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15 Mark.Brown@thehartford.com

16 *Attorneys for Defendant, Capriati Construction Corp. Inc.*

17
18 **DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20 BAHRAM YAHYAVI,)
21 Plaintiff,)
22 v.)
23 CAPRIATI CONSTRUCTION CORP., INC.,)
a Nevada Corporation,)
24 Defendant.)
25)

26) CASE NO. A-15-718689-C
27) DEPT NO. XXVIII
28)
29) **AMENDED**
30) **NOTICE OF APPEAL**

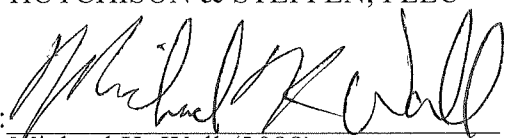
26 Notice is given that Capriati Construction Corp., Inc., Defendant in the above-captioned
27 matter, appeals to the Supreme Court of Nevada from the following Orders:

- 28 1. The District Court's Order of Judgment Upon the Jury Verdict entered in this

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- action on October 22, 2019;
 - 2. The District Court’s post-judgment Decision and Order (for sanctions), entered in this action on November 5, 2019;
 - 3. The District Court’s post-judgment Order denying Defendant’s motion for a new trial, entered in this action on March 3, 2020;
 - 4. The District Court’s post-judgment order granting in part, and denying in part, defendant’s motion to retax costs, entered in this action on March 3, 2020;
 - 5. The District Court’s post-judgment order granting in part, and denying in part, plaintiff’s motion for attorney’s fees, costs, and interest, entered in this action on March 3, 2020; and
 - 6. Any and all orders and judgments rendered appealable by any of the foregoing.
- DATED this 13 day of March, 2020.

HUTCHISON & STEFFEN, PLLC

By: 
Michael K. Wall (2098)
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145

Appellate counsel for Defendant

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN,
3 PLLC and that on this 13^m day of March, 2020, I caused the above and foregoing document
4 entitled **NOTICE OF APPEAL** to be served as follows:

- 5 by placing same to be deposited for mailing in the United States Mail, in a
6 sealed envelope upon which first class postage was prepaid in Las Vegas,
7 Nevada; and/or
- 8 to be sent **via facsimile**; and/or
- 9 sent electronically via the Court's electronic service system; the date and time of
10 this electronic service is in place of the date and in place of deposit in the mail.
- 11 to be hand-delivered;

12 to the attorney(s) listed below at the address and/or facsimile number indicated below:

13 Dennis M. Prince, Esq.
14 PRINCE LAW GROUP
15 8816 Spanish Ridge Ave.
16 Las Vegas, NV 89148
17 Tel: (702) 534-7600
18 Fax: (702) 534-7601

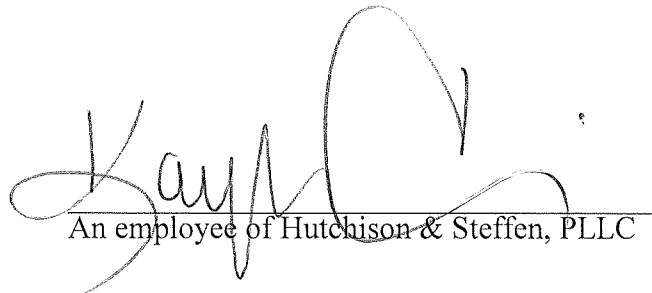
19 *Attorney for Plaintiff Bahram Yahyavi*

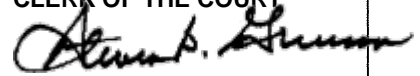
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*Attorney for Defendant Capriati
Construction, Inc.*

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22 8072 W. Sahara Ave., Ste A
23 Las Vegas, NV 89117
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25 Fax: (702) 233-9103

26 *Attorney for Plaintiff Bahram Yahyavi*

27
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An employee of Hutchison & Steffen, PLLC



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15 *Attorneys for Defendant, Capriati Construction Corp. Inc.*

16
17 **DISTRICT COURT**
18 **CLARK COUNTY, NEVADA**

19 BAHRAM YAHYAVI,)
20 Plaintiff,)
21 v.)
22 CAPRIATI CONSTRUCTION CORP., INC.,) **DEFENDANT'S AMENDED CASE**
a Nevada Corporation,) **APPEAL STATEMENT**
23 Defendant.)
24)

25 **1. Party filing this Case Appeal Statement**

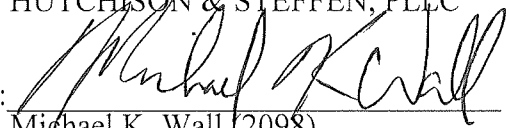
26 This appeal and case appeal statement is filed on behalf of Defendant Capriati
27 Construction Corp., Inc in the action above.

28 **2. Judge issuing the decision, judgment or order appealed from.**

The Honorable District Judge Ronald J. Israel, Eighth Judicial District Court, Clark

- 1 **6. Whether Respondent was represented by appointed or retained counsel in the**
2 **district court.**
3 Respondent was represented by retained counsel in district court.
- 4 **7. Whether Appellant was represented by appointed or retained counsel in the**
5 **district court.**
6 Appellant was represented by retained counsel in district court.
- 7 **8. Whether Appellant was granted leave to proceed in forma pauperis in the district**
8 **court.**
9 Appellant was not granted leave to proceed in district court in forma pauperis.
- 10 **9. The date the proceedings commenced in district court.**
11 This action commenced with the filing of Plaintiff Bahram Yahyavi's Complaint for
12 Auto Negligence and Personal Injury, filed May 20, 2015.
- 13 **10. Brief description of the nature of the action and result in district court.**
14 This action is an auto negligence and personal injury dispute arising from the alleged
15 injuries Plaintiff sustained when a Defendant owned forklift collided with Plaintiff's
16 vehicle. The case proceeded to trial on September 9, 2019 through September 27, 2019
17 where a Judgment upon the Jury Verdict was entered against Defendant on October 22,
18 2019 in excess of six million dollars. Shortly thereafter on November 5, 2019, the
19 Honorable Judge Israel issued a Decision and Order regarding, among other things,
20 sanctions.
- 21 **11. Whether the case has been the subject of a previous appeal.**
22 This matter is the subject of another appeal currently pending in the Supreme Court of
23 the State of Nevada, case number 80107.
- 24 **12. Whether this appeal involves child custody or visitation.**
25 There is no child custody or visitation issues in this case.
- 26 **13. Whether the appeal involves the possibility of settlement.**
27 It is counsel's belief there is a possibility of settlement.

28 DATED this 13 day of March, 2020.

HUTCHISON & STEFFEN, PLLC
By: 
Michael K. Wall (2098)
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Appellate counsel for Defendant

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCp 5(b), I certify that I am an employee of HUTCHISON & STEFFEN,
3 PLLC and that on this 13th day of March, 2020, I caused the above and foregoing document
4 entitled **DEFENDANT'S AMENDED CASE APPEAL STATEMENT** to be served as
5 follows:

- 6 by placing same to be deposited for mailing in the United States Mail, in a
7 sealed envelope upon which first class postage was prepaid in Las Vegas,
8 Nevada; and/or
9 to be sent **via facsimile**; and/or
10 sent electronically via the Court's electronic service system; the date and time of
11 this electronic service is in place of the date and in place of deposit in the mail.
12 to be hand-delivered;

13 to the attorney(s) listed below at the address and/or facsimile number indicated below:

14 Dennis M. Prince, Esq.
15 PRINCE LAW GROUP
16 8816 Spanish Ridge Ave.
17 Las Vegas, NV 89148
18 Tel: (702) 534-7600
19 Fax: (702) 534-7601

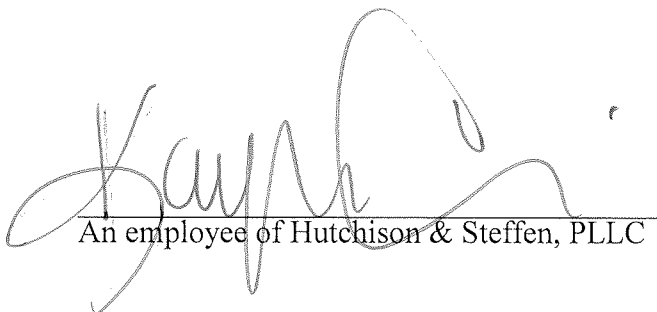
20 *Attorney for Plaintiff Bahram Yahyavi*

21 Eric R. Larsen, Esq.
22 Law Offices of Eric R. Larsen
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24 Las Vegas, NV 89148
25 Tel: (877) 369-5819
26 Fax: (702) 387-8082

27 *Attorney for Defendant Capriati
28 Construction, Inc.*

29 Malik W. Ahmad, Esq.
30 LAW OFFICE OF MALIK W. AHMAD
31 8072 W. Sahara Ave., Ste A
32 Las Vegas, NV 89117
33 Tel: (702) 270-9100
34 Fax: (702) 233-9103

35 *Attorney for Plaintiff Bahram Yahyavi*

36 
37 An employee of Hutchison & Steffen, PLLC

CASE SUMMARY

CASE NO. A-15-718689-C

Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

§
§
§
§
§
§

Location: **Department 28**
 Judicial Officer: **Israel, Ronald J.**
 Filed on: **05/20/2015**
 Cross-Reference Case Number: **A718689**
 Supreme Court No.: **80107**

CASE INFORMATION

Statistical Closures
 10/01/2019 Verdict Reached

Case Type: **Negligence - Auto**

Case Status: **10/01/2019 Closed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-15-718689-C
Court	Department 28
Date Assigned	05/20/2015
Judicial Officer	Israel, Ronald J.

PARTY INFORMATION

Plaintiff	Yahyavi, Bahram	<i>Lead Attorneys</i> Prince, Dennis M <i>Retained</i> 702-534-7600(W)
Defendant	Capriati Construction Corp Inc	Brown, Mark James <i>Retained</i> 702-387-8070(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

05/20/2015	 Complaint Filed By: Plaintiff Yahyavi, Bahram <i>Complaint for Auto Negligence and Personal Injury</i>
05/20/2015	Case Opened
08/26/2015	 Affidavit of Service Filed By: Plaintiff Yahyavi, Bahram <i>Affidavit of Service</i>
10/07/2015	 Initial Appearance Fee Disclosure Filed By: Defendant Capriati Construction Corp Inc <i>Defendant's Initial Appearance Fee Disclosure</i>
10/07/2015	 Demand for Jury Trial Filed By: Defendant Capriati Construction Corp Inc <i>Defendant's Demand for Jury Trial</i>
10/07/2015	 Answer Filed By: Defendant Capriati Construction Corp Inc

CASE SUMMARY
CASE NO. A-15-718689-C

Defendant's Answer to Plaintiff's Complaint

- 10/20/2015  Notice of Change of Firm Name
 Filed By: Defendant Capriati Construction Corp Inc
Notice of Change of Firm Name

- 10/27/2015  Motion
 Filed By: Plaintiff Yahyavi, Bahram
Motion to Exempt from Arbitration

- 12/11/2015  Commissioners Decision on Request for Exemption - Granted
Commissioner's Decision on Request for Exemption

- 03/04/2016  Joint Case Conference Report
 Filed By: Plaintiff Yahyavi, Bahram
Joint Case Conference Report

- 03/24/2016  Scheduling Order
Scheduling Order

- 04/04/2016  Order Setting Civil Jury Trial
Order Setting Civil Jury Trial

- 01/13/2017  Notice
Notice of Scheduling Settlement Conference

- 01/18/2017  Association of Counsel
 Filed By: Plaintiff Yahyavi, Bahram
Notice of Association of Counsel

- 01/30/2017  Order Setting Civil Jury Trial
Order Re-Setting Civil Jury Trial

- 06/15/2017  Pre-Trial Disclosure
 Party: Defendant Capriati Construction Corp Inc
Defendant's Pre-Trial Disclosures

- 06/15/2017  Motion in Limine
(Withdrawn 01/04/2019) Defendant's Motion in Limine No. 1 - To Preclude Plaintiff From Presenting Expert Testimony

- 06/15/2017  Motion in Limine
Defendant's Motion in Limine No. 2 - To Preclude Plaintiff from Introducing Any Documents or Medical Testimony or Reference Any Treatment Allegedly Related to the Accident after April 2015

- 06/15/2017  Motion in Limine
Defendant's Motion in Limine No. 3 - To Preclude Plaintiff or Plaintiff's Attorney From Claiming Disability, Loss of Earning Capacity, Future Medical Care, Loss of Household Services, or Right Knee Injury From Accident

- 06/15/2017  Motion in Limine
Defendant's Motion in Limine No. 4 - To Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by

CASE SUMMARY

CASE NO. A-15-718689-C

Providers

- 06/19/2017  Pre-Trial Disclosure
Party: Plaintiff Yahyavi, Bahram
PLAINTIFF'S N.R.C.P. 16.1(A)(3)(A) PRETRIAL DISCLOSURES
- 06/27/2017  Pre-Trial Disclosure
Party: Plaintiff Yahyavi, Bahram
Plaintiff's Amended D N.R.C.P. 16.1(A)(3)(A) Pretrial Disclosures
- 06/29/2017  Opposition to Motion in Limine
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Omnibus Oppositions To Defendant's Motions In Limine And Countermotion To Initiate/Reopen Discovery In This Matter
- 07/07/2017  Reply to Opposition
Defendant s Reply to Plaintiff s Opposition to Motion in Limine No. 1 to Preclude Plaintiff from Presenting Expert Testimony and Opposition to Counter-Motion
- 07/07/2017  Reply to Opposition
Defendant s Reply to Plaintiff s Opposition to Motion In Limine No. 2 to Preclude Plaintiff from Introducing Any Documents or Medical Testimony or Referencing Any Treatment Allegedly Related to the Accident after April 2015
- 07/07/2017  Reply to Opposition
Defendant s Reply to Plaintiff s Opposition to Motion in Limine No. 3 to Preclude Plaintiff or Plaintiff s Attorney from Claiming Disability, Loss of Earning Capacity, Future Medical Care, Loss of Household Services, or Right Knee Injury from Accident
- 07/07/2017  Reply to Opposition
Defendant s Reply to Plaintiff s Opposition to Motion in Limine No. 4 to Limit Specials to Amounts Paid in Worker s Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers
- 07/11/2017  Objection
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Notice of Objections to Plaintiff's Exhibits Pursuant to NRCP 16.1(a)(3)
- 07/11/2017  Reply to Opposition
Filed by: Plaintiff Yahyavi, Bahram
Plaintiff's Reply to Defendant's Opposition to Motion to Initiate/Reopen Discovery
- 07/14/2017  Joint Pre-Trial Memorandum
Joint Pre-Trial Memo
- 09/14/2017  Supplement
Filed by: Plaintiff Yahyavi, Bahram
Supplement to Plaintiff's Omnibus Oppositions to Defendant's Motions in Limine and Countermotion to Initiate/Reopen Discovery in this Matter
- 10/04/2017  Notice
Notice Of Rescheduling Of Hearing
- 11/03/2017  Order Setting Civil Jury Trial

CASE SUMMARY

CASE NO. A-15-718689-C

Order Re-Setting Civil Jury Trial

- 01/19/2018  Motion to Withdraw As Counsel
Filed By: Plaintiff Yahyavi, Bahram
Motion to Withdraw as Counsel
- 02/21/2018  Notice of Appearance
Party: Plaintiff Yahyavi, Bahram
Notice of Appearance
- 02/27/2018  Order Granting Motion
Order Granting Motion to Withdraw as Counsel
- 03/22/2018  Stipulation and Order
Filed by: Plaintiff Yahyavi, Bahram
Stipulation and Order to Extend Discovery Deadlines and Continue Trial (First Request)
- 03/23/2018  Notice of Entry of Stipulation and Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Stipulation and Order to Extend Discovery Deadlines and Continue Trial (First Request)
- 03/23/2018  Recorders Transcript of Hearing
Recorder's Transcript of Hearing Status Check Re: Status of Case Bankruptcy Court Decision of Stay Resetting Jury Trial and MILs 10/19/17
- 04/25/2018  Notice
Notice of Refiling Answer Pursuant to Court Minutes of October 19, 2017
- 04/25/2018  Answer to Complaint
Defendant's Answer to Plaintiff's Complaint
- 06/06/2018  Notice of Association of Counsel
Filed By: Defendant Capriati Construction Corp Inc
Notice of Association of Counsel
- 08/06/2018  Stipulation and Order
Filed by: Plaintiff Yahyavi, Bahram
Stipulation and Order to Extend Discovery Deadlines (Second Request)
- 08/08/2018  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (Second Request)
- 08/28/2018  Stipulation and Order
Filed by: Plaintiff Yahyavi, Bahram
Stipulation and Order to Extend Discovery Deadlines (Third Request)
- 09/07/2018  Order Setting Civil Jury Trial
Order Re-Setting Civil Jury Trial To The Next Available Civil Stack Due To The Assignment Of A Criminal Caseload
- 09/10/2018  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram

CASE SUMMARY

CASE NO. A-15-718689-C

Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (Third Request)

- 10/08/2018  Motion
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion To Extend Discovery Deadlines For The Limited Purpose Of Taking Depositions On An Order Shortening Time (Fourth Request)
- 10/29/2018  Opposition to Motion
Defendant's Opposition to Plaintiff's Motion to Extend Discovery Deadlines for the Limited Purposes of Taking Depositions on an Order Shortening Time (Fourth Request)
- 11/02/2018  Reply in Support
Filed By: Plaintiff Yahyavi, Bahram
Reply in Support of the Motion to Extend Discovery Deadlines for the Limited Purpose of Taking Depositions on an Order Shortening Time (Fourth Request)
- 12/20/2018  Discovery Commissioners Report and Recommendations
Filed By: Plaintiff Yahyavi, Bahram
Discovery Commissioner's report And Recommendations
- 12/28/2018  Supplemental
Filed by: Defendant Capriati Construction Corp Inc
Defendant's Capriati Construction Corp., Inc.'s Supplement to Motion in Limine No. 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers
- 12/28/2018  Declaration
Filed By: Plaintiff Yahyavi, Bahram
Declaration of Thomas N. Beckom, Esq. in Compliance with EDCR 2.47
- 12/28/2018  Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Motion in Limine No. 5 to Exclude Evidence of Traffic Citation
- 12/28/2018  Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Motion in Limine No. 6 to Exclude Evidence Any Expert Opinion Testimony by Lay Witnesses
- 12/28/2018  Motion in Limine to Exclude Expert Witness
Filed by: Defendant Capriati Construction Corp Inc
Defendant's Motion in Limine No. 7 to Exclude Rebuttal Expert Leggett or Alternatively to Require that His Testimony be in Plaintiff's Rebuttal Case
- 12/28/2018  Re-Notice
Filed by: Defendant Capriati Construction Corp Inc
Notice of Withdrawal of Defendant Capriati Construction Corp.'s Motion in Limine No. 3 - to Preclude Plaintiff or Plaintiff's Attorney from Claiming Subarguments (1) Claiming Disability, (2) Loss of Earning Capacity, (3) Future Medical Care and (4) Loss of Household Services and Maintain and to Supplement and Re-Notice Subargument (5) to Preclude Right Knee Injury from Accident
- 12/28/2018  Motion in Limine
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion In Limine No. 1: To Limit Defendants Experts Testimony To The Opinions And Bases Set Forth In Their Expert Reports

CASE SUMMARY

CASE NO. A-15-718689-C

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 2: To Exclude Argument That This Case Is Attorney Driven Or A Medical Buildup Case Because There Is No Evidence To Support Such Argument

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Motion in Limine No. 8 to Exclude Plaintiff's Claims and Computations for Any Future Medical Treatment Not Previously Disclosed in Medical Records or Expert Opinions Within the Close of Discovery

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Motion in Limine No. 9 to Exclude and Prevent Argument or Questions That Defendant is Avoiding Liability or Refusing to Accept Liability

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 3: To Exclude Closing Argument That Plaintiff Is Requesting More Money Than He Expects To Receive

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 5: To Exclude Evidence Of When The Parties Contacted And Retained Counsel

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

2/25/19 Withdrawn) -(Capriati Construction) Defendant's Motion in Limine No. 10 to Exclude Lack of Pre-Accident Medical Records as Proof That No Relevant Prior or Pre-Existing Treatment Occurred

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 4: To Allow Voir Dire Questioning About Employment With Or Financial Interest In Any Insurance Company

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 7: To Exclude Reference To Plaintiff's Counsel Working With Plaintiff's Treating Physicians On Unrelated Cases

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 8: To Exclude Reference To Any Absence Of Medical Records Before The Subject Collision

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 9: To Permit Treating Physicians To Testify As To Causation, Diagnosis, Prognosis, Future Treatment, And Extent Of Disability Without A Formal Expert Report

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

CASE SUMMARY

CASE NO. A-15-718689-C

Plaintiff's Motion In Limine No. 10 To Exclude Any Argument That The Plaintiff Has Any Symptomatic Conditions Prior To The Collision

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 11 To Exclude Testimony And Opinions Of Defendants Retained Expert, Kevin Kirkendall, CPA

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

(2/25/19 Withdrawn) - (Capriati Construction) Defendant's Motion in Limine No. 12 to Exclude Expert Testimony Not Based on Evidence Adduced at Trial

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Motion in Limine No. 13 to Exclude Shocking Evidence Such as Needles

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 12 To Exclude Reference To Plaintiff Being A Malingerer, Magnifying Symptoms, Or Manifesting Secondary Gain Motives

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 14: To Preclude Argument Or Suggestion That Plaintiff's Treating Physicians Have A Conflict That Precludes Them From Offering Medical Causation Opinions

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 16: To Exclude Plaintiff's Prior Unrelated Accidents, Injuries, And Medical Conditions

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

(2/25/19 Withdrawn) (Capriati Construction) Defendant's Motion in Limine No. 16 to Exclude Opinions or Testimony of Treating Physicians Beyond Their Roles as Non-Retained Experts

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 17: To Exclude Any Testimony That Bahram Yahyavi Was Hotrodding

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Motion in Limine No.15 to to Exclude Reference and Evidence of Investigating Officer's Narrative, Finding of "At Fault" and Any Other Opinions or Conclusions, Including Those in the Traffic Accident Report or Testified to at Deposition

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Motion In Limine No. 18: To Exclude Any Evidence Of Worker s Compensation Payments To Bahram Yahyavi

12/28/2018



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram

CASE SUMMARY

CASE NO. A-15-718689-C

Plaintiff's Motion In Limine No. 6: To Exclude Reference To And Evidence Of Medical Liens

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc
Defendant's Motion in Limine No. 11 to Preclude Evidence of Litigation Induced Stress or Damages Therefrom

12/28/2018



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc
Defendant's Motion in Limine No. 14 to Pre-Admit Certain Medical Records

01/04/2019



Notice

Filed By: Defendant Capriati Construction Corp Inc
Notice of Withdrawal of Defendant Capriati Construction Corp.'s Motion in Limine No. 1 - to Preclude Expert Testimony

01/04/2019



Notice

Filed By: Defendant Capriati Construction Corp Inc
Notice of Withdrawal of Defendant Capriati Construction Corp.'s Motion in Limine No. 2 - to Preclude Plaintiff from Introducing Any Documents or Medical Testimony or Referencing Any Treatment Allegedly Related to the Accident After 2015

01/09/2019



Notice of Hearing

Filed By: Defendant Capriati Construction Corp Inc
Notice of Hearing on Defendant's Motion in Limine No. 15 to Exclude Reference and Evidence of Investigating Officer's Narrative, Finding of At Fault and Any Other Opinions or Conclusions. Including Those in the Traffic Accident Report or Testified to at Deposition

01/16/2019



Notice of Hearing

Filed By: Defendant Capriati Construction Corp Inc
Notice of Hearing on Defendant Capriati Construction Corp., Inc.'s Motion in Limine No. 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers

01/18/2019



Affidavit

Filed By: Plaintiff Yahyavi, Bahram
Declaration Of Thomas N. Beckom, Esq. In Compliance With EDCR 2.47

01/18/2019



Motion

Filed By: Plaintiff Yahyavi, Bahram
Motion For Order Shortening Time To Hear Plaintiff's Motion In Limine No. 19: To Exclude Prejudicial Information Concerning Mr. Yahyavi

01/18/2019



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion In Limine No. 19: To Exclude Prejudicial Information Concerning Mr. Yahyavi

01/22/2019



Opposition to Motion in Limine

Defendant's Opposition to Plaintiff's Motion in Limine No. 4 to Allow Voir Dire Questioning About Employment With or Financial Interest in Any Insurance Company

01/22/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 5 to Exclude Evidence of When the Parties Contacted and Retained Counsel

CASE SUMMARY

CASE NO. A-15-718689-C

- 01/22/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 9 to Permit Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment, and Extent of Disability Without a Formal Expert Report
- 01/22/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 6 to Exclude Reference to and Evidence of Medical Liens
- 01/22/2019  Notice of Hearing
Filed By: Defendant Capriati Construction Corp Inc
Notice of Hearing on Defendant Capriati Construction Corp., Inc.'s Motion in Limine No. 4 to Limit Specials to Amounts Paid in Worder's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers
- 01/22/2019  Order
Filed By: Plaintiff Yahyavi, Bahram
Order Granting Motion For An Order Shortening Time To Hear Plaintiff's Motion In Limine No. 19: To Exclude Prejudicial Information Concerning Mr. Yahyavi
- 01/24/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 1 to Limit Defendant's Testimony to the Opinions and Bases Set forth in Their Expert Reports
- 01/24/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 2 to Exclude Argument that This Case is Attorney Driven of a Medical Buildup Case Because There is No Evidence to Support Such Argument
- 01/24/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 8 to Exclude Reference to Any Absence of Medical Records Before the Subject Collision
- 01/24/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 10 to Exclude Any Argument That Plaintiff Has Any Symptomatic Conditions Prior to the Collission
- 01/25/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
Notice Of Entry Of Order Granting Motion For An Order Shortening Time To Hear Plaintiff's Motion In Limine No. 19: To Exclude Prejudicial Information Concerning Mr. Yahyavi
- 01/25/2019  Pre-trial Memorandum
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Individual Pretrial Memorandum
- 01/25/2019  Opposition to Motion in Limine
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 3 to Exclude Closing Argument

CASE SUMMARY

CASE NO. A-15-718689-C

Plaintiff is Requiring More Money Than He Expects to Receive

01/25/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 12 to Exclude Reference to Plaintiff Being a Malingerer, Magnifying Symptoms, or Manifesting Secondary Gain Motives

01/25/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 14 to Preclude Argument or Suggestion that Plaintiff's Treating Physicians Have a Conflict that Precludes Them from Offering Medical Causation Opinions

01/28/2019



Opposition to Motion in Limine

Defendant's Opposition to Plaintiff's Motion in Limine No. 7 to Exclude Reference to Plaintiff's Counsel Working with Plaintiff's Treating Physicians on Unrelated Cases

01/28/2019



Pre-trial Memorandum

Filed by: Plaintiff Yahyavi, Bahram

Supplement to Plaintiff's Pre-Trial Memorandum

01/28/2019



Pre-Trial Disclosure

Party: Plaintiff Yahyavi, Bahram

Supplement to Plaintiff's Amended N.R.C.P. 16.1(A)(3)(A) Pretrial Disclosure

01/28/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 11 to Exclude Testimony and Opinions of Defendants' Retained Expert, Kevin Kirkindall, CPA

01/28/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 16 to Exclude Plaintiff's Prior Unrelated Accidents, Injuries, and Medical Conditions

01/28/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 18 to Exclude Any Evidence of Worker's Compensation Payment to Bahram Yahyavi

01/28/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 19 to Exclude Prejudicial Information Concerning Yahyavi

01/28/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Motion in Limine No. 17 to Exclude Any Testimony that Bahram Yahyavi Was Hotrodding

01/28/2019



Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Motion in Limine No. 17 to Exclude Untimely and Supplemental Crash Testing Opinions, or Testimony of Plaintiff's Rebuttal Only Expert Timothy S. Leggett from 1/15/19 Disclosure

CASE SUMMARY

CASE NO. A-15-718689-C

01/30/2019



Stipulation and Order

Stipulation And Order To Extend Time To Oppose All Motions In Limine

02/08/2019



Notice of Entry

Filed By: Plaintiff Yahyavi, Bahram

Notice of Entry of Stipulation and Order to Extend Time to Oppose All Motions in Limine

02/12/2019



Stipulation and Order

Filed by: Plaintiff Yahyavi, Bahram

Stipulation And Order To Extend Time To Oppose All Motions in Limine (Second Request)

02/20/2019



Notice of Entry

Notice of Entry of Stipulation and Order to Extend Time to Oppose Al Motions in Limine (Second Request)

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Limited Opposition To Defendant Motion In Limine No. 5 To Exclude Evidence Of Traffic Citation

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 7 To Exclude Rebuttal Expert Leggett Or Alternatively To Require That His Testimony Be In Plaintiff s Rebuttal Case

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 17 To Exclude Untimely And Supplemental Crash Testing Opinions Or Testimony Of Plaintiff s Rebuttal Only Expert Timothy Leggett From 1/15/19

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 6 To Exclude Any Expert Opinion Testimony By Lay Witness Mackey

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff s Opposition Defendant Capriati Construction Corp., Inc s Supplement To Motion In Limine No. 4 To Limit Specials To Amounts Paid In Worker s Compensation Benefits

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 14 To Pre-Admit Certain Medical Records And Countermotion To Exclude Said Medical Records

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 10 To Exclude Lack Of Pre-Accident Medical Records As Proof That No Relevant Prior Or Pre-Existing Treatment Occurred

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 8 To Exclude Plaintiff s Claims And Computations For Any Future Medical Treatment Not Previously Disclosed In Medical

CASE SUMMARY

CASE NO. A-15-718689-C

Records Or Expert Opinions With The Close Of Discovery

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 9 To Exclude And Prevent Argument Or Questions That Defendant Is Avoiding Liability Or Refusing To Accept Liability

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 13 To Exclude Shocking Evidence Such As Needles

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 16 To Exclude Opinions Or Testimony Of Treating Physicians Beyond Their Roles As Non-Retained Experts

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Opposition To Defendant s Motion In Limine No. 12 To Exclude Expert Testimony Not Based On Evidence Adduced At Trial

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Limited Opposition To Defendant s Motion In Limine No. 15 To Exclude Reference And Evidence Of Investigating Officer s Narrative, Finding Of At Fault , And Any Other Opinions Or Conclusions, Including Those In The Traffic Accident Report Or Testified To At A Deposition

02/25/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Notice Of Nonopposition To Defendant Capriati Construction Corp., Inc s Motion In Limine No. 11 To Preclude Evidence Of Litigation Induced Stress Or Damages Therefrom

02/25/2019



Notice of Withdrawal of Motion

Filed By: Defendant Capriati Construction Corp Inc

Notice of Withdrawal of Defendant Capriati Construction Corp. Inc's Motion in Limine 10 - to Exclude Lack of Pre-Accident Medical Records as Proof That No Relevant Prior or Pre-Existing Treatment Occurred

02/25/2019



Notice of Withdrawal of Motion

Filed By: Defendant Capriati Construction Corp Inc

Notice of Withdrawal of Defendant Capriati Construction Corp. Inc's Motion in Limine 12 - to Exclude Expert Testimony Not Based on Evidence Adduced at Trial

02/25/2019



Notice of Withdrawal of Motion

Filed By: Defendant Capriati Construction Corp Inc

Notice of Withdrawal of Defendant Capriati Construction Corp. Inc.'s Motion in Limine No. 16 - to Exclude Opinions or Testimony of Treating Physicians Beyond Their Roles as Non-Retained Experts

02/26/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Opposition to Defendants' Motion in Limine No. 3 to Exclude Testimony that Plaintiff's Right Knee Injury was Caused by the Subject Accident

02/28/2019

CASE SUMMARY

CASE NO. A-15-718689-C

-  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc. s Reply to Plaintiff s Limited Opposition to Defendant s Motion in Limine No. 3 to Exclude Testimony that Plaintiff s Right Injury Knee was Caused by the Subject Accident
- 02/28/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc.'s Reply to Plaintiff s Limited Opposition to Defendant s Motion in Limine No. 5 to Exclude Evidence of Traffic Citation
- 03/01/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Reply to Plaintiff s Limited Opposition to Defendant s Motion in Limine No. 4 to Limit Specials to Amounts Paid in Workers Compensation Benefits
- 03/01/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc.'s Reply to Plaintiff s Opposition to Defendant s Motion in Limine No. 6 to Exclude any Expert Opinion Testimony by Lay Witness Mackey
- 03/01/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Reply to Plaintiff s Opposition to Defendant s Motion in Limine No. 7 to Exclude Rebuttal Expert Leggett or Alternatively to Require That His Testimony be in Plaintiff's Rebuttal Case
- 03/04/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc. s Reply To Plaintiff s Opposition To Defendant s Motion In Limine No. 8 To Exclude Plaintiff s Claims And Computations For Any Future Medical Treatment Not Previously Disclosed In Medical Records Or Expert Opinions With The Close Of Discovery
- 03/04/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc. s Reply To Plaintiff s Opposition To Defendant s Motion In Limine No. 9 To Exclude And Prevent Argument Or Questions That Defendant Is Avoiding Liability Or Refusing To Accept Liability
- 03/04/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc. s Reply To Plaintiff s Opposition To Defendant s Motion In Limine No. 13 To Exclude Shocking Evidence Such As Needles
- 03/04/2019  Reply to Opposition
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc. s Reply To Plaintiff s Opposition To Defendant s Motion In Limine No. 15 To Exclude Reference And Evidence Of Investigating Officer s Narrative, Finding Of At Fault, And Other Opinions Or Conclusions, Including Those In The Traffic Accident Report Or Testified To At A Deposition
- 03/06/2019  Stipulation and Order
Stipulation And order To Extend Time Ti Oppose All Motions In Limine (Third Request)
- 03/06/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram

CASE SUMMARY

CASE NO. A-15-718689-C

Stipulation And Order To Extend Time To Oppose All Motions n Limine (Third Request)

03/07/2019



Reply to Opposition

Filed by: Defendant Capriati Construction Corp Inc

Reply to Plaintiff's Opposition to Defendant's Motion in Limine No. 14 to Pre-Admit Certain Medical Records and Countermotion to Exclude Said Medical Records and Opposition to Countermotion

03/08/2019



Reply to Opposition

Filed by: Defendant Capriati Construction Corp Inc

Reply to Plaintiff's Opposition to Defendant's Motion in Limine No. 17 to Exclude Untimely and Supplemental Crash Testing Opinions or Testimony of Plaintiff's Rebuttal Only Expert Timothy Leggett from 1/15/19

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. 1: To Limit Defendants' Experts' Testimony To The Opinions And Bases Set forth In Their Expert Reports

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. 2: To Exclude Argument That This Case Is "Attorney Driven" Or A "Medical Buildup" Case Because There Is No Evidence To Support Such Argument

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. To Exclude Closing Argument That Plaintiff Is Requesting More Money Than He Expects To Receive

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. 5: To Exclude Evidence Of When The Parties Contacted And Retained Counsel

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. 6: To Exclude Reference To And Evidence Of Medical Liens

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. 7: To Exclude Reference To Plaintiff's Counsel Working With Plaintiff's Treating Physicians On Unrelated Cases

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. To Exclude Reference To Any Absence Of Medical Records Before The Subject Collision

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Reply In Support Of Motion In Limine No. To Exclude Any Argument That The Plaintiff Has Any Symptomatic Conditions Prior To The Collision

03/12/2019



Reply in Support

CASE SUMMARY

CASE NO. A-15-718689-C

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply In Support Of Motion In Limine No. To Exclude Testimony And Opinions Of Defendant's Retained Expert, Kevin Kirkendall, CPA

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply In Support Of Motion In Limine No. 12: To Exclude Reference To Plaintiff Being A Malingerer, Magnifying Symptoms, Or Manifesting Secondary Gain Motives

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply In Support Of Motion In Limine No. 14: To Preclude Argument Or Suggestion That Plaintiff's Treating Physicians Have A Conflict That Precludes Them From Offering Medical Causation Opinions

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply In Support Of Motion In Limine No. 16: To Exclude Plaintiff's Prior Unrelated Accidents, Injuries, And Medical Conditions

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply In Support Of Motion In Limine No. 17: To Exclude Any Testimony That Bahram Yahyavi Was "Hotrodding"

03/12/2019



Reply in Support

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply In Support Of Motion In Limine No. 19: To Exclude Prejudicial Information

03/18/2019



Stipulation

Filed by: Plaintiff Yahyavi, Bahram
Stipulation And Order Regarding Pre-trial Motions In Limine Pursuant To EDCR 2.47

03/18/2019



Notice of Entry

Filed By: Plaintiff Yahyavi, Bahram
Notice Of Entry Of Stipulation And Order Regarding Pre-Trial Motion In limine Pursuant To EDCR 2.47

03/21/2019



Transcript of Proceedings

All Pending Motions

03/27/2019



Motion

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion To A Jury Questionnaire Prior To Voir Dire

03/27/2019



Clerk's Notice of Hearing

Notice of Hearing

03/28/2019



Supplement

Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp. Inc. s Supplemental Brief in Support of Defendant's Motion in Limine No. 4 to Limit Spicals to Amounts Paid in Worker's Compensation Benefits

03/29/2019



Opposition to Motion

Filed By: Defendant Capriati Construction Corp Inc

CASE SUMMARY

CASE NO. A-15-718689-C

Defendant Capriati Construction Corp., Inc.'s Opposition to Plaintiff's Motion to Allow Parties to Present a Jury Questionnaire Prior to Voir Dire

- 04/04/2019  Stipulation and Order
Filed by: Plaintiff Yahyavi, Bahram
Stipulation And order Regarding Supplemental Briefing Concerning Defendant's Motion in Limine No.4
- 04/05/2019  Supplement
Filed by: Plaintiff Yahyavi, Bahram
Plaintiff's Supplemental Brief In Opposition Defendant Capriati Construction Corp., Inc s To Motion In Limine No. 4 To Limit Specials To Amounts Paid In Worker s Compensation Benefits
- 04/08/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
Notice of entry of Stipulation and Order Regarding Supplemental Briefing Concerning Defendant's Motion in Limine No. 4
- 04/16/2019  Stipulation and Order
Filed by: Plaintiff Yahyavi, Bahram
Stipulation and Order Regarding Supplemental Briefing concerning Defendant's Motion in limine
- 04/16/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
notice of entry of Stipulation and Order Regarding Supplemental Briefing Concerning Defendant's motion in Limine No. 4 (Second request)
- 04/19/2019  Order
Filed By: Defendant Capriati Construction Corp Inc
Orders on Defendants' Motions in Limine (1-17)
- 04/23/2019  Order
Filed By: Plaintiff Yahyavi, Bahram
Order Denying Defendant's Motion in Limine No. 4 To Limit Specials to Amounts Paid in Worker's Compensation Benefits
- 04/23/2019  Reply
Filed by: Plaintiff Yahyavi, Bahram
Reply In Support Of Plaintiffs Motion To Allow Parties to Present a Jury Quesstionnaire Prior to Voir Dire
- 04/24/2019  Order
Order Denying Defendant's Motion in Limine No. 4 To Limit Specials to Amounts Paid in Worker's Compensation Benefits
- 04/25/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
Notice Of Entry Of Order Denying Defendant s Motion In Limine No. 4 To Limit Specials To Amounts Paid In Worker s Compensation Benefits
- 05/03/2019  Motion to Continue Trial
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Motion to Continue Trial on an Order Shortening Time

CASE SUMMARY

CASE NO. A-15-718689-C

05/06/2019



Supplement

Filed by: Defendant Capriati Construction Corp Inc
Supplemental Points and Authorities re Defendant Capriati Construction Corp., Inc.'s Motion to Continue Trial on an Order Shortening Time

05/10/2019



Opposition

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Opposition to Defendant Capriati Construction Corp., Inc.'s Motion to Continue Trial on An Order Shortening Time

05/14/2019



Reply to Opposition

Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Reply to Plaintiff's Opposition to Defendant's Motion to Continue Trial on Order Shortening Time

05/17/2019



Affidavit

Filed By: Plaintiff Yahyavi, Bahram
Declaration of Thomas N. Beckom, Esq. in Compliance with 2.47

05/17/2019



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion In Limine No. 20: To Exclude Reference To Bahram Yahyavi et. al v. Service Corporation International et. al.

05/17/2019



Motion in Limine

Filed By: Plaintiff Yahyavi, Bahram
Motion In Limine No. 21 To Exclude Argument That Bahram Yahyavi Lied To Ira Spector Concerning Arm Paralysis And Future Surgery

05/20/2019



Clerk's Notice of Hearing

Notice of Hearing

05/22/2019



Opposition to Motion in Limine

Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 21 to Exclude Argument that Bahram Yahyavi Lied to Ira Spector Concerning Arm Paralysis and Future Surgery

05/23/2019



Order

Filed By: Plaintiff Yahyavi, Bahram
Order Regarding Plaintiff's Motions in Limine

05/23/2019



Notice of Entry

Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry Of Order Regarding Plaintiff's Motions in Limine

05/24/2019



Transcript of Proceedings

Defendant's Motion to Continue Trial on Order Shortening Time; Status Check: Final Status of Jury Questionnaire

05/28/2019



Opposition and Countermotion

Filed By: Defendant Capriati Construction Corp Inc
Defendant's Opposition to Plaintiff's Motion in Limine No. 20 to Exclude Reference to Bahram Yahyavi v. Service Corporation International, et al.; Countermotion for Offset

CASE SUMMARY

CASE NO. A-15-718689-C

- 06/13/2019  Notice
Notice Rescheduling Hearing
- 06/18/2019  Notice of Change of Address
Notice of Change of Law Firm Address
- 06/20/2019  Opposition to Motion For Summary Judgment
Filed By: Plaintiff Yahyavi, Bahram
Order Denying Defendant's Motion to Continue Trial on Ordder Shortening Time
- 06/20/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Denying Defendant's Motion to Continue Trial on Order Shortening Time
- 06/20/2019  Notice of Entry
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Deying Defendants Motion To CContinue Trial on Order Shortening Time
- 06/25/2019  Notice of Firm Name Change
Filed By: Plaintiff Yahyavi, Bahram
Notice of Firm Name Change
- 06/25/2019  Notice of Change
Filed By: Plaintiff Yahyavi, Bahram
Notice of Change of Lead Counsel and Change of Contact Information for Dennis M. Prince, Esq.
- 06/25/2019  Notice
Filed By: Plaintiff Yahyavi, Bahram
Notice of Disassociation of Counsel
- 07/15/2019  Notice of Attorney Lien
Notice of Attorney Lien
- 07/24/2019  Reply in Support
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply in Support of Motion in Limine No. 20: to Exclude Reference to Bahram Yahyavi, et al. v. Service Corporation International et al and Opposition to Countermotion to Offset
- 07/24/2019  Reply in Support
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply in Support of Motion in Limine No. 21: to Exclude Argument That Bahram Yahyavi Lied to Ira Spector Concerning Arm Paralysis and Future Surgery
- 08/09/2019  Mandatory Pretrial Disclosure
Party: Plaintiff Yahyavi, Bahram
Second Supplement to Plaintiff's Amended PreTrial Disclosures Pursuant to NRCPC 16.1(a)(3)
- 08/13/2019  Motion
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion to Pre-Instruct the Jury

CASE SUMMARY

CASE NO. A-15-718689-C

- 08/14/2019  Clerk's Notice of Hearing
Notice of Hearing

- 08/20/2019  Notice of Hearing
Filed By: Plaintiff Yahyavi, Bahram
Notice of Plaintiff's Motion to Pre-Instruct Jury on Order Shortening Time

- 08/20/2019  Supplement
Filed by: Plaintiff Yahyavi, Bahram
Supplement to Plaintiff's Motion to Pre-Instruct the Jury on Order Shortening Time

- 08/20/2019  Order
Filed By: Plaintiff Yahyavi, Bahram
Order Granting Plaintiff's Motion in Limine No. 20: to Exclude Reference to Bahram Yahyavi, et al. v. Service Corporation International, et al. and Denying Defendant's Counter-Motion for Offset

- 08/20/2019  Order
Filed By: Plaintiff Yahyavi, Bahram
Order Denying Plaintiff's Motion in Limine No. 21: to Exclude Argument that Bahram Yahyavi Lied to Ira Spector Concerning Arm Paralysis and Future Surgery

- 08/20/2019  Order
Filed By: Plaintiff Yahyavi, Bahram
Order Granting Plaintiff's Motion to Allow Parties to Present a Jury Questionnaire Prior to Voir Dire

- 08/21/2019  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Granting Plaintiff's Motion to Allow Parties to Present A Jury Questionnaire Prior to Voir Dire

- 08/21/2019  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Denying Plaintiff's Motion in Limine No. 21 to Exclude Argument That Bahram Yahyavi Lied to Ira Spector Concerning Arm Paralysis and Future Surgery

- 08/22/2019  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Granting Plaintiff's Motion in Limine No. 20 to Exclude Reference to Bahram Yahyavi, et al. v. Service Corporation International, et al. and Denying Defendant's Counter-Motion for Offset

- 08/22/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena

- 08/22/2019  Opposition
Filed By: Defendant Capriati Construction Corp Inc
Defendant s Opposition to Plaintiff's Motion to Pre-Instruct the Jury

- 08/23/2019  Supplemental
Filed by: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s First Supplemental Individual Pre-Trial

CASE SUMMARY

CASE NO. A-15-718689-C

Memorandum

- 08/26/2019  Reply in Support
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply in Support of the Motion to Pre-Instruct the Jury
- 08/27/2019  Pre-trial Memorandum
Filed by: Plaintiff Yahyavi, Bahram
Plaintiff's Second Supplement to Pre-Trial Memorandum
- 08/27/2019  Order
Order RE: Jury Instructions
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - Mary Ann Shannon MD
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - Terrence Claurette PhD
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - David Oliveri MD
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - Archie Perry MD
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - Joseph Schifini MD
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - IRA Spector MS CRC
- 08/29/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena - John Thalgott MD
- 08/30/2019  Recorders Transcript of Hearing
Plaintiff's Motion to Pre-Instruct the Jury
- 08/30/2019  Trial Brief
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Trial Brief to Limit Defense Medical Expert Witness, Howard Tung, M.D.'s Testimony
- 09/03/2019  Trial Brief
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Trial Brief #1 as to Plaintiff's Improper Motions for Reconsideration Couched as Trial Briefs

CASE SUMMARY

CASE NO. A-15-718689-C

- 09/04/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena
- 09/04/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena
- 09/04/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena
- 09/05/2019  Trial Brief
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Trial Brief to Exclude Argument, Reference, or Medical Expert Opinion That Plaintiff Bahram Yahyavi's Prior Neck Pain was Symptomatic During the Immediate Years Prior to and Immediately Before the Subject Collision
- 09/06/2019  Trial Brief
Filed By: Plaintiff Yahyavi, Bahram
Trial Brief to Exclude All Facebook, Myspace, Instagram, Twitter, Linked In and Other Social Media
- 09/06/2019  Opposition to Motion
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Opposition to Defendant's Trial Brief #1 as to Plaintiff's Improper Motions for Reconsideration Couched as Trial Briefs
- 09/08/2019  Trial Brief
Filed By: Defendant Capriati Construction Corp Inc
DEFENDANT'S TRIAL BRIEF #2 AS TO PLAINTIFF'S UNTIMELY 18TH SUPPLEMENT TO HIS EARLY CASE CONFERENCE LIST OF DOCUMENTS AND WITNESSES AND NRCP 16.1(a)(3) PRETRIAL DISCLOSURES
- 09/09/2019  Opposition
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Opposition to Defendant's Trial Brief #2 as to Plaintiff's Untimely 18th Supplement to His Early Case Conference List of Documents and Witnesses and NRCP 16.1(a)(3) PreTrial Disclosures
- 09/09/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena
- 09/11/2019  Trial Subpoena
Filed by: Plaintiff Yahyavi, Bahram
Trial Subpoena
- 09/12/2019  Jury List
- 09/16/2019  Recorders Transcript of Hearing
Day 5 Excerpt, Dr. David Oliveri
- 09/16/2019  Trial Brief
Filed By: Defendant Capriati Construction Corp Inc

CASE SUMMARY

CASE NO. A-15-718689-C

DEFENDANT'S TRIAL BRIEF #3 AS TO PLAINTIFF'S VIOLATION OF PRETRIAL AGREEMENT REGARDING DISCLOSURE OF POWER POINT SLIDES AND DEMONSTRATIVE EXHIBITS PRIOR TO USE AT TRIAL AND AS TO USE OF UNDISCLOSED PHOTOGRAPH DURING PLAINTIFF'S OPENING STATEMENT

09/16/2019



Trial Brief

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Trial Brief to Exclude Testimony and Opinions of Defendant's Retained Expert John E. Baker, Ph.D., P.E.

09/16/2019



Opposition

Plaintiff's Opposition to Defendant's Trial Brief #3 as to Plaintiff's Violation of PreTrial Agreement Regarding Disclosure of Powerpoint Slides and Demonstrative Exhibits Prior to Use at Trial and as to Use of Undisclosed Photograph During Plaintiff's Opening Statement

09/16/2019



Trial Brief

Filed By: Defendant Capriati Construction Corp Inc

DEFENDANT'S TRIAL BRIEF #4 AS TO DR. OLIVERI'S IMPROPER AND PREVIOUSLY UNDISCLOSED TESTIMONY

09/16/2019



Trial Subpoena

Filed by: Plaintiff Yahyavi, Bahram

Trial Subpoena

09/16/2019



Amended Jury List

09/18/2019



Recorders Transcript of Hearing

Recorder's Transcript of Jury Trial - Day 6 09/16/19

09/19/2019



Recorders Transcript of Hearing

Recorder's Partial Transcript of Jury Trial - Day 7 Testimony of Joseph Schifini

09/19/2019



Recorders Transcript of Hearing

Recorder's Partial Transcript of Jury Trial - Day 5 Testimony of Clifford Goodrich

09/19/2019



Recorders Transcript of Hearing

Recorder's Partial Transcript of Jury Trial - Day 8 9/18/19

09/19/2019



Trial Brief

Filed By: Defendant Capriati Construction Corp Inc

Defendant's Opposition to Plaintiff's Trial Brief to Exclude Testimony and Opinions of Defendant's Retained Expert, John E. Baker, Ph.D., P.E.

09/19/2019



Trial Brief

Filed By: Plaintiff Yahyavi, Bahram

Plaintiff's Trial Brief for Curative Instruction to the Jury Regarding Collateral Sources of Payment

09/20/2019



Trial Brief

Filed By: Defendant Capriati Construction Corp Inc

Defendants's Opposition to Plaintiff's Trial Brief for Curative Instruction to the Jury Regarding Colateral Sources of Payment

09/20/2019



Notice

Filed By: Plaintiff Yahyavi, Bahram

CASE SUMMARY

CASE NO. A-15-718689-C

Plaintiff's Notice of De-Designation of Expert Witness, Timothy Leggett, P.E.

- 09/23/2019  Reply in Support
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply in Support of Trial Brief to Exclude Testimony and Opinions of Defendant's Retained Expert, John E. Baker, Ph.D., P.E.
- 09/23/2019  Trial Brief
Filed By: Defendant Capriati Construction Corp Inc
DEFENDANT'S TRIAL BRIEF #5 AS TO PLAINTIFF'S IMPROPER IMPEACHMENT OF DR. TUNG WITH HIS ANNUAL SALARY INFORMATION
- 09/25/2019  Trial Subpoena
Filed by: Defendant Capriati Construction Corp Inc
Trial Subpeona - Yahyavi
- 09/25/2019  Trial Subpoena
Filed by: Defendant Capriati Construction Corp Inc
Trial Subpeona - SW Medical
- 09/25/2019  Recorders Transcript of Hearing
Recorder's Partial Transcript of Jury Trial - Day 12 Howard Tung (Cross-Examination, Recross Examination, and Juror Question/Answer)
- 09/26/2019  Recorders Transcript of Hearing
Recorder's Partial Transcript of Jury Trial - Day 13 Testimony of Cliff Goodrich
- 09/26/2019  Motion for Sanctions
Filed By: Plaintiff Yahyavi, Bahram
Motion for Sanctions Against Defendant for Willful Attorney Misconduct
- 09/26/2019  Trial Brief
Filed By: Defendant Capriati Construction Corp Inc
DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S 6th TRIAL BRIEF AS TO EVIDENCE OF CAPRIATI'S BANKRUPTCY
- 09/27/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 14 9/26/19
- 09/27/2019  Verdict
- 09/27/2019  Jury Instructions
- 10/01/2019  Jury List
Jury List
- 10/01/2019  Order to Statistically Close Case
Civil Order To Statistically Close Case
- 10/22/2019  Judgment Upon Jury Verdict
Filed By: Plaintiff Yahyavi, Bahram
Judgment Upon the Jury Verdict

CASE SUMMARY

CASE NO. A-15-718689-C

- 10/22/2019  Notice of Entry of Judgment
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Judgment
- 10/22/2019  Memorandum of Costs and Disbursements
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Memorandum of Costs and Disbursements
- 10/22/2019  Motion for Attorney Fees and Costs
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Motion for Attorney's Fees, Costs, and Interest
- 10/23/2019  Clerk's Notice of Hearing
Notice of Hearing
- 10/28/2019  Motion to Retax
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs
- 10/29/2019  Clerk's Notice of Hearing
Notice of Hearing
- 11/01/2019  Opposition to Motion
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Opposition to Plaintiff's Motion for Attorney's Fees, Costs and Interest
- 11/05/2019  Decision and Order
Decision and Order
- 11/05/2019  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Decision and Order
- 11/13/2019  Opposition to Motion
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Opposition to Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs
- 11/14/2019  Motion to Reconsider
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider Decision and Order, Entered on November 5, 2019
- 11/18/2019  Motion for New Trial
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Motion for New Trial
- 11/19/2019  Clerk's Notice of Hearing
Notice of Hearing
- 11/19/2019  Notice
Filed By: Defendant Capriati Construction Corp Inc
Notice of Appearance

CASE SUMMARY

CASE NO. A-15-718689-C

- 11/19/2019  Notice of Appeal
Filed By: Defendant Capriati Construction Corp Inc
Notice of Appeal
- 11/19/2019  Case Appeal Statement
Filed By: Defendant Capriati Construction Corp Inc
Defendant's Case Appeal Statement
- 11/22/2019  Notice of Filing Cost Bond
Filed By: Defendant Capriati Construction Corp Inc
Notice of Filing Cost Bond
- 11/25/2019  Notice
Notice of Scheduling Hearing and of Re-Scheduling Hearing Date
- 11/25/2019  Reply in Support
Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction, Inc.'s Reply in Support of Its Motion to Re-Tax Costs
- 11/26/2019  Reply in Support
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Reply in Support of Motion for Attorney's Fees, Costs and Interest
- 11/27/2019  Errata
Filed By: Defendant Capriati Construction Corp Inc
Errata to Defendant Capriati Construction Corp., Inc. s Motion to Correct or Reconsider Decision and Order, Entered on November 5, 2018
- 12/05/2019  Notice of Hearing
Notice of Hearing
- 12/16/2019  Opposition
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Opposition to Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider Decision and Order Entered on November 5, 2018
- 12/23/2019  Stipulation and Order
Filed by: Plaintiff Yahyavi, Bahram
Stipulation and Order Regarding Briefing Schedule for Defendant's Motion to Correct or Reconsider Decision and Order, Entered on November 5, 2019 and Defendant's Motion for New Trial
- 12/23/2019  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Stipulation and Order Regarding Briefing Schedule for Defendant's Motion to Correct or Reconsider Decision and Order, Entered on November 5, 2019 and Defendant's Motion for New Trial
- 12/23/2019  Notice of Entry of Order
Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Stipulation and Order Regarding Briefing Schedule for Defendant's Motion to Correct or Reconsider Decision and Order, Entered on November 5, 2019 and Defendant's Motion for New Trial
- 12/24/2019  Reply in Support

CASE SUMMARY

CASE NO. A-15-718689-C

Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc.'s Reply In Support of Its Motion to Correct or Reconsider Decision and Order, Entered on November 5, 2019

- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 1
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 2
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 3
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 4
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Partial Transcript of Jury Trial - Day 5
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 7
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 9
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 10
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 11
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 12
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 13
- 12/30/2019  Recorders Transcript of Hearing
Recorder's Transcript of Jury Trial - Day 15
- 01/06/2020  Lien
Notice of Third-Party Lien and Request for Notice
- 01/09/2020  Notice of Change of Address
Filed By: Plaintiff Yahyavi, Bahram
Notice of Change of Address
- 01/10/2020  Opposition to Motion
Filed By: Plaintiff Yahyavi, Bahram
Plaintiff's Opposition to Defendant Capriati Construction Corp., Inc.'s Motion For New Trial
- 01/16/2020  Stipulation and Order

CASE SUMMARY

CASE NO. A-15-718689-C

Filed by: Plaintiff Yahyavi, Bahram
Stipulation and Order to Continue Briefing Schedule for Defendant Capriati Construction Corp., Inc.'s Motion for New Trial

01/17/2020



Notice of Entry of Order

Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Stipulation and Order to Continue Briefing Scheduled for Defendant Capriati Construction Corp., Inc.'s Motion for New Trial

01/22/2020



Reply in Support

Filed By: Defendant Capriati Construction Corp Inc
Defendant Capriati Construction Corp., Inc. s Reply in Support of Its Motion for New Trial

02/04/2020



Recorders Transcript of Hearing

Defendant Capriati Construction Corp., Inc.'s Motion for New Trial Plaintiff's Motion for Attorney's Fees, Costs, and Interest Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs 1/28/2020

03/03/2020



Order

Filed By: Plaintiff Yahyavi, Bahram
Order Granting, in Part, and Denying, in Part, Plaintiff's Motion for Attorney's Fees, Costs and Interest

03/03/2020



Order

Filed By: Plaintiff Yahyavi, Bahram
Order Granting, in Part and Denying, in Part, Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs

03/03/2020



Order Denying Motion

Filed By: Plaintiff Yahyavi, Bahram
Order Denying Defendant Capriati Construction Corp., Inc.'s Motion for New Trial

03/03/2020



Order Denying Motion

Filed By: Plaintiff Yahyavi, Bahram
Order Denying Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider Decision and Order, Entered on November 5, [2019]

03/04/2020



Notice of Entry of Order

Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Denying Defendant Capriati Construction Corp., Inc.'s Motion for New Trial

03/04/2020



Notice of Entry of Order

Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Denying Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider Decision and Order, Entered on November 5 [2019]

03/04/2020



Notice of Entry of Order

Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Granting, in Part and Denying, in Part, Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs

03/04/2020





Notice of Entry of Order

Filed By: Plaintiff Yahyavi, Bahram
Notice of Entry of Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees, Costs and Interest

CASE SUMMARY

CASE NO. A-15-718689-C

03/13/2020  Amended Case Appeal Statement
 Party: Defendant Capriati Construction Corp Inc
Defendant's Amended Case Appeal Statement

03/13/2020  Amended Notice of Appeal
 Party: Defendant Capriati Construction Corp Inc
Amended Notice of Appeal

DISPOSITIONS

09/27/2019 **Verdict** (Judicial Officer: Israel, Ronald J.)
 Debtors: Capriati Construction Corp Inc (Defendant)
 Creditors: Bahram Yahyavi (Plaintiff)
 Judgment: 09/27/2019, Docketed: 09/30/2019
 Total Judgment: 5,870,283.24


10/22/2019 **Judgment Upon the Verdict** (Judicial Officer: Israel, Ronald J.)
 Debtors: Capriati Construction Corp Inc (Defendant)
 Creditors: Bahram Yahyavi (Plaintiff)
 Judgment: 10/22/2019, Docketed: 10/22/2019
 Total Judgment: 6,276,948.24


03/03/2020 **Order** (Judicial Officer: Israel, Ronald J.)
 Debtors: Capriati Construction Corp Inc (Defendant)
 Creditors: Bahram Yahyavi (Plaintiff)
 Judgment: 03/03/2020, Docketed: 03/04/2020
 Total Judgment: 159,072.60

03/03/2020 **Order** (Judicial Officer: Israel, Ronald J.)
 Debtors: Capriati Construction Corp Inc (Defendant)
 Creditors: Bahram Yahyavi (Plaintiff)
 Judgment: 03/03/2020, Docketed: 03/04/2020
 Total Judgment: 2,510,779.30

HEARINGS

12/02/2015 **CANCELED Motion** (9:30 AM) (Judicial Officer: Bulla, Bonnie)
Vacated - On in Error
Notice of Motion and Motion to Revoke Defendant's Bail and/or O.R. Release and Remand Defendant into Custody

12/08/2016  **Status Check** (9:45 AM) (Judicial Officer: Israel, Ronald J.)
Status Check: Referral to Settlement Conference // Trial Readiness (March 13, 2017 Trial Stack)
 Matter Heard; Status Check: Referral to Settlement Conference // Trial Readiness (March 13, 2017 Trial Stack)
 Journal Entry Details:
Mr. Brown noted they completed most of the discovery and stated this was a motor vehicle accident and workers compensation issue. Mr. Brown further noted Defendant Capriati Construction had filed bankruptcy and the case should be stayed until the 12/21/16 bankruptcy hearing is held. Mr. Brown requested discovery be extended 60 days and further noted discovery cutoff is 02/12/17. Court noted it could not grant the extension while case is in bankruptcy and directed Counsel to file a motion after the bankruptcy hearing. At the request of Counsel, COURT ORDERED, Matter set for Status Check regarding the bankruptcy stay. 01/12/17 9:00 AM STATUS CHECK: BANKRUPTCY STAY CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Malik, Ahmad, Esq.;

01/12/2017  **Status Check** (9:00 AM) (Judicial Officer: Israel, Ronald J.)
01/12/2017, 01/19/2017
Status Check: Bankruptcy Stay

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-718689-C

Matter Continued; Status Check: Bankruptcy Stay

Matter Heard; Status Check: Bankruptcy Stay

Journal Entry Details:

Upon Court's inquiry, Mr. Sampson noted the bankruptcy stay was lifted and they have a settlement conference scheduled for 03/02/17. Mr. Brown requested 60 days for discovery and to move the trial out 120 days and the parties can stipulate to discovery dates. Mr. Sampson agreed, and stated, However, the stipulation regarding discovery, the designations are closed. COURT ORDERED, Trial VACATED and RESET. The Judicial Executive Assistant (JEA) to issue the trial order. Court will allow discovery, for 60 days from today. Counsel to submit a stipulation for the discovery. 07/06/17 9:30 AM PRE-TRIAL CONFERENCE 07/25/17 9:30 AM CALENDAR CALL 07/31/17 1:30 PM JURY TRIAL CLERK'S NOTE: Court Clerk corrected the trial dates given in Court to reflect the 2017 trial setting dates. kk A copy of this minute order was placed in the attorney folder(s) of: David Sampson, Esq. and Malik Ahmad, Esq. and Mark James Brown, Esq. (Law Office of Eric Larsen). kk 01/24/17.;


Matter Continued; Status Check: Bankruptcy Stay

Matter Heard; Status Check: Bankruptcy Stay

Journal Entry Details:

Mr. Brown requested the stay be lifted and trial continued 60 days. Court noted Plaintiff's Counsel was not present and the trial would not be continued at this time. Court suggested Counsel go to a settlement conference, through Department 2 and then call chambers one week from Friday informing this Department, if the settlement conference was set. Colloquy regarding the discovery expert disclosure date and stay of the case. COURT ORDERED, Matter CONTINUED, for Plaintiff's counsel to be present or the Court may impose sanctions. 01/19/17 9:00 AM STATUS CHECK: BANKRUPTCY STAY CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Mark Brown, Esq. (Law Office of Erick Larsen) and Malik Ahmad, Esq. kk 01/17/17.;

02/14/2017 **CANCELED Pre Trial Conference (9:30 AM)** (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge


03/02/2017  **Settlement Conference (9:00 AM)** (Judicial Officer: Becker, Nancy)
Not Settled;

Journal Entry Details:

Parties present for the settlement conference. Court Clerk not present. Settlement Conference held in chambers. The Judicial Executive Assistant (JEA) stated, David Sampson is new to this case and both sides agreed they will possibly return at a later date for another settlement conference. Case not settled. Trial dates Stand. ;

03/07/2017 **CANCELED Calendar Call (9:30 AM)** (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge

03/13/2017 **CANCELED Jury Trial (1:30 PM)** (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge

07/06/2017  **Pre Trial Conference (9:30 AM)** (Judicial Officer: Israel, Ronald J.)

PRE TRIAL CONFERENCE

Matter Heard; PRE TRIAL CONFERENCE

Journal Entry Details:

Mr. Sampson appearing by Court Call. Upon Court's inquiry, Mr. Brown noted the parties were unable to reach a settlement agreement. Mr. Sampson noted scheduling issues within this trial stack and requested trial be reset and re-open discovery as Defendant was in bankruptcy and did not inform Counsel of it. Mr. Brown noted the Defendant went to bankruptcy that proceeded in December and they lifted the stay. Court noted the seriousness of the Defendant being in bankruptcy and not notifying Counsel. Counsel noted the estimated time of the trial would depend on the outcome of the Motions In Limine. Mr. Brown requested the trial be set later in the stack. COURT ORDERED, Pending Motions In Limine, RESET time to 1:30 PM. COURT ORDERED, Oral Request to Continue Trial and Re-Open Discovery, DENIED. Trial Dates Stand. 07/18/17 1:30 PM MOTIONS IN LIMINE;

07/18/2017 **Motion in Limine (1:30 PM)** (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 1 - To Preclude Plaintiff From Presenting Expert Testimony
Off Calendar; Defendant's Motion in Limine No. 1 - To Preclude Plaintiff From Presenting Expert Testimony

CASE SUMMARY


CASE NO. A-15-718689-C

07/18/2017 **Motion in Limine** (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 2 - To Preclude Plaintiff from Introducing Any Documents or Medical Testimony or Reference Any Treatment Allegedly Related to the Accident after April 2015
 Off Calendar; Defendant's Motion in Limine No. 2 - To Preclude Plaintiff from Introducing Any Documents or Medical Testimony or Reference Any Treatment Allegedly Related to the Accident after April 2015

07/18/2017 **Motion in Limine** (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 3 - To Preclude Plaintiff or Plaintiff's Attorney From Claiming Disability, Loss of Earning Capacity, Future Medical Care, Loss of Household Services, or Right Knee Injury From Accident
 Off Calendar; Defendant's Motion in Limine No. 3 - To Preclude Plaintiff or Plaintiff's Attorney From Claiming Disability, Loss of Earning Capacity, Future Medical Care, Loss of Household Services, or Right Knee Injury From Accident

07/18/2017 **Motion in Limine** (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 4 - To Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers
 Off Calendar; Defendant's Motion in Limine No. 4 - To Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers

07/18/2017 **Opposition and Countermotion** (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Plaintiff's Omnibus Oppositions To Defendant's Motions In Limine And Countermotion To Initiate/Reopen Discovery In This Matter
 Off Calendar; Plaintiff's Omnibus Oppositions To Defendant's Motions In Limine And Countermotion To Initiate/Reopen Discovery In This Matter

07/18/2017  **All Pending Motions** (1:30 PM) (Judicial Officer: Israel, Ronald J.)
All Pending Motions (07/18/17)
 Matter Heard; All Pending Motions (07/18/17)
 Journal Entry Details:
DEFENDANT'S MOTION IN LIMINE NO. 1 - TO PRECLUDE PLAINTIFF FROM PRESENTING EXPERT TESTIMONY: DEFENDANT'S MOTION IN LIMINE NO. 2 - TO PRECLUDE PLAINTIFF FROM INTRODUCING ANY DOCUMENTS OR MEDICAL TESTIMONY OR REFERENCE ANY TREATMENT ALLEGEDLY RELATED TO THE ACCIDENT AFTER April 2015: DEFENDANT'S MOTION IN LIMINE NO 3 - TO PRECLUDE PLAINTIFF OR PLAINTIFF'S ATTORNEY FROM CLAIMING DISABILITY, LOSS OF EARNING CAPACITY, FUTURE MEDICAL CARE, LOSS OF HOUSEHOLD SERVICES, OR RIGHT KNEE INJURY FROM ACCIDENT: DEFENDANT'S MOTION IN LIMINE NO. 4 - TO LIMIT SPECIALS TO AMOUNTS PAID IN WORKER'S COMPENSATION BENEFITS RELATED TO ACCIDENT AND PRECLUDE INTRODUCTION OF AMOUNTS BILLED BY PROVIDERS: PLAINTIFF'S OMNIBUS OPPOSITION TO DEFENDANT'S MOTIONS IN LIMINE AND COUNTERMOTION TO INITIATE/REOPEN DISCOVERY IN THIS MATTER: Colloquy regarding the Defendant's bankruptcy. Mr. Brown noted the bankruptcy was filed the same time the answer was filed and there was no notice of the filed bankruptcy. Court noted discovery proceeded with no indication a stay was in place. Mr. Brown stated he was notified by Plaintiff's Counsel on 10/18/16 regarding a bankruptcy and the stay was lifted 10/22/16. Mr. Brown further noted the parties agreed to proceed with discovery and until Defendants filed the Motions In Limine and discovery was closed then the Plaintiff's objected to discovery additionally Plaintiff's agreed to extend discovery 60 days. Mr. Sampson argued the case was stayed when it was in bankruptcy under statute. Mr. Sampson stated he was not requesting sanctions, However would request to extend discovery or they can go to the Federal Judge. Further arguments by Counsel. COURT ORDERED, Matters CONTINUED, 90 days for Counsel to file their motion in Bankruptcy Court regarding both sides conducting discovery when stayed. This Court to make decisions on pending motions following the Bankruptcy Judges order. Counsel noted Capriati Construction Corp is still in bankruptcy. Mr. Sampson noted he would file the order regarding the bankruptcy stay and will ask to enforce the stay. Mr. Sampson further noted he would request to re-open discovery or have Defendants sanctioned. Court noted it would be up to the Bankruptcy Judge to decide those issues or if to dissolve everything. COURT ORDERED, Trial

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-718689-C

dates, VACATED and Motions In Limine, OFF CALENDAR. COURT ORDERED, Matter SET for a status check to reset Jury Trial and Motions In Limine following the Bankruptcy Courts decision regarding the stay. 10/17/17 9:00 AM STATUS CHECK: STATUS OF CASE// BANKRUPTCY COURT DECISION // RESETTING JURY TRIAL & MOTIONS IN LIMINE;

07/25/2017

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Vacated

07/31/2017

CANCELED Jury Trial (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Vacated

10/19/2017



Status Check (9:00 AM) (Judicial Officer: Barker, David)

Status Check Re: Status of Case // Bankruptcy Court decision of stay // Resetting Jury Trial & MIL's

Matter Heard; Status Check Re: Status of Case // Bankruptcy Court decision of stay // Resetting Jury Trial & MIL's

Journal Entry Details:

Mr. Sampson noted there was a question of bankruptcy stay regarding Defendant Capriati Construction Corporation and in that time all the discovery deadlines past. Mr. Sampson suggested to start forward and stipulate to depositions and hold an Early Case Conference (ECC), submit a Joint Case Conference Report (JCCR). Mr. Brown noted they held a (ECC) already and would stipulate to the (JCCR). Colloquy regarding scheduling issues. Court trailed matter to discuss available setting with the Judicial Executive Assistant (JEA). Later Recalled. Mr. Sampson stated the parties agreed to deadline dates; Initial expert 01/17/18, Rebuttal Experts 02/20/18, Discovery Closes 04/06/18, Dispositive Motions 05/07/18 and Trial Stack of 07/30/18. Mr. Brown noted there was a jury demand, stipulated to the dates and the Defendant will file their answer within 30 days. 07/10/18 9:30 AM PRE-TRIAL CONFERENCE 07/24/18 9:30 AM CALENDAR CALL 07/30/18 1:30 PM JURY TRIAL;

02/21/2018



Motion to Withdraw as Counsel (3:00 AM) (Judicial Officer: Israel, Ronald J.)

David Sampson, Esq.'s Motion to Withdraw as Counsel for Plaintiff

MINUTES

Granted; David Sampson, Esq.'s Motion to Withdraw as Counsel for Plaintiff

Journal Entry Details:

Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20 (b) the Motion to Withdraw is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order including all dates for pretrial compliance with NRCP 16.1 within ten (10) days and distribute a filed copy to all parties involved in this matter. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: David Sampson, Esq. and Malik Ahmad, Esq. and Mark Brown, Esq. (Eric R. Larsen) and Dennis Prince, Esq. (Eglet Prince). kk 02/21/18.;

07/10/2018

CANCELED Pre Trial Conference (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Vacated

07/24/2018

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Vacated

07/30/2018

CANCELED Jury Trial (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Vacated - per Stipulation and Order

10/02/2018

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Vacated - per Secretary

11/09/2018



Motion to Extend Discovery (9:00 AM) (Judicial Officer: Bulla, Bonnie)



Plaintiff's Motion to Extend Discovery Deadlines for the Limited Purpose of Taking Depositions on an Order Shortening Time (Fourth Request)

Granted; Plaintiff's Motion to Extend Discovery Deadlines for the Limited Purpose of Taking Depositions on an OST(Fourth Request)

CASE SUMMARY**CASE NO. A-15-718689-C**

Journal Entry Details:

2015 case. Commissioner is not able to move the Trial date, and it would be addressed by the Judge. Mr. Prince stated Plaintiff doesn't want the Trial continued. Arguments by counsel. Mr. Kahn stated Plaintiff wants a number a depositions. Commissioner stated the proposed Rules limit depositions to ten for each side unless there is a Stipulation or a Court Order. COMMISSIONER RECOMMENDED, motion is GRANTED; discovery cutoff EXTENDED to 12-31-18; file dispositive motions by 12-24-18 unless the Court agrees to hear Motions on OST. Mr. Prince to prepare the Report and Recommendations, and Mr. Kahn to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;

- 12/13/2018 **CANCELED Pretrial/Calendar Call (9:30 AM)** (Judicial Officer: Israel, Ronald J.)
Vacated - Superseding Order
- 12/13/2018 **CANCELED Pretrial/Calendar Call (9:30 AM)** (Judicial Officer: Israel, Ronald J.)
Vacated
- 12/31/2018 **CANCELED Jury Trial (1:30 PM)** (Judicial Officer: Israel, Ronald J.)
Vacated
- 01/10/2019 **CANCELED Status Check: Compliance (3:00 AM)** (Judicial Officer: Truman, Erin)
Vacated - per Commissioner
- 01/15/2019  **Pre Trial Conference (9:30 AM)** (Judicial Officer: Israel, Ronald J.)
Matter Heard;
Journal Entry Details:
Mr. Prince announced ready and estimated 12 to 14 trial days. Mr. Kahn stated the parties submitted a joint motion to delay the Motions In Limine. Mr. Prince noted they would report back on Thursday regarding if the parties settled before the motions are heard. Court directed Counsel to send a letter or e-mail chambers. Trial dates STAND. ;
- 01/29/2019  **Calendar Call (9:30 AM)** (Judicial Officer: Israel, Ronald J.)
Vacated and Reset;
Journal Entry Details:
Conference at the bench. Upon Court's inquiry, Counsel estimated a 3 to 4 week trial and requested to reset the trial. Court trailed matter to confirm older case trial setting status. Later recalled. Due to Court's schedule, COURT ORDERED, Trial VACATED and RESET, Plaintiff's Counsel to prepare a trial schedule order. Colloquy regarding resetting the Motions In Limine. Court directed Counsel to review all the Motions In Limine and stated if there are any motions to enforce FCH-1 or to follow the law, Counsel may be sanctioned. COURT ORDERED, Motion's In Limine, RESET. 03/19/19 10:00 AM MOTIONS IN LIMINE 06/04/19 9:30 AM PRE-TRIAL CONFERENCE 06/18/19 9:30 AM CALENDAR CALL 07/01/19 1:30 PM JURY TRIAL (3-4 WKS);
- 02/11/2019 **CANCELED Jury Trial (1:30 PM)** (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge
- 03/19/2019 **Motion in Limine (10:00 AM)** (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 5 to Exclude Evidence of Traffic Citation
Stipulated; Defendant's Motion in Limine No. 5 to Exclude Evidence of Traffic Citation
- 03/19/2019 **Motion in Limine (10:00 AM)** (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 6 to Exclude Evidence Any Expert Opinion Testimony by Lay Witnesses
Granted in Part; Defendant's Motion in Limine No. 6 to Exclude Evidence Any Expert Opinion Testimony by Lay Witnesses
- 03/19/2019 **Motion in Limine (10:00 AM)** (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 7 to Exclude Rebuttal Expert Leggett or Alternatively to Require that His Testimony be in Plaintiff's Rebuttal Case
Granted in Part; Defendant's Motion in Limine No. 7 to Exclude Rebuttal Expert Leggett or

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Alternatively to Require that His Testimony be in Plaintiff's Rebuttal Case

- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Notice of Withdrawal of Defendant Capriati Construction Corp.'s Motion in Limine No. 3 - to Preclude Plaintiff or Plaintiff's Attorney from Claiming Subarguments (1) Claiming Disability, (2) Loss of Earning Capacity, (3) Future Medical Care and (4) Loss of Household Services and Maintain and to Supplement and Re-Notice Subargument (5) to Preclude Right Knee Injury from Accident
Withdrawn
Denied; Notice of Withdrawal of Defendant Capriati Construction Corp.'s Motion in Limine No. 3 - to Preclude Plaintiff or Plaintiff's Attorney from Claiming Subarguments (1) Claiming Disability, (2) Loss of Earning Capacity, (3) Future Medical Care and (4) Loss of Household Services and Maintain and to Supplement and Re-Notice Subargument (5) to Preclude Right Knee Injury from Accident
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Plaintiff's Motion In Limine No. 1: To Limit Defendants Experts Testimony To The Opinions And Bases Set Forth In Their Expert Reports
Reserve Ruling; Plaintiff's Motion In Limine No. 1: To Limit Defendants Experts Testimony To The Opinions And Bases Set Forth In Their Expert Reports
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Plaintiff's Motion In Limine No. 2: To Exclude Argument That This Case Is Attorney Driven Or A Medical Buildup Case Because There Is No Evidence To Support Such Argument
Granted; Plaintiff's Motion In Limine No. 2: To Exclude Argument That This Case Is Attorney Driven Or A Medical Buildup Case Because There Is No Evidence To Support Such Argument
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 8 to Exclude Plaintiff's Claims and Computations for Any Future Medical Treatment Not Previously Disclosed in Medical Records or Expert Opinions Within the Close of Discovery
Off Calendar; Defendant's Motion in Limine No. 8 to Exclude Plaintiff's Claims and Computations for Any Future Medical Treatment Not Previously Disclosed in Medical Records or Expert Opinions Within the Close of Discovery
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Defendant's Motion in Limine No. 9 to Exclude and Prevent Argument or Questions That Defendant is Avoiding Liability or Refusing to Accept Liability
Denied; Defendant's Motion in Limine No. 9 to Exclude and Prevent Argument or Questions That Defendant is Avoiding Liability or Refusing to Accept Liability
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Plaintiff's Motion in Limine No. 3 to Exclude Closing Argument that Plaintiff is Requesting more then he Expects to Receive
Granted; Plaintiff's Motion in Limine No. 3 to Exclude Closing Argument that Plaintiff is Requesting more then he Expects to Receive
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Plaintiff's Motion In Limine No. 5: To Exclude Evidence Of When The Parties Contacted And Retained Counsel
Granted; Plaintiff's Motion In Limine No. 5: To Exclude Evidence Of When The Parties Contacted And Retained Counsel
- 03/19/2019 **CANCELED Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Vacated
Defendant's Motion in Limine No. 10 to Exclude Lack of Pre-Accident Medical Records as Proof That No Relevant Prior or Pre-Existing Treatment Occurred
- 03/19/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Israel, Ronald J.)
Plaintiff's Motion in Limine No 4: to Allow Voir Dire Questioning About Employment with or Financial Intrest in any Insurance Company

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	Stipulated; Plaintiffs Motion in Limine No 4: to Allow Voir Dire Questioning About Employment with or Financial Intrest in any Insurance Company
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 7: To Exclude Reference To Plaintiff's Counsel Working With Plaintiff's Treating Physicians On Unrelated Cases</i> Granted in Part; Plaintiff's Motion In Limine No. 7: To Exclude Reference To Plaintiff's Counsel Working With Plaintiff's Treating Physicians On Unrelated Cases
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 8: To Exclude Reference To Any Absence Of Medical Records Before The Subject Collision</i> Granted; Plaintiff's Motion In Limine No. 8: To Exclude Reference To Any Absence Of Medical Records Before The Subject Collision
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion in Limine No.9 to Permit Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment, and Extent of Disability without a Formal Expert Report</i> Stipulated; Plaintiff's Motion in Limine No.9 to Permit Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment, and Extent of Disability without a Formal Expert Report
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 10 To Exclude Any Argument That The Plaintiff Has Any Symptomatic Conditions Prior To The Collision</i> Denied; Plaintiff's Motion In Limine No. 10 To Exclude Any Argument That The Plaintiff Has Any Symptomatic Conditions Prior To The Collision
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 11 To Exclude Testimony And Opinions Of Defendants' Retained Expert, Kevin Kirkendall, CPA</i> Denied; Plaintiff's Motion In Limine No. 11 To Exclude Testimony And Opinions Of Defendants' Retained Expert, Kevin Kirkendall, CPA
03/19/2019	CANCELED Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated</i> <i>Defendant's Motion in Limine No. 12 to Exclude Expert Testimony Not Based on Evidence Adduced at Trial</i>
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Defendant's Motion in Limine No. 13 to Exclude Shocking Evidence Such as Needles</i> Denied in Part; Defendant's Motion in Limine No.13 to Exclude Shocking Evidence Such as Needles
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 12 To Exclude Reference To Plaintiff Being A Malingerer, Magnifying Symptoms, Or Manifesting Secondary Gain Motives</i> Reserve Ruling; Plaintiff's Motion In Limine No. 12 To Exclude Reference To Plaintiff Being A Malingerer, Magnifying Symptoms, Or Manifesting Secondary Gain Motives
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 14: To Preclude Argument Or Suggestion That Plaintiff's Treating Physicians Have A Conflict That Precludes Them From Offering Medical Causation Opinions</i> Granted; Plaintiff's Motion In Limine No. 14: To Preclude Argument Or Suggestion That Plaintiff's Treating Physicians Have A Conflict That Precludes Them From Offering Medical Causation Opinions
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 16: To Exclude Plaintiff's Prior Unrelated Accidents, Injuries, And Medical Conditions</i>

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	Reserve Ruling; Plaintiff's Motion In Limine No. 16: To Exclude Plaintiff's Prior Unrelated Accidents, Injuries, And Medical Conditions
03/19/2019	CANCELED Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated</i> <i>Defendant's Motion in Limine No. 16 to Exclude Opinions or Testimony of Treating Physicians Beyond their Roles as Non-Retained Experts</i>
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 17: To Exclude Any Testimony That Bahram Yahyavi Was Hotrodding</i> Granted; Plaintiff's Motion In Limine No. 17: To Exclude Any Testimony That Bahram Yahyavi Was Hotrodding
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 18: To Exclude Any Evidence Of Worker's Compensation Payments To Bahram Yahyavi</i> Stipulated; Plaintiff's Motion In Limine No. 18: To Exclude Any Evidence Of Worker's Compensation Payments To Bahram Yahyavi
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiff's Motion In Limine No. 6: To Exclude Reference To And Evidence Of Medical Liens</i> Denied; Plaintiff's Motion In Limine No. 6: To Exclude Reference To And Evidence Of Medical Liens
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Defendant Capriati Construction Corp., Inc's Motion in Limine No. 11 to Preclude Evidence of Litigation Induced Stress or Damages Therefrom</i> Granted; Defendant Capriati Construction Corp., Inc's Motion in Limine No. 11 to Preclude Evidence of Litigation Induced Stress or Damages Therefrom
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Defendant's Motion in Limine No 14 to Pre Admit Certain Medical Records</i> Denied; Defendant's Motion in Limine No 14 to Pre Admit Certain Medical Records
03/19/2019	Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Defendant's Motion in Limine No.15 to Exclude Reference and Evidence of Investigating Officer's Narrative, Finding of "At Fault" and Any Other Opinions or Conclusions, Including Those in the Traffic Accident Report or Testified to at Deposition</i> Granted in Part; Defendant's Motion in Limine No.15 to Exclude Reference and Evidence of Investigating Officer's Narrative, Finding of "At Fault" and Any Other Opinions or Conclusions, Including Those in the Traffic Accident Report or Testified to at Deposition
03/19/2019	 Hearing (10:00 AM) (Judicial Officer: Israel, Ronald J.) 03/19/2019, 04/04/2019 <i>Notice of Hearing on Defendant Capriati Construction Corp Inc's Motion in Limine No 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers</i> Continued for Chambers Decision; Notice of Hearing on Defendant Capriati Construction Corp Inc's Motion in Limine No 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers Denied; Notice of Hearing on Defendant Capriati Construction Corp Inc's Motion in Limine No 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers Journal Entry Details: <i>On March 19, 2019 this Court heard arguments on both Plaintiff's and Defendant's Motions in Limine. The Court heard arguments on the instant Motion and continued the matter for two weeks to allow supplemental briefing and a decision in chambers. On March 28, 2019, Defendant filed its supplemental brief. On April 3, 2019, the Parties submitted a Stipulation and Order allowing Plaintiff until April 4, 2019 to file Supplemental briefing on Defendant's Motion In Limine No. 4. The Stipulation and Order was signed April 3, 2019, and filed April 4,</i>

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2019. On April 5, 2019 Plaintiff filed its supplemental brief. After review of the moving papers, arguments of counsel, the supplemental briefing, and the documents on file the Court finds as follows: The workers compensation statutes, in general, were designed to both protect the worker as well as the employer in return for both parties giving up certain rights. In this case the defendant is neither employer or employee. NRS 116C.215(10) is to benefit reimbursement to an employer if a third party recovery is made. Defendant in this case cannot use the statute as a sword to reduce the Plaintiff's recovery. The section was enacted to prevent a double recovery not to reduce the amount claimed to benefit a potential tortfeasor. Therefore, the Plaintiff may introduce the actual amounts billed by the provider and the total amount paid to the Plaintiff or to be paid. Therefore, Defendant's Motion in Limine No. 4 is DENIED. This Decision sets forth the Court's intended disposition on the subject but anticipates further Order of the Court to make such disposition effective as an Order. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and argument. Plaintiff's counsel to prepare the Order and submit to Chambers for consideration in accordance with EDCR 7.21. Said order then must be filed in accordance with EDCR 7.24
CLERK'S NOTE: A copy of this minute order was e-served to counsel. kt 04/09/19.;

Continued for Chambers Decision; Notice of Hearing on Defendant Capriati Construction Corp Inc's Motion in Limine No 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers

Denied; Notice of Hearing on Defendant Capriati Construction Corp Inc's Motion in Limine No 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers

03/19/2019

Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.)

Order Granting Motion For An Order Shortening Time To Hear Plaintiff's Motion In Limine No. 19: To Exclude Prejudicial Information Concerning Mr. Yahyavi

Granted; Order Granting Motion For An Order Shortening Time To Hear Plaintiff's Motion In Limine No. 19: To Exclude Prejudicial Information Concerning Mr. Yahyavi

03/19/2019

Motion in Limine (10:00 AM) (Judicial Officer: Israel, Ronald J.)

Defendant's Motion in Limine No. 17 to Exclude Untimely and Supplemental Crash Testing Opinions, or Testimony of Plaintiff's Rebuttal Only Expert Timothy S. Leggett from 1/15/19 Disclosure

Motion Denied; Defendant's Motion in Limine No. 17 to Exclude Untimely and Supplemental Crash Testing Opinions, or Testimony of Plaintiff's Rebuttal Only Expert Timothy S. Leggett from 1/15/19 Disclosure

03/19/2019



All Pending Motions (10:00 AM) (Judicial Officer: Israel, Ronald J.)

All Pending Motions (03/19/19)

Matter Heard; All Pending Motions (03/19/19)

Journal Entry Details:

Kathy Thomas, Court Clerk, from 10:00 a.m. to 1:50 p.m. Mr. Kahn stated the parties did meet and confer regarding all the Motions In Limine. Mr. Kahn further stated he received notice and records, and further found out another case in California, involving the Plaintiff, claiming emotional distress, that may impact on this case if claiming emotional distress. Mr. Prince noted he had no knowledge of another case. Mr. Prince stated the Motions that the parties stipulated to are; Pltf's motions 4,9,18 and motions withdrawn; Def't's motions 1, 2, 3, 10, 12 & 16. Mr. Kahn noted Def't's Motion # 3 subsection 5 would still be heard today and was re-noticed. Further Plaintiff's motions 13 and 15 withdrawn. PLAINTIFF'S MOTION IN LIMINE NO. 1: TO LIMIT DEFENDANTS EXPERTS TESTIMONY TO THE OPINIONS AND BASES SET FORTH IN THEIR EXPERT REPORTS: Arguments by Counsel. Colloquy regarding if new evidence is presented. Court noted Counsel is asking the Court to follow the law. Court directed both counsel to provide their expert reports to the Court before their expert testifies. COURT ORDERED, Motion RESERVED for time of trial. PLAINTIFF'S MOTION IN LIMINE NO. 2: TO EXCLUDE ARGUMENT THAT THIS CASE IS ATTORNEY DRIVEN OR A MEDICAL BUILDUP CASE BECAUSE THERE IS NO EVIDENCE TO SUPPORT SUCH ARGUMENTS: Arguments by Counsel. Court noted the worker's compensation doctors are from a list. Mr. Kahn stated one of the doctors have become an expert. Court noted this was a worker's compensation injury and they do not get to pick their doctors. COURT ORDERED, Motion GRANTED. PLAINTIFF'S MOTION IN LIMINE NO. 3: TO EXCLUDE CLOSING ARGUMENT THAT PLAINTIFF IS REQUESTING MORE THEN HE EXPECTS TO RECEIVE: Counsel submitted on their briefs. COURT ORDERED, Motion GRANTED. Court finds the argument is not improper and the Court will follow Lioce. PLAINTIFF'S MOTION IN LIMINE NO. 4: TO ALLOW VOIR DIRE QUESTIONING ABOUT EMPLOYMENT WITH

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FINANCIAL INTEREST IN ANY INSURANCE COMPANY: Pursuant to Counsel, Motion STIPULATED. PLAINTIFF'S MOTION IN LIMINE NO. 5: TO EXCLUDE EVIDENCE OF WHEN THE PARTIES CONTACTED AND RETAINED COUNSEL: Mr. Prince argued in support of his motion. Mr. Kahn noted the Plaintiff went to a few different attorneys. Colloquy regarding the nature of the case being a worker's compensation injury. COURT stated its findings and ORDERED, Motion GRANTED. PLAINTIFF'S MOTION IN LIMINE NO. 6: TO EXCLUDE REFERENCE TO AND EVIDENCE OF MEDICAL LIENS: Arguments by counsel. Colloquy regarding liens and collateral source. Court will only allow counsel to ask "did you perform services on a lien". Mr. Kahn asked Mr. Prince to inform him, if the doctor treats on a lien and Mr. Price agreed to inform him. COURT ORDERED, Motion DENIED, however will allow the one question. PLAINTIFF'S MOTION IN LIMINE NO. 7: TO EXCLUDE REFERENCE TO PLAINTIFF'S COUNSEL WORKING WITH PLAINTIFF'S TREATING PHYSICIANS ON UNRELATED CASES: Mr. Prince noted this would only be related to treating physicians. Mr. Kahn stated he should be allowed to probe as to "the percentage of cases". Court noted if there are experts, then you can ask the question. COURT ORDERED, Motion, GRANTED IN PART as to the doctors and DENIED IN PART as to the retained experts. PLAINTIFF'S MOTION IN LIMINE NO. 8: TO EXCLUDE REFERENCE TO ANY ABSENCE OF MEDICAL RECORDS BEFORE THE SUBJECT COLLISION: Mr. Prince submitted on the briefs. Mr. Kahn stated the Plaintiff testified in his deposition, he had no problems, however his experts reviewed the records presented and will address it in testimony; Mr. Kahn further noted at this time he doesn't know of any other records. Court finds records that are not found is speculative because you don't know. Mr. Kahn noted if something new comes up, he will make an offer of proof. COURT ORDERED, Motion, GRANTED. PLAINTIFF'S MOTION IN LIMINE NO. 9: TO PERMIT TREATING PHYSICIANS TO TESTIFY AS TO CAUSATION, DIAGNOSIS, PROGNOSIS, FUTURE TREATMENT, AND EXTENT OF DISABILITY WITHOUT A FORMAL EXPERT REPORT: Pursuant to Counsel, Motion STIPULATED. PLAINTIFF'S MOTION IN LIMINE NO. 10: TO EXCLUDE ANY ARGUMENT THAT THE PLAINTIFF HAS ANY SYMPTOMATIC CONDITIONS PRIOR TO THE COLLISION: Mr. Prince noted the Plaintiff went to Southwest Medical for issues unrelated to this case, and referred to Giglio regarding the pre-existing conditions and noted the Southwest Medical records should be excluded. Mr. Kahn referred to his motion to pre-admit these records and stated in the records the doctor requested an MRI to be done regarding his right knee and the Plaintiff's mentioned his neck hurt for years. Mr. Kahn stated his experts reviewed the records and stated it would not change their opinions. Mr. Prince argued they read it but no new opinion; "the above new records does not change my opinion". COURT ORDERED, Motion, DENIED, Court finds the expert opinion with the additional records supports his opinion, he did supplement and the body parts are related to this case. PLAINTIFF'S MOTION IN LIMINE NO. 11: TO EXCLUDE TESTIMONY AND OPINIONS OF DEFENDANTS RETAINED EXPERT, KEVIN KIRKENDALL, CPA: Mr. Kahn stated he did not intend to have him testify as to legal opinions. Mr. Kahn further noted Mr. Kirkendall is a certified CPA. Mr. Prince stated he had seen legal opinions. Court stated the expert is not to testify as to legal opinions, pursuant to Hallmark. COURT ORDERED, Motion, DENIED. PLAINTIFF'S MOTION IN LIMINE NO. 12: TO EXCLUDE REFERENCE TO PLAINTIFF BEING A MALINGERER, MAGNIFYING SYMPTOMS, OR MANIFESTING SECONDARY GAIN MOTIVES: Arguments by Counsel. Colloquy regarding qualifications needed and requires a psychological assessment. Court noted the Functional Capacity Exam, (FCE) that was done could comment on. Further arguments by Counsel regarding symptom magnifications statements and statements of the FCE examiner. Court noted it would need to see the records before the trial for a decision to be rendered. COURT ORDERED, Motion, RESERVED for the time of trial. PLAINTIFF'S MOTION IN LIMINE NO. 14: TO PRECLUDE ARGUMENT OR SUGGESTION THAT PLAINTIFF'S TREATING PHYSICIANS HAVE A CONFLICT THAT PRECLUDES THEM FROM OFFERING MEDICAL CAUSATION OPINIONS: Court noted it would follow FCH-1. Arguments by Counsel. Colloquy regarding a possible conflict between the two doctors. Court noted they would need to find out. COURT ORDERED, Motion, GRANTED IN PART and RESERVED in part for time of trial, if it should come up. PLAINTIFF'S MOTION IN LIMINE NO. 16: TO EXCLUDE PLAINTIFF'S PRIOR UNRELATED ACCIDENTS, INJURIES, AND MEDICAL CONDITIONS: Mr. Kahn noted he would be redacting the unrelated issues. Mr. Prince inquired of the other injuries. Court directed Counsel to go over this at their 2.67 meeting and COURT ORDERED, Motion, RESERVED for time of trial. PLAINTIFF'S MOTION IN LIMINE NO. 17: TO EXCLUDE ANY TESTIMONY THAT BAHRAM YAHYAVI WAS HOTRODDING: Mr. Prince argued in support of his motion and stated the Plaintiff was not speeding and the characterization of hotrodding is labeling. Argument by Mr. Kahn. Court finds hotrodding is an opinion and ORDERED, Motion, GRANTED. PLAINTIFF'S MOTION IN LIMINE NO. 18: TO EXCLUDE ANY EVIDENCE OF WORKER'S COMPENSATION PAYMENTS TO BAHRAM YAHYAVI: Pursuant to Counsel, Motion, STIPULATED. COURT ORDERED, Matter OFF CALENDAR. PLAINTIFF'S MOTION IN LIMINE NO. 19: TO EXCLUDE PREJUDICIAL INFORMATION

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CONCERNING MR. YAHYAVI: Mr. Prince noted the Plaintiff's divorce is not relevant. Mr. Kahn submitted on his pleadings and noted the divorce case found yesterday was dealing with emotional distress and may relate to this case. COURT ORDERED, Motion, GRANTED with a caveat of this one case. DEFENDANT'S MOTION IN LIMINE NO. 3: SUBSECTION 5 ONLY: TO PRECLUDE RIGHT KNEE INJURY FROM ACCIDENT: COURT ORDERED, Motion, DENIED. Arguments by Mr. Kahn in support of his motion. Mr. Prince argued and stated the expert Dr. Miao was deposed and stated his opinion was based on "overall gestalt". Court requested the deposition. Court noted the expert could give a range and not a specific date of the injury. Court stated findings within the deposition and stated there was no reason to exclude the injury. COURT ORDERED, Motion DENIED. DEFENDANT'S MOTION IN LIMINE NO. 4: TO LIMIT SPECIALS TO AMOUNTS PAID IN WORKER'S COMPENSATION BENEFITS RELATED TO ACCIDENT AND PRECLUDE INTRODUCTION OF AMOUNTS BILLED BY PROVIDERS: Mr. Kahn noted the personal injury cases, the jury hears the amount paid and not billed. Argument by Mr. Prince. Mr. Prince noted the amount would include a number of things to include temporary total disability benefits and other payments made and could get into liens. Mr. Kahn noted this was the law and the statutes require it. Further arguments. Court directed Counsel to submit simultaneous briefs in two weeks 04/02/19. COURT ORDERED, Motion CONTINUED to Chambers for decision. DEFENDANT'S MOTION IN LIMINE NO. 5: TO EXCLUDE ANY EVIDENCE OF TRAFFIC CITATION: Pursuant to Counsel, COURT ORDERED, Motion STIPULATED. DEFENDANT'S MOTION IN LIMINE NO. 6: TO EXCLUDE EVIDENCE ANY EXPERT OPINION TESTIMONY BY LAY WITNESS: Mr. Price requested the motion be deferred for trial testimony. Mr. Kahn noted the witness stated his view was obstructed and he showed up after the fact. Court finds the witness is not qualified and COURT ORDERED, Motion, GRANTED IN PART, as to specific things that were put in the motion. DEFENDANT'S MOTION IN LIMINE NO. 7: TO EXCLUDE REBUTTAL EXPERT LEGGETT OR ALTERNATIVELY TO REQUIRE THAT HIS TESTIMONY BE IN PLAINTIFF'S REBUTTAL CASE: Court noted Leggett was not noticed as an expert, However he was noticed as a rebuttal expert witness and he can testify as a rebuttal expert. Arguments by Counsel. COURT ORDERED, Motion, DENIED IN PART, Leggett is not excluded, Court will allow Leggett to testify as a Rebuttal Expert, DEFENDANT'S MOTION IN LIMINE NO. 8: TO EXCLUDE PLAINTIFF'S CLAIMS AND COMPUTATIONS FOR ANY FUTURE MEDICAL TREATMENT NOT PREVIOUSLY DISCLOSED IN MEDICAL RECORDS OR EXPERT OPINIONS WITHIN THE CLOSE OF DISCOVERY: Colloquy regarding future medical treatment and Dr. Thalgot recommending a spinal cord stimulator and higher incurring costs. Further discussions regarding trial setting. Counsel noted Dr. Kaplan and Dr. Oliveri were now added to the list. COURT ORDERED, Motion, OFF CALENDAR. Court directed Counsel to submit their stipulation. Upon Courts inquiry, Mr. Prince noted the Plaintiff was rated for a permanent paid disability (PPD) and would not be sure if he will be re-rated after the next surgery. Colloquy regarding trial schedule. DEFENDANT'S MOTION IN LIMINE NO. 9: TO EXCLUDE AND PREVENT ARGUMENT OR QUESTIONS THAT DEFENDANT IS AVOIDING LIABILITY OR REFUSING TO ACCEPT LIABILITY: Mr. Kahn argued in support of his motion. Mr. Prince argued against the motion and stated it's about a legal responsibility. Colloquy regarding the reptile issue. Court noted the Defendant denied liability and the complaint and answer could be read at trial. COURT ORDERED, Motion, DENIED. DEFENDANT'S MOTION IN LIMINE NO. 11: TO PRECLUDE EVIDENCE OF LITIGATION INDUCED STRESS OR DAMAGES THEREFROM: There being no opposition, COURT ORDERED, Motion, GRANTED. DEFENDANT'S MOTION IN LIMINE NO. 13: TO EXCLUDE SHOCKING EVIDENCE SUCH AS NEEDLES: Mr. Prince stated he would have various forms of photos and needles. Court noted it would not allow needles and COURT ORDERED, Motion, GRANTED IN PART as to needles and DENIED IN PART as to all other. DEFENDANT'S MOTION IN LIMINE NO. 14: TO PRE ADMIT CERTAIN MEDICAL RECORDS. Mr. Prince requested to see the redacted records. Court noted it would not pre-admit records, However noted counsel could stipulate to admit. COURT ORDERED, Motion, DENIED. Court noted they may be pre-admitted only if counsel stipulates to the admission. DEFENDANT'S MOTION IN LIMINE NO. 15: TO EXCLUDE REFERENCE AND EVIDENCE OF INVESTIGATING OFFICER'S NARRATIVE, FINDING OF "AT FAULT" AND ANY OTHER OPINIONS OR CONCLUSIONS, INCLUDING THOSE IN THE TRAFFIC ACCIDENT REPORT OR TESTIFIED TO AT DEPOSITION: Court noted the Officer is not qualified to draw opinions as an expert, unless he is and listed as a reconstruction expert. Mr. Prince agreed as to the citation and requested the Court defer for the time of trial, depending upon what foundation is laid and the testimony given. COURT ORDERED, Motion, GRANTED IN PART as to the citation and RESERVED IN PART for time of trial. April Watkins, Court Clerk, present at 1:50 p.m. DEFT'S MOTION IN LIMINE NO. 17 TO EXCLUDE UNTIMELY AND SUPPLEMENTAL CRASH TESTING OPINIONS, OR TESTIMONY OF PLTF'S REBUTTAL ONLY EXPERT TIMOTHY S. LEGGETT FROM 1/15/19 DISCLOSURE: Following arguments by counsel, Court stated FINDINGS and ORDERED, motion DENIED. Pltf. REQUIRED to

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produce all videos, photographs or whatever taken at the time of this. Pltf. is also REQUIRED to produce rebuttal expert for deposition and Pltf. REQUIRED to pay for expert's time. If disclosure made two weeks prior to the rebuttal experts deposition and he needs to review and that is what he is relying on, the Court does not think it is late to allow supplementing and testing. As far as the testing, the Court DISAGREES and testing was done in the most recent case. More often, it is the Deft's doing an accident reconstruction and calculating the Delta V, using a similar car and whether it is the exact same type, it is always the same model and the use that to calculate the Delta V. This is all subject to cross examination at the time of trial whether the exemplar was identical or not which never seems to be the case and the Court is not quite sure the length of the forks themselves and counsel will be able to comment on that . Mr. Kahn argued he will need to either have a live crash test in front of the jury. Court stated there WILL NOT BE a live crash test during trial. Further, Mr. Kahn argued counsel will do his own crash test, not invite Pltf's counsel and then counsel will disclose and Pltf. can do what they need to do. COURT SO ORDERED. Mr. Prince argued they will then produce all available data and produce expert. FURTHER ORDERED, Deft. REQUIRED to produce expert and Deft. required to pay for expert's time. Court further FINDS testing is not out of the ordinary and counsel can question expert during deposition as to qualifications. 04/04/19 (CHAMBERS) DEFENDANT'S MOTION IN LIMINE NO. 4: TO LIMIT SPECIALS TO AMOUNTS PAID IN WORKER'S COMPENSATION BENEFITS RELATED TO ACCIDENT AND PRECLUDE INTRODUCTION OF AMOUNTS BILLED BY PROVIDERS;

04/30/2019



Motion (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Plaintiff's Motion to Allow Parties to Present a Jury Questionnaire Prior to Voir Dire
 Granted; Plaintiff's Motion to Allow Parties to Present a Jury Questionnaire Prior to Voir Dire
 Journal Entry Details:

Court noted the trial is estimated to be one month and explained the difficult process in selecting a juror to sit on a panel for a month. Court disagreed regarding the questionnaire including a question regarding their income. Colloquy. COURT ORDERED, Motion to Allow a Jury Questionnaire, GRANTED. Court directed Counsel to meet and confer within one week and either agree or the Court will decide. Court further directed counsel to submit the proposed Jury Questionnaire in Word format to chambers. COURT ORDERED, Matter SET for a status check regarding the status of the final questionnaire. Court noted with a questionnaire, the voir dire in trial may be limited. Mr. Kahn had no objection to one day each side. 05/16/19 (CHAMBERS) STATUS CHECK: STATUS OF FINAL JURY QUESTIONNAIRE;

05/16/2019



Status Check (3:00 AM) (Judicial Officer: Israel, Ronald J.)

05/16/2019, 05/21/2019

Status Check: Final Status of Jury Questionnaire
 Matter Continued; Status Check: Final Status of Jury Questionnaire
 Matter Heard;
 Matter Continued; Status Check: Final Status of Jury Questionnaire
 Matter Heard;
 Journal Entry Details:

COURT ORDERED, Matter CONTINUED to the next hearing date; To be heard with the pending Motion to Continue Trial. 05/21/19 9:00 AM STATUS CHECK: FINAL STATUS OF JURY QUESTIONNAIRE ;

05/21/2019

Motion to Continue Trial (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Defendant Capriati Construction Corp. Inc's Motion to Continue Trial on an Order Shortening Time

Granted; Defendant Capriati Construction Corp. Inc's Motion to Continue Trial on an Order Shortening Time

05/21/2019





All Pending Motions (9:00 AM) (Judicial Officer: Israel, Ronald J.)

All Pending Motions (05/21/19)
 Matter Heard; All Pending Motions (05/20/19)
 Journal Entry Details:

DEFENDANT CAPRIATI CONSTRUCTION CORP. INC'S MOTION TO CONTINUE TRIAL...STATUS CHECK: FINAL STATUS OF JURY QUESTIONNAIRE Colloquy regarding the discovery issues, Plaintiff's proprietary data unable to open, spinal cord stimulator for Plaintiff, crash testing and trial schedule issues. Court directed Mr. Kahn to complete the crash testing within 30 days. Court notes the Defendant is allowed a crash test, but no right to

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a rebuttal crash test. Mr. Prince noted Dr. Kaplan is now scheduling the spinal cord stimulator, it is part of the life care plan and it did change the damages. Court provided a draft copy of the jury questionnaire to counsel for the parties to review and edit. COURT ORDERED, Trial VACATED and RESET. Plaintiff's Counsel to prepare the trial scheduling order. Upon Court's inquiry, Mr. Kahn stated they did mediation once and will try again. Discovery will not be re-opened. 08/13/19 9:30 AM PRE-TRIAL CONFERENCE 08/27/19 9:30 AM CALENDAR CALL 09/09/19 1:30 PM JURY TRIAL (3-4 WEEKS);

- 06/04/2019 **CANCELED Pre Trial Conference** (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge
- 06/18/2019 **CANCELED Calendar Call** (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge
- 07/01/2019 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Israel, Ronald J.)
Vacated - per Judge
Jury Trial (3 to 4 weeks)
- 07/30/2019  **All Pending Motions** (9:00 AM) (Judicial Officer: Barker, David)
All Pending Motions (07/30/19)
Matter Heard; All Pending Motions (07/30/19)
Journal Entry Details:
PLAINTIFF'S MOTION IN LIMINE NO.20: TO EXCLUDE REFERENCE TO BAHRAM YAHYVI ET. AL V. SERVICE CORPORATION INTERNATIONAL ET.AL....DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE NO.20 TO EXCLUDE REFERENCE TO BAHRAM YAHYVI ET.AL V. SERVICE CORPORATION INTERNATIONAL ET AL; COUNTER-MOTION FOR OFFSET: Mr. Prince noted the mother's body was buried as requested and that case was resolved and Mr. Prince requested any reference to this be excluded. Mr. Kahn noted the Plaintiff is claiming depression, sleeplessness and emotional distress and some claims could be off set. Further arguments by Counsel. Court finds prior case is not relevant and COURT ORDERED, Motion In Limine 20, GRANTED and Counter-Motion for Offset, DENIED. MOTION IN LIMINE NO.21 TO EXCLUDE ARGUMENT THAT BAHRAM YAHYVI LIED TO IRA SPECTOR CONCERNING ARM PARALYSIS AND FUTURE SURGERY: Arguments by Counsel. Colloquy regarding the Plaintiff's statement. Court finds this is an issue for the Jury and ORDERED, Motion In Limine 21, DENIED. Colloquy regarding deposition allowed by the Court. Mr. Kahn to confer with Mr. Prince and work it out. Court directed Mr. Prince to prepare the order.;
- 07/30/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Barker, David)
Events: 05/17/2019 Motion in Limine
Plaintiff's Motion In Limine No. 20: To Exclude Reference To Bahram Yahyavi et. al v. Service Corporation International et. al.
Granted; Plaintiff's Motion In Limine No. 20: To Exclude Reference To Bahram Yahyavi et. al v. Service Corporation International et. al.
- 07/30/2019 **Motion in Limine** (10:00 AM) (Judicial Officer: Barker, David)
Events: 05/17/2019 Motion in Limine
Motion In Limine No. 21 To Exclude Argument That Bahram Yahyavi Lied To Ira Spector Concerning Arm Paralysis And Future Surgery
Denied; Motion In Limine No. 21 To Exclude Argument That Bahram Yahyavi Lied To Ira Spector Concerning Arm Paralysis And Future Surgery
- 07/30/2019 **Opposition and Countermotion** (10:00 AM) (Judicial Officer: Barker, David)
Defendant's Opposition to Plaintiff's Motion In Limine No. 20 To Exclude Reference to Bahram Yahyavi ET.AL V. Service Corporation International ET Al; Counter-Motion for Offset
Denied; Defendant's Opposition to Plaintiff's Motion In Limine No. 20 To Exclude Reference to Bahram Yahyavi ET.AL V. Service Corporation International ET Al; Counter-Motion for Offset
- 08/13/2019  **Pre Trial Conference** (9:30 AM) (Judicial Officer: Israel, Ronald J.)
Matter Heard;

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Journal Entry Details:

Court noted this trial will be set in this trial stack. Mr. Prince estimated 3 to 4 trial weeks. Mr. Prince noted the primary injury is the spine and stated they would be withdrawing the right knee injury. Upon Court's inquiry, Mr. Prince further noted he has a signed order regarding the Jury Questionnaire and other orders. Court directed Counsel to leave the orders for Court to review. Counsel agreed to start trial on 09/09/19. Trial to be confirmed at calendar call.;

08/27/2019

Motion (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Plaintiff's Motion to Pre-Instruct the Jury

8/20/19 Notice of Plaintiff's Motion to Pre-Instruct Jury on Order Shortening Time Granted; Plaintiff's Motion to Pre-Instruct the Jury

08/27/2019

Calendar Call (9:30 AM) (Judicial Officer: Israel, Ronald J.)

Trial Date Set;

08/27/2019



All Pending Motions (9:30 AM) (Judicial Officer: Israel, Ronald J.)

All Pending Motions (08/27/19)

Matter Heard; All Pending Motions (08/27/19)

Journal Entry Details:

PLAINTIFF'S MOTION TO PRE-INSTRUCT THE JURY: Arguments by Counsel. Colloquy regarding the workman s compensation instruction applies. Mr. Kahn objected and noted in the beginning of trial the jury would hear of insurance and administrators and requested it be at the end of trial. Court stated findings and noted there is new legislation and COURT ORDERED, Motion to Pre-Instruct the Jury, GRANTED. Court directed Counsel to meet and confer on Friday and if counsel does not agree they are to submit their objections to chambers Monday. CALENDAR CALL: Counsel announced ready and estimated 3 weeks. Court directed Counsel to appear at 11:30 am and the Jury will be ready at 1:15 PM. 09/09/19 11:30 AM JURY TRIAL: 11:30 AM- COUNSEL PRESENT // 1:15 PM- JURY PRESENT;

09/09/2019



Jury Trial (11:30 AM) (Judicial Officer: Israel, Ronald J.)

09/09/2019-09/13/2019, 09/16/2019-09/20/2019, 09/23/2019-09/27/2019

Jury Trial (3-4 weeks)

Trial Continues;

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;

Verdict for Plaintiff;

Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY Mr. Kahn moved to have his experts' reports admitted as Court's exhibits. Court admitted the expert reports. JURY PRESENT Court read the jury's instructions. Closing arguments by counsel. The jury retired to deliberate. Courtroom Clerk, Elizabeth Vargas, now present. JURY PRESENT: At the hour of 7:40 p.m. the jury returned with a Verdict for the Plaintiff (See Verdict on file herein). Jury polled. Court thanked and excused the jurors. ;

Trial Continues;

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;

Trial Continues; Jury Trial (3-4 weeks)

Trial Continues; Jury Trial (3-4 weeks)

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Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY Court advised counsel that it reviewed *Young vs. Ribeiro* and stated findings as to the statement made by defense counsel to the witness adding that it could call for a mistrial. Mr. Prince argued that he was not asking for a mistrial and believed that sanctions would be more appropriate. Argument by counsel. Court advised that it would not strike the entire answer, only as it pertains to liability. Court further advised that a curative instruction would be read to the jurors, Court will strike Dr. Tung's testimony along with any remaining witnesses the defense has; Mr. Kahn would be admonished in the presence of the jury and that the Court would issue a written decision. *JURY PRESENT* Counsel stipulated to the presence of the jury. Court advised the jury that the answer was stricken as it pertained to liability, the witness that was on the stand and the defense's remaining witnesses were stricken and proceeded to admonish Mr. Kahn. Testimony and exhibits presented. (See worksheets) Court admonished and excused the jury for the evening recess. *OUTSIDE THE PRESENCE OF THE JURY* Court and counsel settled jury instructions. 9/27/19 9:00 AM *JURY TRIAL CONTINUED;*

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

Also present Mr. Cliff Goodrich, a representative of Capriati Construction Corp. *OUTSIDE THE PRESENCE OF THE JURY:* Mr. Kahn proposed the front page of the *OUTSIDE THE PRESENCE OF THE JURY:* Arguments by Counsel regarding proposed AAAA exhibit/final lien, with log of workers compensation payments by provider (03/02/17). Court directed Mr. Kahn to bring a log from the worker compensation. Colloquy regarding NRD 616C.215 (10). Upon Mr. Kahn provided a 1 page document sent from workman s compensation, Mr. Prince objected and stated the document is inaccurate. Court noted counsel may need to subpoena someone from workman s compensation to testify. Mr. Kahn further proposed and offered redacted exhibit YY (Heart Center of Nevada) and Mr. Prince objected to the admission. *JURY PRESENT:* Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets). Mr. Kahn gave an offer of proof regarding the offered exhibit YY and stated the Plaintiff's income amounts. Mr. Prince argued the amounts the Plaintiff did make per year and noted it was down because of the accident. Court denied counsel's request to admit the exhibit. Court noted both parties stipulated to exclude an accepted body part. Mr. Severino provided another spreadsheet from workman s compensation with breakdowns and total amount, that he just received. Mr. Prince noted the Plaintiff receives total disability this year. Colloquy regarding amounts reduced and vocational rehabilitation noted. Court noted the calculation is difficult. *JURY PRESENT:* Testimony continued. (See worksheets). Plaintiff Rested. Testimony continued. *OUTSIDE THE PRESENCE OF THE JURY:* Mr. Prince argued the Deft. stated they had filed bankruptcy and would request the Defendant's answer be stricken or to have a curative instruction regarding willful misconduct. Mr. Kahn noted an offer of proof, and stated there were 250 employees and now down to 60 employees and it was elicited from the witness. Court admonished Mr. Kahn and noted bankruptcy is not admissible because of reorganization, it is their fault. Mr. Kahn apologized. Colloquy regarding

CASE SUMMARY

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sanctions. Mr. Prince noted he did not want a mistrial. Court directed Counsel to appear tomorrow at 9:00 AM and the Court will re-read Gunderson and decide on the appropriate sanctions. Evening recess. 09/26/19 10:00 AM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn asked if Dr. Tung's reports be marked as Court's exhibits. COURT SO ORDERED, See Exhibit List (See worksheets). JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets). Conference at the bench. OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn objected to the Plaintiff's demonstrative exhibits being shown to the jury as it was beyond the scope of income. Arguments by counsel. Court over-ruled objection and ORDERED, the demonstrative exhibits be marked as a Courts exhibits. (See worksheets). Other arguments by counsel regarding publishing the report to the jury. Court sustained Mr. Kahn's objection and Mr. Prince was directed not to show the report to the jury, however he could refer to the report. JURY PRESENT Continued testimony (See worksheets). Conference at the bench regarding Counsel's objections. Continued testimony. OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince argued noting the knee claim was being removed, However Mr. Kahn tried to back door this. Mr. Prince further noted the Social Security Records are not in. Mr. Kahn agreed the knee claim was out and explained the reasons, including the knee, why the Plaintiff had taken so much time off work. Mr. Prince noted there was nothing in the records regarding his knee. Court noted the knee is unrelated to the claims. Further arguments by Mr. Kahn and requested to make an offer of proof tomorrow with the documents and dates. Court will allow the offer of proof. Evening recess. 09/25/19 1:00 PM JURY TRIAL ;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY: Court received the Defendants trial brief #5 regarding improper impeachment of Dr. Tung and his annual salary information. Mr. Kahn requested Dr. Tung's deposition from another case be marked as an exhibit noting Plaintiff used that deposition regarding Dr. Tung's salary. Mr. Prince noted it was not published because it was from another case. Mr. Kahn advised he objected to the deposition being used from another case. Court allowed the deposition to be a courts exhibit. (See worksheets). JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY: Arguments by

CASE SUMMARY

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Counsel regarding the Plaintiff's ability to obtain other jobs. Colloquy regarding the Defendant expert, Mr. Bennett's two reports. Mr. Kahn directed the Court to the second page of the report. Court noted the issue should have been listed in the conclusion of the report. Court stated findings and sustained the objection and marked the reports as a courts exhibit (See worksheets). Mr. Prince requested the jury be admonished. Court noted it would sustain the objection and strike the question and answer. JURY PRESENT: Court instructed the Jury, striking the last question and answer. Continued testimony. (See worksheets). Evening recess. 09/24/19 11:00 AM JURY TRIAL;

- Trial Continues;
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues;
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues;

Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

Also present Felicia Rieben, a representative for the Defendant present. OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince note the two objections made during cross examination of Dr. Clauretje regarding collateral source and requested a curative instruction to the jury. Arguments by Counsel. Court noted at the time of the objection, Court did strike the question and instructed the jury to disregard the question and answer. Court trailed matter to review the recording. Later recalled. Court noted upon review; the fringe benefits amounts were not mentioned and the Court admonished the jury and therefore, COURT DENIED, Plaintiff's request for a curative instruction. JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn noted Plaintiff's demonstrative was not provided as an exhibit and was used and requested to mark it as an exhibit. Mr. Prince stated the demonstrative documents shown to the jury was in his opening power-point. Colloquy regarding having to take Defendant's witness out-of-order due to scheduling issues. JURY PRESENT: Continued testimony. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel regarding Dr. Tung's testimony and report. Mr. Kahn noted the Plaintiff's did not take Dr. Tung's deposition. Upon Court's inquiry, Dr. Tung did state the films he had seen and noted the dates he had received and reviewed them. Mr. Prince noted Dr. Tung did not state this in his report that he reviewed the films. Dr. Tung noted upon his review of films and imaging reports, his findings of the films is implied, you have to see the films when writing findings. Arguments by Counsel. Dr. Tung noted he did agree with the imaging reports. Court noted Dr. Tung agrees with the imaging reports. JURY PRESENT: Continued testimony. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn argued noted the Plaintiff's experts opined on the Southwest Medical records after seeing the records 1 day prior to testimony and not listed in the reports; and to prevent Deft's only expert not to opine on these records would be prejudicial and requested the Court reconsider Court's recent decision. Mr. Prince argued regarding stating chronic neck pain/chronic symptomatic before the accident. Mr. Kahn noted pre-existing is noted in the records. Further arguments by Counsel. Court will allow the expert to be allowed to testify to what is noted in his report. JURY PRESENT: Continued testimony. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding trial scheduling. Evening recess. 09/23/19 1:00 PM JURY TRIAL;

- Trial Continues;
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues;
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)
- Trial Continues; Jury Trial (3-4 weeks)

CASE SUMMARY

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Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Mr. Kahn noted he would not object to counsel not disclosing power points, However, submitting the power points for Court's exhibits. Exhibit 92 redacted a second time as agreed by counsel. (see worksheets). JURY PRESENT: Counsel acknowledged the presence of the jury. Court noted the trial schedule. Testimony and exhibits presented. (See worksheets). Conference at the bench. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Court referred to NRS 48.035 and Counsel's argument at the conference at the bench. Court noted, pursuant to NRS 48.035, Counsel cannot publish a deposition or read the deposition of a witness who is not unavailable and further Counsel cannot impeach a witness on another deposition, it would be hearsay. JURY PRESENT: Further testimony. (See worksheets). Evening recess. 09/20/19 9:00 AM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

Also present Felicia Rieben, Defendant's Corporate representative present. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling issues. Court explained to counsel, a juror requested to end early tomorrow for a doctor appointment. Upon Court's inquiry, Counsel agreed to end early rather than to excuse the juror. JURY PRESENT: Counsel acknowledged the presence of the jury. Court informed the Jury of the Trial schedule. Testimony and exhibits presented. (See worksheets). Conference at the bench. OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel. Mr. Kahn stipulated to various exhibits (see worksheets) and the amount within exhibit 84. JURY PRESENT: Counsel acknowledged the presence of the jury. Continued testimony and exhibits presented. (See worksheets). Conference at the bench. OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel regarding exhibit 92 (bate #354). Counsel agreed to redact the document. Court marked the non-redacted document as a Court exhibit. Court will allow Counsel ask the witness of the surgery that was not done and not approved by workers compensation. Mr. Prince noted the Plaintiff had workers compensation re-opened to get the surgery done. Colloquy regarding if there was pre-approval from workers compensation and if workers compensation paid for that surgery. JURY PRESENT: Further testimony. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Court noted the amount of billing and amount workers compensation has paid is needed. Mr. Kahn noted there is 6 years. Counsel to work together regarding this issue. Evening recess. 09/19/19 10:00 AM JURY TRIAL ;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

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Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling issues. JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Mr. Prince noted his witness schedule and further noted the proposed agreed upon jury instructions were submitted. Counsel to work on the not agreed jury instructions. Evening recess. 09/18/19 1:00 PM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Court noted Juror #10 notified the court regarding sudden illness and was not able to appear. Court excused Juror #10 as the first alternate. Colloquy regarding scheduling issues. Arguments by Counsel regarding expert Kaplan's opinion not in his report. Court noted objections need to be raised at the time of testimony. JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets). OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn argued regarding statement of permanent problem not noted in three of the expert reports and further noted the left arm and shoulder issue. Mr. Prince noted Dr. Kaplan is also the treating physician. Court noted the reports talk about neuropraxia. Colloquy regarding concerns of juror #3 being tired. JURY PRESENT: Counsel acknowledged the presence of the jury. Continued Testimony and exhibits presented. (See worksheets). Evening recess. 09/17/19 10:15 AM 10:15 AM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY Colloquy regarding pre-jury instructions, reading of complaint and answer, and trial schedule. JURY PRESENT Court read pre-instructions to jury. Court Clerk read Complaint for Auto Negligence and Person Injury and Defendant's

CASE SUMMARY

CASE NO. A-15-718689-C

Answer to Plaintiff's Complaint to jury. Opening statements by Mr. Prince and Mr. Kahn. *OUTSIDE THE PRESENCE OF THE JURY* Colloquy regarding Plaintiff's powerpoint. *JURY PRESENT* Testimony and exhibits presented (see worksheets). Deposition of Clifford O. Goodrich *PUBLISHED IN OPEN COURT. COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY CONTINUED TO 9/16/2019 1:00 PM;*

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Kahn referred to NRS 616 C(215)10 and stated the workers compensation payment amounts made to the administrator must be an exhibit before opening statements. Court noted the Defendant's burden to produce it. Colloquy regarding deductions. Mr. Brown noted issues of all the bills coming in. Colloquy regarding the Court's 04/04/19 chamber decision. Later recalled. Court noted he reviewed Dr. Tungs report and he did not change his opinion. Further arguments on the admissibility of records. Court noted Court's decision stands. Upon Mr. Prince requested to pre-admit the Southwest Medical records for opening statements. Mr. Kahn agreed to pre-admit the records however would need to review the medical bills. Individual prospective jurors traversed outside the presence of the prospective panel. PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st & 2nd Jury Lists). OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Upon Court's inquiry of the workers compensation payments and amounts admitted, Mr. Kahn noted he had proposed an amount, with the issue of segregating the knee treatments. PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st, 2nd & 3rd Jury Lists). Jury and 3 secret alternates selected and sworn. Jury List FILED IN OPEN COURT. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: EXCLUSIONARY RULE INVOKED. Mr. Prince noted various Plaintiff's exhibits stipulated to admit. Mr. Kahn requested the Complaint and Answer be read to the jury. Evening recess. 09/13/19 8:30 AM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Counsel noted their challenges for cause. Individual prospective jurors questions outside the presence of the panel. Colloquy regarding authenticity and admission of the medical records and objections noted in the 16.1. Mr. Kahn objected to the relevance and hearsay, with undue prejudice. Mr. Prince argued and referred to the collateral source issue and cited the Williams and Giglio cases. Mr. Kahn referred to the Motion In Limine 10. Mr. Prince requested an admonishment. Court

CASE SUMMARY

CASE NO. A-15-718689-C

noted they don't have a jury panel at this time. Court reviewed and referred to the Courts chamber decision regarding Motion In Limine 10. PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st, 2nd & 3rd Jury Lists). OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Arguments by Counsel regarding causes for challenge and custodian of records. Counsel referred to case law; Siatta 134 Nv Adv Opn 38 (regarding the factors for challenges of cause) and Sayedbashe Sayedzada v. State of Nevada. PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. Evening recess. 09/12/19 9:00 AM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:
OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Mr. Kahn objected the reports from Dr. Tung's regarding opinions of the Southwest Medical Records. Mr. Kahn further objected to Mr. Prince stating the specific identifications of the experts when they inform the prospective jury all the names of experts, parties and counsel. Mr. Prince requested to be allowed to say their medical specialty. Court agreed with Mr. Kahn and directed Mr. Prince to only state the names of the doctors and not their specialty. Mr. Kahn noted Dr. Claretie had a new opinion and the damages are changing, the expert should have raised this in his report a month ago. Mr. Prince noted the Plaintiff filed vocational disability and there are different issues. Court noted it would need to read the reports. Colloquy regarding jury schedules. PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st & 2nd Jury Lists). Evening recess. 09/11/19 1:00 PM JURY TRIAL;

Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues;
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
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Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)
Trial Continues; Jury Trial (3-4 weeks)

Trial Continues;
Verdict for Plaintiff;
Verdict reached on 9/27/19

Journal Entry Details:
Colloquy regarding the length of time counsel thought the trial would last. Counsel agreed that the trial would, more than likely, go into a third week. Court and counsel agreed that there would be three alternate jurors and each side would have five preemptory challenges. Court reviewed jury selection and jury instructions with counsel. INSIDE THE PRESENCE OF THE POTENTIAL JURY Voir Dire begins. Court admonished prospective jurors and excused them for the evening recess. TRIAL CONTINUED TO: 9/10/19 10:00 AM;

12/05/2019

**Motion for Attorney Fees and Costs (3:00 AM) (Judicial Officer: Israel, Ronald J.)
12/05/2019, 01/28/2020**

Plaintiff's Motion for Attorney's Fees, Costs, and Interest

CASE SUMMARY

CASE NO. A-15-718689-C

Matter Continued; Plaintiff's Motion for Attorney's Fees, Costs, and Interest
 Granted in Part; Plaintiff's Motion for Attorney's Fees, Costs, and Interest
 Matter Continued; Plaintiff's Motion for Attorney's Fees, Costs, and Interest
 Granted in Part; Plaintiff's Motion for Attorney's Fees, Costs, and Interest


12/05/2019

Motion to Retax (3:00 AM) (Judicial Officer: Israel, Ronald J.)
12/05/2019, 01/28/2020

Defendant Capriati Construction Corp., Inc's Motion to Re-Tax Costs

Matter Continued; Defendant Capriati Construction Corp., Inc's Motion to Re-Tax Costs
 Denied in Part; Defendant Capriati Construction Corp., Inc's Motion to Re-Tax Costs
 Matter Continued; Defendant Capriati Construction Corp., Inc's Motion to Re-Tax Costs
 Denied in Part; Defendant Capriati Construction Corp., Inc's Motion to Re-Tax Costs

12/05/2019

 **All Pending Motions** (3:00 AM) (Judicial Officer: Israel, Ronald J.)


All Pending Motions (12/05/19)

Matter Heard;

Journal Entry Details:

*PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST...DEFENDANT
 CAPRIATI CONSTRUCTION CORP., INC'S MOTION TO RE-TAX COSTS COURT
 ORDERED, Matters CONTINUED to the hearing calendar. COURT FURTHER ORDERED,
 Pending Motion for New Trial be reset from 01/14/20 to 01/28/19. 01/28/20 9:00 AM
 PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST...DEFENDANT
 CAPRIATI CONSTRUCTION CORP., INC'S MOTION TO RE-TAX COST...DEFENDANT'S
 MOTION FOR NEW TRIAL CLERK'S NOTE: A copy of this minute order was e-served to
 counsel. corrected minutes to reflect the correct continued date from 02/28 to 01/28/20. kt
 12/09/19.;*

01/09/2020

 **Motion to Reconsider** (3:00 AM) (Judicial Officer: Israel, Ronald J.)

Events: 11/14/2019 Motion to Reconsider

*Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider Decision and
 Order Entered on November 5, 2018 (2019)*

Denied; Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider
 Decision and Order Entered on November 5, 2018 (2019)

Journal Entry Details:

*On November 5, 2019, this Court entered a decision and order setting out this Court's
 sanctions against Defendant for Defense counsel's intentional misconduct during the jury trial.
 Defendant now seeks reconsideration of that order. The court may grant a motion for
 rehearing only in very rare instances in which new issues of fact or law are raised supporting a
 ruling contrary to the ruling already reached. Moore v. City of Las Vegas, 92 Nev. 402, 405,
 551 P.2d 244, 246 (1976). The district court "may consider a previously decided issue if
 substantially different evidence is subsequently introduced or the decision is clearly
 erroneous." Masonry & Tile Contractors Ass'n. of Southern Nevada v. Jolly, Urga & Wirth,
 Ltd., 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). The court may correct a clerical mistake in
 an order or a mistake due to oversight or omission. NRCP 60(a). The court may relieve a party
 from an order due to: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly
 discovered evidence that, with reasonable diligence, could not have been discovered in time to
 move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or
 extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5)
 the judgment has been satisfied, released, or discharged; it is based on an earlier judgment
 that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6)
 any other reason that justifies relief. NRCP 60(b). Here, during the jury trial, to sanction
 Defense counsel for his misconduct, this Court permitted the parties to try the case as to
 damages but struck the Defendant's liability defense, struck witness Cliff Goodrich's testimony
 in Defendant's case in chief, and struck Defendant's remaining witnesses. Defense counsel
 asserts that this Court's decision and order incorrectly states he was permitted to try the case
 as to damages because Defense counsel was only allowed a closing argument but no further
 experts to support his case as to damages. This Court has broad discretion and inherent
 equitable power to impose non-case concluding sanctions for trial misconduct and abusive
 litigation practices. See Emerson v. Eighth Judicial Dist. Court of State, ex rel. Cty. of Clark,
 127 Nev. 672, 680, 263 P.3d 224, 229 (2011); see also Bahena v. Goodyear Tire & Rubber
 Co., 126 Nev. 243, 254, 235 P.3d 592, 599 (2010). This Court sanctioned Defense counsel
 nearly three weeks after the jury trial had commenced. At that point the Plaintiff had presented
 their case in chief regarding liability and damages which included expert testimony that*

CASE SUMMARY

CASE NO. A-15-718689-C

Defendant had an opportunity to cross-examine. Further, Defendant's medical expert was permitted to testify about causation and damages before this Court imposed a lesser sanction. Instead of striking the Defendant's answer in its entirety, a potentially appropriate sanction given the intentional misconduct and Defense counsel's history of prior conduct, this Court permitted Defendant to continue trying the case with the evidence presented before the sanctions. Accordingly, there being no new issues of fact or law, no substantially different evidence, no clerical errors, mistake or inadvertence, the Motion to Correct or Reconsider the November 5, 2019 Order is DENIED. This decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. Counsel for Plaintiff to prepare the order and submit to chambers for consideration in accordance with EDCR 7.21. Said order then must be filed in accordance with EDCR 7.24. CLERK'S NOTE: A copy of this minute order was e-served to counsel. kt 01/09/2020,;

01/28/2020

Motion for New Trial (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Defendant Capriati Construction Corp., Inc.'s Motion for New Trial

Denied; Defendant Capriati Construction Corp., Inc.'s Motion for New Trial

01/28/2020

**All Pending Motions** (9:00 AM) (Judicial Officer: Israel, Ronald J.)

All Pending Motions (01/28/2020)

Matter Heard; All Pending Motions (01/28/2020)

Journal Entry Details:

DEFENDANT CAPRIATI CONSTRUCTION CORP. INC.'S MOTION FOR NEW TRIAL: Mr. Kahn argued in support of his motion and noted his expert testimony was limited, the jury was not allow to hear the Defendant's damages case. Mr. Kahn further argued regarding the curative instruction and the verdict form. Court noted Mr. Kahn had mentioned the bankruptcy and having no money, in trial. Colloquy. Upon Mr. Kahn's inquiry, Court noted the 7-11 case referring to sanctions from misconduct and this Court thought Mr. Kahn's actions were intentional. Mr. Prince noted it was a spoliation issue regarding the lost record keeping. Further arguments by Mr. Prince. Mr. Prince concluded arguments regarding the curative instructions with no timely objection or alternative. Court stated findings and noted the record speaks for itself, Court found no error in law. Court further noted there was no objection or alternative for the curative or the jury instructions and the driver-Defendant admitted to liability. **COURT ORDERED, Motion for New Trial, DENIED. PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST:** Arguments by Counsel regarding Attorney Fees: Mr. Prince requested under rule NRCP 68(f) penalty costs and interest over and above the other costs and interest and referred to the cited O'Connel Case as to his contingency fee. Colloquy regarding the Offer of Judgment, double recovery and NRCP 68 (f). Mr. Prince further argued for attorney fees and noted his fees were reasonable on a 40% contingent, total \$2,510,579.00. Mr. Kahn argued against the motion and noted with the penalty costs Plaintiff's Counsel would be taking over 50% in attorney fees and further argued Mr. Prince's fees are extremely high. Colloquy regarding cited cases and the different ways to bill attorney fees; contingent, hourly and flat fees. Court noted under Plaintiff's arguments there would be a double recovery of costs however this contradicts the Supreme Courts intentions, as to the penalty costs and interest. Further arguments. Court further finds, as to the Plaintiff's fees, Bettie and Brunzell factors have been satisfied, it was brought in good faith. Court will award the 40% contingent fee. **COURT ORDERED, Plaintiff's Motion for Fees & Costs, GRANTED IN PART** as to the Attorney Fees, interest and costs. **COURT FURTHER ORDERED, Motion, DENIED IN PART** as to the Penalty costs and Penalty interest. Mr. Kahn further inquired regarding his offer and Court noted Mr. Kahn's offer was at the mediation (JAMS) and would not be considered as an offer of judgment. **DEFENDANT CAPRIATI CONSTRUCTION CORP. INC.'S MOTION TO RE-TAX COSTS:** Arguments by Counsel regarding Costs: Mr. Kahn noted the pretrial costs. Mr. Prince stated he would withdraw the Forensic Dynamics Inc. (Timothy Leggett) \$22,205.09. Mr. Kahn argued Dr. Miao would be limited to \$1,500.00. Court agreed. Mr. Prince stated he would **WITHDRAW-** Dr. Miao, Dr. Perry and Desert Orthopedic Center. **COURT SO ORDERED.** Mr. Kahn noted as to Dr. Kaplan, the request was not timely. Mr. Prince noted it was attached to the memorandum and explained the description of deposition was the trial prep. Court **ALLOWED** Plaintiff's the Costs for Dr. Kaplan. Mr. Kahn further stated the knee claim was withdrawn at trial. Mr. Prince noted the knee was a small part of the records and mostly related to the cervical spine. Mr. Prince noted Dr. Schifini was the workman's compensation doctor. Court **ALLOWED** Plaintiff's Dr. Schifini's fees. Court **FURTHER ALLOWED** Plaintiff's Dr. Oliveri fees with a 25% Reduction for the of \$11,025.00 and Dr. Spector fees with a 50% Reduction of the \$5,235.00. Arguments by counsel regarding trial technician. Court noted the technicians are a common practice and it is reasonable and

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-718689-C

therefore Technician Fees AWARDED to Plaintiff's. Mr. Kahn argued regarding Dr. Clauretje and his three reports and referred to the knee that was withdrawn at trial and proposed a 1/3 reduction. Mr. Prince Agreed. Dr. Clauretje's fees Reduced 1/3. Mr. Kahn argued costs regarding the binders. Mr. Prince noted he does not reuse or recycle binders. Court noted the fee for binders is reasonable and AWARDED Plaintiff's the Binder Costs for both in house and outside. Mr. Kahn argued costs for transcripts, record retrieval and record review and further noted they had both agreed to pay the mediation fees/JAMS with a signed contract. Court AWARDED Plaintiff's, Transcript Fees for 2.67 Conference. Mr. Kahn argued regarding transcript fees. Mr. Prince noted Mr. Miao and Mr. Leggett's deposition fees have already been withdrawn. Court finds the transcript for the two depositions reasonable and ALLOWED Plaintiff's the transcript fees for the two depositions. Upon Mr. Kahn's inquiry, Mr. Prince explained the legal retrieval service is the collection of records and the record reform is the summary of review of records. Court AWARDED Plaintiff's the legal retrieval, however the fact they choose to have someone review the records Court would NOT ALLOW the record reform. Mediation Fees NOT ALLOWED. Upon Mr. Kahn's inquiry of daily transcripts, Court ALLOWED Plaintiff's the Daily Transcripts. Mr. Kahn submitted on the remaining issues. COURT ORDERED, Motion to Retax, DENIED IN PART. COURT FURTHER ORDERED, Motion GRANTED IN PART. Mr. Kahn requested all future pleadings and correspondence be additionally copied to appellant counsel, Mr. Severino and Mr. Wall. Mr. Prince noted they would e-serve the pleadings. Mr. Kahn requested the correspondence that is not e-served be copied. Mr. Prince to prepare the order and pass it by Defense Counsel. ;

DATE

FINANCIAL INFORMATION

Defendant Capriati Construction Corp Inc	
Total Charges	247.00
Total Payments and Credits	247.00
Balance Due as of 3/16/2020	0.00
Plaintiff Yahyavi, Bahram	
Total Charges	270.00
Total Payments and Credits	270.00
Balance Due as of 3/16/2020	0.00
Defendant Capriati Construction Corp Inc	
Appeal Bond Balance as of 3/16/2020	500.00

DISTRICT COURT CIVIL COVER SHEET

A-15-718689-C

County, Nevada

Case No. _____

XXVIII

(Assigned by Clerk's Office)

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

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

BAHRAM YAHYAVI

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

**CARRITTI CONSTRUCTION CORP,
INC.
c/o DAVID ROCKHITO
1020 WIGWAM PARKWAY, Henderson NV
89072**

Attorney (name/address/phone):

**MALIK W. AHMAD ESQ
LAW OFFICE OF MALIK W. AHMAD
8072 WEST SAHARA AVE, SUITE A
LAS VEGAS, NV 89117**

Attorney (name/address/phone):

UNKNOWN (702) 547-1182

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

Civil Case Filing Types

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

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

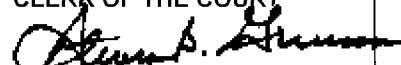
5/20/2015

Date

[Signature]

Signature of initiating party or representative

See other side for family-related case filings.



1 **JGJV**
2 DENNIS M. PRINCE
3 Nevada Bar No. 5092
4 KEVIN T. STRONG
5 Nevada Bar No. 12107
6 **PRINCE LAW GROUP**
7 8816 Spanish Ridge Ave.
8 Las Vegas, NV 89148
9 P: (702) 534-7600
10 F: (702) 534-7601
11 Email: eservice@thedplg.com
12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

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

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,
13 vs.
14 CAPRIATI CONSTRUCTION CORP., INC., a
15 Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

JUDGMENT UPON THE JURY
VERDICT

17 This action was brought to trial in front of Department XXVIII of the Eighth Judicial District
18 Court, The Honorable Ronald J. Israel presiding, and the jury. The issues having been duly tried and
19 the jury having duly rendered its verdict:

20 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff BAHRAM
21 YAHYAVI, has and recovers from Defendant CAPRIATI CONSTRUCTION CORP., INC., the
22 following sums:

23 **PAST DAMAGES:**

24 Past Medical and Related Expenses:	\$491,023.24
25 Past Loss of Wages and Earning Capacity:	+\$300,000.00
26 Past Pain, Suffering, Disability, and Loss of Enjoyment of Life:	<u>+\$500,000.00</u>
27 Total Past Damages:	\$1,291,023.24

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



28 ...

10/15/19

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FUTURE DAMAGES:

Future Medical and Related Expenses:	\$529,260.00
Future Loss of Wages and Earning Capacity:	+\$1,550,000.00
Future Pain, Suffering, Disability, and Loss of Enjoyment of Life:	<u>+\$2,500,000.00</u>
Total Future Damages:	\$4,579,260.00

TOTAL DAMAGES: \$5,870,283.24

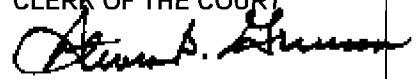
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's past damages in the amount of One Million, Two Hundred Ninety-One Thousand, Twenty-Three Dollars and 24/100 Cents (\$1,291,023.24) shall bear prejudgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 395-96, 116 P.3d 64, 67 (2005) at the rate of 7.50% per annum from the date of service of the Summons and Complaint, August 20, 2015, through September 27, 2019, as follows:

PREJUDGMENT INTEREST:

August 20, 2015 THROUGH September 27, 2019 = (1500 days x \$271.11 per day)	\$406,665.00
--	---------------------

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment is subject to future amendment in accordance with this Court's ruling on any motion brought by Plaintiff for attorney's fees and costs accrued in the action, the amount of which will be determined by this Court at that time.

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1 **NJUD**
2 DENNIS M. PRINCE
3 Nevada Bar No. 5092
4 KEVIN T. STRONG
5 Nevada Bar No. 12107
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7 8816 Spanish Ridge Avenue
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12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP., INC., a
15 Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

NOTICE OF ENTRY OF JUDGMENT

17
18 PLEASE TAKE NOTICE that the Judgment Upon the Jury Verdict was entered on October
19 18, 2019, a copy of which is attached hereto.

20 DATED this 22nd day of October, 2019.

21 **PRINCE LAW GROUP**



22 DENNIS M. PRINCE, ESQ.
23 Nevada Bar No. 5092
24 KEVIN T. STRONG
25 Nevada Bar No. 12107
26 8816 Spanish Ridge Avenue
27 Las Vegas, NV 89148
28 Attorneys for Plaintiff
Bahram Yahyavi



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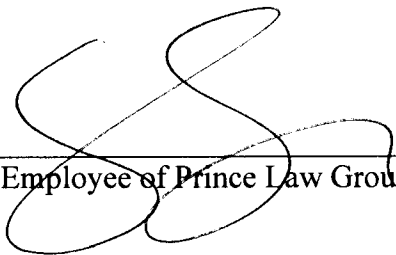
CERTIFICATE OF SERVICE

Pursuant to NRC 5(b), I certify that I am employee of **PRINCE LAW GROUP**, and that on the 22 day of October, 2019, I caused the foregoing document entitled **NOTICE OF ENTRY OF JUDGMENT** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, as follows:

David S. Kahn, Esq.
WILSON,ELSER, MOSKOWITZ, EDELMAN
& DICKER LLP.
300 South Fourth Street, 11th Floor
Las Vegas, NV 89101

Mark J. Brown, Esq.
LAW OFFICES OF ERIC R. LARSEN
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Las Vegas, NV 89119

*Attorneys for Defendant
Capriati Construction Corp., Inc.*


An Employee of Prince Law Group



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11 Email: eservice@thedplg.com
12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

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

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,
13 vs.
14 CAPRIATI CONSTRUCTION CORP., INC., a
15 Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

JUDGMENT UPON THE JURY
VERDICT

17 This action was brought to trial in front of Department XXVIII of the Eighth Judicial District
18 Court, The Honorable Ronald J. Israel presiding, and the jury. The issues having been duly tried and
19 the jury having duly rendered its verdict:

20 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff BAHRAM
21 YAHYAVI, has and recovers from Defendant CAPRIATI CONSTRUCTION CORP., INC., the
22 following sums:

23 **PAST DAMAGES:**

24 Past Medical and Related Expenses:	\$491,023.24
25 Past Loss of Wages and Earning Capacity:	+\$300,000.00
26 Past Pain, Suffering, Disability, and Loss of Enjoyment of Life:	<u>+\$500,000.00</u>
27 Total Past Damages:	\$1,291,023.24

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



Handwritten signature and date: 10/15/19

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FUTURE DAMAGES:

Future Medical and Related Expenses:	\$529,260.00
Future Loss of Wages and Earning Capacity:	+\$1,550,000.00
Future Pain, Suffering, Disability, and Loss of Enjoyment of Life:	<u>+\$2,500,000.00</u>
Total Future Damages:	\$4,579,260.00

TOTAL DAMAGES: \$5,870,283.24

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's past damages in the amount of One Million, Two Hundred Ninety-One Thousand, Twenty-Three Dollars and 24/100 Cents (\$1,291,023.24) shall bear prejudgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 395-96, 116 P.3d 64, 67 (2005) at the rate of 7.50% per annum from the date of service of the Summons and Complaint, August 20, 2015, through September 27, 2019, as follows:

PREJUDGMENT INTEREST:

August 20, 2015 THROUGH September 27, 2019 = (1500 days x \$271.11 per day)	\$406,665.00
--	---------------------

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment is subject to future amendment in accordance with this Court's ruling on any motion brought by Plaintiff for attorney's fees and costs accrued in the action, the amount of which will be determined by this Court at that time.

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1 **NOW, THEREFORE**, Judgment upon the Jury Verdict in favor of Plaintiff **BAHRAM**
2 **YAHYAVI** is hereby given for Six Million, Two Hundred Seventy-Six Thousand, Nine Hundred
3 Forty-Eight Dollars and 24/100 Cents (\$6,276,948.24) against Defendant **CAPRIATI**
4 **CONSTRUCTION CORP., INC.**, which shall bear post-judgment interest at the legal rate until
5 satisfied, plus costs incurred as allowed by law.

6 DATED this 16 day of October, 2019.

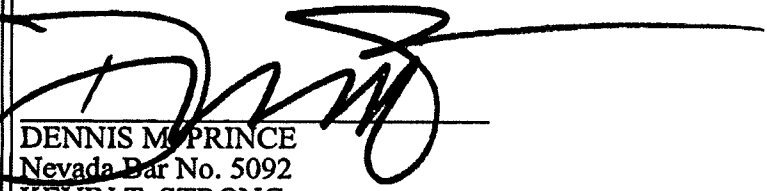
7
8 
9 DISTRICT COURT JUDGE

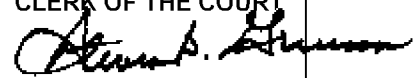
10 RONALD J. ISRAEL

11 A-15-718689-C

12 Respectfully Submitted,

13 **PRINCE LAW GROUP**

14 
15 DENNIS M. PRINCE
16 Nevada Bar No. 5092
17 KEVIN T. STRONG
18 Nevada Bar No. 12107
19 8816 Spanish Ridge Avenue
20 Las Vegas, Nevada 89148
21 Attorneys for Plaintiff
22 *Bahram Yahyavi*



1 JUDGE RONALD J. ISRAEL
2 EIGHTH JUDICIAL DISTRICT COURT
3 DEPARTMENT 28
4 Regional Justice Center
200 Lewis Avenue, 15th Floor
Las Vegas, Nevada 89155

5
6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 Bahram Yahyavi,
9 Plaintiff,

Case No.: A-15-718689-C

Dept.: XXVIII

10 v.

11 Capriati Construction Corp., Inc.,
12 Defendant.

13
14
15 DECISION AND ORDER

16
17 On September 9, 2019 through September 27, 2019, this Court conducted a jury trial
18 in the case of Bahram Yahyavi v. Capriati Construction Corp., Inc. Plaintiff Bahram Yahyavi
19 was represented by Dennis M. Prince and Kevin T. Strong and Defendant Capriati
20 Construction was represented by David S. Kahn and Mark James Brown. On September 26,
21 2019, this Court conducted a hearing to address sanctions for Defense counsel's misconduct
22 during the jury trial.

23 The factual history of this case is as follows: On June 19, 2013, Defendant's
24 employee was driving a fork lift truck with the forks sticking out and collided with Plaintiff
25 who was driving a company-owned vehicle on city streets. Plaintiff filed the complaint on
26 May 20, 2015 and trial commenced on September 9, 2019. On September 25, 2019, during
27 his case in chief, Defense counsel asked Defendant's corporate representative Cliff Goodrich,
28 "Between the date of the accident and today, did anything major happen to your company?"

1 The witness responded, “Yes, we filed for a reorganization in 2015” and Plaintiff’s counsel
2 immediately objected. This Court has concluded that Defense counsel intentionally solicited
3 testimony from the witness concerning Defendant’s bankruptcy.

4 In the third week of trial, after the same witness who was Defendant’s corporate
5 representative testified at length in Plaintiff’s case in chief, Mr. Goodrich was called as a
6 witness in Defendant’s case. The very first question was “Between the date of the accident
7 and today, did anything major happen to your company?” At that point, Mr. Goodrich’s
8 immediate answer was “Yes, we filed for reorganization in 2015.” This Court attached as a
9 court’s exhibit the JAVS video which clearly shows that the question and answer were
10 prepared in advance.

11 After Plaintiff’s counsel objected, the jury was excused and Defense counsel
12 proffered that he thought bankruptcy was a legitimate issue since the file for the employee
13 who drove the forklift that caused the accident was missing possibly due to the bankruptcy.¹
14 This explanation is simply not credible. This is one of the most severe abuses by counsel that
15 this Court has seen.

16 **A. Defense Counsel’s Misconduct Warrants a Curative Instruction to the Jury.**

17 The Nevada Supreme Court has held that when an attorney commits misconduct and
18 the opposing party objects, the district court should admonish the jury and counsel about the
19 impropriety of counsel’s misconduct and should reprimand counsel for their misconduct.
20 *Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 75, 319 P.3d 606, 611–12 (2014). Here,
21 Defense counsel committed misconduct when he intentionally solicited testimony about
22 Defendant’s bankruptcy. On February 6, 2018, Defendant filed a motion for final decree in
23 bankruptcy court to close its Chapter 11 case because it “was able to turn itself profitable”
24 and paid all outstanding fees to its debtors. The bankruptcy court granted Defendant’s motion
25 in its entirety on March 26, 2018. Now, eighteen months later, Defense counsel chose to
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28 ¹ Although not addressed, it stretches credulity to believe that a bankruptcy would result in the loss of computer records to an ongoing business.

1 bring up the bankruptcy, leading the jury to consider the Defendant's financial position
2 despite its irrelevance and the closing of the bankruptcy.

3 Given Defense counsel's misconduct, this Court found it necessary to admonish the
4 jury about the impropriety of such misconduct and to reprimand Defense counsel.

5 Accordingly, this Court admonished the jury on September 26, 2019:

6 You were instructed to disregard the question and answer, which is hereby
7 stricken from these proceedings. Defendant is no longer in bankruptcy and is
8 now profitable. You are further instructed not to consider whether the
9 Defendant filed for bankruptcy for any reason, and it should have no effect on
10 your verdict. You should not even discuss that when you go back to
11 deliberate. Further by seeking to introduce such irrelevant evidence, counsel
12 for the Defendant, Mr. Kahn, committed willful misconduct. Mr. Kahn is
13 hereby reprimanded for his misconduct and admonished not to engage in any
14 further misconduct.

15 **B. The *Young v. Ribiero* Factors Weigh Heavily in Favor of Sanctions for**
16 **Defense Counsel's Misconduct.**

17 The Nevada Supreme Court has stated: "Courts by their nature have 'inherent
18 equitable powers to dismiss actions or enter default judgments...for abusive litigation
19 practices.'" *Young v. Johnny Ribeiro Building*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990).
20 When a court does not impose ultimate discovery sanctions such as dismissal, it may hold a
21 hearing to consider matters that are important to the imposition of sanctions. *Bahena v.*
22 *Goodyear Tire & Rubber Co.*, 126 Nev. 243, 256, 235 P.3d 592, 600-01 (2010). The district
23 court should exercise its discretion to ensure that there is sufficient information to support
24 these sanctions. *Id.* Further, the district should make its conclusions based on the factors set
25 forth in *Young. Id.*

26 The court in *Young* states which factors are relevant to determine whether to strike an
27 answer. The factors a court might consider include, but are not limited to: 1) the degree of
28 willfulness of the offending party, 2) the extent to which the non-offending party would be
prejudiced by a lesser sanction, 3) the severity of the sanction of dismissal relative to the
severity of the discovery abuse, 4) whether any evidence has been irreparably lost, 5) the
feasibility and fairness alternative, less severe sanctions, 6) the policy favoring adjudication

1 on the merits, 7) whether sanctions unfairly operate to penalize a party for misconduct of his
2 or her attorney, 8) the need to deter both the parties and future litigants from similar abuses.
3 *Young*, 106 Nev. at 93, 787 P.2d at 780.

4 **1. The degree of willfulness of the offending party**

5 Defense counsel's intentional misconduct in soliciting testimony concerning
6 Defendant's bankruptcy is one of the most serious abuses this Court has seen. Defense
7 counsel's question was phrased in a way to elicit testimony from Mr. Goodrich that the
8 Defendant filed for bankruptcy. This case was already two weeks into trial when Defense
9 counsel alerted the jury about Defendant's financial state by soliciting testimony regarding
10 the bankruptcy. Defense counsel's actions lead the Court to believe that Defense counsel
11 wanted to force a mistrial or wanted to influence the jury by way of sympathy for the
12 Defendant.

13 At the hearing for sanctions, Defense counsel stated that the purpose of the question
14 was related to the reduction of workforce to respond to information during Plaintiff's case in
15 chief that the Defendant willfully destroyed documents. The Court does not find this
16 testimony credible. There was no time between the question and the answer for this Court to
17 conclude anything else other than that Defense counsel solicited the testimony about the
18 bankruptcy. Further, Defense counsel is a senior partner at a national firm and should have
19 known that he could not solicit testimony about irrelevant evidence that would prejudice the
20 Plaintiff. It is important to note that liability was never an issue because the forklift driver
21 admitted that he was not authorized to drive the forklift and testified that the accident was his
22 fault. Thus, Defense counsel's actions were willful.

23 **2. The extent to which the non-offending party would be prejudiced by a lesser
24 sanction**

25 To sanction Defense counsel's conduct, this Court is striking the answer as to
26 liability, striking witness Mr. Goodrich's testimony about the bankruptcy, and striking
27 Defendant's remaining witnesses. Since liability was not an issue, striking the answer as to
28 liability was no sanction at all, and therefore the additional sanction of excluding Defendant's

1 rebuttal witness was a reasonable and minimal sanction. Further, since the Plaintiff argued it
2 would suffer substantial harm if a mistrial was declared, Plaintiff requested a curative jury
3 instruction that if any damages were awarded there was insurance to cover the verdict.
4 Insurance coverage should generally be excluded and this Court gave the standard jury
5 instruction that jurors are not to consider whether Plaintiff or Defendant have insurance.
6 Nonetheless, this Court felt that the only way to cure the issue was to give the added
7 instruction.

8 This Court is not imposing the ultimate sanction of striking the Defendant's Answer
9 and proceeding to a prove-up hearing. Nonetheless, Plaintiff has been prejudiced because the
10 jury became aware of the Defendant's bankruptcy and Plaintiff cannot make the jurors forget
11 that information. This is a case about damages against a company. The fact that the company
12 underwent bankruptcy is extremely prejudicial to the Plaintiff because it directly impacts the
13 juror's decision regarding the amount of damages to award. Any lesser sanction than what
14 this Court has imposed would further prejudice the Plaintiff and thus the sanctions here are
15 appropriate.

16 3. The severity of the sanction relative to the abuse

17 This Court is striking the defense of liability and allowing the parties to try the case
18 on damages. The severity of the sanction is equal to Defense counsel's intentional
19 misconduct when soliciting testimony about Defendant's bankruptcy. Further, Defense
20 counsel concedes that this Court's sanctions against the Defendant are appropriate: "I believe
21 what Mr. Prince has proposed as curative is sufficient, striking the answer. And even if the
22 answer is stricken, I still think Capriati Construction should have the ability to argue
23 damages with these curative instructions." Therefore, Defense counsel's intentional
24 misconduct warrants the severity of the sanctions imposed.

25 4. Whether any evidence had been irreparably lost

26 So far as this Court is aware, there is no evidence that has been lost.
27
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1 **5. The feasibility and fairness of less severe sanctions**

2 This Court is imposing a lesser sanction than striking the answer completely and
3 proceeding to a prove-up hearing. This Court's decision to strike the answer as to liability, to
4 strike the witness who testified about the bankruptcy, and to strike Defendant's remaining
5 witnesses is fair in light of Defense counsel's misconduct.

6 **6. The policy favoring adjudication on the merits**

7 The Supreme Court favors adjudication on the merits but abusive litigation practices
8 must face sanctions. Under these facts of this case any lesser sanctions would encourage
9 further abuse. Defense counsel's misconduct was willful and thus warrants sanctions.

10 **7. Whether sanctions unfairly operate to penalize a party for misconduct of his
11 or her attorney**

12 In this case, the sanctions for Defense counsel's misconduct do not unfairly penalize
13 Defendant Capriati Construction because Defendant faces no monetary loss whatsoever. This
14 matter is the subject of an order from the bankruptcy court to lift the stay in order to proceed
15 against the insurance policies. Capriati Construction is only a figurehead in this case and
16 does not face any monetary loss. The fact that the bankruptcy stay has been lifted does not
17 allow the Plaintiff to proceed for money against Capriati Construction. Accordingly, this
18 Court's decision to impose sanctions for Defense counsel's misconduct does not operate to
19 unfairly penalize Defendant.

20 **8. The need to deter both parties and future litigants from similar abuses**

21 Defense counsel's misconduct was intentional and serious; therefore, there must be
22 serious and far reaching sanctions in order to deter Defense counsel from even considering
23 repeating their actions again. Information about the Defendant's financial condition distracts
24 the jury from reaching an impartial decision regarding the amount of damages, if any, to
25 award the Plaintiff in a personal injury trial. A jury must fairly evaluate the evidence
26 presented to them without regard to the financial position of the parties. A party's attempt to
27 secure a verdict not based on the evidence will have major consequences. This Court finds
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that deterrence is necessary to prevent future abuse and thus the sanctions imposed are necessary and appropriate.

IT IS HEREBY ORDERED that Defendant's Answer and Affirmative Defenses on Liability are STRICKEN. The Jury Trial on damages will proceed as scheduled.

IT IS FURTHER ORDERED that witness Cliff Goodrich's testimony is STRICKEN and that Defendant's remaining witnesses are STRICKEN.

DATED November 5 ~~October~~ 2019.

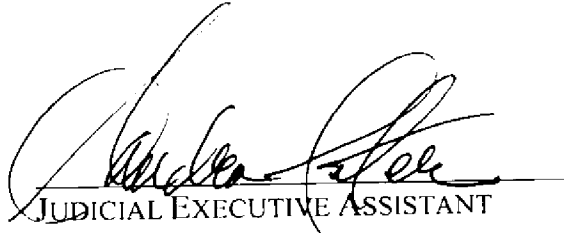


DISTRICT COURT JUDGE
RONALD J. ISRAEL
A-15-718689-C

CERTIFICATE OF SERVICE

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I hereby certify that on the 5th day of November, 2019, a copy of this **DECISION AND ORDER** was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program per the attached Service Contacts List:



JUDICIAL EXECUTIVE ASSISTANT
SANDRA JETER
A-15-718689-C

File Into Existing Case

Service Contacts: A-15-718689-C

Case Number	Name	Location	Description	Email	Case Type
A-15-718689-C	▼ Party: Bahram Yahyavi - Plaintiff	Department 20	Bahram Yahyavi, Plaintiff		Negligence - Auto

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 version 2018.17.8190

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 malik@lasvegaslawgroup.com
 eservice@egletlaw.com

▼ Party: Capriati Construction Corp Inc - Defendant

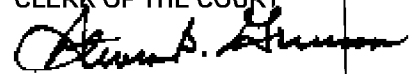
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 llee@thedpig.com

1 10 items per page

1 - 3 of 3 items



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9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

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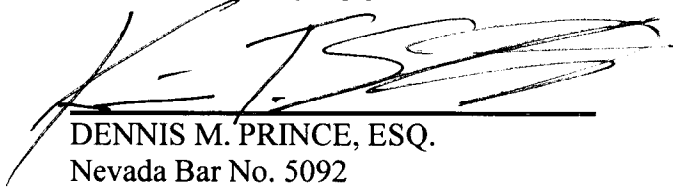
CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

**NOTICE OF ENTRY OF DECISION
AND ORDER**

17
18 PLEASE TAKE NOTICE that a Decision and Order was entered on the 5th day of November,
19 2019, a copy of which is attached hereto.

20 DATED this 5th day of November, 2019.

21 **PRINCE LAW GROUP**

22 
23 DENNIS M. PRINCE, ESQ.
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Attorneys for Plaintiff
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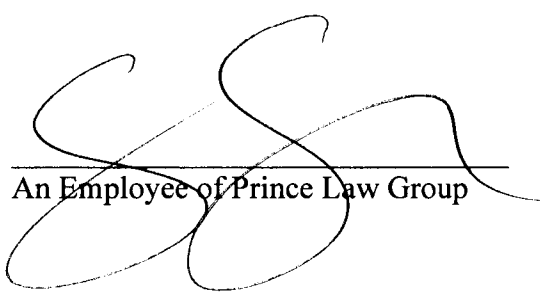
CERTIFICATE OF SERVICE

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

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300 South Fourth Street, 11th Floor
Las Vegas, NV 89101

Mark J. Brown, Esq.
LAW OFFICES OF ERIC R. LARSEN
750 E. Warm Springs Road
Suite 320, Box 19
Las Vegas, NV 89119

*Attorneys for Defendant
Capriati Construction Corp., Inc.*


An Employee of Prince Law Group



1 JUDGE RONALD J. ISRAEL
2 EIGHTH JUDICIAL DISTRICT COURT
3 DEPARTMENT 28
4 Regional Justice Center
5 200 Lewis Avenue, 15th Floor
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7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 Bahram Yahyavi,
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15 DECISION AND ORDER

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1 The witness responded, “Yes, we filed for a reorganization in 2015” and Plaintiff’s counsel
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4 In the third week of trial, after the same witness who was Defendant’s corporate
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6 witness in Defendant’s case. The very first question was “Between the date of the accident
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8 immediate answer was “Yes, we filed for reorganization in 2015.” This Court attached as a
9 court’s exhibit the JAVS video which clearly shows that the question and answer were
10 prepared in advance.

11 After Plaintiff’s counsel objected, the jury was excused and Defense counsel
12 proffered that he thought bankruptcy was a legitimate issue since the file for the employee
13 who drove the forklift that caused the accident was missing possibly due to the bankruptcy.¹
14 This explanation is simply not credible. This is one of the most severe abuses by counsel that
15 this Court has seen.

16 **A. Defense Counsel’s Misconduct Warrants a Curative Instruction to the Jury.**

17 The Nevada Supreme Court has held that when an attorney commits misconduct and
18 the opposing party objects, the district court should admonish the jury and counsel about the
19 impropriety of counsel’s misconduct and should reprimand counsel for their misconduct.
20 *Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 75, 319 P.3d 606, 611–12 (2014). Here,
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22 Defendant’s bankruptcy. On February 6, 2018, Defendant filed a motion for final decree in
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1 bring up the bankruptcy, leading the jury to consider the Defendant's financial position
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3 Given Defense counsel's misconduct, this Court found it necessary to admonish the
4 jury about the impropriety of such misconduct and to reprimand Defense counsel.

5 Accordingly, this Court admonished the jury on September 26, 2019:

6 You were instructed to disregard the question and answer, which is hereby
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11 deliberate. Further by seeking to introduce such irrelevant evidence, counsel
12 for the Defendant, Mr. Kahn, committed willful misconduct. Mr. Kahn is
13 hereby reprimanded for his misconduct and admonished not to engage in any
14 further misconduct.

15 **B. The *Young v. Ribiero* Factors Weigh Heavily in Favor of Sanctions for**
16 **Defense Counsel's Misconduct.**

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25 forth in *Young. Id.*

26 The court in *Young* states which factors are relevant to determine whether to strike an
27 answer. The factors a court might consider include, but are not limited to: 1) the degree of
28 willfulness of the offending party, 2) the extent to which the non-offending party would be
prejudiced by a lesser sanction, 3) the severity of the sanction of dismissal relative to the
severity of the discovery abuse, 4) whether any evidence has been irreparably lost, 5) the
feasibility and fairness alternative, less severe sanctions, 6) the policy favoring adjudication

1 on the merits, 7) whether sanctions unfairly operate to penalize a party for misconduct of his
2 or her attorney, 8) the need to deter both the parties and future litigants from similar abuses.
3 *Young*, 106 Nev. at 93, 787 P.2d at 780.

4 **1. The degree of willfulness of the offending party**

5 Defense counsel's intentional misconduct in soliciting testimony concerning
6 Defendant's bankruptcy is one of the most serious abuses this Court has seen. Defense
7 counsel's question was phrased in a way to elicit testimony from Mr. Goodrich that the
8 Defendant filed for bankruptcy. This case was already two weeks into trial when Defense
9 counsel alerted the jury about Defendant's financial state by soliciting testimony regarding
10 the bankruptcy. Defense counsel's actions lead the Court to believe that Defense counsel
11 wanted to force a mistrial or wanted to influence the jury by way of sympathy for the
12 Defendant.

13 At the hearing for sanctions, Defense counsel stated that the purpose of the question
14 was related to the reduction of workforce to respond to information during Plaintiff's case in
15 chief that the Defendant willfully destroyed documents. The Court does not find this
16 testimony credible. There was no time between the question and the answer for this Court to
17 conclude anything else other than that Defense counsel solicited the testimony about the
18 bankruptcy. Further, Defense counsel is a senior partner at a national firm and should have
19 known that he could not solicit testimony about irrelevant evidence that would prejudice the
20 Plaintiff. It is important to note that liability was never an issue because the forklift driver
21 admitted that he was not authorized to drive the forklift and testified that the accident was his
22 fault. Thus, Defense counsel's actions were willful.

23 **2. The extent to which the non-offending party would be prejudiced by a lesser**
24 **sanction**

25 To sanction Defense counsel's conduct, this Court is striking the answer as to
26 liability, striking witness Mr. Goodrich's testimony about the bankruptcy, and striking
27 Defendant's remaining witnesses. Since liability was not an issue, striking the answer as to
28 liability was no sanction at all, and therefore the additional sanction of excluding Defendant's

1 rebuttal witness was a reasonable and minimal sanction. Further, since the Plaintiff argued it
2 would suffer substantial harm if a mistrial was declared, Plaintiff requested a curative jury
3 instruction that if any damages were awarded there was insurance to cover the verdict.
4 Insurance coverage should generally be excluded and this Court gave the standard jury
5 instruction that jurors are not to consider whether Plaintiff or Defendant have insurance.
6 Nonetheless, this Court felt that the only way to cure the issue was to give the added
7 instruction.

8 This Court is not imposing the ultimate sanction of striking the Defendant's Answer
9 and proceeding to a prove-up hearing. Nonetheless, Plaintiff has been prejudiced because the
10 jury became aware of the Defendant's bankruptcy and Plaintiff cannot make the jurors forget
11 that information. This is a case about damages against a company. The fact that the company
12 underwent bankruptcy is extremely prejudicial to the Plaintiff because it directly impacts the
13 juror's decision regarding the amount of damages to award. Any lesser sanction than what
14 this Court has imposed would further prejudice the Plaintiff and thus the sanctions here are
15 appropriate.

16 **3. The severity of the sanction relative to the abuse**

17 This Court is striking the defense of liability and allowing the parties to try the case
18 on damages. The severity of the sanction is equal to Defense counsel's intentional
19 misconduct when soliciting testimony about Defendant's bankruptcy. Further, Defense
20 counsel concedes that this Court's sanctions against the Defendant are appropriate: "I believe
21 what Mr. Prince has proposed as curative is sufficient, striking the answer. And even if the
22 answer is stricken, I still think Capriati Construction should have the ability to argue
23 damages with these curative instructions." Therefore, Defense counsel's intentional
24 misconduct warrants the severity of the sanctions imposed.

25 **4. Whether any evidence had been irreparably lost**

26 So far as this Court is aware, there is no evidence that has been lost.
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28**5. The feasibility and fairness of less severe sanctions**

This Court is imposing a lesser sanction than striking the answer completely and proceeding to a prove-up hearing. This Court's decision to strike the answer as to liability, to strike the witness who testified about the bankruptcy, and to strike Defendant's remaining witnesses is fair in light of Defense counsel's misconduct.

6. The policy favoring adjudication on the merits

The Supreme Court favors adjudication on the merits but abusive litigation practices must face sanctions. Under these facts of this case any lesser sanctions would encourage further abuse. Defense counsel's misconduct was willful and thus warrants sanctions.

7. Whether sanctions unfairly operate to penalize a party for misconduct of his or her attorney

In this case, the sanctions for Defense counsel's misconduct do not unfairly penalize Defendant Capriati Construction because Defendant faces no monetary loss whatsoever. This matter is the subject of an order from the bankruptcy court to lift the stay in order to proceed against the insurance policies. Capriati Construction is only a figurehead in this case and does not face any monetary loss. The fact that the bankruptcy stay has been lifted does not allow the Plaintiff to proceed for money against Capriati Construction. Accordingly, this Court's decision to impose sanctions for Defense counsel's misconduct does not operate to unfairly penalize Defendant.

8. The need to deter both parties and future litigants from similar abuses

Defense counsel's misconduct was intentional and serious; therefore, there must be serious and far reaching sanctions in order to deter Defense counsel from even considering repeating their actions again. Information about the Defendant's financial condition distracts the jury from reaching an impartial decision regarding the amount of damages, if any, to award the Plaintiff in a personal injury trial. A jury must fairly evaluate the evidence presented to them without regard to the financial position of the parties. A party's attempt to secure a verdict not based on the evidence will have major consequences. This Court finds

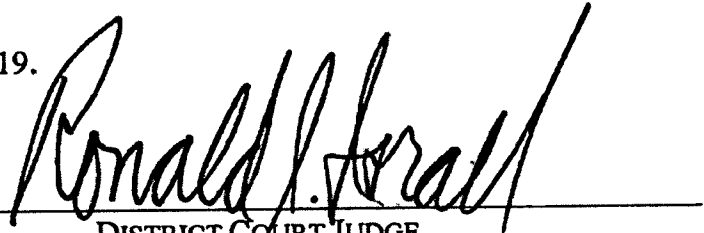
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that deterrence is necessary to prevent future abuse and thus the sanctions imposed are necessary and appropriate.

IT IS HEREBY ORDERED that Defendant's Answer and Affirmative Defenses on Liability are STRICKEN. The Jury Trial on damages will proceed as scheduled.

IT IS FURTHER ORDERED that witness Cliff Goodrich's testimony is STRICKEN and that Defendant's remaining witnesses are STRICKEN.

DATED November 5 ~~October~~ 2019.



DISTRICT COURT JUDGE
RONALD J. ISRAEL
A-15-718689-C

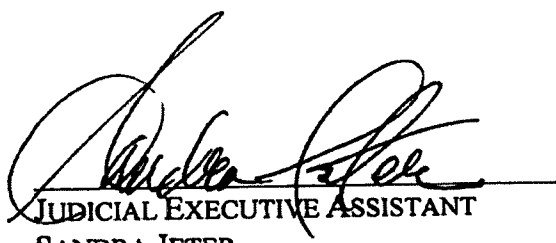
JUDGE RONALD J. ISRAEL

**EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT 28**

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CERTIFICATE OF SERVICE


I hereby certify that on the 5th day of November, 2019, a copy of this **DECISION AND ORDER** was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program per the attached Service Contacts List:



JUDICIAL EXECUTIVE ASSISTANT
SANDRA JETER
A-15-718689-C

File Into Existing Case

Service Contacts: A-15-718689-C				
Case Number	Name	Location	Description	Case Type
A-15-718689-C		Department 20	Bahram Yahyavi, Plaintiff...	Neighborhood Auto
	▼ Party: Bahram Yahyavi - Plaintiff			
	Malik W Ahmad			malik@lasvegastlawgroup.com
	E Service			eservice@egletlaw.com
	▼ Party: Capriati Construction Corp Inc - Defendant			
	Amanda Hill			amanda.hill@wilsonetser.com
	David S. Kahn			david.kahn@wilsonetser.com
	Efile LasVegas			efilelasvegas@wilsonetser.com
	Mark Severino			mark.severino@wilsonetser.com
	Agnes Wong			agnes.wong@wilsonetser.com
	▼ Other Service Contacts			
	"David Sampson, Esq. "			davidsampsonlaw@gmail.com
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	Mark Brown .			Mark.Brown@thehartford.com
	Eservice Filing			eservice@thedplg.com
	Eric R Larsen			Eric.Larsen@thehartford.com
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	1	10	Items per page	1 - 3 of 3 Items



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10 Email: eservice@thedplg.com
11 Attorneys for Plaintiff
12 *Bahram Yahyavi*

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

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,
13 vs.
14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

**ORDER DENYING
DEFENDANT CAPRIATI
CONSTRUCTION CORP., INC.'S
MOTION FOR NEW TRIAL**

17
18 Defendant CAPRIATI CONSTRUCTION CORP., INC.'s Motion for New Trial
19 was brought for hearing in Department XXVIII of the Eighth Judicial District Court,
20 before The Honorable Ronald J. Israel, on the 28th day of January, 2020, with Dennis
21 M. Prince and Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff
22 BAHRAM YAHYAVI; and David S. Kahn and Mark C. Severino of WILSON, ELSER,
23 MOSKOWITZ, EDELMAN & DICKER LLP and Michael K. Wall of HUTCHISON &
24 STEFFIN, PLLC, appearing on behalf of Defendant CAPRIATI CONSTRUCTION
25 CORP., INC. The Court having reviewed the pleadings and papers on file herein, having
26 heard oral argument, and being duly advised in the premises:

27 **THE COURT HEREBY FINDS** that on November 5, 2019, this Court entered
28 its Decision and Order that set forth various sanctions imposed against Defendant



1 Capriati Construction Corp., Inc. ("Defendant") resulting from its counsel's willful
2 misconduct committed during the trial. The misconduct consisted of Defendant's
3 counsel deliberately eliciting testimony regarding Defendant's bankruptcy from Clifford
4 Goodrich ("Goodrich"), Defendant's corporate representative. Defense counsel's
5 misconduct occurred nearly three (3) weeks after trial commenced. The sanctions
6 imposed by this Court in its Decision and Order consisted of: (1) striking Defendant's
7 Answer as to liability, (2) striking the testimony of Goodrich during Defendant's case-
8 in-chief and precluding him from giving further testimony, (3) striking the testimony of
9 Defendant's remaining witnesses, Kevin Kirkendall CPA, and John Baker, Ph.D., and
10 (4) reading a curative instruction to redress the harm caused by the misconduct and
admonishing Defendant's attorney for his misconduct in front of the jury.

11 **THE COURT FURTHER FINDS** that NRCP 59(a) provides the requisite
12 grounds upon which this Court may order a new trial. The decision to grant or deny a
13 motion for new trial rests in the sound discretion of this Court and will not be disturbed
14 absent an abuse of discretion. *Nelson v. Heer*, 123 Nev. 217, 223 (2007).

15 **THE COURT FURTHER FINDS** that the sanctions imposed against Defendant
16 did not unfairly eliminate Defendant's ability to contest causation and damages during
17 trial. This Court did not impose sanctions against Defendant until nearly three (3)
18 weeks after the jury trial commenced. By that time, Plaintiff Bahram Yahyavi's
19 ("Plaintiff") treating physicians and retained medical expert testified regarding the
20 extent of Plaintiff's injuries, their causal relationship to the subject collision, and
21 Plaintiff's need for future medical care. Plaintiff's treating physicians and retained
22 medical expert also testified about Plaintiff's physical disabilities that prevented him
23 from working in the future. Plaintiff's retained vocational rehabilitation expert testified
24 regarding the extent of Plaintiff's vocational losses and damages resulting from his
25 inability to work due to his permanent physical disability. Plaintiff's retained economist
26 testified regarding the present value of Plaintiff's total claimed damages. Defendant
27 received a full and fair opportunity to cross-examine Plaintiff's treating physicians,
28 retained medical expert, retained vocational rehabilitation expert, and retained
economist regarding issues of causation and damages.

1 **THE COURT FURTHER FINDS** that the sanctions imposed against Defendant
2 did not restrict or limit Defendant's retained medical expert, Howard Tung, M.D., from
3 testifying regarding issues of causation and damages. Dr. Tung testified extensively
4 about Plaintiff's preexisting degenerative changes in his cervical spine. He also testified
5 in great detail about Plaintiff's prior neck pain complaint documented in an October
6 2011 Southwest Medical Associates record, exam findings, a prior cervical spine x-ray
7 that Plaintiff underwent, and prior treatment recommendations. Dr. Tung testified
8 about Plaintiff's subsequent medical records from Southwest Medical Associates that
9 did not indicate any additional prior neck pain complaints. Dr. Tung challenged the
10 opinions and testimony from Plaintiff's retained medical expert and treating physicians
11 regarding issues of causation and damages. Dr. Tung's testimony regarding issues of
12 causation and damages was not limited in any way by a ruling or order issued by this
13 Court during trial.

14 **THE COURT FURTHER FINDS** that the sanctions imposed against Defendant
15 did not strike or exclude Defendant's retained vocational rehabilitation expert, Edward
16 L. Bennett, M.A., C.R.C.'s, testimony regarding the extent of Plaintiff's damages. Mr.
17 Bennett specifically testified about the extent of Plaintiff's vocational losses sustained
18 as a result of the subject collision. He further challenged the opinions of Plaintiff's
19 retained vocational rehabilitation expert regarding the extent of Plaintiff's vocational
20 losses. Mr. Bennett was, however, properly restricted from testifying that Plaintiff could
21 also perform other jobs listed in his report because he never expressly offered the opinion
22 in his report in accordance with NRC 16.1(a)(2)(B)(i).

23 **THE COURT FURTHER FINDS** that its decision to strike Defendant's
24 remaining witnesses, Kevin Kirkendall, CPA, and John Baker, Ph.D. as a sanction for
25 defense counsel's willful misconduct fell well within its broad discretion under Nevada
26 law. The exclusion of testimony from Mr. Kirkendall and Mr. Bennett did not eliminate
27 Defendant's ability to contest causation and damages. Mr. Kirkendall merely supported
28 the testimony from Dr. Tung and Mr. Bennett, namely that Plaintiff suffered no
calculable vocational loss. Dr. Baker was already precluded from testifying that the
forces involved in the subject collision were not strong enough to cause Plaintiff's

1 injuries, which comprised the basis for many of his opinions. Therefore, the remainder
2 of Dr. Baker's testimony was not going to assist the jury.

3 **THE COURT FURTHER FINDS** that Plaintiff did not unfairly elicit a
4 spoliation determination from the jury. Plaintiff questioned Goodrich regarding
5 Defendant's investigation of the subject collision and the whereabouts of the employee
6 file from the negligent forklift operator, Joshua Arbuckle ("Arbuckle"). These were
7 appropriate areas of inquiry that in no way suggested to the jury that Defendant
8 willfully destroyed or spoliated evidence. Goodrich simply testified that he did not know
9 where the employee file was located.

10 **THE COURT FURTHER FINDS** that Goodrich's testimony regarding
11 Defendant's investigation of the subject collision and the whereabouts of Arbuckle's
12 employee file did not justify defense counsel's willful decision to elicit testimony from
13 Goodrich that Defendant filed for bankruptcy in 2015. Defendant's counsel could have
14 addressed the missing employee file with Goodrich in numerous ways without
15 specifically referencing Defendant's bankruptcy filing. Defendant's bankruptcy filing is
16 not even relevant to Defendant's ability to retain business records, including Arbuckle's
17 employee file. This underscores the willfulness of defense counsel's intent to elicit
18 testimony from Goodrich regarding Defendant's bankruptcy.

19 **THE COURT FURTHER FINDS** that its decision to impose the sanction of
20 striking Defendant's Answer as to liability was a proper exercise of this Court's
21 discretion. This sanction was not of any significant consequence on the issue of liability
22 because Arbuckle testified during trial that he was at fault for causing the subject
23 collision. Although Arbuckle also testified that he believes two people are always at
24 fault in any collision, he was unable to articulate any factual basis to establish how
25 Plaintiff shared any fault for causing the subject collision. Arbuckle actually testified
26 that he did not blame Plaintiff in any way for causing the subject collision.

27 **THE COURT FURTHER FINDS** that the curative instruction given to the jury
28 addressing Defendant's bankruptcy was a proper sanction imposed against Defendant.
Defense counsel willfully elicited testimony regarding Defendant's bankruptcy, which
suggested to the jury that Defendant did not have the financial ability to pay or satisfy

1 any damages award issued by the jury. The proposed curative instruction properly
2 neutralized the adverse impact of Goodrich's testimony that Defendant lacked the funds
3 to pay any damages award issued by the jury.

4 **THE COURT FURTHER FINDS** Defendant's counsel received the
5 opportunity to read the proposed curative instruction as drafted by Plaintiff's counsel.
6 Defendant's counsel specifically told this Court that he had no comment on the curative
7 instruction. Defendant's counsel made no objection to the curative instruction as written
8 or offered an alternative when Plaintiff presented it to this Court. Therefore,
9 Defendant's counsel waived any challenge to the substance of the curative instruction
10 as a basis to request a new trial. This Court also believes Defendant's counsel's failure
11 to object to the curative instruction during trial waives the issue for purposes of
12 appellate review.

13 **THE COURT FURTHER FINDS** that the sanctions imposed against Defendant
14 were intended to avoid striking the entirety of Defendant's Answer for defense counsel's
15 willful misconduct. This Court possessed the inherent equitable power and discretion
16 to impose these lesser sanctions against Defendant. *Emerson v. Eighth Judicial Dist.*
17 *Court*, 127 Nev. 672, 680 (2011); *Young v. Johnny Ribeiro Bldg.*, 106 Nev. 88, 92 (1990).
18 Moreover, the imposition of these sanctions did not undermine the reliability of the trial
19 proceedings or cause the jury to issue an excessive damages award that was inconsistent
20 with the evidence presented.

21 **THE COURT FURTHER FINDS** that Defendant failed to articulate any factual
22 or legal basis to justify a new trial in accordance with the legal grounds enumerated in
23 NRCF 59(a)(1)(A) – (G).

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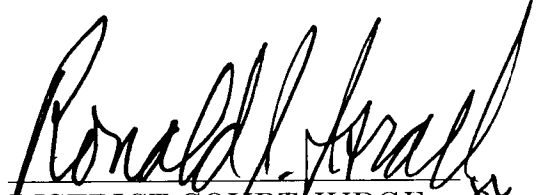


ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Capriati Construction Corp., Inc.'s Motion for New Trial is **DENIED** in its entirety.

IT IS SO ORDERED.

DATED this 2 day of March, 2020.


DISTRICT COURT JUDGE RONALD J. ISRA

DATED this 26th day of February, 2020.


DATED this ___ day of February, 2020.

Respectfully Submitted By:

Approved as to Form and Content:

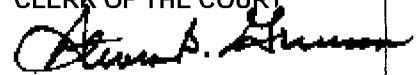
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**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**


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12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

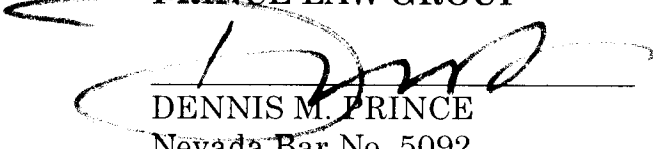
CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

NOTICE OF ENTRY OF ORDER
DENYING DEFENDANT
CAPRIATI CONSTRUCTION
CORP., INC.'S MOTION FOR NEW
TRIAL

17
18 PLEASE TAKE NOTICE that an Order Denying Defendant Capriati
19 Construction Corp, Inc.'s Motion for New Trial was entered on the 3rd day of March, 2020
20 in the above-referenced matter, a copy of which is attached hereto.

21 DATED this 4 day of March, 2020.

22 **PRINCE LAW GROUP**



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24 Nevada Bar No. 5092
25 KEVIN T. STRONG
26 Nevada Bar No. 12107
27 10801 W. Charleston Blvd., #560
28 Las Vegas, NV 89135
Attorneys for Plaintiff
Bahram Yahyavi



1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am employee of **PRINCE LAW GROUP**,
3 and that on the 4 day of March, 2020, I caused the foregoing document entitled
4 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT CAPRIATI**
5 **CONSTRUCTION CORP., INC.'S MOTION FOR NEW TRIAL** to be served upon
6 those persons designated by the parties in the E-Service Master List for the above-
7 referenced matter in the Eighth Judicial District Court eFiling System in accordance
8 with the mandatory electronic service requirements of Administrative Order 14-2 and
9 the Nevada Electronic Filing and Conversion Rules, as follows:

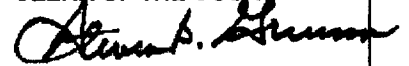
10 David S. Kahn, Esq.
11 WILSON, ELSER, MOSKOWITZ, EDELMAN
& DICKER LLP.
12 300 South Fourth Street, 11th Floor
13 Las Vegas, NV 89101

14 Mark J. Brown, Esq.
15 LAW OFFICES OF ERIC R. LARSEN
16 750 E. Warm Springs Road
Suite 320, Box 19
17 Las Vegas, NV 89119

18 *Attorneys for Defendant*
Capriati Construction Corp., Inc.

19
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22 An Employee of Prince Law Group
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12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

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DEFENDANT CAPRIATI
CONSTRUCTION CORP., INC.'S
MOTION FOR NEW TRIAL**

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25 CORP., INC. The Court having reviewed the pleadings and papers on file herein, having
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27 **THE COURT HEREBY FINDS** that on November 5, 2019, this Court entered
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11 **THE COURT FURTHER FINDS** that NRCP 59(a) provides the requisite
12 grounds upon which this Court may order a new trial. The decision to grant or deny a
13 motion for new trial rests in the sound discretion of this Court and will not be disturbed
14 absent an abuse of discretion. *Nelson v. Heer*, 123 Nev. 217, 223 (2007).

15 **THE COURT FURTHER FINDS** that the sanctions imposed against Defendant
16 did not unfairly eliminate Defendant's ability to contest causation and damages during
17 trial. This Court did not impose sanctions against Defendant until nearly three (3)
18 weeks after the jury trial commenced. By that time, Plaintiff Bahram Yahyavi's
19 ("Plaintiff") treating physicians and retained medical expert testified regarding the
20 extent of Plaintiff's injuries, their causal relationship to the subject collision, and
21 Plaintiff's need for future medical care. Plaintiff's treating physicians and retained
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2 did not restrict or limit Defendant's retained medical expert, Howard Tung, M.D., from
3 testifying regarding issues of causation and damages. Dr. Tung testified extensively
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5 in great detail about Plaintiff's prior neck pain complaint documented in an October
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10 opinions and testimony from Plaintiff's retained medical expert and treating physicians
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17 Bennett specifically testified about the extent of Plaintiff's vocational losses sustained
18 as a result of the subject collision. He further challenged the opinions of Plaintiff's
19 retained vocational rehabilitation expert regarding the extent of Plaintiff's vocational
20 losses. Mr. Bennett was, however, properly restricted from testifying that Plaintiff could
21 also perform other jobs listed in his report because he never expressly offered the opinion
22 in his report in accordance with NRCP 16.1(a)(2)(B)(i).

23 **THE COURT FURTHER FINDS** that its decision to strike Defendant's
24 remaining witnesses, Kevin Kirkendall, CPA, and John Baker, Ph.D. as a sanction for
25 defense counsel's willful misconduct fell well within its broad discretion under Nevada
26 law. The exclusion of testimony from Mr. Kirkendall and Mr. Bennett did not eliminate
27 Defendant's ability to contest causation and damages. Mr. Kirkendall merely supported
28 the testimony from Dr. Tung and Mr. Bennett, namely that Plaintiff suffered no
calculable vocational loss. Dr. Baker was already precluded from testifying that the
forces involved in the subject collision were not strong enough to cause Plaintiff's

1 injuries, which comprised the basis for many of his opinions. Therefore, the remainder
2 of Dr. Baker's testimony was not going to assist the jury.

3 **THE COURT FURTHER FINDS** that Plaintiff did not unfairly elicit a
4 spoliation determination from the jury. Plaintiff questioned Goodrich regarding
5 Defendant's investigation of the subject collision and the whereabouts of the employee
6 file from the negligent forklift operator, Joshua Arbuckle ("Arbuckle"). These were
7 appropriate areas of inquiry that in no way suggested to the jury that Defendant
8 willfully destroyed or spoliated evidence. Goodrich simply testified that he did not know
9 where the employee file was located.

10 **THE COURT FURTHER FINDS** that Goodrich's testimony regarding
11 Defendant's investigation of the subject collision and the whereabouts of Arbuckle's
12 employee file did not justify defense counsel's willful decision to elicit testimony from
13 Goodrich that Defendant filed for bankruptcy in 2015. Defendant's counsel could have
14 addressed the missing employee file with Goodrich in numerous ways without
15 specifically referencing Defendant's bankruptcy filing. Defendant's bankruptcy filing is
16 not even relevant to Defendant's ability to retain business records, including Arbuckle's
17 employee file. This underscores the willfulness of defense counsel's intent to elicit
18 testimony from Goodrich regarding Defendant's bankruptcy.

19 **THE COURT FURTHER FINDS** that its decision to impose the sanction of
20 striking Defendant's Answer as to liability was a proper exercise of this Court's
21 discretion. This sanction was not of any significant consequence on the issue of liability
22 because Arbuckle testified during trial that he was at fault for causing the subject
23 collision. Although Arbuckle also testified that he believes two people are always at
24 fault in any collision, he was unable to articulate any factual basis to establish how
25 Plaintiff shared any fault for causing the subject collision. Arbuckle actually testified
26 that he did not blame Plaintiff in any way for causing the subject collision.

27 **THE COURT FURTHER FINDS** that the curative instruction given to the jury
28 addressing Defendant's bankruptcy was a proper sanction imposed against Defendant.
Defense counsel willfully elicited testimony regarding Defendant's bankruptcy, which
suggested to the jury that Defendant did not have the financial ability to pay or satisfy



1 any damages award issued by the jury. The proposed curative instruction properly
2 neutralized the adverse impact of Goodrich's testimony that Defendant lacked the funds
3 to pay any damages award issued by the jury.

4 **THE COURT FURTHER FINDS** Defendant's counsel received the
5 opportunity to read the proposed curative instruction as drafted by Plaintiff's counsel.
6 Defendant's counsel specifically told this Court that he had no comment on the curative
7 instruction. Defendant's counsel made no objection to the curative instruction as written
8 or offered an alternative when Plaintiff presented it to this Court. Therefore,
9 Defendant's counsel waived any challenge to the substance of the curative instruction
10 as a basis to request a new trial. This Court also believes Defendant's counsel's failure
11 to object to the curative instruction during trial waives the issue for purposes of
12 appellate review.

13 **THE COURT FURTHER FINDS** that the sanctions imposed against Defendant
14 were intended to avoid striking the entirety of Defendant's Answer for defense counsel's
15 willful misconduct. This Court possessed the inherent equitable power and discretion
16 to impose these lesser sanctions against Defendant. *Emerson v. Eighth Judicial Dist.*
17 *Court*, 127 Nev. 672, 680 (2011); *Young v. Johnny Ribeiro Bldg.*, 106 Nev. 88, 92 (1990).
18 Moreover, the imposition of these sanctions did not undermine the reliability of the trial
19 proceedings or cause the jury to issue an excessive damages award that was inconsistent
20 with the evidence presented.

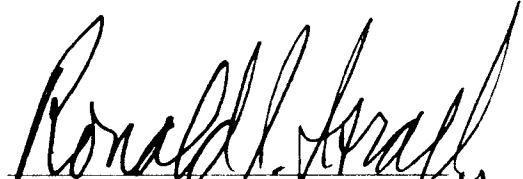
21 **THE COURT FURTHER FINDS** that Defendant failed to articulate any factual
22 or legal basis to justify a new trial in accordance with the legal grounds enumerated in
23 NRCP 59(a)(1)(A) – (G).
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ORDER

1
2 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant
3 Capriati Construction Corp., Inc.'s Motion for New Trial is **DENIED** in its entirety.

4 **IT IS SO ORDERED.**

5 DATED this 2 day of March, 2020.

6
7 
8 DISTRICT COURT JUDGE RONALD J. ISRA

9 DATED this 26th day of February, 2020.

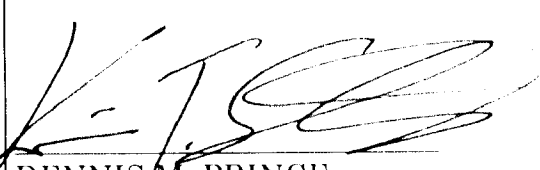
DATED this ____ day of February, 2020.

10 Respectfully Submitted By:

Approved as to Form and Content:

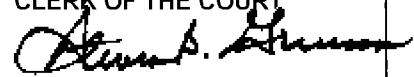
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1 **ORDER**
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13 *Bahram Yahyavi*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

**ORDER GRANTING, IN PART
AND DENYING, IN PART,
DEFENDANT CAPRIATI
CONSTRUCTION CORP., INC.'S
MOTION TO RE-TAX COSTS**

17
18 Defendant CAPRIATI CONSTRUCTION CORP., INC.'s Motion to Re-Tax Costs
19 was brought for hearing on the 28th day of January, 2020, with Dennis M. Prince and
20 Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff BAHRAM
21 YAHYAVI; and David S. Kahn and Mark C. Severino of WILSON, ELSER,
22 MOSKOWITZ, EDELMAN & DICKER LLP and Michael K. Wall of HUTCHISON &
23 STEFFIN, PLLC, appearing on behalf of Defendant CAPRIATI CONSTRUCTION
24 CORP., INC. The Court having reviewed the pleadings and papers on file herein, having
25 heard oral argument, and being duly advised in the premises:

26 **THE COURT HEREBY FINDS** that pursuant to NRS 18.020(3), Plaintiff
27 Bahram Yahyavi ("Plaintiff") shall recover costs incurred as the prevailing party against
28 Defendant Capriati Construction Corp., Inc. ("Defendant").



1 **THE COURT FURTHER FINDS** that Plaintiff's October 22, 2019
2 Memorandum of Costs and Disbursements shall be re-taxed as follows:

3 1. Plaintiff withdraws the cost incurred for Forensic Dynamics, Inc. in the
4 amount of \$22,205.09.

5 2. Plaintiff withdraws the cost incurred for Desert Orthopedic Center (Dr.
6 Perry/Dr. Miao) in the amount of \$2,500.00.

7 3. Plaintiff withdraws 1/3 (\$975.00) of the cost incurred for Terrence
8 Clauretie, Ph.D. in the amount of \$2,925.00. The total taxable cost Plaintiff shall recover
9 for Dr. Clauretie is \$1,950.00.

10 4. Plaintiff withdraws the cost incurred for JAMS mediation fees in the
11 amount of \$6,082.92.

12 5. David Oliveri, M.D.'s cost of \$41,550.00 shall be reduced by \$2,756.25 (25%
13 off the \$11,025.00 cost for Dr. Oliveri to prepare his first expert report). The total
14 taxable cost Plaintiff shall recover for Dr. Oliveri is \$38,793.75.

15 6. Certified Vocational Rehabilitation's cost of \$14,308.75 shall be reduced by
16 \$2,617.50. The total taxable cost Plaintiff shall recover for Certified Vocational
17 Rehabilitation is \$11,691.25.

18 7. The cost incurred for Record Reform in the amount of \$1,960.00 shall not
19 be recovered as a taxable cost.

20 **THE COURT FURTHER FINDS** that the cost incurred for Stuart Kaplan, M.D.
21 in the amount of \$26,500.00 shall be recovered, in full, by Plaintiff as a taxable cost.

22 **THE COURT FURTHER FINDS** that the cost incurred for in-house
23 photocopying in the amount of \$4,243.40 and outside copying services in the amount of
24 \$4,993.81 shall be recovered, in full, by Plaintiff as a taxable cost.

25 **THE COURT FURTHER FINDS** that the costs incurred for court reporter
26 services in the amount of \$16,144.39 shall be recovered, in full, by Plaintiff as taxable
27 costs.

28 **THE COURT FURTHER FINDS** that the cost incurred for Legal Retrieval
Services in the amount of \$8,613.32 shall be recovered, in full, by Plaintiff as a taxable
cost.

Order Granting, in Part and Denying, in Part, Defendant's Motion to Re-Tax Costs

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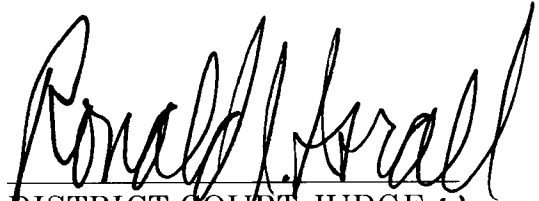
ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs is **GRANTED, IN PART** and **DENIED, IN PART** in accordance with the findings above.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall recover costs incurred against Defendant in the total amount of \$159,072.60.

IT IS SO ORDERED.

DATED this 2 day of March, 2020.



DISTRICT COURT JUDGE W RONALD J. ISRAEL

DATED this 26th day of February, 2020.

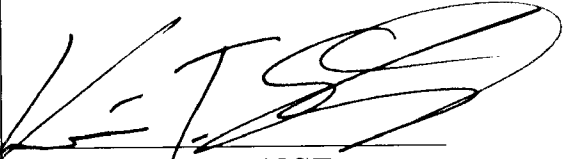
DATED this day of February, 2020.

Respectfully Submitted By:

Approved as to Form and Content:

PRINCE LAW GROUP

**WILSON, ELSER, MOSKOWITZ,
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12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

NOTICE OF ENTRY OF ORDER
GRANTING, IN PART AND
DENYING, IN PART, DEFENDANT
CAPRIATI CONSTRUCTION
CORP., INC.'S MOTION TO RE-
TAX COSTS

17 PLEASE TAKE NOTICE that an Order Granting, in Part and Denying, in Part,
18 Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs was entered on
19 the 3rd day of March, 2020 in the above-referenced matter, a copy of which is attached
20 hereto.

21 DATED this 4 day of March, 2020.

22 **PRINCE LAW GROUP**



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28 Las Vegas, NV 89135
Attorneys for Plaintiff
Bahram Yahyavi



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am employee of **PRINCE LAW GROUP**,
3 and that on the 4 day of March, 2020, I caused the foregoing document entitled
4 **NOTICE OF ENTRY OF ORDER GRANTING, IN PART AND DENYING, IN**
5 **PART, DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S MOTION TO**
6 **RE-TAX COSTS** to be served upon those persons designated by the parties in the E-
7 Service Master List for the above-referenced matter in the Eighth Judicial District Court
8 eFiling System in accordance with the mandatory electronic service requirements of
9 Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, as
10 follows:

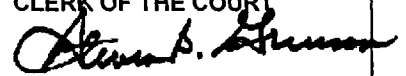
11 David S. Kahn, Esq.
12 WILSON, ELSER, MOSKOWITZ, EDELMAN
& DICKER LLP.
13 300 South Fourth Street, 11th Floor
14 Las Vegas, NV 89101

15 Mark J. Brown, Esq.
16 LAW OFFICES OF ERIC R. LARSEN
17 750 E. Warm Springs Road
Suite 320, Box 19
18 Las Vegas, NV 89119

19 *Attorneys for Defendant*
Capriati Construction Corp., Inc.

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23 An Employee of Prince Law Group
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1 **ORDER**
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11 Attorneys for Plaintiff
12 Bahram Yahyavi

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

ORDER GRANTING, IN PART
AND DENYING, IN PART,
DEFENDANT CAPRIATI
CONSTRUCTION CORP., INC.'S
MOTION TO RE-TAX COSTS

17
18 Defendant CAPRIATI CONSTRUCTION CORP., INC.'s Motion to Re-Tax Costs
19 was brought for hearing on the 28th day of January, 2020, with Dennis M. Prince and
20 Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff BAHRAM
21 YAHYAVI; and David S. Kahn and Mark C. Severino of WILSON, ELSER,
22 MOSKOWITZ, EDELMAN & DICKER LLP and Michael K. Wall of HUTCHISON &
23 STEFFIN, PLLC, appearing on behalf of Defendant CAPRIATI CONSTRUCTION
24 CORP., INC. The Court having reviewed the pleadings and papers on file herein, having
25 heard oral argument, and being duly advised in the premises:

26 **THE COURT HEREBY FINDS** that pursuant to NRS 18.020(3), Plaintiff
27 Bahram Yahyavi ("Plaintiff") shall recover costs incurred as the prevailing party against
28 Defendant Capriati Construction Corp., Inc. ("Defendant").



Order Granting, in Part and Denying, in Part, Defendant's Motion to Re-Tax Costs

1 **THE COURT FURTHER FINDS** that Plaintiff's October 22, 2019
2 Memorandum of Costs and Disbursements shall be re-taxed as follows:

3 1. Plaintiff withdraws the cost incurred for Forensic Dynamics, Inc. in the
4 amount of \$22,205.09.

5 2. Plaintiff withdraws the cost incurred for Desert Orthopedic Center (Dr.
6 Perry/Dr. Miao) in the amount of \$2,500.00.

7 3. Plaintiff withdraws 1/3 (\$975.00) of the cost incurred for Terrence
8 Clauretie, Ph.D. in the amount of \$2,925.00. The total taxable cost Plaintiff shall recover
9 for Dr. Clauretie is \$1,950.00.

10 4. Plaintiff withdraws the cost incurred for JAMS mediation fees in the
11 amount of \$6,082.92.

12 5. David Oliveri, M.D.'s cost of \$41,550.00 shall be reduced by \$2,756.25 (25%
13 off the \$11,025.00 cost for Dr. Oliveri to prepare his first expert report). The total
14 taxable cost Plaintiff shall recover for Dr. Oliveri is \$38,793.75.

15 6. Certified Vocational Rehabilitation's cost of \$14,308.75 shall be reduced by
16 \$2,617.50. The total taxable cost Plaintiff shall recover for Certified Vocational
17 Rehabilitation is \$11,691.25.

18 7. The cost incurred for Record Reform in the amount of \$1,960.00 shall not
19 be recovered as a taxable cost.

20 **THE COURT FURTHER FINDS** that the cost incurred for Stuart Kaplan, M.D.
21 in the amount of \$26,500.00 shall be recovered, in full, by Plaintiff as a taxable cost.

22 **THE COURT FURTHER FINDS** that the cost incurred for in-house
23 photocopying in the amount of \$4,243.40 and outside copying services in the amount of
24 \$4,993.81 shall be recovered, in full, by Plaintiff as a taxable cost.

25 **THE COURT FURTHER FINDS** that the costs incurred for court reporter
26 services in the amount of \$16,144.39 shall be recovered, in full, by Plaintiff as taxable
27 costs.

28 **THE COURT FURTHER FINDS** that the cost incurred for Legal Retrieval
Services in the amount of \$8,613.32 shall be recovered, in full, by Plaintiff as a taxable
cost.

Order Granting, in Part and Denying, in Part, Defendant's Motion to Re-Tax Costs

1 **THE COURT FURTHER FINDS** that the cost incurred for Litigation Services
2 - Trial Tech Support in the amount of \$22,345.00 shall be recovered, in full, by Plaintiff
3 as a taxable cost.

4 **THE COURT FURTHER FINDS** that the total cost for The Record Exchange
5 (trial transcripts) in the amount of \$1,710.65 shall be recovered, in full, by Plaintiff as a
6 taxable cost.

7 **THE COURT FURTHER FINDS** that all the remaining costs listed in
8 Plaintiff's October 22, 2019 Memorandum of Costs and Disbursements shall be
9 recovered, in full, as taxable costs because Defendant did not challenge the value of those
10 costs.

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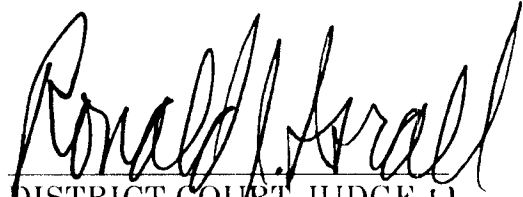
ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Capriati Construction Corp., Inc.'s Motion to Re-Tax Costs is **GRANTED, IN PART** and **DENIED, IN PART** in accordance with the findings above.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall recover costs incurred against Defendant in the total amount of \$159,072.60.

IT IS SO ORDERED.

DATED this 2 day of March, 2020.


DISTRICT COURT JUDGE RONALD J. ISRAEL

DATED this 26th day of February, 2020.

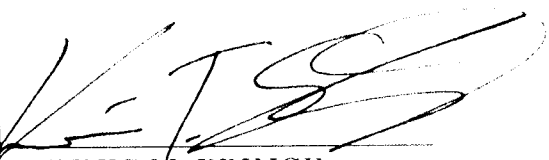
DATED this ___ day of February, 2020.

Respectfully Submitted By:

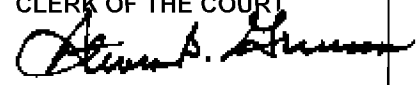
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12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

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

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,
13 vs.
14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

ORDER GRANTING, IN PART
AND DENYING, IN PART,
PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES, COSTS,
AND INTEREST

17
18 Plaintiff BAHRAM YAHYAVI's Motion for Attorney's Fees, Costs, and Interest
19 was brought for hearing on the 28th day of January, 2020, with Dennis M. Prince and
20 Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff BAHRAM
21 YAHYAVI; and David S. Kahn and Mark C. Severino of WILSON, ELSER,
22 MOSKOWITZ, EDELMAN & DICKER LLP and Michael K. Wall of HUTCHISON &
23 STEFFIN, PLLC, appearing on behalf of Defendant CAPRIATI CONSTRUCTION
24 CORP., INC. The Court having reviewed the pleadings and papers on file herein, having
25 heard oral argument, and being duly advised in the premises:

26 **THE COURT HEREBY FINDS** that NRCP 68 allows the prevailing party to
27 recover attorney's fees, costs, and interest if the opposing party rejects an offer of
28 judgment and fails to obtain a more favorable judgment at trial.



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 **THE COURT FURTHER FINDS** that this Court has the discretion to
2 determine the amount of attorney's fees and costs recoverable, but must evaluate the
3 following factors when determining any award of attorney's fees and costs:

4 (1) whether the plaintiff's claim was brought in good faith;

5 (2) whether the offeror's offer of judgment was brought in
6 good faith;

7 (3) whether the offeree's decision to reject the offer and
8 proceed to trial was grossly unreasonable or in bad faith;
9 and

 (4) whether fees sought by the offeror are reasonable and
 justified in amount.

10 *Beattie v. Thomas*, 99 Nev. 579, 588-89 (1983); see also, *Uniroyal Goodrich Tire Co. v.*
11 *Mercer*, 111 Nev. 318, 323 (1995).

12 **THE COURT FURTHER FINDS** that the first *Beattie* factor supports this
13 Court to award attorney's fees. Plaintiff Bahram Yahyavi's ("Plaintiff") injury claim was
14 brought in good faith, which Defendant Capriati Construction Corp., Inc. ("Defendant")
15 does not dispute. However, Defendant maintained several affirmative defenses
16 disputing liability throughout the trial that were not brought in good faith because no
17 evidence supported them. These affirmative defenses were that Plaintiff's comparative
18 negligence caused the subject collision and that a third-party over whom Defendant had
19 no control caused or contributed to the subject collision. Defendant's corporate
20 representative, Clifford Goodrich ("Goodrich"), testified at trial that Defendant's forklift
21 operator, Joshua Arbuckle ("Arbuckle"), caused the subject collision. Goodrich further
22 testified that he did not possess any evidence to support Defendant's affirmative
23 defenses.

24 Arbuckle testified at trial that he caused the subject collision. Although Arbuckle
25 testified that he always believes two parties are at fault in a motor vehicle collision, he
26 failed to provide any evidence to establish that Plaintiff was at fault for the collision in
27 any way. Arbuckle's testimony that Plaintiff failed to activate his turn signal at the
28 time of the subject collision to imply that Plaintiff was comparatively negligent was
based on speculation. Arbuckle testified that he was unable to see if Plaintiff's turn
signal was activated before the collision because his vision became obstructed when



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 Plaintiff's vehicle was less than four hundred feet away from the intersection where the
2 collision occurred. The evidence provided at trial established that Defendant was liable
3 for the subject collision and that liability should not have been in dispute.

4 **THE COURT FURTHER FINDS** that the second *Beattie* factor supports this
5 Court to award attorney's fees because the offer of judgment was brought in good faith.
6 On January 18, 2019, Plaintiff served his Offer of Judgment to Defendant in the amount
7 of \$4,000,000.00, inclusive of costs of suit, attorney's fees, and pre-judgment interest.
8 At that time, Plaintiff's past medical expenses were over \$400,000.00 and his future
9 medical expenses were over \$87,000.00. Plaintiff's future loss of earning capacity
10 damages exceeded \$2,000,000.00. As such, Plaintiff's Offer of Judgment was reasonable
11 in both timing and amount.

12 **THE COURT FURTHER FINDS** that the third *Beattie* factor supports this
13 Court to award attorney's fees because Defendant's decision to reject Plaintiff's Offer of
14 Judgment was grossly unreasonable given the facts of the case. Defendant disputed
15 liability even though Arbuckle admitted that he caused the subject collision. Defendant
16 also underestimated the nature of the subject collision and the severity of Plaintiff's
17 injuries suffered as a result. Arbuckle testified that Plaintiff was incoherent
18 immediately after the subject collision and that the impact from the collision was hard
19 for Plaintiff, who drove a Dodge Charger. While Defendant relied on Plaintiff's lone
20 prior neck pain complaint to dispute causation, this defense did not justify Defendant's
21 rejection of Plaintiff's January 18, 2019 Offer of Judgment. The unreasonableness of
22 Defendant's rejection is further established by the jury's verdict of \$5,870,283.24, nearly
23 \$2,000,000.00 higher than Plaintiff's Offer of Judgment.

24 **THE COURT FURTHER FINDS** that the fourth *Beattie* factor addresses
25 whether the attorney's fees sought are reasonable and justified in amount. When
26 determining the amount of fees to award, this Court is free to consider any method that
27 provides a reasonable amount, including a contingency fee. *Shuette v. Beazer Homes*
28 *Holdings Corp.*, 121 Nev. 837, 864 (2005). A trial court "can award attorney fees to the
prevailing party who was represented under a contingency fee agreement, even if there

Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 are no hourly billing records to support the request." *O'Connell v. Wynn Las Vegas, LLC*,
2 429 P.3d 664, 671 (Nev. Ct. App. 2018).

3 This Court will award Plaintiff his forty percent (40%) contingency fee. There is
4 no limitation regarding the method an individual chooses to pay his attorney. Personal
5 injury victims frequently do not have the money to pursue their cases against
6 defendants, who have the benefit of their insurance companies funding their defense.
7 Contingency fee agreements allow personal injury plaintiffs to level the playing field by
8 ensuring that their attorneys can expend the costs necessary to prosecute their cases
9 against defendants. There is also an inherent risk of nonpayment associated with
10 accepting cases on a contingency fee that justifies a contingency fee award when an
11 attorney is successful at trial. This case was a complex matter that not only involved
12 disputes as to causation and damages, but also issues of worker's compensation. The
13 complexities of this case resulted in trial testimony from eight (8) witnesses. There was
14 a substantial amount of money at stake given the cost for Plaintiff's past medical
15 treatment exceeded \$400,000.00, his future medical treatment exceeded \$500,000.00,
16 and his future loss of earnings were in excess of \$2,000,000.00. As a result, it was
17 certainly reasonable that Plaintiff's counsel devoted substantial time and resources to
18 try this case. No method is available for this Court to apportion any attorney's fee award
19 because Defendant never served an offer of judgment for a reasonable amount before
20 trial commenced. All these facts justify a 40% contingency fee award in this matter.

21 **THE COURT FURTHER FINDS** that the factors set forth in *Brunzell v. Golden*
22 *Gate Nat'l Bank*, 85 Nev. 345, 349-50 (1969) establish the reasonableness of the 40%
23 contingency fee amount. The qualities of Plaintiff's counsel, Dennis M. Prince, justify
24 the amount of the requested contingency fee award. Mr. Prince has practiced almost
25 exclusively as a personal injury attorney for 27 years and has tried more than 100 cases
26 to jury verdict. He has achieved a level of success and experience that justifies a 40%
27 contingency fee award in this matter. The character of the work performed by Mr.
28 Prince also supports a 40% contingency fee award. Mr. Prince devoted substantial time,
effort, and skills to fully understand the nature and extent of Plaintiff's injuries suffered
as a result of the subject collision and Plaintiff's care and treatment. Mr. Prince's vast

Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 knowledge allowed him to comprehensively examine and cross-examine the medical
2 doctors who testified in this case to clarify the medical issues to the jury. The quality,
3 character, and extent of Mr. Prince's work performed in this case culminated in a jury
4 verdict that totaled \$5,870,283.24, nearly \$2,000,000.00 higher than Plaintiff's January
5 18, 2019 Offer of Judgment. The work Mr. Prince performed to achieve the result
6 obtained at trial justifies a 40% contingency fee award, particularly given the
7 complexities of the case.

8 **THE COURT FURTHER FINDS** that Plaintiff shall not recover penalty costs
9 or penalty prejudgment interest pursuant to former NRCP 68(f)(2).¹ Both the former
10 and current version of NRCP 68 allows for the recovery of costs and interest incurred
11 after service of the offer of judgment as a penalty. However, Plaintiff is also allowed to
12 recover those same costs and interest as the prevailing party pursuant to NRS 18.020(3)
13 and NRS 17.130(2), respectively. When read together, NRS 18.020(3), NRS 17.130(2),
14 and NRCP 68 allow Plaintiff to recover all costs and interest incurred after the
15 expiration of the January 18, 2019 Offer of Judgment twice as a penalty. However, such
16 a result contravenes Nevada law prohibiting double recoveries, albeit in contexts that
17 are distinct from this precise issue.

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27 ¹ At the time of Plaintiff's January 18, 2019 Offer of Judgment, the amended Nevada Rules of Civil
28 Procedure were not in effect.



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

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ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Attorney's Fees, Costs, and Interest is **GRANTED, IN PART** and **DENIED, IN PART.**

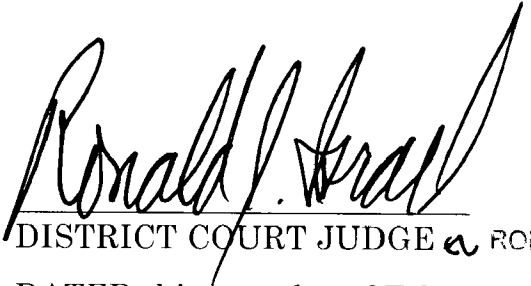
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall receive an attorney's fee award in the amount of \$2,510,779.30 (40% contingency fee on the judgment amount of \$6,276,948.24).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall not recover taxable penalty costs, separate and apart from the costs accounted for in Plaintiff's Memorandum of Costs, incurred from January 18, 2019 to October 18, 2019, in the amount of \$105,716.82.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall not recover penalty interest in the amount of \$312,968.45.

IT IS SO ORDERED.

DATED this 2 day of March, 2020.


DISTRICT COURT JUDGE *a* RONALD J. GRALL

DATED this 20th day of February, 2020.

DATED this ___ day of February, 2020.

Respectfully Submitted By:

Approved as to Form and Content:

PRINCE LAW GROUP

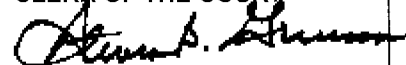
**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**



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Attorneys for Plaintiff
Bahram Yahyavi

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Nevada Bar No. 7038
MARK C. SEVERINO
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300 South Fourth Street, 11th Floor
Las Vegas, Nevada 89101
Tel: (702) 727-1400
Fax: (702) 727-1401
Attorneys for Defendant
Capriati Construction Corp., Inc.





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3 Nevada Bar No. 5092
4 KEVIN T. STRONG
5 Nevada Bar No. 12107
6 **PRINCE LAW GROUP**
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8 Las Vegas, NV 89135
9 P: (702) 534-7600
10 F: (702) 534-7601
11 Email: eservice@thedplg.com
12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,
16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

**NOTICE OF ENTRY OF ORDER
GRANTING, IN PART AND
DENYING, IN PART, PLAINTIFF'S
MOTION FOR ATTORNEY'S FEES,
COSTS AND INTEREST**

17 PLEASE TAKE NOTICE that an Order Granting, in Part and Denying, in Part,
18 Plaintiff's Motion for Attorney's Fees, Costs and Interest was entered on the 3rd day of
19 March, 2020 in the above-referenced matter, a copy of which is attached hereto.

20 DATED this 4 day of March, 2020.

21 **PRINCE LAW GROUP**

22 
23 DENNIS M. PRINCE

24 Nevada Bar No. 5092
25 KEVIN T. STRONG
26 Nevada Bar No. 12107
27 10801 W. Charleston Blvd., #560
28 Las Vegas, NV 89135
Attorneys for Plaintiff
Bahram Yahyavi



1 CERTIFICATE OF SERVICE

2 Pursuant to NRCF 5(b), I certify that I am employee of **PRINCE LAW GROUP**,
3 and that on the 4 day of March, 2020, I caused the foregoing document entitled
4 **NOTICE OF ENTRY OF ORDER GRANTING, IN PART AND DENYING, IN**
5 **PART, PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS AND**
6 **INTEREST** to be served upon those persons designated by the parties in the E-Service
7 Master List for the above-referenced matter in the Eighth Judicial District Court eFiling
8 System in accordance with the mandatory electronic service requirements of
9 Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, as
10 follows:

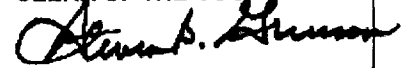
11 David S. Kahn, Esq.
12 WILSON,ELSER, MOSKOWITZ, EDELMAN
& DICKER LLP.
13 300 South Fourth Street, 11th Floor
14 Las Vegas, NV 89101

15 Mark J. Brown, Esq.
16 LAW OFFICES OF ERIC R. LARSEN
17 750 E. Warm Springs Road
Suite 320, Box 19
18 Las Vegas, NV 89119

19 *Attorneys for Defendant*
Capriati Construction Corp., Inc.

20
21
22
23 An Employee of Prince Law Group
24
25
26
27
28





1 **ORDR**
2 DENNIS M. PRINCE
3 Nevada Bar No. 5092
4 KEVIN T. STRONG
5 Nevada Bar No. 12107
6 **PRINCE LAW GROUP**
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8 Suite 560
9 Tel. (702) 534-7600
10 Fax: (702) 534-7601
11 Email: eservice@thedplg.com
12 Attorneys for Plaintiff
13 *Bahram Yahyavi*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

11 BAHRAM YAHYAVI, an Individual,
12 Plaintiff,

13 vs.

14 CAPRIATI CONSTRUCTION CORP.,
15 INC., a Nevada Corporation,

16 Defendant

CASE NO.: A-15-718689-C
DEPT. NO.: XXVIII

ORDER GRANTING, IN PART
AND DENYING, IN PART,
PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES, COSTS,
AND INTEREST

17
18 Plaintiff BAHRAM YAHYAVI's Motion for Attorney's Fees, Costs, and Interest
19 was brought for hearing on the 28th day of January, 2020, with Dennis M. Prince and
20 Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff BAHRAM
21 YAHYAVI; and David S. Kahn and Mark C. Severino of WILSON, ELSER,
22 MOSKOWITZ, EDELMAN & DICKER LLP and Michael K. Wall of HUTCHISON &
23 STEFFIN, PLLC, appearing on behalf of Defendant CAPRIATI CONSTRUCTION
24 CORP., INC. The Court having reviewed the pleadings and papers on file herein, having
25 heard oral argument, and being duly advised in the premises:

26 **THE COURT HEREBY FINDS** that NRCP 68 allows the prevailing party to
27 recover attorney's fees, costs, and interest if the opposing party rejects an offer of
28 judgment and fails to obtain a more favorable judgment at trial.



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 **THE COURT FURTHER FINDS** that this Court has the discretion to
2 determine the amount of attorney's fees and costs recoverable, but must evaluate the
3 following factors when determining any award of attorney's fees and costs:

4 (1) whether the plaintiff's claim was brought in good faith;

5 (2) whether the offeror's offer of judgment was brought in
6 good faith;

7 (3) whether the offeree's decision to reject the offer and
8 proceed to trial was grossly unreasonable or in bad faith;
9 and

 (4) whether fees sought by the offeror are reasonable and
 justified in amount.

10 *Beattie v. Thomas*, 99 Nev. 579, 588-89 (1983); *see also, Uniroyal Goodrich Tire Co. v.*
11 *Mercer*, 111 Nev. 318, 323 (1995).

THE COURT FURTHER FINDS that the first *Beattie* factor supports this
12 Court to award attorney's fees. Plaintiff Bahram Yahyavi's ("Plaintiff") injury claim was
13 brought in good faith, which Defendant Capriati Construction Corp., Inc. ("Defendant")
14 does not dispute. However, Defendant maintained several affirmative defenses
15 disputing liability throughout the trial that were not brought in good faith because no
16 evidence supported them. These affirmative defenses were that Plaintiff's comparative
17 negligence caused the subject collision and that a third-party over whom Defendant had
18 no control caused or contributed to the subject collision. Defendant's corporate
19 representative, Clifford Goodrich ("Goodrich"), testified at trial that Defendant's forklift
20 operator, Joshua Arbuckle ("Arbuckle"), caused the subject collision. Goodrich further
21 testified that he did not possess any evidence to support Defendant's affirmative
22 defenses.

 Arbuckle testified at trial that he caused the subject collision. Although Arbuckle
23 testified that he always believes two parties are at fault in a motor vehicle collision, he
24 failed to provide any evidence to establish that Plaintiff was at fault for the collision in
25 any way. Arbuckle's testimony that Plaintiff failed to activate his turn signal at the
26 time of the subject collision to imply that Plaintiff was comparatively negligent was
27 based on speculation. Arbuckle testified that he was unable to see if Plaintiff's turn
28 signal was activated before the collision because his vision became obstructed when

Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 Plaintiff's vehicle was less than four hundred feet away from the intersection where the
2 collision occurred. The evidence provided at trial established that Defendant was liable
3 for the subject collision and that liability should not have been in dispute.

4 **THE COURT FURTHER FINDS** that the second *Beattie* factor supports this
5 Court to award attorney's fees because the offer of judgment was brought in good faith.
6 On January 18, 2019, Plaintiff served his Offer of Judgment to Defendant in the amount
7 of \$4,000,000.00, inclusive of costs of suit, attorney's fees, and pre-judgment interest.
8 At that time, Plaintiff's past medical expenses were over \$400,000.00 and his future
9 medical expenses were over \$87,000.00. Plaintiff's future loss of earning capacity
10 damages exceeded \$2,000,000.00. As such, Plaintiff's Offer of Judgment was reasonable
11 in both timing and amount.

12 **THE COURT FURTHER FINDS** that the third *Beattie* factor supports this
13 Court to award attorney's fees because Defendant's decision to reject Plaintiff's Offer of
14 Judgment was grossly unreasonable given the facts of the case. Defendant disputed
15 liability even though Arbuckle admitted that he caused the subject collision. Defendant
16 also underestimated the nature of the subject collision and the severity of Plaintiff's
17 injuries suffered as a result. Arbuckle testified that Plaintiff was incoherent
18 immediately after the subject collision and that the impact from the collision was hard
19 for Plaintiff, who drove a Dodge Charger. While Defendant relied on Plaintiff's lone
20 prior neck pain complaint to dispute causation, this defense did not justify Defendant's
21 rejection of Plaintiff's January 18, 2019 Offer of Judgment. The unreasonableness of
22 Defendant's rejection is further established by the jury's verdict of \$5,870,283.24, nearly
23 \$2,000,000.00 higher than Plaintiff's Offer of Judgment.

24 **THE COURT FURTHER FINDS** that the fourth *Beattie* factor addresses
25 whether the attorney's fees sought are reasonable and justified in amount. When
26 determining the amount of fees to award, this Court is free to consider any method that
27 provides a reasonable amount, including a contingency fee. *Shuette v. Beazer Homes*
28 *Holdings Corp.*, 121 Nev. 837, 864 (2005). A trial court "can award attorney fees to the
prevailing party who was represented under a contingency fee agreement, even if there



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 are no hourly billing records to support the request." *O'Connell v. Wynn Las Vegas, LLC*,
2 429 P.3d 664, 671 (Nev. Ct. App. 2018).

3 This Court will award Plaintiff his forty percent (40%) contingency fee. There is
4 no limitation regarding the method an individual chooses to pay his attorney. Personal
5 injury victims frequently do not have the money to pursue their cases against
6 defendants, who have the benefit of their insurance companies funding their defense.
7 Contingency fee agreements allow personal injury plaintiffs to level the playing field by
8 ensuring that their attorneys can expend the costs necessary to prosecute their cases
9 against defendants. There is also an inherent risk of nonpayment associated with
10 accepting cases on a contingency fee that justifies a contingency fee award when an
11 attorney is successful at trial. This case was a complex matter that not only involved
12 disputes as to causation and damages, but also issues of worker's compensation. The
13 complexities of this case resulted in trial testimony from eight (8) witnesses. There was
14 a substantial amount of money at stake given the cost for Plaintiff's past medical
15 treatment exceeded \$400,000.00, his future medical treatment exceeded \$500,000.00,
16 and his future loss of earnings were in excess of \$2,000,000.00. As a result, it was
17 certainly reasonable that Plaintiff's counsel devoted substantial time and resources to
18 try this case. No method is available for this Court to apportion any attorney's fee award
19 because Defendant never served an offer of judgment for a reasonable amount before
20 trial commenced. All these facts justify a 40% contingency fee award in this matter.

21 **THE COURT FURTHER FINDS** that the factors set forth in *Brunzell v. Golden*
22 *Gate Nat'l Bank*, 85 Nev. 345, 349-50 (1969) establish the reasonableness of the 40%
23 contingency fee amount. The qualities of Plaintiff's counsel, Dennis M. Prince, justify
24 the amount of the requested contingency fee award. Mr. Prince has practiced almost
25 exclusively as a personal injury attorney for 27 years and has tried more than 100 cases
26 to jury verdict. He has achieved a level of success and experience that justifies a 40%
27 contingency fee award in this matter. The character of the work performed by Mr.
28 Prince also supports a 40% contingency fee award. Mr. Prince devoted substantial time,
effort, and skills to fully understand the nature and extent of Plaintiff's injuries suffered
as a result of the subject collision and Plaintiff's care and treatment. Mr. Prince's vast



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

1 knowledge allowed him to comprehensively examine and cross-examine the medical
2 doctors who testified in this case to clarify the medical issues to the jury. The quality,
3 character, and extent of Mr. Prince's work performed in this case culminated in a jury
4 verdict that totaled \$5,870,283.24, nearly \$2,000,000.00 higher than Plaintiff's January
5 18, 2019 Offer of Judgment. The work Mr. Prince performed to achieve the result
6 obtained at trial justifies a 40% contingency fee award, particularly given the
7 complexities of the case.

8 **THE COURT FURTHER FINDS** that Plaintiff shall not recover penalty costs
9 or penalty prejudgment interest pursuant to former NRCP 68(f)(2).¹ Both the former
10 and current version of NRCP 68 allows for the recovery of costs and interest incurred
11 after service of the offer of judgment as a penalty. However, Plaintiff is also allowed to
12 recover those same costs and interest as the prevailing party pursuant to NRS 18.020(3)
13 and NRS 17.130(2), respectively. When read together, NRS 18.020(3), NRS 17.130(2),
14 and NRCP 68 allow Plaintiff to recover all costs and interest incurred after the
15 expiration of the January 18, 2019 Offer of Judgment twice as a penalty. However, such
16 a result contravenes Nevada law prohibiting double recoveries, albeit in contexts that
17 are distinct from this precise issue.

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28 ¹ At the time of Plaintiff's January 18, 2019 Offer of Judgment, the amended Nevada Rules of Civil Procedure were not in effect.



Order Granting, in Part and Denying, in Part, Plaintiff's Motion for Attorney's Fees

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Attorney's Fees, Costs, and Interest is **GRANTED, IN PART** and **DENIED, IN PART.**

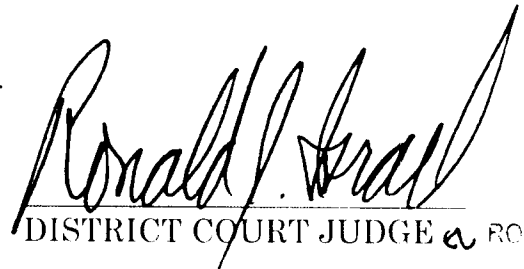
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall receive an attorney's fee award in the amount of \$2,510,779.30 (40% contingency fee on the judgment amount of \$6,276,948.24).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall not recover taxable penalty costs, separate and apart from the costs accounted for in Plaintiff's Memorandum of Costs, incurred from January 18, 2019 to October 18, 2019, in the amount of \$105,716.82.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall not recover penalty interest in the amount of \$312,968.45.

IT IS SO ORDERED.

DATED this 2 day of March, 2020.



DISTRICT COURT JUDGE *a* RONALD J. ISGRIG

DATED this 20th day of February, 2020.

DATED this ___ day of February, 2020.

Respectfully Submitted By:

Approved as to Form and Content:

PRINCE LAW GROUP

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**



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Tel: (702) 727-1400
Fax: (702) 727-1401
Attorneys for Defendant
Capriati Construction Corp., Inc.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 08, 2016

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**December 08, 2016 9:45 AM Status Check Status Check:
Referral to
Settlement
Conference // Trial
Readiness (March 13,
2017 Trial Stack)**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Brown, Mark James Attorney

JOURNAL ENTRIES

- Mr. Brown noted they completed most of the discovery and stated this was a motor vehicle accident and workers compensation issue. Mr. Brown further noted Defendant Capriati Construction had filed bankruptcy and the case should be stayed until the 12/21/16 bankruptcy hearing is held. Mr. Brown requested discovery be extended 60 days and further noted discovery cutoff is 02/12/17. Court noted it could not grant the extension while case is in bankruptcy and directed Counsel to file a motion after the bankruptcy hearing. At the request of Counsel, COURT ORDERED, Matter set for Status Check regarding the bankruptcy stay.

01/12/17 9:00 AM STATUS CHECK: BANKRUPTCY STAY

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Malik, Ahmad, Esq.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 12, 2017

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**January 12, 2017 9:00 AM Status Check Status Check:
Bankruptcy Stay**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Brown, Mark James Attorney

JOURNAL ENTRIES

- Mr. Brown requested the stay be lifted and trial continued 60 days. Court noted Plaintiff's Counsel was not present and the trial would not be continued at this time. Court suggested Counsel go to a settlement conference, through Department 2 and then call chambers one week from Friday informing this Department, if the settlement conference was set. Colloquy regarding the discovery expert disclosure date and stay of the case. COURT ORDERED, Matter CONTINUED, for Plaintiff's counsel to be present or the Court may impose sanctions.

01/19/17 9:00 AM STATUS CHECK: BANKRUPTCY STAY

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Mark Brown, Esq. (Law Office of Erick Larsen) and Malik Ahmad, Esq. kk 01/17/17.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 19, 2017

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**January 19, 2017 9:00 AM Status Check Status Check:
Bankruptcy Stay**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Ahmad, Malik W. Attorney
Brown, Mark James Attorney
Sampson, David F. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Sampson noted the bankruptcy stay was lifted and they have a settlement conference scheduled for 03/02/17. Mr. Brown requested 60 days for discovery and to move the trial out 120 days and the parties can stipulate to discovery dates. Mr. Sampson agreed, and stated, However, the stipulation regarding discovery, the designations are closed. COURT ORDERED, Trial VACATED and RESET. The Judicial Executive Assistant (JEA) to issue the trial order. Court will allow discovery, for 60 days from today. Counsel to submit a stipulation for the discovery.

07/06/17 9:30 AM PRE-TRIAL CONFERENCE

07/25/17 9:30 AM CALENDAR CALL

07/31/17 1:30 PM JURY TRIAL

CLERK'S NOTE: Court Clerk corrected the trial dates given in Court to reflect the 2017 trial setting

dates. kk A copy of this minute order was placed in the attorney folder(s) of: David Sampson, Esq. and Malik Ahmad, Esq. and Mark James Brown, Esq. (Law Office of Eric Larsen). kk 01/24/17.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 02, 2017

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

March 02, 2017 9:00 AM Settlement Conference

HEARD BY: Becker, Nancy **COURTROOM:** No Location

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Parties present for the settlement conference. Court Clerk not present. Settlement Conference held in chambers. The Judicial Executive Assistant (JEA) stated, David Sampson is new to this case and both sides agreed they will possibly return at a later date for another settlement conference. Case not settled. Trial dates Stand.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 06, 2017

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**July 06, 2017 9:30 AM Pre Trial Conference PRE TRIAL
CONFERENCE**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Brown, Mark James Attorney
Sampson, David F. Attorney

JOURNAL ENTRIES

- Mr. Sampson appearing by Court Call. Upon Court's inquiry, Mr. Brown noted the parties were unable to reach a settlement agreement. Mr. Sampson noted scheduling issues within this trial stack and requested trial be reset and re-open discovery as Defendant was in bankruptcy and did not inform Counsel of it. Mr. Brown noted the Defendant went to bankruptcy that proceeded in December and they lifted the stay. Court noted the seriousness of the Defendant being in bankruptcy and not notifying Counsel. Counsel noted the estimated time of the trial would depend on the outcome of the Motions In Limine. Mr. Brown requested the trial be set later in the stack. **COURT ORDERED, Pending Motions In Limine, RESET time to 1:30 PM. COURT ORDERED, Oral Request to Continue Trial and Re-Open Discovery, DENIED. Trial Dates Stand.**

07/18/17 1:30 PM MOTIONS IN LIMINE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 18, 2017

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**July 18, 2017 1:30 PM All Pending Motions All Pending Motions
(07/18/17)**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Brown, Mark James Attorney
 Sampson, David F. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION IN LIMINE NO. 1 - TO PRECLUDE PLAINTIFF FROM PRESENTING EXPERT TESTIMONY:

DEFENDANT'S MOTION IN LIMINE NO. 2 - TO PRECLUDE PLAINTIFF FROM INTRODUCING ANY DOCUMENTS OR MEDICAL TESTIMONY OR REFERENCE ANY TREATMENT ALLEGEDLY RELATED TO THE ACCIDENT AFTER April 2015:

DEFENDANT'S MOTION IN LIMINE NO 3 - TO PRECLUDE PLAINTIFF OR PLAINTIFF'S ATTORNEY FROM CLAIMING DISABILITY, LOSS OF EARNING CAPACITY, FUTURE MEDICAL CARE, LOSS OF HOUSEHOLD SERVICES, OR RIGHT KNEE INJURY FROM ACCIDENT:

DEFENDANT'S MOTION IN LIMINE NO. 4 - TO LIMIT SPECIALS TO AMOUNTS PAID IN WORKER'S COMPENSATION BENEFITS RELATED TO ACCIDENT AND PRECLUDE INTRODUCTION OF AMOUNTS BILLED BY PROVIDERS:

PLAINTIFF'S OMNIBUS OPPOSITION TO DEFENDANT'S MOTIONS IN LIMINE AND

COUNTERMOTION TO INITIATE/REOPEN DISCOVERY IN THIS MATTER:

Colloquy regarding the Defendant's bankruptcy. Mr. Brown noted the bankruptcy was filed the same time the answer was filed and there was no notice of the filed bankruptcy. Court noted discovery proceeded with no indication a stay was in place. Mr. Brown stated he was notified by Plaintiff's Counsel on 10/18/16 regarding a bankruptcy and the stay was lifted 10/22/16. Mr. Brown further noted the parties agreed to proceed with discovery and until Defendants filed the Motions In Limine and discovery was closed then the Plaintiff's objected to discovery additionally Plaintiff's agreed to extend discovery 60 days. Mr. Sampson argued the case was stayed when it was in bankruptcy under statute. Mr. Sampson stated he was not requesting sanctions, However would request to extend discovery or they can go to the Federal Judge. Further arguments by Counsel. COURT ORDERED, Matters CONTINUED, 90 days for Counsel to file their motion in Bankruptcy Court regarding both sides conducting discovery when stayed. This Court to make decisions on pending motions following the Bankruptcy Judges order. Counsel noted Capriati Construction Corp is still in bankruptcy. Mr. Sampson noted he would file the order regarding the bankruptcy stay and will ask to enforce the stay. Mr. Sampson further noted he would request to re-open discovery or have Defendants sanctioned. Court noted it would be up to the Bankruptcy Judge to decide those issues or if to dissolve everything. COURT ORDERED, Trial dates, VACATED and Motions In Limine, OFF CALENDAR. COURT ORDERED, Matter SET for a status check to reset Jury Trial and Motions In Limine following the Bankruptcy Courts decision regarding the stay.

10/17/17 9:00 AM STATUS CHECK: STATUS OF CASE// BANKRUPTCY COURT DECISION // RESETTING JURY TRIAL & MOTIONS IN LIMINE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 19, 2017

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

October 19, 2017	9:00 AM	Status Check	Status Check Re: Status of Case // Bankruptcy Court decision of stay // Resetting Jury Trial & MIL's
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HEARD BY: Barker, David**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:** Judy Chappell**REPORTER:****PARTIES**

PRESENT:	Brown, Mark James	Attorney
	Sampson, David F.	Attorney

JOURNAL ENTRIES

- Mr. Sampson noted there was a question of bankruptcy stay regarding Defendant Capriati Construction Corporation and in that time all the discovery deadlines past. Mr. Sampson suggested to start forward and stipulate to depositions and hold an Early Case Conference (ECC), submit a Joint Case Conference Report (JCCR). Mr. Brown noted they held a (ECC) already and would stipulate to the (JCCR). Colloquy regarding scheduling issues. Court trailed matter to discuss available setting with the Judicial Executive Assistant (JEA).

Later Recalled. Mr. Sampson stated the parties agreed to deadline dates; Initial expert 01/17/18, Rebuttal Experts 02/20/18, Discovery Closes 04/06/18, Dispositive Motions 05/07/18 and Trial Stack of 07/30/18. Mr. Brown noted there was a jury demand, stipulated to the dates and the Defendant will file their answer within 30 days.

07/10/18 9:30 AM PRE-TRIAL CONFERENCE

07/24/18 9:30 AM CALENDAR CALL

07/30/18 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 21, 2018

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

February 21, 2018 3:00 AM Motion to Withdraw as Counsel David Sampson, Esq.'s Motion to Withdraw as Counsel for Plaintiff

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes no opposition has been filed. Accordingly, pursuant to EDCR 2.20(b) the Motion to Withdraw is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order including all dates for pretrial compliance with NRCP 16.1 within ten (10) days and distribute a filed copy to all parties involved in this matter.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: David Sampson, Esq. and Malik Ahmad, Esq. and Mark Brown, Esq. (Eric R. Larsen) and Dennis Prince, Esq. (Eglet Prince). kk 02/21/18.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 09, 2018

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

November 09, 2018	9:00 AM	Motion to Extend Discovery	Plaintiff's Motion to Extend Discovery Deadlines for the Limited Purpose of Taking Depositions on an OST(Fourth Request)
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HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Beckom, Thomas N.	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney

JOURNAL ENTRIES

- 2015 case. Commissioner is not able to move the Trial date, and it would be addressed by the Judge. Mr. Prince stated Plaintiff doesn't want the Trial continued. Arguments by counsel. Mr. Kahn stated Plaintiff wants a number a depositions. Commissioner stated the proposed Rules limit depositions to ten for each side unless there is a Stipulation or a Court Order. COMMISSIONER RECOMMENDED, motion is GRANTED; discovery cutoff EXTENDED to 12-31-18; file dispositive motions by 12-24-18 unless the Court agrees to hear Motions on OST. Mr. Prince to prepare the Report and Recommendations, and Mr. Kahn to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 15, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

January 15, 2019 9:30 AM Pre Trial Conference

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Kahn, David S. Attorney
Prince, Dennis M Attorney

JOURNAL ENTRIES

- Mr. Prince announced ready and estimated 12 to 14 trial days. Mr. Kahn stated the parties submitted a joint motion to delay the Motions In Limine. Mr. Prince noted they would report back on Thursday regarding if the parties settled before the motions are heard. Court directed Counsel to send a letter or e-mail chambers. Trial dates STAND.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 29, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

January 29, 2019 9:30 AM Calendar Call

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Beekom, Thomas N. Attorney
Brown, Mark James Attorney
Kahn, David S. Attorney
Prince, Dennis M Attorney

JOURNAL ENTRIES

- Conference at the bench. Upon Court's inquiry, Counsel estimated a 3 to 4 week trial and requested to reset the trial. Court trailed matter to confirm older case trial setting status.

Later recalled. Due to Court's schedule, COURT ORDERED, Trial VACATED and RESET, Plaintiff's Counsel to prepare a trial schedule order. Colloquy regarding resetting the Motions In Limine. Court directed Counsel to review all the Motions In Limine and stated if there are any motions to enforce FCH-1 or to follow the law, Counsel may be sanctioned. COURT ORDERED, Motion's In Limine, RESET.

03/19/19 10:00 AM MOTIONS IN LIMINE

06/04/19 9:30 AM PRE-TRIAL CONFERENCE

06/18/19 9:30 AM CALENDAR CALL

07/01/19 1:30 PM JURY TRIAL (3-4 WKS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 19, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**March 19, 2019 10:00 AM All Pending Motions All Pending Motions
(03/19/19)**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas
April Watkins

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Beckom, Thomas N. Attorney
Kahn, David S. Attorney
Prince, Dennis M Attorney
Trummell, James A. Attorney

JOURNAL ENTRIES

- Kathy Thomas, Court Clerk, from 10:00 a.m. to 1:50 p.m.
Mr. Kahn stated the parties did meet and confer regarding all the Motions In Limine. Mr. Kahn further stated he received notice and records, and further found out another case in California, involving the Plaintiff, claiming emotional distress, that may impact on this case if claiming emotional distress. Mr. Prince noted he had no knowledge of another case. Mr. Prince stated the Motions that the parties stipulated to are; Pltf's motions 4,9,18 and motions withdrawn; Deft's motions 1, 2, 3, 10, 12 & 16. Mr. Kahn noted Deft's Motion # 3 subsection 5 would still be heard today and was re-noticed. Further Plaintiff's motions 13 and 15 withdrawn.

PLAINTIFF'S MOTION IN LIMINE NO. 1: TO LIMIT DEFENDANTS EXPERTS TESTIMONY TO THE OPINIONS AND BASES SET FORTH IN THEIR EXPERT REPORTS: Arguments by Counsel. Colloquy regarding if new evidence is presented. Court noted Counsel is asking the Court to follow the law. Court directed both counsel to provide their expert reports to the Court before their expert

testifies. COURT ORDERED, Motion RESERVED for time of trial.

PLAINTIFF'S MOTION IN LIMINE NO. 2: TO EXCLUDE ARGUMENT THAT THIS CASE IS ATTORNEY DRIVEN OR A MEDICAL BUILDUP CASE BECAUSE THERE IS NO EVIDENCE TO SUPPORT SUCH ARGUMENTS: Arguments by Counsel. Court noted the worker's compensation doctors are from a list. Mr. Kahn stated one of the doctors have become an expert. Court noted this was a worker's compensation injury and they do not get to pick their doctors. COURT ORDERED, Motion GRANTED.

PLAINTIFF'S MOTION IN LIMINE NO. 3: TO EXCLUDE CLOSING ARGUMENT THAT PLAINTIFF IS REQUESTING MORE THEN HE EXPECTS TO RECEIVE: Counsel submitted on their briefs. COURT ORDERED, Motion GRANTED. Court finds the argument is not improper and the Court will follow Lioce.

PLAINTIFF'S MOTION IN LIMINE NO. 4: TO ALLOW VOIR DIRE QUESTIONING ABOUT EMPLOYMENT WITH FINANCIAL INTEREST IN ANY INSURANCE COMPANY: Pursuant to Counsel, Motion STIPULATED.

PLAINTIFF'S MOTION IN LIMINE NO. 5: TO EXCLUDE EVIDENCE OF WHEN THE PARTIES CONTACTED AND RETAINED COUNSEL: Mr. Prince argued in support of his motion. Mr. Kahn noted the Plaintiff went to a few different attorneys. Colloquy regarding the nature of the case being a worker's compensation injury. COURT stated its findings and ORDERED, Motion GRANTED.

PLAINTIFF'S MOTION IN LIMINE NO. 6: TO EXCLUDE REFERENCE TO AND EVIDENCE OF MEDICAL LIENS: Arguments by counsel. Colloquy regarding liens and collateral source. Court will only allow counsel to ask "did you perform services on a lien". Mr. Kahn asked Mr. Prince to inform him, if the doctor treats on a lien and Mr. Price agreed to inform him. COURT ORDERED, Motion DENIED, however will allow the one question.

PLAINTIFF'S MOTION IN LIMINE NO. 7: TO EXCLUDE REFERENCE TO PLAINTIFF'S COUNSEL WORKING WITH PLAINTIFF'S TREATING PHYSICIANS ON UNRELATED CASES: Mr. Prince noted this would only be related to treating physicians. Mr. Kahn stated he should be allowed to probe as to bias as to "the percentage of cases". Court noted if there are experts, then you can ask the question. COURT ORDERED, Motion, GRANTED IN PART as to the doctors and DENIED IN PART as to the retained experts.

PLAINTIFF'S MOTION IN LIMINE NO. 8: TO EXCLUDE REFERENCE TO ANY ABSENCE OF MEDICAL RECORDS BEFORE THE SUBJECT COLLISION: Mr. Prince submitted on the briefs. Mr. Kahn stated the Plaintiff testified in his deposition, he had no problems, however his experts reviewed the records presented and will address it in testimony; Mr. Kahn further noted at this time he doesn't know of any other records. Court finds records that are not found is speculative because you don't know. Mr. Kahn noted if something new comes up, he will make an offer of proof. COURT ORDERED, Motion, GRANTED.

PLAINTIFF'S MOTION IN LIMINE NO. 9: TO PERMIT TREATING PHYSICIANS TO TESTIFY AS TO CAUSATION, DIAGNOSIS, PROGNOSIS, FUTURE TREATMENT, AND EXTENT OF DISABILITY WITHOUT A FORMAL EXPERT REPORT: Pursuant to Counsel, Motion STIPULATED.

PLAINTIFF'S MOTION IN LIMINE NO. 10: TO EXCLUDE ANY ARGUMENT THAT THE PLAINTIFF HAS ANY SYMPTOMATIC CONDITIONS PRIOR TO THE COLLISION: Mr. Prince noted the Plaintiff went to Southwest Medical for issues unrelated to this case, and referred to Giglio regarding the pre-existing conditions and noted the Southwest Medical records should be excluded. Mr. Kahn referred to his motion to pre-admit these records and stated in the records the doctor requested an MRI to be done regarding his right knee and the Plaintiff's mentioned his neck hurt for years. Mr. Kahn stated his experts reviewed the records and stated it would not change their opinions. Mr. Prince argued they read it but no new opinion; "the above new records does not change my opinion". COURT ORDERED, Motion, DENIED, Court finds the expert opinion with the additional records supports his opinion, he did supplement and the body parts are related to this case.

PLAINTIFF'S MOTION IN LIMINE NO. 11: TO EXCLUDE TESTIMONY AND OPINIONS OF DEFENDANTS RETAINED EXPERT, KEVIN KIRKENDALL, CPA: Mr. Kahn stated he did not intend to have him testify as to legal opinions. Mr. Kahn further noted Mr. Kirkendall is a certified CPA. Mr. Prince stated he had seen legal opinions. Court stated the expert is not to testify as to legal opinions, pursuant to Hallmark. COURT ORDERED, Motion, DENIED.

PLAINTIFF'S MOTION IN LIMINE NO. 12: TO EXCLUDE REFERENCE TO PLAINTIFF BEING A MALINGERER, MAGNIFYING SYMPTOMS, OR MANIFESTING SECONDARY GAIN MOTIVES: Arguments by Counsel. Colloquy regarding qualifications needed and requires a psychological assessment. Court noted the Functional Capacity Exam, (FCE) that was done could comment on. Further arguments by Counsel regarding symptom magnifications statements and statements of the FCE examiner. Court noted it would need to see the records before the trial for a decision to be rendered. COURT ORDERED, Motion, RESERVED for the time of trial.

PLAINTIFF'S MOTION IN LIMINE NO. 14: TO PRECLUDE ARGUMENT OR SUGGESTION THAT PLAINTIFF'S TREATING PHYSICIANS HAVE A CONFLICT THAT PRECLUDES THEM FROM OFFERING MEDICAL CAUSATION OPINIONS: Court noted it would follow FCH-1. Arguments by Counsel. Colloquy regarding a possible conflict between the two doctors. Court noted they would need to find out. COURT ORDERED, Motion, GRANTED IN PART and RESERVED in part for time of trial, if it should come up.

PLAINTIFF'S MOTION IN LIMINE NO. 16: TO EXCLUDE PLAINTIFF'S PRIOR UNRELATED ACCIDENTS, INJURIES, AND MEDICAL CONDITIONS: Mr. Kahn noted he would be redacting the unrelated issues. Mr. Prince inquired of the other injuries. Court directed Counsel to go over this at their 2.67 meeting and COURT ORDERED, Motion, RESERVED for time of trial.

PLAINTIFF'S MOTION IN LIMINE NO. 17: TO EXCLUDE ANY TESTIMONY THAT BAHRAM YAHYAVI WAS HOTRODDING: Mr. Prince argued in support of his motion and stated the Plaintiff was not speeding and the characterization of hotrodding is labeling. Argument by Mr. Kahn. Court finds hotrodding is an opinion and ORDERED, Motion, GRANTED.

PLAINTIFF'S MOTION IN LIMINE NO. 18: TO EXCLUDE ANY EVIDENCE OF WORKER'S COMPENSATION PAYMENTS TO BAHRAM YAHYAVI: Pursuant to Counsel, Motion, STIPULATED. COURT ORDERED, Matter OFF CALENDAR.

PLAINTIFF'S MOTION IN LIMINE NO. 19: TO EXCLUDE PREJUDICIAL INFORMATION CONCERNING MR. YAHYAVI: Mr. Prince noted the Plaintiff's divorce is not relevant. Mr. Kahn submitted on his pleadings and noted the divorce case found yesterday was dealing with emotional distress and may relate to this case. COURT ORDERED, Motion, GRANTED with a caveat of this one case.

DEFENDANT'S MOTION IN LIMINE NO. 3: SUBSECTION 5 ONLY: TO PRECLUDE RIGHT KNEE INJURY FROM ACCIDENT: COURT ORDERED, Motion, DENIED. Arguments by Mr. Kahn in support of his motion. Mr. Prince argued and stated the expert Dr. Miao was deposed and stated his opinion was based on " overall gestalt". Court requested the deposition. Court noted the expert could give a range and not a specific date of the injury. Court stated findings within the deposition and stated there was no reason to exclude the injury. COURT ORDERED, Motion DENIED.

DEFENDANT'S MOTION IN LIMINE NO. 4: TO LIMIT SPECIALS TO AMOUNTS PAID IN WORKER'S COMPENSATION BENEFITS RELATED TO ACCIDENT AND PRECLUDE INTRODUCTION OF AMOUNTS BILLED BY PROVIDERS: Mr. Kahn noted the personal injury cases, the jury hears the amount paid and not billed. Argument by Mr. Prince. Mr. Prince noted the amount would include a number of things to include temporary total disability benefits and other payments made and could get into liens. Mr. Kahn noted this was the law and the statutes require it. Further arguments. Court directed Counsel to submit simultaneous briefs in two weeks 04/02/19. COURT ORDERED, Motion CONTINUED to Chambers for decision.

DEFENDANT'S MOTION IN LIMINE NO. 5: TO EXCLUDE ANY EVIDENCE OF TRAFFIC CITATION: Pursuant to Counsel, COURT ORDERED, Motion STIPULATED.

DEFENDANT'S MOTION IN LIMINE NO. 6: TO EXCLUDE EVIDENCE ANY EXPERT OPINION TESTIMONY BY LAY WITNESS: Mr. Price requested the motion be deferred for trial testimony. Mr. Kahn noted the witness stated his view was obstructed and he showed up after the fact. Court finds the witness is not qualified and COURT ORDERED, Motion, GRANTED IN PART, as to specific things that were put in the motion.

DEFENDANT'S MOTION IN LIMINE NO. 7: TO EXCLUDE REBUTTAL EXPERT LEGGETT OR ALTERNATIVELY TO REQUIRE THAT HIS TESTIMONY BE IN PLAINTIFF'S REBUTTAL CASE: Court noted Leggett was not noticed as an expert, However he was noticed as a rebuttal expert

witness and he can testify as a rebuttal expert. Arguments by Counsel. COURT ORDERED, Motion, DENIED IN PART, Leggett is not excluded, Court will allow Leggett to testify as a Rebuttal Expert,

DEFENDANT'S MOTION IN LIMINE NO. 8: TO EXCLUDE PLAINTIFF'S CLAIMS AND COMPUTATIONS FOR ANY FUTURE MEDICAL TREATMENT NOT PREVIOUSLY DISCLOSED IN MEDICAL RECORDS OR EXPERT OPINIONS WITHIN THE CLOSE OF DISCOVERY: Colloquy regarding future medical treatment and Dr. Thalgott recommending a spinal cord stimulator and higher incurring costs. Further discussions regarding trial setting. Counsel noted Dr. Kaplan and Dr. Oliveri were now added to the list. COURT ORDERED, Motion, OFF CALENDAR. Court directed Counsel to submit their stipulation.

Upon Courts inquiry, Mr. Prince noted the Plaintiff was rated for a permanent paid disability (PPD) and would not be sure if he will be re-rated after the next surgery. Colloquy regarding trial schedule.

DEFENDANT'S MOTION IN LIMINE NO. 9: TO EXCLUDE AND PREVENT ARGUMENT OR QUESTIONS THAT DEFENDANT IS AVOIDING LIABILITY OR REFUSING TO ACCEPT LIABILITY: Mr. Kahn argued in support of his motion. Mr. Prince argued against the motion and stated it's about a legal responsibility. Colloquy regarding the reptile issue. Court noted the Defendant denied liability and the complaint and answer could be read at trial. COURT ORDERED, Motion, DENIED.

DEFENDANT'S MOTION IN LIMINE NO. 11: TO PRECLUDE EVIDENCE OF LITIGATION INDUCED STRESS OR DAMAGES THEREFROM: There being no opposition, COURT ORDERED, Motion, GRANTED.

DEFENDANT'S MOTION IN LIMINE NO. 13: TO EXCLUDE SHOCKING EVIDENCE SUCH AS NEEDLES: Mr. Prince stated he would have various forms of photos and needles. Court noted it would not allow needles and COURT ORDERED, Motion, GRANTED IN PART as to needles and DENIED IN PART as to all other.

DEFENDANT'S MOTION IN LIMINE NO. 14: TO PRE ADMIT CERTAIN MEDICAL RECORDS. Mr. Prince requested to see the redacted records. Court noted it would not pre-admit records, However noted counsel could stipulate to admit. COURT ORDERED, Motion, DENIED. Court noted they may be pre-admitted only if counsel stipulates to the admission.

DEFENDANT'S MOTION IN LIMINE NO. 15: TO EXCLUDE REFERENCE AND EVIDENCE OF INVESTIGATING OFFICER'S NARRATIVE, FINDING OF "AT FAULT" AND ANY OTHER OPINIONS OR CONCLUSIONS, INCLUDING THOSE IN THE TRAFFIC ACCIDENT REPORT OR TESTIFIED TO AT DEPOSITION: Court noted the Officer is not qualified to draw opinions as an expert, unless he is and listed as a reconstruction expert. Mr. Prince agreed as to the citation and requested the Court defer for the time of trial, depending upon what foundation is laid and the testimony given. COURT ORDERED, Motion, GRANTED IN PART as to the citation and RESERVED IN PART for time of trial.

April Watkins, Court Clerk, present at 1:50 p.m.

DEFT'S MOTION IN LIMINE NO. 17 TO EXCLUDE UNTIMELY AND SUPPLEMENTAL CRASH TESTING OPINIONS, OR TESTIMONY OF PLTF'S REBUTTAL ONLY EXPERT TIMOTHY S. LEGGETT FROM 1/15/19 DISCLOSURE:

Following arguments by counsel, Court stated FINDINGS and ORDERED, motion DENIED. Pltf. REQUIRED to produce all videos, photographs or whatever taken at the time of this. Pltf. is also REQUIRED to produce rebuttal expert for deposition and Pltf. REQUIRED to pay for expert's time. If disclosure made two weeks prior to the rebuttal experts deposition and he needs to review and that is what he is relying on, the Court does not think it is late to allow supplementing and testing. As far as the testing, the Court DISAGREES and testing was done in the most recent case. More often, it is the Deft's doing an accident reconstruction and calculating the Delta V, using a similar car and whether it is the exact same type, it is always the same model and the use that to calculate the Delta V. This is all subject to cross examination at the time of trial whether the exemplar was identical or not which never seems to be the case and the Court is not quite sure the length of the forks themselves and counsel will be able to comment on that. Mr. Kahn argued he will need to either have a live crash test in front of the jury. Court stated there WILL NOT BE a live crash test during trial. Further, Mr. Kahn argued counsel will do his own crash test, not invite Pltf's counsel and then counsel will disclose and Pltf. can do what they need to do. COURT SO ORDERED. Mr. Prince argued they will then produce all available data and produce expert. FURTHER ORDERED, Deft. REQUIRED to produce expert and Deft. required to pay for expert's time. Court further FINDS testing is not out of the ordinary and counsel can question expert during deposition as to qualifications.

04/04/19 (CHAMBERS) DEFENDANT'S MOTION IN LIMINE NO. 4: TO LIMIT SPECIALS TO AMOUNTS PAID IN WORKER'S COMPENSATION BENEFITS RELATED TO ACCIDENT AND PRECLUDE INTRODUCTION OF AMOUNTS BILLED BY PROVIDERS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 04, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

April 04, 2019	3:00 AM	Hearing	Notice of Hearing on Defendant Capriati Construction Corp Inc's Motion in Limine No 4 to Limit Specials to Amounts Paid in Worker's Compensation Benefits Related to Accident and Preclude Introduction of Amounts Billed by Providers
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HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- On March 19, 2019 this Court heard arguments on both Plaintiff's and Defendant's Motions in Limine. The Court heard arguments on the instant Motion and continued the matter for two weeks to allow supplemental briefing and a decision in chambers. On March 28, 2019, Defendant filed its supplemental brief. On April 3, 2019, the Parties submitted a Stipulation and Order allowing Plaintiff until April 4, 2019 to file Supplemental briefing on Defendant's Motion In Limine No. 4. The Stipulation and Order was signed April 3, 2019, and filed April 4, 2019. On April 5, 2019 Plaintiff filed

its supplemental brief.

After review of the moving papers, arguments of counsel, the supplemental briefing, and the documents on file the Court finds as follows:

The workers compensation statutes, in general, were designed to both protect the worker as well as the employer in return for both parties giving up certain rights. In this case the defendant is neither employer or employee. NRS 116C.215(10) is to benefit reimbursement to an employer if a third party recovery is made.

Defendant in this case cannot use the statute as a sword to reduce the Plaintiff's recovery. The section was enacted to prevent a double recovery not to reduce the amount claimed to benefit a potential tortfeasor.

Therefore, the Plaintiff may introduce the actual amounts billed by the provider and the total amount paid to the Plaintiff or to be paid.

Therefore, Defendant's Motion in Limine No. 4 is DENIED.

This Decision sets forth the Court's intended disposition on the subject but anticipates further Order of the Court to make such disposition effective as an Order. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and argument.

Plaintiff's counsel to prepare the Order and submit to Chambers for consideration in accordance with EDCR 7.21. Said order then must be filed in accordance with EDCR 7.24

CLERK'S NOTE: A copy of this minute order was e-served to counsel. kt 04/09/19.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 30, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

April 30, 2019	9:00 AM	Motion	Plaintiff's Motion to Allow Parties to Present a Jury Questionnaire Prior to Voir Dire
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HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Beckom, Thomas N.	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney

JOURNAL ENTRIES

- Court noted the trial is estimated to be one month and explained the difficult process in selecting a juror to sit on a panel for a month. Court disagreed regarding the questionnaire including a question regarding their income. Colloquy. COURT ORDERED, Motion to Allow a Jury Questionnaire, GRANTED. Court directed Counsel to meet and confer within one week and either agree or the Court will decide. Court further directed counsel to submit the proposed Jury Questionnaire in Word format to chambers. COURT ORDERED, Matter SET for a status check regarding the status of the final questionnaire.

Court noted with a questionnaire, the voir dire in trial may be limited. Mr. Kahn had no objection to one day each side.

05/16/19 (CHAMBERS) STATUS CHECK: STATUS OF FINAL JURY QUESTIONNAIRE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 16, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**May 16, 2019 3:00 AM Status Check Status Check: Final
Status of Jury
Questionnaire**

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, Matter CONTINUED to the next hearing date; To be heard with the pending Motion to Continue Trial.

05/21/19 9:00 AM STATUS CHECK: FINAL STATUS OF JURY QUESTIONNAIRE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 21, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**May 21, 2019 9:00 AM All Pending Motions All Pending Motions
(05/20/19)**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Kahn, David S. Attorney
Prince, Dennis M Attorney
Trummell, James A. Attorney

JOURNAL ENTRIES

- DEFENDANT CAPRIATI CONSTRUCTION CORP. INC'S MOTION TO CONTINUE TRIAL...STATUS CHECK: FINAL STATUS OF JURY QUESTIONNAIRE

Colloquy regarding the discovery issues, Plaintiff's proprietary data unable to open, spinal cord stimulator for Plaintiff, crash testing and trial schedule issues. Court directed Mr. Kahn to complete the crash testing within 30 days. Court notes the Defendant is allowed a crash test, but no right to a rebuttal crash test. Mr. Prince noted Dr. Kaplan is now scheduling the spinal cord stimulator, it is part of the life care plan and it did change the damages. Court provided a draft copy of the jury questionnaire to counsel for the parties to review and edit. COURT ORDERED, Trial VACATED and RESET. Plaintiff's Counsel to prepare the trial scheduling order. Upon Court's inquiry, Mr. Kahn stated they did mediation once and will try again. Discovery will not be re-opened.

08/13/19 9:30 AM PRE-TRIAL CONFERENCE

08/27/19 9:30 AM CALENDAR CALL

09/09/19 1:30 PM JURY TRIAL (3-4 WEEKS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 30, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**July 30, 2019 9:00 AM All Pending Motions All Pending Motions
(07/30/19)**

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Kahn, David S. Attorney
Prince, Dennis M Attorney
Yahyavi, Bahram Plaintiff

JOURNAL ENTRIES

- PLAINTIFF'S MOTION IN LIMINE NO.20: TO EXCLUDE REFERENCE TO BAHRAM YAHYVI ET. AL V. SERVICE CORPORATION INTERNATIONAL ET.AL....DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE NO.20 TO EXCLUDE REFERENCE TO BAHRAM YAHYAVI ET.AL V. SERVICE CORPORATION INTERNATIONAL ET AL; COUNTER-MOTION FOR OFFSET: Mr. Prince noted the mother's body was buried as requested and that case was resolved and Mr. Prince requested any reference to this be excluded. Mr. Kahn noted the Plaintiff is claiming depression, sleeplessness and emotional distress and some claims could be off set. Further arguments by Counsel. Court finds prior case is not relevant and COURT ORDERED, Motion In Limine 20, GRANTED and Counter-Motion for Offset, DENIED.

MOTIONIN LIMINE NO.21 TO EXCLUDE ARGUMENT THAT BAHRAM YAHYAVI LIED TO IRA SPECTOR CONCERNING ARM PARALYSIS AND FUTURE SURGERY: Arguments by Counsel. Colloquy regarding the Plaintiff's statement. Court finds this is an issue for the Jury and ORDERED, Motion In Limine 21, DENIED.

Colloquy regarding deposition allowed by the Court. Mr. Kahn to confer with Mr. Prince and work it out.

Court directed Mr. Prince to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 13, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

August 13, 2019 9:30 AM Pre Trial Conference

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Kahn, David S. Attorney
Prince, Dennis M Attorney
Verde, Brandon C. Attorney

JOURNAL ENTRIES

- Court noted this trial will be set in this trial stack. Mr. Prince estimated 3 to 4 trial weeks. Mr. Prince noted the primary injury is the spine and stated they would be withdrawing the right knee injury. Upon Court's inquiry, Mr. Prince further noted he has a signed order regarding the Jury Questionnaire and other orders. Court directed Counsel to leave the orders for Court to review. Counsel agreed to start trial on 09/09/19. Trial to be confirmed at calendar call.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 27, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**August 27, 2019 9:30 AM All Pending Motions All Pending Motions
(08/27/19)**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Kahn, David S. Attorney
Prince, Dennis M Attorney
Severino, Mark C Attorney
Verde, Brandon C. Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO PRE-INSTRUCT THE JURY: Arguments by Counsel. Colloquy regarding the workman s compensation instruction applies. Mr. Kahn objected and noted in the beginning of trial the jury would hear of insurance and administrators and requested it be at the end of trial. Court stated findings and noted there is new legislation and COURT ORDERED, Motion to Pre-Instruct the Jury, GRANTED. Court directed Counsel to meet and confer on Friday and if counsel does not agree they are to submit their objections to chambers Monday.

CALENDAR CALL: Counsel announced ready and estimated 3 weeks. Court directed Counsel to appear at 11:30 am and the Jury will be ready at 1:15 PM.

09/09/19 11:30 AM JURY TRIAL: 11:30 AM- COUNSEL PRESENT // 1:15 PM- JURY PRESENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 10, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 10, 2019 10:00 AM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Yahyavi, Bahram	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Mr. Kahn objected the reports from Dr. Tung's regarding opinions of the Southwest Medical Records. Mr. Kahn further objected to Mr. Prince stating the specific identifications of the experts when they inform the prospective jury all the names of experts, parties and counsel. Mr. Prince requested to be allowed to say their medical specialty. Court agreed with Mr. Kahn and directed Mr. Prince to only state the names of the doctors and not their specialty. Mr. Kahn noted Dr. Clauretie had a new opinion and the damages are changing, the expert should have raised this in his report a month ago. Mr. Prince noted the Plaintiff filed vocational disability and there are different issues. Court noted it would need to read the reports. Colloquy regarding jury schedules.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st & 2nd Jury Lists).

Evening recess.

09/11/19 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 11, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 11, 2019 1:00 PM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Yahyavi, Bahram	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Counsel noted their challenges for cause. Individual prospective jurors questions outside the presence of the panel. Colloquy regarding authenticity and admission of the medical records and objections noted in the 16.1. Mr. Kahn objected to the relevance and hearsay, with undue prejudice. Mr. Prince argued and referred to the collateral source issue and cited the Williams and Giglio cases. Mr. Kahn referred to the Motion In Limine 10. Mr. Prince requested an admonishment. Court noted they don't have a jury panel at this time. Court reviewed and referred to the Courts chamber decision regarding Motion In Limine 10.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st, 2nd & 3rd Jury Lists).

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Arguments by Counsel regarding causes for challenge and custodian of records. Counsel referred to case law; Siatta 134 Nv Adv Opn 38 (regarding the factors for challenges of cause) and Sayedbashe Sayedzada v. State of Nevada.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued.

Evening recess.

09/12/19 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 12, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 12, 2019 9:00 AM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Kahn referred to NRS 616 C(215)10 and stated the workers compensation payment amounts made to the administrator must be an exhibit before opening statements. Court noted the Defendant's burden to produce it. Colloquy regarding deductions. Mr. Brown noted issues of all the bills coming in. Colloquy regarding the Court's 04/04/19 chamber decision. Later recalled. Court noted he reviewed Dr. Tungs report and he did not change his opinion. Further arguments on the admissibility of records. Court noted Court's decision stands. Upon Mr. Prince requested to pre-admit the Southwest Medical records for opening statements. Mr. Kahn agreed to pre-admit the records however would need to review the medical bills. Individual prospective jurors traversed outside the presence of the prospective panel.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st & 2nd Jury Lists).

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Upon Court's inquiry of the workers compensation payments and amounts admitted, Mr. Kahn noted he had proposed an

amount, with the issue of segregating the knee treatments.

PROSPECTIVE JURY PANEL PRESENT: Voir Dire continued. (1st, 2nd & 3rd Jury Lists). Jury and 3 secret alternates selected and sworn. Jury List FILED IN OPEN COURT.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: EXCLUSIONARY RULE INVOKED. Mr. Prince noted various Plaintiff's exhibits stipulated to admit. Mr. Kahn requested the Complaint and Answer be read to the jury.

Evening recess.

09/13/19 8:30 AM JURY TRIAL

OUTSIDE THE PRESENCE OF THE JURY

CONTINUED TO 9/16/2019 1:00 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 16, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 16, 2019 1:00 PM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Court noted Juror #10 notified the court regarding sudden illness and was not able to appear. Court excused Juror #10 as the first alternate. Colloquy regarding scheduling issues. Arguments by Counsel regarding expert Kaplan's opinion not in his report. Court noted objections need to be raised at the time of testimony.

JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn argued regarding statement of permanent problem not noted in three of the expert reports and further noted the left arm and shoulder issue. Mr. Prince noted Dr. Kaplan is also the treating physician. Court noted the reports talk about neuropraxia. Colloquy regarding concerns of juror #3 being tired.

JURY PRESENT: Counsel acknowledged the presence of the jury. Continued Testimony and exhibits

presented. (See worksheets).

Evening recess.

09/17/19 10:15 AM 10:15 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 17, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 17, 2019 10:00 AM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling issues.

JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Mr. Prince noted his witness schedule and further noted the proposed agreed upon jury instructions were submitted. Counsel to work on the not agreed jury instructions.

Evening recess.

09/18/19 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 18, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 18, 2019 1:00 PM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Yahyavi, Bahram	Plaintiff

JOURNAL ENTRIES

- Also present Felicia Rieben, Defendant's Corporate representative present.

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling issues. Court explained to counsel, a juror requested to end early tomorrow for a doctor appointment. Upon Court's inquiry, Counsel agreed to end early rather than to excuse the juror.

JURY PRESENT: Counsel acknowledged the presence of the jury. Court informed the Jury of the Trial schedule. Testimony and exhibits presented. (See worksheets). Conference at the bench.

OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel. Mr. Kahn stipulated to various exhibits (see worksheets) and the amount within exhibit 84.

JURY PRESENT: Counsel acknowledged the presence of the jury. Continued testimony and exhibits

presented. (See worksheets). Conference at the bench.

OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel regarding exhibit 92 (bate #354). Counsel agreed to redact the document. Court marked the non-redacted document as a Court exhibit. Court will allow Counsel ask the witness of the surgery that was not done and not approved by workers compensation. Mr. Prince noted the Plaintiff had workers compensation re-opened to get the surgery done. Colloquy regarding if there was pre-approval from workers compensation and if workers compensation paid for that surgery.

JURY PRESENT: Further testimony. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Court noted the amount of billing and amount workers compensation has paid is needed. Mr. Kahn noted there is 6 years. Counsel to work together regarding this issue.

Evening recess.

09/19/19 10:00 AM JURY TRIAL

Evening recess.

09/20/19 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 20, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 20, 2019 9:00 AM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Yahyavi, Bahram	Plaintiff

JOURNAL ENTRIES

- Also present Felicia Rieben, a representative for the Defendant present.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince note the two objections made during cross examination of Dr. Clauretie regarding collateral source and requested a curative instruction to the jury. Arguments by Counsel. Court noted at the time of the objection, Court did strike the question and instructed the jury to disregard the question and answer. Court trailed matter to review the recording. Later recalled. Court noted upon review; the fringe benefits amounts were not mentioned and the Court admonished the jury and therefore, **COURT DENIED**, Plaintiff's request for a curative instruction.

JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn noted Plaintiff's demonstrative was not

provided as an exhibit and was used and requested to mark it as an exhibit. Mr. Prince stated the demonstrative documents shown to the jury was in his opening power-point. Colloquy regarding having to take Defendant's witness out-of-order due to scheduling issues.

JURY PRESENT: Continued testimony. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel regarding Dr. Tung's testimony and report. Mr. Kahn noted the Plaintiff's did not take Dr. Tung's deposition. Upon Court's inquiry, Dr. Tung did state the films he had seen and noted the dates he had received and reviewed them. Mr. Prince noted Dr. Tung did not state this in his report that he reviewed the films. Dr. Tung noted upon his review of films and imaging reports, his findings of the films is implied, you have to see the films when writing findings. Arguments by Counsel. Dr. Tung noted he did agree with the imaging reports. Court noted Dr. Tung agrees with the imaging reports.

JURY PRESENT: Continued testimony. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn argued noted the Plaintiff's experts opined on the Southwest Medical records after seeing the records 1 day prior to testimony and not listed in the reports; and to prevent Deft's only expert not to opine on these records would be prejudicial and requested the Court reconsider Court's recent decision. Mr. Prince argued regarding stating chronic neck pain/chronic symptomatic before the accident. Mr. Kahn noted pre-existing is noted in the records. Further arguments by Counsel. Court will allow the expert to be allowed to testify to what is noted in his report.

JURY PRESENT: Continued testimony. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding trial scheduling.

Evening recess.

09/23/19 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 23, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 23, 2019 1:00 PM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Court received the Defendants trial brief #5 regarding improper impeachment of Dr. Tung and his annual salary information. Mr. Kahn requested Dr. Tung s deposition from another case be marked as an exhibit noting Plaintiff used that deposition regarding Dr. Tung's salary. Mr. Prince noted it was not published because it was from another case. Mr. Kahn advised he objected to the deposition being used from another case. Court allowed the deposition to be a courts exhibit. (See worksheets).

JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel regarding the Plaintiff's ability to obtain other jobs. Colloquy regarding the Defendant expert, Mr. Bennett's two reports. Mr. Kahn directed the Court to the second page of the report. Court noted the issue should have been listed in the conclusion of the report. Court stated findings and sustained the objection and marked the

reports as a courts exhibit (See worksheets). Mr. Prince requested the jury be admonished. Court noted it would sustain the objection and strike the question and answer.

JURY PRESENT: Court instructed the Jury, striking the last question and answer. Continued testimony. (See worksheets).

Evening recess.

09/24/19 11:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 24, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 24, 2019 11:00 AM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Yahyavi, Bahram	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn asked if Dr. Tung s reports be marked as Court's exhibits. COURT SO ORDERED, See Exhibit List (See worksheets).

JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented. (See worksheets). Conference at the bench.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn objected to the Plaintiff's demonstrative exhibits being shown to the jury as it was beyond the scope of income. Arguments by counsel. Court over-ruled objection and ORDERED, the demonstrative exhibits be marked as a Courts exhibits. (See worksheets). Other arguments by counsel regarding publishing the report to the jury. Court sustained Mr. Kahn s objection and Mr. Prince was directed not to show the report to the jury, however he could refer to the report.

JURY PRESENT Continued testimony (See worksheets). Conference at the bench regarding Counsel's objections. Continued testimony.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince argued noting the knee claim was being removed, However Mr. Kahn tried to back door this. Mr. Prince further noted the Social Security Records are not in. Mr. Kahn agreed the knee claim was out and explained the reasons, including the knee, why the Plaintiff had taken so much time off work. Mr. Prince noted there was nothing in the records regarding his knee. Court noted the knee is unrelated to the claims. Further arguments by Mr. Kahn and requested to make an offer of proof tomorrow with the documents and dates. Court will allow the offer of proof.

Evening recess.

09/25/19 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

September 25, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

September 25, 2019 1:00 PM Jury Trial Jury Trial (3-4 weeks)

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT:	Brown, Mark James	Attorney
	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Yahyavi, Bahram	Plaintiff

JOURNAL ENTRIES

- Also present Mr. Cliff Goodrich, a representative of Capriati Construction Corp.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Kahn proposed the front page of the

OUTSIDE THE PRESENCE OF THE JURY: Arguments by Counsel regarding proposed AAAA exhibit/final lien, with log of workers compensation payments by provider (03/02/17). Court directed Mr. Kahn to bring a log from the worker compensation. Colloquy regarding NRD 616C.215 (10). Upon Mr. Kahn provided a 1 page document sent from workman s compensation, Mr. Prince objected and stated the document is inaccurate. Court noted counsel may need to subpoena someone from workman s compensation to testify. Mr. Kahn further proposed and offered redacted exhibit YY (Heart Center of Nevada) and Mr. Prince objected to the admission.

JURY PRESENT: Counsel acknowledged the presence of the jury. Testimony and exhibits presented.

(See worksheets).

Mr. Kahn gave an offer of proof regarding the offered exhibit YY and stated the Plaintiff's income amounts. Mr. Prince argued the amounts the Plaintiff did make per year and noted it was down because of the accident. Court denied counsel's request to admit the exhibit. Court noted both parties stipulated to exclude an accepted body part. Mr. Severino provided another spreadsheet from workman s compensation with breakdowns and total amount, that he just received. Mr. Prince noted the Plaintiff receives total disability this year. Colloquy regarding amounts reduced and vocational rehabilitation noted. Court noted the calculation is difficult.

JURY PRESENT: Testimony continued. (See worksheets). Plaintiff Rested. Testimony continued.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Prince argued the Deft. stated they had filed bankruptcy and would request the Defendant's answer be stricken or to have a curative instruction regarding willful misconduct. Mr. Kahn noted an offer of proof, and stated there were 250 employees and now down to 60 employees and it was elicited from the witness. Court admonished Mr. Kahn and noted bankruptcy is not admissible because of reorganization, it is their fault. Mr. Kahn apologized. Colloquy regarding sanctions. Mr. Prince noted he did not want a mistrial. Court directed Counsel to appear tomorrow at 9:00 AM and the Court will re-read Gunderson and decide on the appropriate sanctions.

Evening recess.

09/26/19 10:00 AM JURY TRIAL

it pertained to liability, the witness that was on the stand and the defense's remaining witnesses were stricken and proceeded to admonish Mr. Kahn.

Testimony and exhibits presented. (See worksheets)

Court admonished and excused the jury for the evening recess.

OUTSIDE THE PRESENCE OF THE JURY

Court and counsel settled jury instructions.

9/27/19 9:00 AM JURY TRIAL CONTINUED

Verdict on file herein). Jury polled. Court thanked and excused the jurors.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 05, 2019

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

December 05, 2019 3:00 AM All Pending Motions

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

PARTIES

PRESENT:	Kahn, David S.	Attorney
	Prince, Dennis M	Attorney
	Severino, Mark C	Attorney
	Strong, Kevin T.	Attorney
	Wall, Michael K.	Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST...DEFENDANT CAPRIATI CONSTRUCTION CORP., INC'S MOTION TO RE-TAX COSTS

COURT ORDERED, Matters CONTINUED to the hearing calendar. COURT FURTHER ORDERED, Pending Motion for New Trial be reset from 01/14/20 to 01/28/19.

01/28/20 9:00 AM PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST...DEFENDANT CAPRIATI CONSTRUCTION CORP., INC'S MOTION TO RE-TAX COST...DEFENDANT'S MOTION FOR NEW TRIAL

CLERK'S NOTE: A copy of this minute order was e-served to counsel. corrected minutes to reflect the correct continued date from 02/28 to 01/28/20. kt 12/09/19.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 09, 2020

A-15-718689-C	Bahram Yahyavi, Plaintiff(s) vs. Capriati Construction Corp Inc, Defendant(s)
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January 09, 2020	3:00 AM	Motion to Reconsider	Defendant Capriati Construction Corp., Inc.'s Motion to Correct or Reconsider Decision and Order Entered on November 5, 2018 (2019)
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HEARD BY: Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- On November 5, 2019, this Court entered a decision and order setting out this Court's sanctions against Defendant for Defense counsel's intentional misconduct during the jury trial. Defendant now seeks reconsideration of that order. The court may grant a motion for rehearing only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached. Moore v. City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). The district court "may consider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." Masonry & Tile Contractors Ass'n. of Southern Nevada v. Jolly, Urga & Wirth, Ltd., 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). The court may correct a clerical mistake in an order or a mistake due to oversight or omission. NRCP 60(a). The court may relieve a party from an order due to:

(1) mistake, inadvertence, surprise, or excusable neglect;

- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

NRCPC 60(b).

Here, during the jury trial, to sanction Defense counsel for his misconduct, this Court permitted the parties to try the case as to damages but struck the Defendant's liability defense, struck witness Cliff Goodrich's testimony in Defendant's case in chief, and struck Defendant's remaining witnesses. Defense counsel asserts that this Court's decision and order incorrectly states he was permitted to try the case as to damages because Defense counsel was only allowed a closing argument but no further experts to support his case as to damages.

This Court has broad discretion and inherent equitable power to impose non-case concluding sanctions for trial misconduct and abusive litigation practices. See *Emerson v. Eighth Judicial Dist. Court of State, ex rel. Cty. of Clark*, 127 Nev. 672, 680, 263 P.3d 224, 229 (2011); see also *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 243, 254, 235 P.3d 592, 599 (2010). This Court sanctioned Defense counsel nearly three weeks after the jury trial had commenced. At that point the Plaintiff had presented their case in chief regarding liability and damages which included expert testimony that Defendant had an opportunity to cross-examine. Further, Defendant's medical expert was permitted to testify about causation and damages before this Court imposed a lesser sanction. Instead of striking the Defendant's answer in its entirety, a potentially appropriate sanction given the intentional misconduct and Defense counsel's history of prior conduct, this Court permitted Defendant to continue trying the case with the evidence presented before the sanctions.

Accordingly, there being no new issues of fact or law, no substantially different evidence, no clerical errors, mistake or inadvertence, the Motion to Correct or Reconsider the November 5, 2019 Order is DENIED. This decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. Counsel for Plaintiff to prepare the order and submit to chambers for consideration in accordance with EDCR 7.21. Said order then must be filed in accordance with EDCR 7.24.

CLERK'S NOTE: A copy of this minute order was e-served to counsel. kt 01/09/2020,

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 28, 2020

A-15-718689-C Bahram Yahyavi, Plaintiff(s)
vs.
Capriati Construction Corp Inc, Defendant(s)

**January 28, 2020 9:00 AM All Pending Motions All Pending Motions
(01/28/2020)**

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Kahn, David S. Attorney
Prince, Dennis M Attorney
Severino, Mark C Attorney
Wall, Michael K. Attorney

JOURNAL ENTRIES

- DEFENDANT CAPRIATI CONSTRUCTION CORP. INC.'S MOTION FOR NEW TRIAL: Mr. Kahn argued in support of his motion and noted his expert testimony was limited, the jury was not allow to hear the Defendant's damages case. Mr. Kahn further argued regarding the curative instruction and the verdict form. Court noted Mr. Kahn had mentioned the bankruptcy and having no money, in trial. Colloquy. Upon Mr. Kahn's inquiry, Court noted the 7-11 case referring to sanctions from misconduct and this Court thought Mr. Kahn's actions were intentional. Mr. Prince noted it was a spoliation issue regarding the lost record keeping. Further arguments by Mr. Prince. Mr. Prince concluded arguments regarding the curative instructions with no timely objection or alternative. Court stated findings and noted the record speaks for itself, Court found no error in law. Court further noted there was no objection or alternative for the curative or the jury instructions and the driver-Defendant admitted to liability. COURT ORDERED, Motion for New Trial, DENIED.

PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST: Arguments by Counsel regarding Attorney Fees: Mr. Prince requested under rule NRCP 68(f) penalty costs and interest over

and above the other costs and interest and referred to the cited O'Connel Case as to his contingency fee. Colloquy regarding the Offer of Judgment, double recovery and NRCP 68 (f). Mr. Prince further argued for attorney fees and noted his fees were reasonable on a 40% contingent, total \$2,510,579.00. Mr. Kahn argued against the motion and noted with the penalty costs Plaintiff's Counsel would be taking over 50% in attorney fees and further argued Mr. Prince's fees are extremely high. Colloquy regarding cited cases and the different ways to bill attorney fees; contingent, hourly and flat fees. Court noted under Plaintiff's arguments there would be a double recovery of costs however this contradicts the Supreme Courts intentions, as to the penalty costs and interest. Further arguments. Court further finds, as to the Plaintiff's fees, Bettie and Brunzell factors have been satisfied, it was brought in good faith. Court will award the 40% contingent fee. COURT ORDERED, Plaintiff's Motion for Fees & Costs, GRANTED IN PART as to the Attorney Fees, interest and costs. COURT FURTHER ORDERED, Motion, DENIED IN PART as to the Penalty costs and Penalty interest. Mr. Kahn further inquired regarding his offer and Court noted Mr. Kahn's offer was at the mediation (JAMS) and would not be considered as an offer of judgment.

DEFENDANT CAPRIATI CONSTRUCTION CORP. INC.'S MOTION TO RE-TAX COSTS:

Arguments by Counsel regarding Costs: Mr. Kahn noted the pretrial costs. Mr. Prince stated he would withdraw the Forensic Dynamics Inc. (Timothy Leggett) \$22,205.09. Mr. Kahn argued Dr. Miao would be limited to \$1,500.00. Court agreed. Mr. Prince stated he would WITHDRAW- Dr. Miao, Dr. Perry and Desert Orthopedic Center. COURT SO ORDERED.

Mr. Kahn noted as to Dr. Kaplan, the request was not timely. Mr. Prince noted it was attached to the memorandum and explained the description of deposition was the trial prep. Court ALLOWED Plaintiff's the Costs for Dr. Kaplan. Mr. Kahn further stated the knee claim was withdrawn at trial. Mr. Prince noted the knee was a small part of the records and mostly related to the cervical spine. Mr. Prince noted Dr. Schifini was the workman's compensation doctor. Court ALLOWED Plaintiff's Dr. Schifini's fees. Court FURTHER ALLOWED Plaintiff's Dr. Oliveri fees with a 25% Reduction for the of \$11,025.00 and Dr. Spector fees with a 50% Reduction of the \$5,235.00.

Arguments by counsel regarding trial technician. Court noted the technicians are a common practice and it is reasonable and therefore Technician Fees AWARDED to Plaintiff's.

Mr. Kahn argued regarding Dr. Clauretie and his three reports and referred to the knee that was withdrawn at trial and proposed a 1/3 reduction. Mr. Prince Agreed. Dr. Clauretie's fees Reduced 1/3.

Mr. Kahn argued costs regarding the binders. Mr. Prince noted he does not reuse or recycle binders. Court noted the fee for binders is reasonable and AWARDED Plaintiff's the Binder Costs for both in house and outside.

Mr. Kahn argued costs for transcripts, record retrieval and record review and further noted they had both agreed to pay the mediation fees/JAMS with a signed contract. Court AWARDED Plaintiff's, Transcript Fees for 2.67 Conference. Mr. Kahn argued regarding transcript fees. Mr. Prince noted Mr. Miao and Mr. Leggett's deposition fees have already been withdrawn. Court finds the transcript for

the two depositions reasonable and ALLOWED Plaintiff's the transcript fees for the two depositions. Upon Mr. Kahn's inquiry, Mr. Prince explained the legal retrieval service is the collection of records and the record reform is the summary of review of records. Court AWARDED Plaintiff's the legal retrieval, however the fact they choose to have someone review the records Court would NOT ALLOW the record reform. Mediation Fees NOT ALLOWED.

Upon Mr. Kahn's inquiry of daily transcripts, Court ALLOWED Plaintiff's the Daily Transcripts. Mr. Kahn submitted on the remaining issues.

COURT ORDERED, Motion to Retax, DENIED IN PART. COURT FURTHER ORDERED, Motion GRANTED IN PART.

Mr. Kahn requested all future pleadings and correspondence be additionally copied to appellant counsel, Mr. Severino and Mr. Wall. Mr. Prince noted they would e-serve the pleadings. Mr. Kahn requested the correspondence that is not e-served be copied. Mr. Prince to prepare the order and pass it by Defense Counsel.

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

Case No. A-15-718689-C		Court Clerk: Kathy <i>rThomas</i>		
Dept. XXVIII Ronald J. Israel		Recorder:		
Pltf(s): BAHRAM YAHYAVI, an Individual v. Deft(s): CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation		Plaintiff's Counsel: DENNIS M. PRINCE, ESQ. Defendants' Counsel: DAVID S. KAHN, ESQ.		
Exhibit #	Description	Date Offered	Objection	Date Admitted
1.	Las Vegas Metropolitan Police Department's State of Nevada Traffic Accident Report (P00001-P000007)	9/12/19	STP	9/12/19
2.	Google Map Photo of Accident Area with Backhoe (P0000008)			
3.	Google Map Photo of Accident Area with Construction Barriers (P0000009)			
4.	Google Map Photo of Accident Area of Glen Avenue (P0000010)			
5.	Google Map Photo of Accident Area of Sahara Avenue with Chapman Sign (P0000011)			
6.	Google Earth Aerial View of Scene of Accident (P0000012)			
7.	Google Earth Aerial View of Scene of Accident with streets (P0000013)			
8.	Exhibits from deposition of Defendant Arbuckle (P000014-P0000021)			

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PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

9.	Defendant Capriati Construction Letter to CH2M: Notice of Intent to Claim for Traffic Control (P000022-P000048)	9/12/19	STO	9/12/19	MB
10.	CH2M Letter to Defendant Capriati Construction: Traffic Control Plan Not Submitted or Approved (P0000049)	[Large handwritten bracket spanning rows 10-14]			MB
11.	CH2M Letter to Defendant Capriati Construction Punch List Notice (P0000050-P0000054)				MB
12.	Williams Brother, Inc. Letter to Clark County Public Works: Request for Change Specification Phasing Plan (P0000055)				MB
13.	Clark County Department of Public Works Daily Inspection Report for Defendant (P0000056)				MB
14.	Clark County Department of Public Works Non-Compliance Report (P00000057)				MB
15.	Department of Transportation Additional Conditions to the City of Las Vegas (P000058-P000064)	9/12/19	STP	9/12/19	MB
16.	Department of Transportation Violation Notice to Clark County Public Works (P000065-P0000066)	Returned			
17.	Department of Transportation Traffic Control Plans Phase 2 Submittal 101 (P000067-P0000071)	9/12/19	STP	9/12/19	MB
18.	Department of Transportation Traffic Control Plans Phase 2 Submittal 104 (P000072-P0000075)	9/12/19	STP	9/12/19	MB

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

19.	Department of Transportation Traffic Control Plans Phase 3 Submittal 109 (0000076-0000081)	9/12/19	stop	9/12/19	VB
20.	Department of Transportation Traffic Control Plans Phase 4 Submittal 143 (0000082-0000092)	[Large handwritten bracket spanning rows 20-29]	[Large handwritten bracket spanning rows 20-29]	[Large handwritten bracket spanning rows 20-29]	VB
21.	Color Photograph of Forklift Sideview (00000093)				VB
22.	Color Photograph of Forklift with Forks Down (00000094)				VB
23.	Color Photograph of Forklift with Serial Number (00000095)				VB
24.	Color Photograph of Forklift from Front (00000096)				VB
25.	Color Photograph of Forklift Tires (00000097)				VB
26.	Color Photograph of Forklift Forks (00000098)				VB
27.	Color Photograph of Forklift Front (00000099)				VB
28.	Color Photograph of Plaintiff's Vehicle Front Passenger Side (0000100)				VB
29.	Color Photograph of Plaintiff's Vehicle from Front (P00000101)				VB
30.	Color Photograph of Plaintiff's Vehicle Right Driver Side (P0000102)	[Large handwritten bracket spanning rows 30-31]	[Large handwritten bracket spanning rows 30-31]	[Large handwritten bracket spanning rows 30-31]	VB
31.	Color Photograph of Plaintiff's Vehicle with Man Looking In (P0000103)				9/12/19

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

32.	Color Photograph of Plaintiff's Vehicle With inspection of Interior (P0000104)	9/12/19	STP	9/12/19	MB			
33.	Color Photograph of Plaintiff's Vehicle from Driver side with Driver Door Open (P000105)	[Large handwritten scribble]	[Large handwritten scribble]	[Large handwritten scribble]	MB			
34.	Color Photograph of Plaintiff's Vehicle from Rear With driver Door Open (P0000106)				MB			
35.	Color Photograph of Plaintiff's Vehicle Interior Windshield (P0000107)				MB			
36.	Color Photograph of Plaintiff's Vehicle Full Interior Windshield (P0000108)				MB			
37.	Color Photograph of Plaintiff's Vehicle Interior (P00000109)				MB			
38.	Color Photograph of Plaintiff's Vehicle Full Interior Windshield (P00000110)				MB			
39.	Color Photograph of Plaintiff's Vehicle from Rear (P00000111)				MB			
40.	Color Photograph Plaintiff's Vehicle from Rear with Man Looking In (P00000112)				MB			
41.	Color Photograph of Plaintiff's Vehicle Partial Rear (P0000113)				MB			
42.	Color Photograph of Plaintiff's Vehicle Driver's Side Rear Panel (P0000114)				MB			
43.	Color Photograph of Plaintiff's Vehicle from front of windshield (P0000115)				9/12/19	STP	9/12/19	MB

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

44.	Color Photograph of Plaintiff's Vehicle from Passenger Sideview (P0000116)	9/12/19	STP	9/12/19	MB			
45.	Color Photograph of Plaintiff's Vehicle Entire Vehicle (P0000117)	[Large handwritten bracket spanning rows 45-55]	[Large handwritten bracket spanning rows 45-55]	[Large handwritten bracket spanning rows 45-55]	MB			
46.	Color Photograph of Plaintiff's Vehicle with man (P0000118)				MB			
47.	Color Photograph of Plaintiff's Vehicle Right Panel (P0000119)				MB			
48.	Color Photograph of Plaintiff's Vehicle Right Side (P0000120)				MB			
49.	Color Photograph of Plaintiff's Vehicle of Entire Vehicle (P0000121)				MB			
50.	Color Photograph of Plaintiff's Vehicle Rear Left (P0000122)				MB			
51.	Color Photograph of Plaintiff's Vehicle Windshield (P0000123)				MB			
52.	Color Photograph of Plaintiff's Vehicle Windshield (P0000124)				MB			
53.	Color Photograph of Plaintiff's Vehicle Roof (P0000125)				MB			
54.	Color Photograph of Accident Scene Forklift Forks Raised (P0000126)				MB			
55.	Color Photograph of Accident Scene with Truck and Forklift (P0000127)				MB			
56.	Color Photograph of Accident Scene with Plaintiff's Vehicle and Partial View of Fire Truck (P0000128)				9/12/19	STP	9/12/19	MB

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

57.	Color Photograph of Accident Scene of Windshield of Plaintiff's Vehicle (P0000129)	9/12/19	STP	9/12/19	MS
58.	Color Photograph of Accident Scene with Rearview of Plaintiff's Vehicle (P0000130)	[Large handwritten bracket spanning rows 58-67]	[Large handwritten bracket spanning rows 58-67]	[Large handwritten bracket spanning rows 58-67]	MS
59.	Color Photograph of Accident Scene with Tires of Forklift (P0000131)				MS
60.	Color Photograph of Accident Scene with Skid Marks in Dirt (P0000132)				MS
61.	Color Photograph of Accident Scene with Raised Forks of Forklift and Construction cone (P00000133)				MS
62.	Color Photograph of Accident Scene with Front View of Plaintiff's vehicle (P00000134)				MS
63.	Color Photograph of Accident Scene with Forklift (P0000135)				MS
64.	Color Photograph of Accident Scene with Forks Raised and Side of Plaintiff's Vehicle (P00000136)				MS
65.	Color Photograph of Accident Scene with Firetruck, Raised forks and Partial View of Plaintiff's Vehicle (P0000137)				MS
66.	Color photographs of accident scene with Plaintiff's vehicle and fire truck (P00000138)				MS
67.	Color photograph of accident scene with forks raised, construction worker and partial view of Plaintiff's vehicle (P00000139)				9/12/19

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

68.	Color Photograph of Accident Scene with raised forks of forklift (P0000140)	9/12/19	STP	9/12/19	MS
69.	Color photograph of accident scene with skid marks in dirt (P0000141)	[Large vertical scribble]	[Large vertical scribble]	[Large vertical scribble]	MS
70.	Color photograph of accident scene with forks down and partial view of Plaintiff's vehicle (P000000142)				MS
71.	Color Photograph of Accident Scene with Forks Down of Forklift and Partial View of Plaintiff's Vehicle (P00000143)				MS
72.	Color Photograph of Accident Scene with construction cones (P00000144)				MS
73.	Color Photograph of Accident Scene with forks up, Plaintiff's vehicle and construction cone (P000000145)				MS
74.	Color Photograph of Accident Scene with tires of forklift (P000000146)				MS
75.	Color photograph of accident scene with skid marks in dirt (P00000147)				MS
76.	Color photograph of accident scene with forks up, truck and Plaintiff's vehicle (P000148)				MS
77.	Color photograph of accident scene with Plaintiff's vehicle and fire truck (P000149)				MS
78.	Color photograph of accident scene with rear of Plaintiff's vehicle (P000150)				9/12/19

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

79.	Color photograph of accident scene with Plaintiff's vehicle and cone (P000151)	9/12/19	STP	9/12/19	MS
80.	Color photograph of accident scene with construction cones (P000152)				MS
81.	Color photograph of accident scene with construction cones (P000153)				MS
82.	Color photograph of accident scene with forks down, cone and Plaintiff's vehicle (P000154)				MS
83.	Color photograph of accident scene with Chapman sign (P000155)				MS
83a.	Color photographs of accident scene taken by Defendant (P0001992-P0002054)	9/12/19	STP	9/12/19	MS
84.	Past Medical Expenses of Plaintiff (P000156-P00157)	9/18/19	STP	9/18/19	MS
85.	Las Vegas Fire Rescue, medical records (P000158-P000161)	9/12/19	STP	9/12/19	MS
86.	University Medical Center, ER medical records (P000162-P000190)				MS
87.	Downtown Neck and Back Clinic, medical records (P000191-P000212)				MS
88.	Center for Occupational Health, medical records (P000213-P000229)				MS
89.	Kelly Hawkins Physical Therapy, medical records (P000230-P000277)	9/12/19	STP	9/12/19	MS

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

90.	Radar Medical Group, medical records (P000278-P000285)	9/12/19	STP	9/12/19	BS
91.	Desert Orthopaedic Center, medical records (P000286-P000307)	[Handwritten line]	[Handwritten line]	[Handwritten line]	BS
92.	Joseph Schifini, M.D., medical records (P000308-P000402)				BS
93.	Las Vegas Surgery Center, medical records (P000403-P000502)				BS
94.	Clinical Neurology Specialists, medical records (P000503-P000513)				BS
95.	Lok Acupuncture Clinic, medical records (P000514-P000528)				BS
96.	Nevada Spine Clinic, medical records (P000529-P000555)				BS
97.	Smoke Ranch Surgery, medical records (P000556-P000577)				BS
98.	David Oliveri, MD, medical records (P000578-P000588)				BS
99.	Shield Radiology Consultants, medical records (P000589)				BS
100.	Southern Nevada Pain Center, medical records (P000590-P000632)				BS
101.	Single Day Surgery, medical records (P000633-P000669)	BS			
102.	Steinberg Diagnostic Imaging, medical records (P000670-P000690)	9/12/19	STP	9/12/19	BS

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

103.	ATI Physical Therapy, medical records (P000691-P000933)	9/12/19	stp	9/12/19	MS			
104.	Mountain West Chiropractic, medical records (P000934-P0001010)	[Large handwritten bracket spanning rows 104-110]	[Large handwritten bracket spanning rows 104-110]	[Large handwritten bracket spanning rows 104-110]	MS			
105.	Western Regional Center for Brain and Spine, medical records (P001011-P0001038)				MS			
106.	Las Vegas Neurosurgical Institute, medical records (P0001039-P0001059)				MS			
107.	Neurology Center of Nevada, medical records (P0001060-P0001063)				MS			
108.	Valley Hospital, relevant medical records (P0001064-P0001075)				MS			
109.	Las Vegas Neurosurgery Orthopedics & Rehabilitation, medical records (P0001076-P0001108)				MS			
110.	Nevada Comprehensive Pain Center, medical records (P0001109-P0001149)				MS			
111.	Center for Disease and Surgery of the Spine, medical records (P0001150-P0001164)				9/12/19	stp	9/12/19	MS
112.	W2s of Plaintiff 2008 - 2016 (P0001165-P0001176)				Returned			
113.	1040 Tax Returns of Plaintiff 2006 - 2017 (P00001177-P0001279)							
114.	Employment records for Chapman Dodge (P0001280-P0001484)	9/12/19	stp	9/12/19	MS			

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

115.	Commission Statements of Plaintiff for Integrity Chrysler Jeep Dodge Plaintiff from 2009 (P0001485-P0001488)	<i>Returned</i>		
116.	Las Vegas Fire and Rescue, billing (P0001489)	<i>9/18/19</i>	<i>stop</i>	<i>9/18/19</i>
117.	University Medical Center, billing (P0001490-P0001491)	<i>(Large bracket spanning rows 117-127)</i>	<i>(Large bracket spanning rows 117-127)</i>	<i>(Large bracket spanning rows 117-127)</i>
118.	EMP of Clark UMC, billing (P0001492-P0001493)			
119.	Desert Radiologists, billing (P0001494-P0001495)			
120.	Downtown Neck and Back Clinic, billing (P0001496-P0001497)			
121.	Center for Occupational Health, billing (P0001498)			
122.	Radar Medical Group, billing (P0001499)			
123.	Kelly Hawkins Physical Therapy, billing (P0001500-P0001504)			
124.	Desert Orthopaedic Center, billing (P0001505-P0001508)			
125.	Joseph Schifini, M.D., billing (P0001509-P0001510)			
126.	Clinical Neurology Specialists, billing (P0001511)			
127.	Las Vegas Surgery Center, billing (P0001512-P0001518)			
128.	Lok Acupuncture Clinic, billing (P0001519)	<i>9/18/19</i>	<i>stop</i>	<i>9/18/19</i>

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PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

129.	Nevada Spine Clinic, billing (P0001520-P0001522)	9/18/19	STP	9/18/19	MS
130.	Smoke Ranch Surgery, billing (P0001523-P0001526)	}	}	}	MS
131.	Shield Radiology, billing (P0001527)				MS
132.	Southern Nevada Pain Center, billing (P0001528-P0001532)				MS
133.	Single Day Surgery Center, billing (P0001533-P0001534)				MS
134.	Steinberg Diagnostic Imaging, billing (P0001535-P0001537)				MS
135.	ATI Physical Therapy, billing (P0001538-P-0001552)				MS
136.	Mountain West Chiropractic, billing (P0001553-P0001557)				MS
137.	Western Regional Center for Brain and Spine, billing (P0001558-P0001568)				MS
138.	Las Vegas Neurosurgical Institute, billing (P0001569-P0001570)				MS
139.	Neurology Center of Nevada, billing (P0001571-P0001578)				9/18/19
140.	Surgical Anesthesia Services, billing (P0001579-P0001580)	9/18/19	STP	9/18/19	MS
141.	Valley Hospital, billing (P0001581-P0001590)	}	}	}	MS
142.	Las Vegas Neurosurgery Orthopedics & Rehab, billing (P0001591)	9/18/19	STP	9/18/19	MS

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

143.	Nevada Comprehensive Pain Center, billing (P0001592-P0001594)	9/18/19	stp	9/18/19	PK
144.	Center for Diseases and Surgery of the Spine, billing (P0001595-P0001597)				PK
145.	CVS prescription billing (P0001598-P0001613)				PK
146.	Walmart prescription billing (P0001614-P0001619)	9/18/19	stp	9/18/19	PK
147.	Valley Hospital, entire chart on CD (P0001620-P0001922)	Returned			
148.	Life Expectancy Table (P0001923-P0001986)	9/12/19	stp	9/12/19	PK
149.	University Medical Center, diagnostic studies on CD (P0001987)	9/18/19			
150.	Desert Radiologists, diagnostic studies on CD (P0001988)				
151.	Steinberg Diagnostic Imaging, diagnostic studies on CD (P0001989)				
152.	Desert Orthopedic Center, diagnostic studies on CD (P0001990)				
153.	SW Medical Associates, diagnostic studies on CD (P0001991)				
154.	Notice of Taking Videotaped Deposition of Cliff Goodrich as the NRCP 30(b)(b) Witness of Defendant Capriati Construction (P002055-P002059)	9/12/19	obj	9/12/19	PK
155.	Earnings chart (P0020060-P002065)	9/12/19	stp	9/12/19	PK

PLAINTIFF'S EXHIBIT LIST

TRIAL DATE: SEPTEMBER 9, 2019

156.	Southwest Medical Associates, medical records from 2011 (P002066-P002128)	9/12/19	STP	9/12/19
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123

DEFENDANT'S EXHIBIT LIST

Case No: A-15-718689-C

Trial Date: September 9, 2019

Dept. No: XXVIII

Judge: Honorable Ronald J. Israel

Court Clerk: Kathy Klein

Recorder: Judy Chappell

PLAINTIFFS: Bahram Yahyavi

Counsel for Plaintiffs:

Dennis M. Prince, Esq.
Dennis Prince Law Group
8816 Spanish Ridge Ave.
Las Vegas, NV 89148

Maik W. Ahmad, Esq.
Law Office of Malik W. Ahmad
8072 W. Sahara Ave., Suite A
Las Vegas, NV 89117

vs.

DEFENDANTS: Capriati Construction Corp., Inc.

Counsel for Defendant:

David S. Kahn, Esq.
Mark C. Severino, Esq.
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
300 South Fourth Street, 11th Floor
Las Vegas, NV 89101

Mark J. Brown, Esq.
Law Offices of Eric Larsen
750 E. Warm Springs Road
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Las Vegas, NV 89119

JURY TRIAL

DEFENDANT'S EXHIBITS

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
A.	Southwest Medical Record 10/25/2011 – Adult Medicine Profess Note	SWM0057- SWM0058			
B.	Excerpted Information from Exhibit A	B0001			
C.	Southwest Medical Records 10/25/2011 – Radiology Diagnostic Report/ Cervical Spine	SWM0006			
D.	Excerpted Information from Exhibit C	D0001			

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
E.	UMC Trauma Center Report – 06/19/2013	UMC0030-UMC0031			
F.	Defendants Crash Test Data (Digital Format)	F0001			
G.	Defendant Crash Test Vendor Report 06/21/2019	CALSPAN0001-CALSPAN0004			
H.	Southwest Medical Letter to Plaintiff 10/28/11	SWM0063			
I.	UMC Brain CT -10/06/2013	UMC0115			
J.	UMC Cervical CT – 06/19/2013	UMC0026-UMC0027			
K.	UMC – Trauma Resuscitation Nursing Flow Sheet – 06/19/2013	UMC0032			
L.	Southwest Medical – Results – Cervical X-Rays – 10/25/2011	SWM0066			
M.	Plaintiff's Complaint	COM0001-COM0008			
N.	Defendants Answer to Plaintiff's Complaint	ANS0001-ANS0004			
O.	Claim File of Chynoweth, Hill and Leavitt, LLC	CHL0001-CHL0091			
P.	Claim File of Associated Risk Management	ARM0001-ARM1362			
Q.	Police Report	TAR0001-TAR0010			
R.	Photos of Incident	POI0001-POI0064			
S.	Plaintiff's related social media	RSM0001-RSM0254			
T.	Plaintiff's Employment Records	CER0001-CER0206			
U.	Chapman Dodge records regarding 2012 Dodge Charger	CHAP0001-CHAP0013			
V.	Defendant Capriati Construction's Order Granting Motion and Modifying Automatic Stay in Bankruptcy Case Number 15-15722-abl entered 12/22/2016.	CAP0001-CAP0003			
W.	Grant, Bargain, Sale Deed for property at commonly known address: 112 Quail Run Road, Henderson, NV 89014	Deed000001-Deed000005			
X.	Bahram Yahyavi social media and corporate information	PSM0001-PSM0011			
MEDICAL RECORDS:					

See Exhibit 201

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
Y.	Clinical Neurology Specialists	CNS0001- CNS0014			
Z.	Desert Orthopedic Center	DOC0001- DOC0167			
AA.	Radar Medical Group (Dipti Shah, MD)	RMG0001- RMG0080			
BB.	Downtown Neck and Back Clinic	DNB0001- DNB0052			
CC.	Joseph Schifini, MD	JSMD0001- JSMD0103			
DD.	Kelly Hawkins Physical Therapy	KHPT0001- KHPT0095			
EE.	Kinex Medical Company Medical and Billing Records	KMC0001- KMC0009			
FF.	Matt Smith Physical Therapy	MSPT0001- MSPT0124			
GG.	Nevada Spine Clinic	NSC0001- NSC0030			
HH.	PBS Anesthesia	PBS0001- PBS0011			
II.	Smoke Ranch Surgery Center	SRSC0001- SRSC0026			
JJ.	University Medical Center	UMC0001- UMC0121			
KK.	National Pharmaceutical Services	NPS0001- NPS0022			
LL.	Shadow Emergency Physicians	SEP0001- SEP0080			
MM.	Steinberg Diagnostic Medical Imaging	SDMI0001- SDMI0335			
NN.	Shanker Dixit, MD	SDMD0001- SDMD0022			
OO.	Single Day Surgical Center	SDSC0001- SDSC0099			
PP.	Mountain West Chiropractic	MWC0001- MWC0099			
QQ.	Stuart S. Kaplan MD	SSK0001- SSK0268			
RR.	Southwest Medical	SWM0001- SWM0103			
SS.	Southern Nevada Pain Center	SNPC0001- SNPC0098			
TT.	Desert Valley Therapy	DVT0001- DVT0322			
UU.	Valley Hospital Medical Center	VHMC0001- VHMC0310			

Rejected

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
VV.	Center for Occupational Health & Wellness	COH0001- COH0013			
WW.	CVS Pharmacy	CVS0001- CVS0006			
XX.	David Oliveri, M.D.	DJO0001- DJO0319			
YY.	Heart Center of Nevada	HCN0001- HCN0012	9/25/19	obj	
ZZ.	Zotec Partners	ZPH0001- ZPH0005			
AAA.	Summerlin Hospital Medical Center	SHMC0001- SHMC0576			
BBB.	Desert Radiologists	DRAD0001- DRAD0291			
CERTIFICATE OF NO RECS					
CCC.	Southwest Medical, Eastern	SWE0001- SWE0007			
DISCOVERY RELATED					
DDD.	Plaintiff's answers to Capriati Construction Corp., Inc.'s First Set of Interrogatories	DDD0001- DDD0012			
EEE.	Plaintiff's answers to Capriati Construction Corp., Inc.'s Second Set of Interrogatories	EEE0001 - EEE0003			
FFF.	Plaintiff's answers to Capriati Construction Corp., Inc.'s Third Set of Interrogatories	FFF0001- FFF0005			
GGG.	Plaintiff's responses to Capriati Construction Corp., Inc.'s First Set of Requests for Admission	GGG0001- GGG0006			
HHH.	Plaintiff's responses to Capriati Construction Corp., Inc.'s Second Set of Requests for Admission	HHH0001- HHH0004			
III.	Plaintiff's responses to Capriati Construction Corp., Inc.'s First Set of Requests for Production of Documents	III0001 - III00005			
JJJ.	Plaintiff's responses to Capriati Construction Corp., Inc.'s Second Set of Requests for Production of Documents	JJJ0001 - JJJ0030			
KKK.	Plaintiff's responses to Capriati Construction Corp., Inc.'s Third Set of Requests for Production of Documents	KKK0001- KKK0065			
EXPERTS/REPORTS					
LLL.	Edward Bennett, M.A. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	LLL0001- LLL0029			
MMM.	Howard Tung, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	MMM0001- MMM0018			
NNN.	John E. Baker, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	NNN0001- NNN0008			

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
OOO.	Kevin Kirkendall, MBA Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	OOO0001-OOO0006			
PPP.	Archie Perry, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	PPP0001-PPP0007			
QQQ.	Christopher Fisher, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	QQQ0001-QQQ0004			
RRR.	David Oliveri, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	RRR0001-RRR0014			
SSS.	Ira Spector, M.S. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	SSS0001-SSS0010			
TTT.	Jaswinder Grover, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	TTT0001-TTT0011			
UUU.	Joseph Schifini, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	UUU0001-UUU0011			
VVV.	Peter Su, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	VVV0001-VVV0005			
WWW.	Stuart Kaplan, M.D. Reports(s) and Job File Materials, CV, Fee Schedule, Testimonial History	WWW0001-WWW0023			
XXX.	Terrence M. Clauretje, Ph.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	XXX0001-XXX0032			
YYY.	Timothy Leggett, P.E. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	YYY0001-TTT0006			
	<u>ADDITIONAL RECORDS</u>				
ZZZ.	Southwest Medical Record dated March 12, 2012	SWM0067-SWM0068			
AAAA.	Final Subrogation Lien, with log of workers compensation payments by provider 03/02/17	ARM0418-ARM0425			
BBBB.	Prehospital Care Report 06/19/13	ARM0054-ARM0056			
CCCC.	Department of Administration Hearings Division 10/15/13	ARM0094			
DDDD.	Employee Separation/Termination Checklist 06/28/13	ARM0030			
EEEE.	Southwest Medical Associates, Inc. 03/12/12 (with knee issues redacted)	SWM0055-SWM0056			
FFFF.	Western Regional Center for Brain & Spine Surgery	SSK0252-SSK0253	9/20/19	STP	9/20/19 PH
GGGG.	Valley Hospital Medical Center – Selected Patient History and Assessment Records	VHMC0194 VHMC0218	9/16/19	STP	9/16/19 PH
HHHH.	Valley Hospital Medical Center – Selected Rehabilitation Services Records	VHMC0302	9/16/19	STP	9/16/19 PH
IIII.	Letter from Schifini to Perry 11/4/14	00062	9/17/19	STP	9/17/19 PH
JJJJ.					

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
KKKK.					
LLLL.					
MMMM.					
NNNN.					
OOOO.					
PPPP.					
QQQQ.					
RRRR.					
SSSS.					
TTTT.					
UUUU.					
VVVV.					

Amended Jury List 10/11/19

Exhibit Number	Exhibit Description	Bates Numbers	Date Offered	Objection	Date Admitted
VV.	Center for Occupational Health & Wellness	COH0001- COH0013			/
WW.	CVS Pharmacy	CVS0001- CVS0006			
XX.	David Oliveri, M.D.	DJO0001- DJO0319			
YY.	Heart Center of Nevada	HCN0001- HCN0012	9/25/19	obj	hAve
ZZ.	Zotec Partners	ZPH0001- ZPH0005			/
AAA.	Summerlin Hospital Medical Center	SHMC0001- SHMC0576			
BBB.	Desert Radiologists	DRAD0001- DRAD0291			
CERTIFICATE OF NO RECS					
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NNN.	John E. Baker, M.D. Report(s) and Job File Materials, CV, Fee Schedule, Testimonial History	NNN0001- NNN0008			

Retained

EXHIBIT(S) LIST

Case No.: A718689

Trial Date: 09/09/19

Dept. No.: XXVIII

Judge: Ronald J. Israel

Court Clerk: Kathy Thomas

PLAINTIFF'S: Bahram Yahyavi

Recorder: Judy Chappell

Counsel for Plaintiff: Dennis Prince, Esq. & Brandon Verde, Esq.

vs.

DEFENDANT'S: Capriati Construction Corp. Inc.

Counsel for Defendant: David Kahn, Esq. & Mark Severino, Esq. / Mark Brown, Esq.

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	IT-Custodian of Records Certificates			9/11/19	PS
2	Jury Seating Chart			9/12/19	PS
3	Juror Question (asked)			9/13/19	PS
4	IT Opening Statement Power Point			9/16/19	PS
5	3-Reports by Dr Kaplan			9/16/19	PS
6	Juror #5 question for (w) Arbuckle Asked			9/16/19	PS
7	Juror #11 question for (w) " Asked			9/16/19	PS
8	Juror #6 question for the Court (Answered)			9/18/19	PS
9	unredacted IT Exh 92 bate # 354			9/18/19	PS
10	unredacted IT Exh 92 bate # 354 (2ND AMD)			9/19/19	PS
11	Experts Reports of Edward Lee Bennett # 1			9/23/19	PS
12	Experts Reports of Edward Lee Bennett # 2			9/23/19	PS
13	IT Expert Disclosure			9/23/19	PS
14	Dr Tungs California Depo Vol 1			9/24/19	PS
15	Juror # question for D witness Dr Tung Asked			9/24/19	PS
16	Dr Tungs 6-Reports			9/25/19	PS
17	Demonstrative use by IT for Dr Tung			9/25/19	PS

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):

AMENDED NOTICE OF APPEAL; DEFENDANT'S AMENDED CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; JUDGMENT UPON THE JURY VERDICT; NOTICE OF ENTRY OF JUDGMENT; DECISION AND ORDER; NOTICE OF ENTRY OF DECISION AND ORDER; ORDER DENYING DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S MOTION FOR NEW TRIAL; NOTICE OF ENTRY OF ORDER DENYING DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S MOTION FOR NEW TRIAL; ORDER GRANTING, IN PART AND DENYING, IN PART, DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S MOTION TO RE-TAX COSTS; NOTICE OF ENTRY OF ORDER GRANTING, IN PART AND DENYING, IN PART, AND DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.'S MOTION TO RE-TAX COSTS; ORDER GRANTING, IN PART AND DENYING, IN PART, PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS, AND INTEREST; NOTICE OF ENTRY OF ORDER GRANTING, IN PART AND DENYING, IN PART, PLAINTIFF'S MOTION FOR ATTORNEY'S FEES, COSTS AND INTEREST; DISTRICT COURT MINUTES; EXHIBITS LIST

BAHRAM YAHYAVI,

Plaintiff(s),

vs.

CAPRIATI CONSTRUCTION CORP, INC.,

Defendant(s),

Case No: A-15-718689-C

Dept No: XXVIII

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 16 day of March 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

