date:

October 31, 2019

Prepared by: Susan Botzenhart

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

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

November 01, 2019 08:30 AM All Pending Motions

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

COURT CLERK: Husted, Denise

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

George F. Hand	Attorney for Plaintiff
Jacob G Leavitt	Attorney for Plaintiff
Kimball Jones	Attorney for Plaintiff
Thomas J. Doyle	Attorney for Defendant

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



ORIGINAL

JURL

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

NOV 01 2019

DISTRICT COURT
CLARK COUNTY, NEVADA

BY, *Denise Husted*
DENISE HUSTED, DEPUTY

TITINA FARRIS, PLAINTIFF(S)
VS.
BARRY RIVES, M.D., DEFENDANT(S)

CASE NO.: A-16-739464-C

DEPARTMENT 31

SECOND AMENDED JURY LIST

1. Mr. Kyle Root
2. Mr. Felix Barrios
3. Ms. Ashley Fossile
4. Ms. Tara Collins
5. Mr. Francisco Hernandez

6. EXCUSED
7. Ms. Belinda Hightower
8. Ms. Darea'l Thomas
9. Ms. Cindy Peacock

ALTERNATES

1. Mr. Roger Johnson

A-16-739464-C
JURL
Jury List
4873596



**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
(11/07/2019)****HEARD BY:** Kishner, Joanna S.**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Susan Botzenhart**RECORDER:** Sandra Harrell**REPORTER:****PARTIES****PRESENT:**

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

Attorney for Defendants
Attorney for Plaintiffs
Attorney for Plaintiffs
Attorney for Plaintiffs

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

PRINT DATE: 11/07/2019**Page 1 of 2****Minutes Date:** November 07, 2019

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

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 (11/13/2019)

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

COURT CLERK: Botzenhart, Susan

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

George F. Hand	Attorney for Plaintiff
Jacob G Leavitt	Attorney for Plaintiff
Kimball Jones	Attorney for Plaintiff
Thomas J. Doyle	Attorney for Defendant

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.

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 01:30 PM All Pending Motions (11/14/19)

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

COURT CLERK: Botzenhart, Susan

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

George F. Hand	Attorney for Plaintiff
Jacob G Leavitt	Attorney for Plaintiff
Kimball Jones	Attorney for Plaintiff
Thomas J. Doyle	Attorney for Defendant

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.