[ANOA]
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Attorneys for Defendants BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA, LLC, et al., Defendants.	CASE NO. A-16-739464-C DEPT. NO. 31 SUPPLEMENTAL AND/OR AMENDED NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Defendants Barry J. Rives, M.D. and Laparoscopic Surgery of Nevada, LLC appeal to the Nevada Supreme Court from the Judgment on Verdict, entered on November 14, 2019 (Exhibit 1), from the Order on Plaintiffs' Motion for Fees and Costs and Defendants' Motion to Retax and Settle Plaintiffs' Costs, entered

on March 30, 2020 (Exhibit 2), and from all other orders made final and appealable by the foregoing.

This notice is intended to supplement and/or amend the appeal already on file in this case, presently docketed in the Nevada Supreme Court as No. 80271.

Dated: April 13, 2020

SCHUERING ZIMMERMAN & DOYLE, LLP

By */s/ Thomas J. Doyle*

THOMAS J. DOYLE
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400 University Avenue
Sacramento, CA 95825-6502
(916) 567-0400
Attorneys for Defendants BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the 13th day of April, 2020, service of a true and correct copy of the foregoing:

SUPPLEMENTAL AND/OR AMENDED NOTICE OF APPEAL

was served as indicated below:

☒ served on all parties electronically pursuant to mandatory NEFCR 4(b);

☐ served on all parties electronically pursuant to mandatory NEFCR 4(b) , exhibits to follow by U.S. Mail;

Attorney	Representing	Phone/Fax/E-Mail
George F. Hand, Esq. HAND & SULLIVAN, LLC 3442 North Buffalo Drive Las Vegas, NV 89129	Plaintiffs	702/656-5814 Fax: 702/656-9820 hsadmin@handsullivan.com
Kimball Jones, Esq. Jacob G. Leavitt, Esq. BIGHORN LAW 716 S. Jones Boulevard Las Vegas, NV 89107	Plaintiffs	702/333-1111 Kimball@BighornLaw.com Jacob@BighornLaw.com

/s/ Riesa R. Rice
An employee of Schuering Zimmerman & Doyle
1737-10881

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DISTRICT COURT

CLARK COUNTY, NEVADA

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Pursuant to NRAP 3(f), Defendants Barry J. Rives, M.D. and Laparoscopic Surgery of Nevada, LLC hereby submit the following supplemental case appeal statement. Defendants previously filed a case appeal statement with their notice of appeal from the judgment. Defendants are filing this supplemental case appeal statement because

defendants have filed a supplemental and/or amended notice of appeal from the order awarding attorneys' fees and costs.

A. District court case number and caption, showing names of all parties to the proceedings (without using et al.): The full case numbers and captions, showing names of all parties, are as follows: Case number: A-16-739464-C, Department number 31; Case name: Titina Farris and Patrick Farris, Plaintiffs, vs. Barry Rives, M.D.; Laparoscopic Surgery of Nevada, LLC, Does 1-5, inclusive; and Roe Corporations 1-5, inclusive, Defendants.

B. Name of judge who entered order or judgment being appealed: Hon. Joanna S. Kishner.

C. Name of each appellant, and name and address of counsel for each appellant: Appellants: Barry J. Rives, M.D. and Laparoscopic Surgery of Nevada, LLC

Attorneys:

Thomas J. Doyle and Aimee Clark Newberry; Schuering Zimmerman & Doyle, LLP, 400 University Avenue, Sacramento, California 95825-6502; (916) 567-0400; tjd@szs.com; al@szs.com

Robert L. Eisenberg; Lemons, Grundy & Eisenberg; 6005 Plumas Street, Third Floor, Reno, Nevada 89519; (775) 786-6868; rle@lge.net

D. Name of each respondent, and name and address of each respondent's appellate counsel, if known:

Respondents: Titina Farris and Patrick Farris

Attorney: George Hand, Hand & Sullivan, LLC, 3442 North Buffalo Drive, Las Vegas, Nevada 89129; (702) 656-5814; hsadmin@handsullivan.com

Kimball Jones and Jacob G. Leavitt, Bighorn Law, 716 S. Jones Boulevard; Las Vegas, Nevada 89107; (702) 333-1111; Kimball@BighornLaw.com; Jacob@BighornLaw.com.

E. Whether attorneys identified in subparagraph D are not licensed to practice law in Nevada; and if so, whether the district court granted permission to appear under SCR 42 (include copy of district court order granting permission): All attorneys are licensed in Nevada.

F. Whether appellant was represented by appointed counsel in the district court or on appeal: No appointed counsel; retained counsel only.

G. Whether any appellant was granted leave to proceed in forma pauperis: No.

H. Date proceedings were commenced in district court: July 1, 2016

I. Brief description of nature of the action and result in district court, including type of judgment or order being appealed and relief granted by district court: Medical malpractice; verdict and judgment for plaintiffs; supplemental and/or amended appeal is from order awarding attorneys' fees and costs.

J. Whether case was previously subject of appeal or writ proceeding in Nevada Supreme Court or Court of Appeals, and if so, caption and docket number of prior proceeding: Appeal from judgment is docket No. 80271

K. Whether appeal involves child custody or visitation: No

L. Whether appeal involves possibility of settlement: Possibly.

Dated: April 13, 2020

SCHUERING ZIMMERMAN & DOYLE, LLP

By */s/ Thomas J. Doyle*

THOMAS J. DOYLE
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Sacramento, CA 95825-6502
(916) 567-0400
Attorneys for Defendants BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the 13th day of April, 2020, service of a true and correct copy of the foregoing:

SUPPLEMENTAL CASE APPEAL STATEMENT

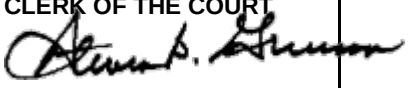
was served as indicated below:

☒ served on all parties electronically pursuant to mandatory NEFCR 4(b);

☐ served on all parties electronically pursuant to mandatory NEFCR 4(b) , exhibits to follow by U.S. Mail;

Attorney	Representing	Phone/Fax/E-Mail
George F. Hand, Esq. HAND & SULLIVAN, LLC 3442 North Buffalo Drive Las Vegas, NV 89129	Plaintiffs	702/656-5814 Fax: 702/656-9820 hsadmin@handsullivan.com
Kimball Jones, Esq. Jacob G. Leavitt, Esq. BIGHORN LAW 716 S. Jones Boulevard Las Vegas, NV 89107	Plaintiffs	702/333-1111 Kimball@BighornLaw.com Jacob@BighornLaw.com

/s/ Riesa R. Rice
An employee of Schuering Zimmerman & Doyle
1737-10881



[NOCB]
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Attorneys for Defendants BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA, LLC, et al., Defendants.	CASE NO. A-16-739464-C DEPT. NO. 31 SUPPLEMENTAL NOTICE OF FILING COST BOND

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Notice is hereby given that Defendants Barry J. Rives, M.D. and Laparoscopic Surgery of Nevada, LLC have already posted $500 in cash for the costs on appeal, pursuant to NRAP 7.

Dated: April 13, 2020

SCHUERING ZIMMERMAN & DOYLE, LLP

By */s/ Thomas J. Doyle*

THOMAS J. DOYLE
Nevada Bar No. 1120
400 University Avenue
Sacramento, CA 95825-6502
(916) 567-0400
Attorneys for Defendants BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on the 13th day of April, 2020, service of a true and correct copy of the foregoing:

SUPPLEMENTAL NOTICE OF FILING COST BOND

was served as indicated below:

☒ served on all parties electronically pursuant to mandatory NEFCR 4(b);

☐ served on all parties electronically pursuant to mandatory NEFCR 4(b) , exhibits to follow by U.S. Mail;

Attorney	Representing	Phone/Fax/E-Mail
George F. Hand, Esq. HAND & SULLIVAN, LLC 3442 North Buffalo Drive Las Vegas, NV 89129	Plaintiffs	702/656-5814 Fax: 702/656-9820 hsadmin@handsullivan.com
Kimball Jones, Esq. Jacob G. Leavitt, Esq. BIGHORN LAW 716 S. Jones Boulevard Las Vegas, NV 89107	Plaintiffs	702/333-1111 Kimball@BighornLaw.com Jacob@BighornLaw.com

/s/ Riesa R. Rice
An employee of Schuering Zimmerman & Doyle
1737-10881

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-739464-C

Titina Farris, Plaintiff(s)	§	Location:	**Department 31**
vs.	§	Judicial Officer:	**Kishner, Joanna S.**
Barry Rives, M.D., Defendant(s)	§	Filed on:	**07/01/2016**
	§	Case Number History:	
	§	Cross-Reference Case Number:	**A739464**
	§	Supreme Court No.:	**80271**

CASE INFORMATION

Statistical Closures
11/19/2019 Verdict Reached

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

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

DATE — CASE ASSIGNMENT

Current Case Assignment

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

PARTY INFORMATION

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

DATE — EVENTS & ORDERS OF THE COURT — INDEX

EVENTS

07/01/2016 Initial Appearance Fee Disclosure
Filed By: Plaintiff Farris, Titina
Initial Appearance Fee Disclosure(NRS Chapter 19)

07/01/2016 Complaint
Filed By: Plaintiff Farris, Titina
Complaint

08/25/2016 Affidavit of Service
Filed By: Plaintiff Farris, Titina
Affidavit of Service

09/14/2016 Answer

Filed By: Defendant Rives, Barry, M.D.
Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Answer to Complaint

09/14/2016 Demand for Jury Trial
Filed By: Defendant Rives, Barry, M.D.
Demand for Jury Trial

09/14/2016 Initial Appearance Fee Disclosure
Filed By: Defendant Rives, Barry, M.D.
Defendants' Initial Appearance Fee Disclosure

09/29/2016 Notice
Filed By: Plaintiff Farris, Titina
Notice of Early Case Conference

10/24/2016 Disclosure of Documents and Witnesses Pursuant to NRCP 16.1
Filed By: Defendant Rives, Barry, M.D.
Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Initial NRCP 16.1 Disclosure of Witnesses and Documents

10/31/2016 Joint Case Conference Report
Filed By: Plaintiff Farris, Titina
Joint Case Conference Report

11/28/2016 Notice to Appear for Discovery Conference
Notice to Appear for Discovery Conference

01/12/2017 Order Setting Medical/Dental Malpractice Status Check
Order Setting Medical/Dental Malpractice Status Check and Trial Setting Conference

01/12/2017 Scheduling Order
Scheduling Order

02/23/2017 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call
Order Setting Civil Jury Trial

11/07/2017 Stipulation to Extend Discovery
Party: Plaintiff Farris, Titina
Stipulation and Order to Extend Discovery (First Request)

11/09/2017 Amended Order Setting Jury Trial
First Amended Order Setting Civil Jury Trial

12/19/2017 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call
Order Setting Civil Jury Trial

02/05/2018 Stipulation and Order to Extend Discovery Deadlines
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Stipulation and Order to Extend Discovery (Second Request)

04/19/2018 Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call
Order Setting Civil Jury Trial

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

Amended Notice of Deposition of Dr. Michael Hurwitz

09/06/2019 Notice
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Notice of 2.67 Conference

09/10/2019 Notice
Notice of Scheduling Settlement Conference

09/13/2019 Motion to Compel
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on Order Shortening time

09/13/2019 Clerk's Notice of Hearing
Notice of Hearing

09/13/2019 Pre-Trial Disclosure
Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLc's NRCP 16.1(A)(3) Pretrial Disclosure

09/16/2019 Trial Subpoena
Trial Subpoena - Civil Regular

09/16/2019 Application
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Application for an Order Shortening Time on Defendants Barry River MD's and Laparoscopic Surgery of Nevada LLC's Motion to Compel the Deposition of Gregg Ripplinger MD and Extend the Close of Discovery (9th Request)

09/18/2019 Motion for Sanctions
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time

09/19/2019 Receipt of Copy
Filed by: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Receipt of Copy-Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time

09/19/2019 Motion to Strike
Plaintiffs Motion to Strike Defendants Rebuttal Witnesses Sarah Larsen, R.N., Bruce Adornato, M.D. and Scott Kush, M.D., and to Limit the Testimony of Lance Stone, D.O. and Kim Erlich, M.D., for Giving Improper Rebuttal Opinions, on Order Shortening Time

09/19/2019 Order
Order Denying Stipulation Regarding Motions in Limine and Order Setting hearing for September 26, 2019

09/20/2019 Objection
Plaintiffs Objections to Defendants Pre-Trial Disclosure Statement Pursuant to NRCP 16.1(a)(3)(C)

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

09/30/2019 Pre-trial Memorandum
Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Separate Pretrial Memorandum

09/30/2019 Objection
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Supplemental Objection to Plaintiffs' Initial Pre-Trial Disclosures

09/30/2019 Supplement
Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants 1st Supplemental NRCP 16.1(A)(3) Pretrial Disclosur

09/30/2019 Pre-trial Memorandum
Plaintiffs Pre-Trial Memorandum Pursuant to EDCR 2.67

10/01/2019 Transcript of Proceedings
Transcript: All Pending Motions 9/26/19

10/02/2019 Order Denying
Order Denying Defendants' Order Shortening Time

10/02/2019 Opposition to Motion
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time

10/02/2019 Declaration
Declaration of Chad Couchot in Support of Opposition to Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time

10/02/2019 Declaration
Declaration of Thomas J. Doyle in Support of Opposition to Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time

10/03/2019 Reply in Support
Reply in Support of Plaintiffs Motion to Strike Defendants Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time

10/07/2019 Proposed Voir Dire Questions
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Proposed Voir Dire

10/07/2019 Jury Instructions
Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Joint Agreed Upon Jury Instructions

10/07/2019 Jury Instructions
Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Proposed Special Jury Instructions Objected to by Plaintiffs (Cited)

10/07/2019 Jury Instructions
Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Proposed Special Jury Instructions Objected to by Plaintiff (Uncited)

10/07/2019 Exhibits
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Proposed Exhibit List

10/10/2019 Reply to Opposition
Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Reply to Plaintiff's Opposition to Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on an Order Shortening Time

10/14/2019 Recorders Transcript of Hearing
Transcript: Status Check 7/16/19

10/14/2019 Recorders Transcript of Hearing
Transcript: All Pending Motions 10/7/19

10/14/2019 Recorders Transcript of Hearing
Transcript: Calendar Call 10/8/19

10/14/2019 Recorders Transcript of Hearing
Transcript: All Pending Motions 10/10/19

10/14/2019 Trial Brief
Filed By: Defendant Rives, Barry, M.D.
Defendants Barry Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Trial Brief Regarding Their Request to Preclude Defendants Expert Witnesses Involvement as a Defendant in Medical Malpractice Actions

10/14/2019 Trial Brief
Filed By: Defendant Rives, Barry, M.D.
Defendants Barry Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Trial Brief Regarding the Need to Limit Evidence of past Medical Expenses to Actual Out-of-Pocket Expenses or the Amounts Reimbursed

10/14/2019 Trial Brief
Filed By: Defendant Rives, Barry, M.D.
Defendants Barry Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Trial Brief Regarding the Need to Preclude Evidence of the Cap on Non-Economic Damages

10/16/2019 Jury List

10/18/2019 Motion to Strike
Plaintiffs' Motion to Strike Defendants' Trial Briefs On Order Shortening Time

10/21/2019 Opposition to Motion
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion to Strike Defendants' Trial Briefs on Order Shortening Time

10/21/2019 Audiovisual Transmission Equipment Appearance Consent

Audiovisual Transmission Equipment Appearance Consent

10/21/2019 Audiovisual Transmission Equipment Appearance Request
Audiovisual Transmission Equipment Appearance Request

10/22/2019 Opposition to Motion
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Renewed Motion to Strike

10/22/2019 Reply in Support
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Reply in Support of, and Supplement to, Plaintiffs' Renewed Motion to Strike Defendants' Answer for Rule 37 Violations, Including Perjury and Discovery Violations on an Order Shortening Time

10/22/2019 Trial Brief
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendant's Trial Brief in Support of their Position Regarding The Property of Dr. Rives' Responses to Plaintiffs' Counsel's Questions Eliciting Insurance Information

10/23/2019 Trial Brief
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Trial Brief Regarding Improper Arguments, Including "Medical Judgment", "Risk of Procedure" and "Assumption of Risk"

10/23/2019 Notice of Entry of Order
Notice of Entry of Order

10/23/2019 Order
Order on Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplements to NRCP 16.1 Disclosures

10/24/2019 Trial Brief
Plaintiffs Trial Brief on Rebuttal Experts Must Only be Limited to Rebuttal Opinions Not Initial Opinions

10/27/2019 Trial Brief
Plaintiffs Trial Brief on Admissibility of Malpractice Lawsuits Against an Expert Witness

10/28/2019 Trial Brief
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Trial Brief Regarding Disclosure Requirements for Non-Retained Experts

10/28/2019 Trial Brief
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants' Barry Rivas, MD's and Laparoscopic Surgery of Nevada, LLC's Trial Brief on Rebuttal Experts Being Limited to Rebuttal Opinions Not Initial Opinions

10/29/2019 Trial Brief
Plaintiffs' Trial Brief on Defendants' Retained Rebuttal Experts' Testimony

10/29/2019 Trial Subpoena
Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Trial Subpoena - Civil Regular

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

Notice of Entry of Judgment

11/19/2019 Memorandum of Costs and Disbursements
Plaintiffs Verified Memorandum of Costs and Disbursements

11/20/2019 Transcript of Proceedings
Partial Transcript: Trial by Jury - Day 4 - Testimony of Justin Willer, M.D. 10/17/19

11/22/2019 Motion to Retax
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry J Rivers MD's and Laraposcopic Surgery of Nevada LLC's Motion to Re-Tax and Settle Plaintiffs Costs

11/22/2019 Clerk's Notice of Hearing
Notice of Hearing

11/22/2019 Motion for Attorney Fees and Costs
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs Motion for Fees and Costs

11/25/2019 Clerk's Notice of Hearing
Notice of Hearing

11/26/2019 Opposition to Motion
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Plaintiffs' Opposition to Defendants Barry J. Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Motion to Re-Tax and Settle Plaintiffs Costs

11/27/2019 Reply to Opposition
Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry J Rives MD's and Laparoscopic Surgery of Nevada LLC's Reply to Plaintiffs' Opposition to Motion to Re-Tax and Settle Plaintiffs' Costs

12/02/2019 Notice of Change of Hearing
Notice of Change of Hearing

12/02/2019 Opposition to Motion
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry J. Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Opposition to Plaintiffs' Motion for Fees and Costs

12/02/2019 Transcript of Proceedings
Transcript: Status Check: Judgment / Show Cause Hearing 11/7/19

12/05/2019 Recorders Transcript of Hearing
Transcript: All Pending Motions 11/13/19

12/05/2019 Recorders Transcript of Hearing
Recorder's Transcript of All Pending Motions 11/14/19

12/05/2019 Recorders Transcript of Hearing
Recorder's Transcript of All Pending Motions 11/20/19

12/18/2019	Notice of Appeal *Notice of Appeal*
12/18/2019	Case Appeal Statement Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC *Case Appeal Statement*
12/18/2019	Notice of Filing Cost Bond Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC *Notice of Filing Cost Bond*
12/18/2019	Notice Filed By: Defendant Rives, Barry, M.D. *Notice of Filing Supersedeas Bond*
12/30/2019	Notice of Appeal *Notice of Cross-Appeal*
12/30/2019	Case Appeal Statement *Case Appeal Statement*
12/31/2019	Reply in Support *Reply in Support of Plaintiffs Motion for Fees and Costs*
01/21/2020	Memorandum of Costs and Disbursements *Plaintiffs Supplemental Verified Memorandum of Costs and Disbursements*
01/21/2020	Supplemental Brief *Plaintiffs Supplemental Opposition to Defendants Barry J. Rives, M.D. s and Laparoscopic Surgery of Nevada, LLC s Motion to Re-Tax and Settle Plaintiffs Costs*
02/03/2020	Reply to Opposition Filed by: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC *Defendants Barry J. Rives, M.D.'s And Laparoscopic Surgery Of Nevada, LLC's Supplemental Reply to Plaintiffs' Supplemental Opposition to Motion to Re-Tax and Settle Plaintiffs' Costs*
03/02/2020	Recorders Transcript of Hearing *Transcript: Jury Trial Day 1 - 10/14/19*
03/02/2020	Recorders Transcript of Hearing *Transcript: Jury Trial Day 2 - 10/15/19*
03/02/2020	Recorders Transcript of Hearing *Transcript: Jury Trial Day 3 - 10/16/19*
03/02/2020	Recorders Transcript of Hearing *Transcript: Jury Trial Day 4 - 10/17/19*
03/02/2020	Recorders Transcript of Hearing *Transcript Jury Trial Day 5 - 10/18/19*
03/02/2020	Recorders Transcript of Hearing

Transcript: Jury Trial Day 6 - 10/21/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 7 - 10/22/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 8 - 10/23/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 9 - 10/24/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 10 - 10/28/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 11 - 10/29/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 12 - 10/30/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 13 - 10/31/19

03/02/2020 Recorders Transcript of Hearing
Transcript: Jury Trial Day 14 - 11/1/19

03/30/2020 Order
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Order on Plaintiff's Motion for Fees and Costs and Defendant's Motion to Re-tax and Settle Plaintiff's Costs

03/31/2020 Notice of Entry of Order
Filed By: Plaintiff Farris, Titina; Plaintiff Farris, Patrick
Notice of Entry of Order on Plaintiffs Motion for Fees and Costs and Defendants Motion to Re-Tax and Settle Plaintiffs Costs

04/08/2020 Substitution of Attorney
Filed by: Defendant Rives, Barry, M.D.
SUBSTITUTION OF ATTORNEYS

04/08/2020 Substitution of Attorney
Filed by: Defendant Laparoscopic Surgery of Nevada LLC
SUBSTITUTION OF ATTORNEYS

04/13/2020 Amended Notice of Appeal
Party: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Defendants Barry J. Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Supplemental and/or Amended Notice of Appeal

04/13/2020 Case Appeal Statement
Filed By: Defendant Rives, Barry, M.D.; Defendant Laparoscopic Surgery of Nevada LLC
Supplemental Case Appeal Statement

04/13/2020 Notice of Filing Cost Bond
Supplemental Notice of Filing Cost Bond

04/13/2020 Amended Notice of Appeal
Supplemental and/or Amended Notice of Appeal w/Exhibits

DISPOSITIONS

11/01/2019 **Verdict** (Judicial Officer: Kishner, Joanna S.)
Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant)
Creditors: Titina Farris (Plaintiff)
Judgment: 11/01/2019, Docketed: 11/08/2019
Total Judgment: 12,083,479.94

Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant)
Creditors: Patrick Farris (Plaintiff)
Judgment: 11/01/2019, Docketed: 11/08/2019
Total Judgment: 1,557,000.00

11/14/2019 **Judgment Upon the Verdict** (Judicial Officer: Kishner, Joanna S.)
Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant)
Creditors: Titina Farris (Plaintiff)
Judgment: 11/14/2019, Docketed: 11/15/2019
Total Judgment: 6,170,387.67

Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant)
Creditors: Patrick Farris (Plaintiff)
Judgment: 11/14/2019, Docketed: 11/15/2019
Total Judgment: 197,417.85

Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant)
Creditors: Titina Farris (Plaintiff), Patrick Farris (Plaintiff)
Judgment: 11/14/2019, Docketed: 11/15/2019
Total Judgment: 6,367,805.52

03/30/2020 **Order** (Judicial Officer: Kishner, Joanna S.)
Debtors: Barry Rives, MD. (Defendant), Laparoscopic Surgery of Nevada LLC (Defendant)
Creditors: Titina Farris (Plaintiff), Patrick Farris (Plaintiff)
Judgment: 03/30/2020, Docketed: 03/30/2020
Total Judgment: 1,136,924.86

HEARINGS

12/13/2016 **Discovery Conference** (8:55 AM) (Judicial Officer: Bulla, Bonnie)
Scheduling Order Will Issue;
Journal Entry Details:
Counsel anticipate 7 to 10 days for trial re: Medical malpractice; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 2/7/18; adding parties, amended pleadings, and initial expert disclosures DUE 11/7/17; rebuttal expert disclosures DUE 12/7/17; FILE dispositive motions by 3/7/18; Trial ready 4/23/18. Scheduling Order will issue. No Medicare / Medicaid. Insurance information exchanged, and counsel are communicating about authorizations. Commissioner Bulla will hear discovery disputes.;

02/06/2017 **Status Check: Medical/Dental Malpractice** (1:00 PM) (Judicial Officer: Wiese, Jerry A.)
Matter Heard;
Journal Entry Details:
Court advised the case had been reassigned to another department due to the unavailability of the Judge. COURT ORDERED, trial date 7/9/18; case REASSIGNED to Department 26. Counsel estimated 10 days for trial.;

06/07/2018 *CANCELED* **Calendar Call** (9:00 AM) (Judicial Officer: Sturman, Gloria)
Vacated - per Order

07/09/2018 *CANCELED* **Jury Trial** (9:00 AM) (Judicial Officer: Sturman, Gloria)

Vacated - per Order

08/08/2018 **Status Check: Medical/Dental Malpractice** (1:00 PM) (Judicial Officer: Wiese, Jerry A.)
Matter Heard;
Journal Entry Details:
The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Mr. Hand advised he had a conflict with the current trial date and requested trial date be vacated and reset. Court stated it would reassign the case and directed Mr. Hand to file a motion with his new trial judge. Mr. Hand advised 5 - 7 days for trial, Ms. Clark Newberry advised 7 - 10 days. COURT ORDERED, trial date STANDS. Pursuant to EDCR 1.30, due to unavailability of Dept. or counsel, CHIEF JUDGE ORDERED, case REASSIGNED to Dept. 31. 3/18/19 JURY TRIAL (DEPT 31);

09/20/2018 *CANCELED* **Calendar Call** (9:00 AM) (Judicial Officer: Sturman, Gloria)
Vacated - per Stipulation and Order

09/24/2018 *CANCELED* **Status Check** (10:30 AM) (Judicial Officer: Jones, David M)
Vacated

10/08/2018 *CANCELED* **Pre Trial Conference** (10:30 AM) (Judicial Officer: Jones, David M)
Vacated

10/15/2018 *CANCELED* **Jury Trial** (9:30 AM) (Judicial Officer: Sturman, Gloria)
Vacated - per Stipulation and Order

10/17/2018 *CANCELED* **Calendar Call** (10:30 AM) (Judicial Officer: Jones, David M)
Vacated

10/22/2018 *CANCELED* **Jury Trial** (10:30 AM) (Judicial Officer: Jones, David M)
Vacated

12/18/2018 **Status Check** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)
Matter Heard;
Journal Entry Details:
Court stated there was a firm trial setting of March 18, 2019 in this case, and also a construction defect trial starting in February, stated more would be known by February 11, 2019, and advised counsel they may reach out to counsel on the construction defect trial for status. Counsel stated they discussed potentially moving the trial due to the document review and experts. Colloquy regarding continuing trial and potential dates. Court stated a telephonic hearing would be set; advised counsel to confer and send a letter with potential dates and times for the telephonic hearing for the week of January 7, 2019; advised counsel to prepare a stipulation regarding extending the 3-year rule to a particular date. CLERK'S NOTE: Minutes completed using JAVS by Court Clerk Elizabeth Vargas. //ev 12/28/18;

01/07/2019 **Telephonic Conference** (9:30 AM) (Judicial Officer: Kishner, Joanna S.)
Telephonic Conference Regarding Resetting Trial
Matter Heard;
Journal Entry Details:
Counsel requested the trial be continued to January 2020, with the parties stipulating to a waive of the three year rule. The Court noted under Rule 1.90 it would be more than three years after the case was commenced and inquired if the parties could agree to the Fall of 2019. Ms. Clark Newberry indicated that there were other cases up against their five year rule and with the number of depositions to be completed in this case, that early 2020 is their reasonable estimate to be ready for trial. Court stated it could not push the case to January but with a waive would consider September 2019. Ms. Clark Newberry inquired regarding November 2019. Counsel anticipate 10 days for trial. The Court inquired if the parties could agree to October 14, 2019, otherwise it would be September 18, 2019. Ms. Clark Newberry then contacted her office and returned to the conference call with all parties and indicated that the October 14, 2019 date was their best option. Mr. Hand had no objection. The Court indicated that provided the parties submit a stipulation to the Court waiving the three year rule through October 2019, the Trial Date would be continued to October 14, 2019; with Pre Trial Conference on September 12, 2019; and Calendar Call October 8, 2019; that the Judicial

Executive Assistant would set a additional Status Check with the new Trial Order and the Motions In Limine deadline will be tied tot he new trial date, eight weeks prior to trial. Ms. Clark Newberry to prepare the Stipulation, circulate it to Mr. Hand and submit it to the Court by week's end.;

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

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

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

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

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

07/16/2019 **Status Check** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)
Matter Heard;
Journal Entry Details:
Court reminded parties about the upcoming trial date. Mr. Jones stated additional discovery is needing to be done; and requested the trial be extended out a couple of months. Ms. Clark Newberry stated defense is not in the position to move the trial date, and defense is still evaluating Plaintiff's counsel's request. Court DENIED the request; and noted the current waiver on the five year rule is good until November, 2019, therefore the Court cannot grant the request to move the trial date out, and the Court will not change anything unless there is a stipulation submitted by the parties. Court inquired to the parties whether a settlement conference / mediation was done; and stated the parties have a lot of options. Mr. Jones stated it does not appear there is a likelihood the case will settle. Mr. Jones added the remaining depositions will go outside of the discovery date; and requested Court to consider an extension of the deadline date. Court DENIED the request; and stated it cannot allow an extension unless there is an agreement by the parties. Ms. Clark Newberry stated parties can meet and confer to see what can be done, and defense would prefer to submit things in writing. COURT ORDERED, trial date for October 14, 2019 STANDS. Trial handout was provided to counsel in open Court. ;

09/05/2019 **Status Check** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)
Mandatory In-Person Status Check per Court's Memo Dated August 30, 2019
Matter Heard;
Journal Entry Details:
Court explained to the parties why the status check hearing was scheduled for today, and noted the Court was inclined to deny the eighth request to continue the trial date. Arguments by counsel. Objections were also made by counsel, which were noted by Court. COURT ORDERED, trial date STANDS, as there has been no good cause shown to continue the trial date. Court noted it is not precluding the parties whatsoever from doing their discovery.;

09/12/2019 **Pre Trial Conference** (10:15 AM) (Judicial Officer: Kishner, Joanna S.)
Matter Heard;
Journal Entry Details:
Plaintiff's counsel announced ready for trial. Court orally provided a trial schedule. Mr. Doyle stated there was an agreement by parties to have the deposition of Dr. Hurwitz taken next week, further noting defense was seeking to have the deposition of Dr. Ripplinger taken first, and it has been scheduled, however, Plaintiff is now objecting to defense having the deposition of Dr. Ripplinger taken. Court stated it cannot address this; and any issue needs to be raised by proper motion and by the rules. Court also reminded both sides not to send impermissible letters to the Court. Mr. Doyle argued there were discussions made with the parties about a briefing schedule on motions in limine. Court stated counsel is to raise things properly under the rules. 10/02/19 9:00 A.M. SETTLEMENT CONFERENCE (SENIOR JUDGE) 10/08/19

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

09/20/2019 **Minute Order** (3:15 PM) (Judicial Officer: Truman, Erin)
Minute Order: Vacate Plaintiffs' Motion to Strike set 9-25-19
Minute Order - No Hearing Held; Minute Order: Vacate Plaintiffs' Motion to Strike set 9-25-19
Journal Entry Details:
Plaintiffs' Motion to Strike was VACATED. (9-25-19 Hearing in Discovery was VACATED in Odyssey on 9-20-19.) CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl CLERK'S NOTE: Minute Order amended 9-25-19, and electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl;

09/25/2019 *CANCELED* **Motion to Strike** (9:30 AM) (Judicial Officer: Truman, Erin)
Vacated
Plaintiffs Motion to Strike Defendants Rebuttal Witnesses Sarah Larsen, R.N., Bruce Adornato, M.D. and Scott Kush, M.D., and to Limit the Testimony of Lance Stone, D.O. and Kim Erlich, M.D., for Giving Improper Rebuttal Opinions, on Order Shortening Time

09/26/2019 **Motion for Sanctions** (10:00 AM) (Judicial Officer: Kishner, Joanna S.)
09/26/2019, 10/07/2019, 10/10/2019
Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time
Evidentiary Hearing;
Continued;
Denied in Part;
Evidentiary Hearing;
Continued;
Denied in Part;
Evidentiary Hearing;
Continued;
Denied in Part;
Journal Entry Details:
Arguments by counsel regarding allegations of intentional concealment of defense, deposition of Dr. Rives, and Plaintiff's request for sanctions and punitive damages. Court stated its findings; and offered to set an evidentiary hearing for Dr. Rives to appear. Court noted punitive damages are not appropriate on a sanction basis based on what was provided to the Court at this juncture and applicable case law. Following statements by counsel regarding scheduling, Plaintiff's counsel estimated no more than an hour for the hearing. COURT ORDERED, matter SET for evidentiary hearing. Parties to notify the Court in advance by no later than noon on October 3, 2019, confirming whether or not they want the evidentiary hearing to go forward; and the Court will issue a ruling, if the evidentiary hearing does not go forward. Issues not addressed today may be addressed at time of Calendar Call. 10/07/19 8:30 A.M. EVIDENTIARY HEARING 10/08/19 9:00 A.M. CALENDAR CALL 10/14/19 9:00 A.M. TRIAL BY JURY (MED MAL #1);

10/02/2019 **Settlement Conference** (10:00 AM) (Judicial Officer: Bixler, James)
Not Settled;
Journal Entry Details:
Pursuant to the Sr. Judge Executive Assistant at 11:21 AM. Senior Judge Bixler conducted the settlement conference and a settlement was not reached. The sign in sheet will be left side filed in the case file.;

10/07/2019 **Evidentiary Hearing** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)
Matter Heard;

10/07/2019 **Motion to Strike** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)
10/07/2019, 10/10/2019
Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplement to NRCP 16.1 Disclosure of Witnesses and Documents on Order Shortening Time
Continued;

Granted;
Continued;
Granted;

10/07/2019 **Hearing** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)
10/07/2019, 10/10/2019
Continued Hearing from September 26, 2019 Re: Non Compliance (Per Order Filed September 19, 2019)
Continued;
Matter Heard;
Continued;
Matter Heard;

10/07/2019 **All Pending Motions** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)
All Pending Motions (10/07/2019)
Matter Heard;
Journal Entry Details:
Court addressed the matters on for today; and also addressed the supplemental pleadings filed October 4, 2019 by defense, and non-compliance issues. Mr. Jones requested Court not to consider the supplemental pleadings. Arguments by Mr. Doyle. Court stated findings; and determined the supplemental pleadings are rogue documents, and cannot be considered by the Court. COURT ORDERED, Defendants Barry Rives, M.D. and Laparoscopic Surgery of Nevada, LLC's Supplemental Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time filed October 4, 2019, and Declaration of Thomas J. Doyle in Support of Supplemental Opposition to Plaintiffs' Motion for Sanctions Under Rule 37 for Defendants' Intentional Concealment of Defendant Rives' History of Negligence and Litigation and Motion for Leave to Amend Complaint to Add Claim for Punitive Damages on Order Shortening Time filed October 4, 2019, are STRICKEN. EVIDENTIARY HEARING...PLAINTIFFS' MOTION FOR SANCTIONS UNDER RULE 37 FOR DEFENDANTS' INTENTIONAL CONCEALMENT OF DEFENDANT RIVES' HISTORY OF NEGLIGENCE AND LITIGATION AND MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD CLAIM FOR PUNITIVE DAMAGES ON ORDER SHORTENING TIME Defendant Barry Rives, M.D., sworn and testified. Counsel provided binders of documents to the Court during testimony. After testimony concluded, Court determined it had done what the parties had asked for, in regards to today's hearing. Court noted it will issue its ruling on October 10, 2019; and provided a short version of its analysis on the Motion for sanctions. COURT ORDERED, Motion CONTINUED to October 10, 2019, for remaining matters to be addressed, for sanction components to be discussed, and for Court's ruling to issue. PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH SUPPLEMENT TO NRCP 16.1 DISCLOSURE OF WITNESSES AND DOCUMENTS ON ORDER SHORTENING TIME...CONTINUED HEARING FROM SEPTEMBER 26, 2019 RE: NON COMPLIANCE (PER ORDER FILED SEPTEMBER 19, 2019) COURT ORDERED, matters CONTINUED to October 10, 2019 at 1:30 P.M. ;

10/08/2019 **Calendar Call** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)
Matter Heard;
Journal Entry Details:
Statements by counsel regarding 2.67 conference and supplemental meetings having been done. Discussions as to proposed trial exhibits, including what has and has not been stipulated to for admission. Trial exhibits, demonstrative exhibits, deposition transcripts, proposed voir dire, proposed jury instructions, proposed verdict forms and thumb drives, were provided by both sides. Parties agreed to have 70 jurors ordered for trial. Court provided the general voir dire handouts to both sides.;

10/10/2019 **All Pending Motions** (1:30 PM) (Judicial Officer: Kishner, Joanna S.)
All Pending Motions (10/10/2019)
Matter Heard;
Journal Entry Details:
CONTINUED HEARING FROM September 26, 2019 RE: NON COMPLIANCE (PER ORDER FILED September 19, 2019)...PLAINTIFFS' MOTION FOR SANCTIONS UNDER RULE 37 FOR DEFENDANTS' INTENTIONAL CONCEALMENT OF DEFENDANT RIVES' HISTORY OF NEGLIGENCE AND LITIGATION AND MOTION FOR LEAVE TO AMEND

	COMPLAINT TO ADD CLAIM FOR PUNITIVE DAMAGES ON ORDER SHORTENING TIME...PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' FOURTH AND FIFTH SUPPLEMENT TO NRCP 16.1 DISCLOSURE OF WITNESSES AND DOCUMENTS ON ORDER SHORTENING TIME Discussions regarding status of trial exhibits and there having been document confusion by counsel on Exhibit 1. Court determined nothing additional was provided by either side by end of day after Calendar Call. COURT ORDERED, nothing additional can be added to Exhibit 1 and nothing from proposed Exhibit 8 or 9 that was not in the hard bound, can come in; and the exhibit binders as presented in their proposed format at time of Calendar Call are the only things that could be potentially be brought in as proposed trial exhibits. Plaintiffs' Motion to Strike was addressed. Arguments by counsel. Discussions as to Rule 37 (c) (1). Court stated its findings. COURT ORDERED, Motion to strike GRANTED. The reports of Dr. Juell and Dr. Adornato were addressed. Court stated additional findings. Court addressed the Motion for sanctions under Rule 37 for Defendants' intentional concealment of Defendant Rives' history of negligence and litigation. Court also addressed Plaintiffs' alternative relief request regarding terminating sanctions and to strike the Answer. Court stated findings; and gave its ruling not to impose punitive damages. Court also issued its ruling including that it would defer on monetary fees being imposed pending trial proceedings, and the Court DENIED the request to strike the Answer. Court also addressed the Order Denying the Stipulation Regarding Motions in Limine filed September 19, 2019, and Order Denying Defendants' Order Shortening Time filed October 2, 2019. Statements by Mr. Leavitt in support of the Answer being stricken. Mr. Doyle stated the Court should impose a substantial monetary sanction against Defendants to punish and deter, but not strike the Answer. Arguments by counsel. Discussions as to language in two written declarations provided by counsel, voir dire, and trial schedule. At request of defense counsel, COURT ORDERED, Defendants' Motion to Compel Deposition of Gregg Ripplinger, M.D., and Extend the Close of Discovery (9th Request) on Order Shortening Time scheduled for October 15, 2019 WITHDRAWN. Counsel made statements to Court regarding Exhibit 1. Court provided EDCR Rule 2.67. Mr. Doyle requested to have additional exhibits marked for record on appeal. Court stated there is no record on appeal. Mr. Doyle requested to submit a written declaration to the Court, to provide an explanation. Discussion as to additional documents not having been provided at Rule 2.67 conference. Court reminded parties on the directive the Court gave at Calendar Call in regards to trial exhibits. Arguments by parties. COURT ORDERED, the exhibits received Tuesday, October 8, 2019 are the only things coming into this case for trial.;
10/14/2019	*CANCELED* **Jury Trial - FIRM** (8:30 AM) (Judicial Officer: Kishner, Joanna S.) *Vacated - Duplicate Entry*
10/14/2019	**Jury Trial** (8:30 AM) (Judicial Officer: Kishner, Joanna S.) **10/14/2019-10/18/2019, 10/21/2019-10/24/2019, 10/28/2019-11/01/2019** *Jury Trial - Med Mal #1* Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Verdict for Plaintiff; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues;

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

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

Mr. Hand and Defendant Barry Rives, not present. Robert Eisenberg, present with defense counsel and seated in the gallery. OUTSIDE PRESENCE OF JURY: Colloquy as to witness line up for today. Objections placed on the record in regards to there being a Leavitt vs. Siems issue. Arguments by counsel. Mr. Hand present in Court. Discussions as to service of subpoena issue, defense witness Dr. Chaney, and NRCP 45. Defendant Barry Rives present in Court. Further arguments by counsel as to ex parte communication issue with defense counsel and Plaintiffs' treating provider. Following statements by Court, additional arguments were made by counsel as to there having been no agreement as to some testimony from witness Erik Volk, and calculations not having been disclosed. Arguments by Mr. Doyle. Discussions as to testimony of Erik Volk to be limited. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Statements by Mr. Jones as to Defendants' Exhibit A not being resolved. Arguments by counsel. Court stated findings; and ORDERED, Defendants' Motion to introduce Exhibit A DENIED WITHOUT PREJUDICE. Subpoena and service issue as to Dr. Chaney were addressed further. Attorney Todd Wise, Esq., present; and made statements to Court. Arguments by Mr. Jones as to non-compliance by defense counsel, Rule 16.1 issue, and testimony of Dr. Chaney being problematic. Arguments by Mr. Doyle in support of the testimony being given by the witness. Dr. Naomi Chaney present in Court. Court canvassed the witness in regards to the subpoena. Thereafter, the witness was excused by Court after Court's questions were asked. Objections placed on the record. Arguments by defense counsel as to requirements having been satisfied to have the witness appear and testify for trial. Opposition by Plaintiffs' counsel. Mr. Doyle made offer of proof as to what the

witness will testify to. Arguments by counsel as to Callister case law. Court stated findings. Discussions as to testimony of Dr. Chaney to be limited. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Colloquy regarding trial schedule, due to tomorrow being Nevada Day and Halloween. Court directed both sides to appear in Court tomorrow at 8:00 a.m., to resolve and finalize jury instructions. Both sides to meet after trial to work out the ongoing issues that were raised to the Court earlier when standard objections were raised, and to also work out the jury instructions. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury was admonished and excused for the evening to return tomorrow morning at the time given, being 10:15 A.M. OUTSIDE PRESENCE OF JURY: Court addressed the scheduling for tomorrow; and reminded both sides of their obligations prior to tomorrow morning. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 10/31/19 8:00 A.M. TRIAL BY JURY;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in the gallery. OUTSIDE PRESENCE OF JURY: Court addressed trial briefs submitted by counsel, plus the October 14, 2019 proceedings and case law from McCrosky vs. Carson Tahoe Regional Medical Center. Arguments were made by the parties as to alleged continued violations with defense counsel, and collateral source issue. Court stated findings; and noted collateral source will not be mentioned in front of the Jury. Court deferred Plaintiffs' request for sanctions. Discussions as to Hallmark standards and witness line up. Plaintiffs' counsel objected to defense counsel having Dr. Stone appear to testify; and moved to strike. Arguments by Mr. Doyle. Court SUSTAINED Plaintiffs' objection. Mr. Doyle agreed to release Dr. Larson from the subpoena; and Plaintiffs' counsel made no objection. Defense counsel provided courtesy copy of trial brief to the Court in regards to Dr. Chaney. JURY PRESENT: Testimony presented (See Worksheets.). Plaintiffs' rested. OUTSIDE PRESENCE OF JURY: Court stated a request from a juror was received to conclude trial for the day before 5:00 P.M. By agreement of both sides, Court stated trial will conclude for the evening at 4:30 P.M., today. Lunch recess. OUTSIDE PRESENCE OF JURY: Objections were placed on record. Plaintiffs' counsel moved to strike an additional defense witness; and argued in support of relief requested. Arguments and responses were made by Mr. Doyle. Discussions as to prior disclosure not having been made. Court stated findings; and noted Dr. Adornato's testimony would be limited. JURY PRESENT: Testimony presented; and deposition was published (See Worksheets.). OUTSIDE PRESENCE OF JURY: At request of counsel, Dr. Adornato was directed by Court to exit the Courtroom and remain in the ante room, until further order. Dr. Adornato exited the Courtroom. Shortly thereafter, Mr. Leavitt informed the Court Dr. Adornato allegedly brushed up against him while walking out of the Courtroom; and stated he wants to press charges against the witness. Following discussions, Court recessed and all parties left the Courtroom for the afternoon break. CASE RECALLED. Attorney Jacqueline Bittrell, Esq., was present; and made statements to the Court regarding what she observed on the witness contact in the courtroom being alleged by Plaintiffs' counsel. Further colloquy as to prior objection made during testimony. Plaintiffs' counsel requested Court to admonish the witness regarding Court's order on causation and the testimony. Witness was admonished by Court about its prior order; and the witness was also admonished by Court not to review documents at any inappropriate time including during bench conferences, while on the stand. JURY PRESENT: Further testimony presented (See Worksheets.). Jury was admonished and excused by Court for the evening, to return tomorrow at the given time, being 9:00 A.M. OUTSIDE PRESENCE OF JURY: Colloquy as to subpoena issue with Dr. Chaney to be addressed further tomorrow at 8:30 A.M. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 10/30/19 8:30 A.M. TRIAL BY JURY;

Trial Continues;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:
Robert Eisenberg, present with defense counsel and seated in the gallery. Defendant Barry Rives not present. OUTSIDE PRESENCE OF JURY: Colloquy regarding status of what exhibits have been admitted, witness line up and limited testimony with Dr. Juell. Defendant Barry Rives present in Court. Court addressed the medical malpractice issue and 7.27 trial briefs. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Court addressed the medical malpractice issue. The 7.27 trial briefs that were submitted to the Court previously, were evaluated. Counsel stated objections and made arguments on the record. Lunch recess. OUTSIDE PRESENCE OF JURY: Discussions as to limited testimony of Dr. Juell. Colloquy as to witness line up. Objections were made on the record by Plaintiffs' counsel regarding alleged violation by defense counsel. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Objections were placed on record as to examination of Dr. Juell, and defense seeking to call Dr. Chaney to testify. Attorney Todd Wise, Esq., present in Court on behalf of witness Naomi Chaney, M.D; and addressed the subpoena issue, and also made statements to the Court regarding Dr. Chaney having canceled appointments with patients to appear to testify in this matter. Arguments by counsel. Colloquy as to there having been no agreement with the parties to have Dr. Chaney appear to testify. Relief was sought by Plaintiffs' counsel. Further discussions as to subpoena issue. Court stated it has no information for Court to rule on. Both sides to meet and confer during afternoon break to get a plan in place on the witness issues. Colloquy as to trial schedule. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury was admonished and excused by Court for the evening, to return tomorrow morning at the time given. OUTSIDE PRESENCE OF JURY: Courtesy copy of additional trial brief was provided to Court. Colloquy as to witness line up for tomorrow, and scheduling on when to address additional expert witness issues. Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED. TRIAL CONTINUES. 10/29/19 9:00 A.M. TRIAL BY JURY ;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:
OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling inclusive of when to hold the sanctions hearing, scope of witness testimony, and CONFERENCES AT BENCH. JURY PANEL PRESENT: Testimony PRESENTED, Deposition PUBLISHED (see worksheets). CONFERENCES AT BENCH. COURT ORDERED, Trial CONTINUES. CONTINUED TO: 10/28/19 8:30 A.M.;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;

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

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:
OUTSIDE PRESENCE OF JURY: Mr. Leavitt not present. Juror questions were addressed. Mr. Jones requested juror questions be asked to Defendant Dr. Rives, when he testifies again during Defendant's case in chief. Arguments by Mr. Doyle in support of the questions being asked during current testimony in Plaintiffs' case in chief. Court stated findings; and noted this presents a challenge to have the questions read to the witness at this juncture. Court also stated if there is an agreement by the parties, or a joint request, the Court will consider it. Colloquy as to witness line up. JURY PRESENT: Mr. Leavitt present in Court. Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Counsel addressed the examination of Plaintiff Titina Farris; and objections were placed on the record. Plaintiffs' Exhibit No. 1 and the Calendar Call proceedings were addressed. Mr. Jones provided the proposed Order on Plaintiffs' Motion to Strike Defendants' Fourth and Fifth Supplements to NRCP 16.1 Disclosures, to the Court. Colloquy as to witness line up for the afternoon. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Courtesy copy of pleadings and trial brief were provided to the Court by counsel. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Jury admonished and excused by Court to return tomorrow by 9:45 A.M. OUTSIDE PRESENCE OF JURY: Upon Court's inquiry, both sides confirmed on the admission to

Plaintiffs' Exhibit No. 1 having been done by stipulation. Objections were placed on the record. Following discussions as to specific pages from Exhibit No. 1, earlier bench conference, ERISA plan, discovery, and witness testimony, Court reminded both sides any objections regarding a witness need to be addressed, before the witness takes the Stand. Further discussions as to case law from McCrosky vs. Carson Tahoe Regional Medical Center. Evening recess. TRIAL CONTINUES. 10/23/19 9:45 A.M. TRIAL BY JURY;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Counsel provided courtesy copy of responsive pleadings to Court in regards to Plaintiffs' pending Motion to Strike. Colloquy as to witness line up. Court reminded both sides to follow the rules as to witnesses and witness binders for the witness stand. JURY PRESENT: Testimony and Exhibits presented (See Worksheets.). Deposition of Alex Barchuk, M.D., was FILED AND PUBLISHED IN OPEN COURT. OUTSIDE PRESENCE OF JURY: Objections placed on record by Plaintiffs' counsel as to alleged misconduct from opposing counsel during cross examination earlier. Mr. Jones requested a curative instruction be given to the Jury by Court. Arguments by counsel. Discussions as to earlier bench conference and the witness testimony. Court stated findings. Colloquy as to witness line up. Court noted it had received another OST request from counsel this morning, addressing Plaintiffs' renewed Motion to strike. Court inquired whether a date for the Motion was agreed upon by the parties. Statements by counsel as to proposed briefing schedule having been discussed. Court stated this will be revisited. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Lunch recess. OUTSIDE PRESENCE OF JURY: Court stated it will keep the extra copy of the pleadings that were provided by counsel on Plaintiffs' renewed Motion to strike Defendants' Answer. COURT ORDERED, hearing SET on the Motion for October 23, 2019 at 1:00 P.M. Statements by Mr. Doyle as to status of written opposition to be filed. Order Shortening Time SIGNED IN OPEN COURT. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Deposition of Barry Rives, M.D. SIGNED AND PUBLISHED IN OPEN COURT. OUTSIDE PRESENCE OF JURY: Defendant Barry Rives, M.D., present on witness stand. Objections placed on record by Plaintiffs' counsel regarding testimony from the witness and insurance information having been allegedly elicited during testimony by Defendant. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Plaintiffs' counsel moved for mistrial, and alternatively requested Court to strike Defendants' Answer. Following arguments by counsel, and discussions as to what was previously discussed before the Court earlier, the matter was deferred to a later date, for both sides to have an opportunity to submit additional briefing on the Motion to strike, including additional briefing on the witness and insurance information issue, and Plaintiffs' renewed Motion to strike Defendants' Answer. Mr. Jones requested Defendant not to discuss insurance information in front of the Jury. JURY PRESENT: Further testimony and Exhibits presented (See Worksheets.). Court admonished and excused the Jury for the evening, to return tomorrow at the time given by Court. OUTSIDE PRESENCE OF JURY: Court reminded both sides the deadline dates to file pleadings on pending Motions. Evening recess. TRIAL CONTINUES. 10/22/19 10:30 A.M. TRIAL BY JURY ;

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

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

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

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in gallery. Juror consultant Amy Hanegan, present in Court. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Objections placed on record as to Mary Jane Langan testifying; which was sustained by Court. Court addressed the general rules regarding objections. Both sides gave a time estimate on their opening statements. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. Lunch recess until 1:15 p.m. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: No parties were present in Court as required at 1:21 p.m. Thereafter, parties arrived in the courtroom and were admonished by Court regarding timeliness. Parties confirmed on having completed their peremptory challenges during the lunch hour. Court reviewed peremptory challenges; and verified the names of remaining jurors for the seated

jury panel. Discussions as to proposed curative pre-instruction to be read to the Jury by Court. PROSPECTIVE JURY PANEL PRESENT: JURY SELECTED and SWORN by Clerk. Court instructed Jury. OUTSIDE PRESENCE OF JURY: Tech checks were done in open Court. Further discussions as to language of the proposed curative pre-instruction. Objections were placed on record. Court stated findings. JURY PRESENT: Court read pre-instruction to Jury. Court's Exhibit ADMITTED (See Worksheets.). Opening statements by counsel. Evening recess. TRIAL CONTINUES. 10/17/19 12:30 P.M. TRIAL BY JURY;

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

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

Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Trial Continues;
Verdict for Plaintiff;
Journal Entry Details:

Robert Eisenberg, present with defense counsel and seated in gallery. Mr. Hand and Plaintiffs not present. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Discussions as to pre-trial matters, including voir dire procedures, number of peremptory challenges for each side, and parties agreeing to have two alternate jurors for this trial. Plaintiff's counsel objected to defense counsel having a juror consultant to assist at trial. Arguments by Mr. Doyle. Court provided the rules for juror consultants; and indicated each side can have individuals accurately identified seated in Court. Court TRAILED and RECALLED matter for the prospective jury panel to be lined up by Jury Services and brought up to Court. Mr. Hand present in Court with the Plaintiffs. Juror consultant Amy Hanegan, present at defense counsel's table with Mr. Doyle. Discussions as to proposed voir dire and proposed statement by counsel to the jury panel. Court's Exhibit ADMITTED (See Worksheets.). PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court. Clerk called roll. PROSPECTIVE

	JURY PANEL SWORN. Voir Dire commenced. Introductory statements by counsel. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Juror excusals were addressed. Objections were made regarding defense counsel's three trial briefs filed October 14, 2019. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Additional juror excusals were addressed. At request of counsel, Court noted trial will start tomorrow at 1:00 p.m. Mr. Doyle presented an additional deposition to be provided to the Clerk for trial. Objections by Mr. Leavitt. Court noted counsel can let the Court tomorrow as to whether the name of the deponent was previously disclosed. PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further. Court admonished and excused the prospective jury panel for the evening to return to Court by 12:45 P.M. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Additional juror excusals were addressed. Parties were directed to arrive to Court tomorrow by 12:40 P.M. Evening recess. TRIAL CONTINUES. 10/15/19 1:00 P.M. TRIAL BY JURY;
10/15/2019	*CANCELED* **Motion to Compel** (9:00 AM) (Judicial Officer: Kishner, Joanna S.) *Vacated* *Defendants Barry Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Compel the Deposition of Gregg Ripplinger, M.D. and Extend the Close of Discovery (9th Request) on Order Shortening time*
10/22/2019	**Motion to Strike** (1:00 PM) (Judicial Officer: Kishner, Joanna S.) *Plaintiffs' Motion to Strike Defendants' Trial Briefs on Order Shortening Time* Denied Without Prejudice; Journal Entry Details: *Court addressed EDCR 7.27, and stated its findings. Statements by counsel. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE; the Court will review briefs under EDCR 7.27, and the Court will look at the trial briefs and treat them as Rule 7.27 briefs.;*
10/23/2019	**Motion to Strike** (1:00 PM) (Judicial Officer: Kishner, Joanna S.) **10/23/2019, 11/01/2019, 11/07/2019, 11/13/2019-11/14/2019** *Plaintiffs' Renewed Motion to Strike* Continued;
	Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made; Continued;
	Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made; Continued;
	Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made; Continued;
	Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made; Continued;
	Motion Not Addressed; Trial concluded 11/01/19 sb Continued; Continued; Decision Made;

Journal Entry Details:
COURT ORDERED, Motion CONTINUED.;

11/01/2019 **All Pending Motions** (8:30 AM) (Judicial Officer: Kishner, Joanna S.)
Verdict for Plaintiff;
Journal Entry Details:
JURY TRIAL...PLAINTIFF'S RENEWED MOTION TO STRIKE OUTSIDE THE PRESENCE OF THE JURY. The Court noted it directed counsel to present a new Special Verdict form and since this has not been done, COURT ORDERED, the form presented by the Plaintiff will be used. IN THE PRESENCE OF THE JURY. The Court instructed jurors on the law of the case. Closing arguments by Mr. Jones. Closing arguments by Mr. Doyle. Rebuttal arguments by Mr. Jones. At the hour of 12:35 PM the jury retired to deliberate. At the hour of 2:20 PM the jury returned with a verdict in favor of plaintiff. Plaintiff's Renewed Motion to Strike CONTINUED and matter SET for a status check regarding judgment. CONTINUED TO: 11/7/19 9:30 AM;

11/04/2019 *CANCELED* **Jury Trial** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)
Vacated

11/07/2019 **Status Check** (9:30 AM) (Judicial Officer: Kishner, Joanna S.)
Status Check: Judgment
Matter Heard;

11/07/2019 **Show Cause Hearing** (9:30 AM) (Judicial Officer: Kishner, Joanna S.)
11/07/2019, 11/13/2019-11/14/2019
Hearing Continued;
Continued;
Decision Made;

Hearing Continued;
Continued;
Decision Made;

Hearing Continued;
Continued;
Decision Made;

11/07/2019 **All Pending Motions** (9:30 AM) (Judicial Officer: Kishner, Joanna S.)
All Pending Motions (11/07/2019)
Matter Heard;
Journal Entry Details:

Court reminded the parties regarding the EDCR provisions that outline courtesy copy requirements. Statements by counsel. Upon Court's inquiry, both sides acknowledged courtesy copies of their documents that were filed within 24 hours, were not provided to the Court. Court stated findings, including that there has been no good cause shown, both sides waived anything written in their objections, and both sides are in non-compliance for failing to provide courtesy copies of the filed pleadings to the Court. COURT ORDERED, Plaintiffs' Objection to Defendants Proposed Judgment on Verdict filed November 6, 2019, and Defendants' Objection to Plaintiffs' Proposed Judgment on Jury Verdict filed November 6, 2019 are ORDERED, STRICKEN as rogue pleadings, and documents being improperly filed. Court also noted there was no request given to Court by counsel to file such documents and there was no basis to file such documents. STATUS CHECK: JUDGMENT Court acknowledged receiving courtesy copies of proposed judgments on verdicts from both sides. Discussion as to non-economic damages, case law from Tam, McGrosky, and Zhang, NRS 41A, NRS 42.021 (1) and NRS 42.021 (2). Arguments by counsel. Court stated its findings; and ORDERED, numeric breakdown as follows: damages for Plaintiff Titina Farris's past physical and mental pain, suffering, anguish, disability and loss of enjoyment of life will be in the amount of $43,225.00; damages for Plaintiff Titina Farris's future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life will be in the amount of $131,775.00; damages for Plaintiff Patrick Farris's past loss of companionship, society, comfort, and consortium will be in the amount of $92,225.00; and, damages for Plaintiff Patrick Farris's future loss of companionship, society, comfort, and consortium will be in the amount of $82,775.00, for a grand total of $350,000.00. Parties agreed on the percentages rate, and the language will be included in the written Judgment which will be submitted to the Court. Plaintiffs' counsel to prepare the written judgment; and defense counsel to approve form and

content. SHOW CAUSE HEARING Upon Court's inquiry, both sides confirmed having rested each of their cases in chief at time of trial. Court noted it will have to continue this matter to another day, due to the Court having a scheduled commitment this morning and the Court needing to adjourn. Following discussions as to scheduling, COURT ORDERED, Show Cause Hearing CONTINUED. Court noted this continuance does not impact the filing of the written judgment. Parties acknowledged. Remaining portion of Plaintiffs' Renewed Motion to Strike CONTINUED. 11/13/19 10:30 A.M. PLAINTIFFS' MOTION FOR SANCTIONS...SHOW CAUSE HEARING...PLAINTIFFS' RENEWED MOTION TO STRIKE CLERK'S NOTE: Plaintiffs' Renewed Motion to Strike Defendants' Answer was not addressed, and was continued to November 13, 2019 at 10:15 a.m. sb;

11/13/2019 **Motion for Sanctions** (10:15 AM) (Judicial Officer: Kishner, Joanna S.)
11/13/2019-11/14/2019, 11/20/2019
Plaintiffs' Motion for Sanctions
Continued;
Continued;
Matter Heard;
Journal Entry Details:
Court indicated the hearing today was to address counsel submitting multiple inadmissable documents. Court gave a brief history of the case. Mr. Leavitt indicated he was willing to accept a sanction payable to the Law Library or Legal Aid. Mr. Doyle mirrored Mr. Leavitt's comments and did not wish to add anything. Colloquy regarding Court's previous trial order. Court indicated it was not inclined to issue sanctions to Plaintiff counsel. Mr. Leavitt advised he would prefer to give $500.00 to the Law Library. Colloquy regarding Mr. Doyle continuing to submit inpermissable filings. Colloquy regarding electronically signed document used at trial. Mr. Doyle indicated he did not know the specific acts or failures to act that Court is using for basis for sanctions. Court offered to continue the matter; however, Mr. Doyle declined. Upon Court's inquiry, Mr. Doyle indicated the filings were a clerical oversight and a mistake on part of his office. Colloquy regarding Mr. Doyle's readiness for the hearing. Mr. Doyle stated he did not want to look into the issues and wanted to hear the Court's ruling. Colloquy regarding possibly continuing the hearing. Upon Court's inquiry, Mr. Doyle declined to respond individually or globally. Upon Court's inquiry, Mr. Leavitt indicated Ms. Clark Newberry and Mr. Couchot's conduct was egregious in a number of aspects and requested heavy monetary sanctions. Court advised it is not taking this case back to discovery. Court stated its findings and advised it would issue the order at the time of the hearing on fees and costs. Parties to submit their proposals in Word to the Judicial Executive Assistant and CC opposing counsel.;
Continued;
Continued;
Matter Heard;
Continued;
Continued;
Matter Heard;

11/13/2019 **All Pending Motions** (10:15 AM) (Judicial Officer: Kishner, Joanna S.)
All Pending Motions (11/13/2019)
Matter Heard;
Journal Entry Details:
Court confirmed the written judgment was signed. Parties acknowledged. SHOW CAUSE HEARING Court addressed defense counsel's seven offers of proof that were filed in the case November 1, 2019. Statements by Mr. Doyle in support of these proofs having been filed in the case. Court canvassed counsel the November 1, 2019 filings. Discussions as to trial proceedings. Mr. Doyle objected to the order to show cause; and made arguments. Further discussions as to Court's rulings from trial on October 14, 2019 and October 29, 2019, and EDCR 2.69. COURT ORDERED, matter CONTINUED to November 14, 2019 at 1:30 p.m. PLAINTIFFS' MOTION FOR SANCTIONS...PLAINTIFFS' RENEWED MOTION TO STRIKE COURT ORDERED, matters CONTINUED to November 14, 2019 at 1:30 P.M.;

11/14/2019 **All Pending Motions** (1:30 PM) (Judicial Officer: Kishner, Joanna S.)
All Pending Motions (11/14/19)
Matter Heard;
Journal Entry Details:
PLAINTIFFS' RENEWED MOTION TO STRIKE Arguments by Mr. Leavitt. Opposition by Mr.

Doyle. Reply by Mr. Leavitt. Discussions as to transcript from September 26, 2019. Court stated findings. A trial proceedings clip dated October 18, 2019 at 4:44:54 P.M. was played back in open Court. COURT ORDERED, Motion DENIED IN PART as to striking Defendants' Answer. ORDER TO SHOW CAUSE Court addressed the remaining of seven offers of proof filed by defense counsel dated November 1, 2019. Following responses and arguments made by counsel, Court gave an analysis and stated its findings. There being no good cause shown as to why the offers of proof were filed without any notice given to the Court, COURT ORDERED, the Offer of Proof Re: Defendants' Exhibit C filed November 1, 2019, Offer of Proof Re: Brian Juell, M.D., filed November 1, 2019, Offer of Proof Re: Sarah Larsen filed November 1, 2019; Offer of Proof Re: Michael Hurwitz, M.D. filed November 1, 2019, Offer of Proof Re: Lance Stone, D.O. filed November 1, 2019, Offer of Proof Re: Erik Volk filed November 1, 2019, and, Offer of Proof Re: Bruce Adornato, M.D.'s Testimony filed November 1, 2019 are ORDERED, STRICKEN as rogue documents. PLAINTIFFS' MOTION FOR SANCTIONS COURT ORDERED, Motion CONTINUED to November 20, 2019 at 1:30 P.M. ;

12/03/2019 *CANCELED* **Motion to Quash** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)
Vacated - Moot
Plaintiff's Motion to Quash Trial Subpoena of Dr. Naomi Chaney on Order Shortening Time

01/07/2020 **Motion to Retax** (10:00 AM) (Judicial Officer: Kishner, Joanna S.)
01/07/2020, 02/11/2020
Defendants Barry J. Rives, M.D.'s and Laparoscopic Surgery of Nevada, LLC's Motion to Re-Tax and Settle Plaintiffs' Costs
Continued;
Granted in Part;
Journal Entry Details:
Following arguments by counsel, COURT ORDERED, motion GRANTED IN PART, DENIED IN PART. Other than Stein and Cook, the motion is GRANTED; the Court finds it is appropriate and meets all the Frasier factors. As to Dr. Stein, COURT ORDERED, Dr. Stein's amount is lowered to $1,500.00. As to Dr. Cook, COURT FURTHER ORDERED, Dr. Cook's amount is reduced to $13,960.03. ADDITIONALLY, the $5,032.02 cost is reduced. COURT FINDS, the remaining costs are appropriately supported and GRANTED. Mr. Hand to provide the net figure to Mr. Doyle.;
Continued;
Granted in Part;

01/07/2020 **Motion for Attorney Fees and Costs** (10:00 AM) (Judicial Officer: Kishner, Joanna S.)
Plaintiffs' Motion for Fees and Costs
Granted;

01/07/2020 **All Pending Motions** (10:00 AM) (Judicial Officer: Kishner, Joanna S.)
All Pending Motions (1/07/2020)
Matter Heard;
Journal Entry Details:
PLAINTIFFS' MOTION FOR FEES AND COSTS Arguments by Mr. Jones and Mr. Doyle. Discussion as to Capana case law and NRCP 68. Court stated findings; and provided analysis under Beattie, Brunzell, and NRS 7.095. Court also noted it will not impose additional sanctions. COURT ORDERED, attorney fees GRANTED in the amount of $821,468.66. DEFENDANTS BARRY J. RIVES, M.D.'S AND LAPAROSCOPIC SURGERY OF NEVADA, LLC'S MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS Following arguments by counsel as to costs and Dr. Stein, COURT ORDERED, Motion CONTINUED to February 11, 2020 at 9:30 A.M., for supplemental pleadings to be filed. FURTHER, briefing schedule SET as follows: Plaintiffs' supplemental opposition due January 21, 2020, Defendants' supplemental reply due February 3, 2020. ;

DATE	FINANCIAL INFORMATION	
	Defendant Laparoscopic Surgery of Nevada LLC	
	Total Charges	30.00
	Total Payments and Credits	30.00
	Balance Due as of 4/14/2020	**0.00**
	Defendant Rives, Barry, M.D.	
	Total Charges	257.50

Total Payments and Credits	257.50
Balance Due as of 4/14/2020	**0.00**
Plaintiff Farris, Patrick	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 4/14/2020	**0.00**
Plaintiff Farris, Titina	
Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 4/14/2020	**0.00**
Defendant Rives, Barry, MD	
Appeal Bond Balance as of 4/14/2020	**500.00**
Plaintiff Farris, Titina	
Appeal Bond Balance as of 4/14/2020	**500.00**

A-16-739464-C

DISTRICT COURT CIVIL COVER SHEET

CLARK County, Nevada

XXII

Case No. _____
(Assigned by Clerk's Office)

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

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

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

Civil Case Filing Types

Real Property	Torts	
Landlord/Tenant	**Negligence**	**Other Torts**
☐ Unlawful Detainer	☐ Auto	☐ Product Liability
☐ Other Landlord/Tenant	☐ Premises Liability	☐ Intentional Misconduct
Title to Property	☐ Other Negligence	☐ Employment Tort
☐ Judicial Foreclosure	**Malpractice**	☐ Insurance Tort
☐ Other Title to Property	■ Medical/Dental	☐ Other Tort
Other Real Property	☐ Legal	
☐ Condemnation/Eminent Domain	☐ Accounting	
☐ Other Real Property	☐ Other Malpractice	

Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate *(select case type and estate value)*	**Construction Defect**	**Judicial Review**
☐ Summary Administration	☐ Chapter 40	☐ Foreclosure Mediation Case
☐ General Administration	☐ Other Construction Defect	☐ Petition to Seal Records
☐ Special Administration	**Contract Case**	☐ Mental Competency
☐ Set Aside	☐ Uniform Commercial Code	**Nevada State Agency Appeal**
☐ Trust/Conservatorship	☐ Building and Construction	☐ Department of Motor Vehicle
☐ Other Probate	☐ Insurance Carrier	☐ Worker's Compensation
Estate Value	☐ Commercial Instrument	☐ Other Nevada State Agency
☐ Over $200,000	☐ Collection of Accounts	**Appeal Other**
☐ Between $100,000 and $200,000	☐ Employment Contract	☐ Appeal from Lower Court
☐ Under $100,000 or Unknown	☐ Other Contract	☐ Other Judicial Review/Appeal
☐ Under $2,500		

Civil Writ		Other Civil Filing
Civil Writ		**Other Civil Filing**
☐ Writ of Habeas Corpus	☐ Writ of Prohibition	☐ Compromise of Minor's Claim
☐ Writ of Mandamus	☐ Other Civil Writ	☐ Foreign Judgment
☐ Writ of Quo Warrant		☐ Other Civil Matters

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

07/01/16
Date

Signature of initiating party or representative

See other side for family-related case filings.

JGJV
KIMBALL JONES, ESQ.
Nevada Bar No.: 12982
JACOB G. LEAVITT, ESQ.
Nevada Bar No. 12608
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Attorneys for Plaintiffs
TITINA FARRIS and PATRICK FARRIS

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D., LAPAROSCOPIC SURGERY OF NEVADA LLC; DOES I-V, inclusive; and ROE CORPORATIONS I-V, inclusive, Defendants.	Case No.: A-16-739464-C Dept. No.: 31 **JUDGMENT ON VERDICT**

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

LLP.

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

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

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

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

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

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

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2. $4,663,473.00 for TITINA FARRIS' future medical and related expenses, plus post-judgment interest accruing at $958.25 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;

3. $43,225.00 for TITINA FARRIS' past physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus prejudgment interest in the amount of $10,505.04 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = $8.88 per day) pursuant to NRS 17.130 for a total judgment of $53,730.04; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;

4. $131,775.00 for TITINA FARRIS' future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus post-judgment interest accruing at $27.07 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;

5. $92,225.00 for PATRICK FARRIS' past loss of companionship, society, comfort and consortium, plus prejudgment interest in the amount of $22,417.85 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = $18.95 per day) pursuant to NRS 17.130 for a total judgment of $114,642.85; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied; and

6. $82,775.00 for PATRICK FARRIS' future loss of companionship, society, comfort and consortium, plus post-judgment interest accruing at $17.00 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

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

Principal	$	6,076,479.94
Pre-Judgment Interest	$	291,325.58 (1,183 days @ 7.50%)
TOTAL JUDGMENT of:	**$**	**6,367,805.52**

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

SO ORDERED this 12 day of November, 2019.

JOANNA S. KISHNER

HONORABLE JOANNA S. KISHNER
District Court Judge

Respectfully Submitted by:

Dated this 11th day of November, 2019.

BIGHORN LAW

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

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

Approved as to form and content:

Dated this 11th day of November, 2019.

SCHUERING ZIMMERMAN & DOYLE, LLP

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

NEOJ
KIMBALL JONES, ESQ.
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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA, LLC et al., Defendants.	CASE NO.: A-16-739464-C DEPT. NO.: XXXI **NOTICE OF ENTRY OF JUDGMENT**

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

DATED this 19th day of November, 2019.

BIGHORN LAW
By: */s/ Kimball Jones*
KIMBALL JONES, ESQ.
Nevada Bar.: 12982
JACOB G. LEAVITT, ESQ.
Nevada Bar No.: 12608
716 S. Jones Blvd.
Las Vegas, Nevada 89107

CERTIFICATE OF SERVICE

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

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

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

Kim Mandelbaum, Esq.
MANDELBAUM ELLERTON & ASSOCIATES
2012 Hamilton Lane
Las Vegas, Nevada 89106
&
Thomas J. Doyle, Esq.
Chad C. Couchot, Esq.
SCHUERING ZIMMERMAN & DOYLE, LLP
400 University Avenue
Sacramento, California 95825
Attorneys for Defendants

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

JGJV
KIMBALL JONES, ESQ.
Nevada Bar No.: 12982
JACOB G. LEAVITT, ESQ.
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ghand@handsullivan.com

Attorneys for Plaintiffs
TITINA FARRIS and PATRICK FARRIS

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D., LAPAROSCOPIC SURGERY OF NEVADA LLC; DOES I-V, inclusive; and ROE CORPORATIONS I-V, inclusive, Defendants.	Case No.: A-16-739464-C Dept. No.: 31 **JUDGMENT ON VERDICT**

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

LLP.

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

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

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

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

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

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2. $4,663,473.00 for TITINA FARRIS' future medical and related expenses, plus post-judgment interest accruing at $958.25 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;

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4. $131,775.00 for TITINA FARRIS' future physical and mental pain, suffering, anguish, disability and loss of enjoyment of life, plus post-judgment interest accruing at $27.07 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied;

5. $92,225.00 for PATRICK FARRIS' past loss of companionship, society, comfort and consortium, plus prejudgment interest in the amount of $22,417.85 (interest calculated at 5.50% prime plus 2% for a total of 7.50% from date of service August 16, 2016 to November 12, 2019, for a total of 1,183 days = $18.95 per day) pursuant to NRS 17.130 for a total judgment of $114,642.85; with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied; and

6. $82,775.00 for PATRICK FARRIS' future loss of companionship, society, comfort and consortium, plus post-judgment interest accruing at $17.00 per day (interest calculated at 5.50% prime plus 2% for a total of 7.50%) pursuant to NRS 17.130 from the time of entry of the judgment with daily post-judgment interest accruing at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

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

Principal	$	6,076,479.94
Pre-Judgment Interest	$	291,325.58 (1,183 days @ 7.50%)
TOTAL JUDGMENT of:	**$**	**6,367,805.52**

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

SO ORDERED this 12 day of November, 2019.

JOANNA S. KISHNER

HONORABLE JOANNA S. KISHNER
District Court Judge

Respectfully Submitted by:

Dated this 11th day of November, 2019.

BIGHORN LAW

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

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

Approved as to form and content:

Dated this 11th day of November, 2019.

SCHUERING ZIMMERMAN & DOYLE, LLP

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

ORDR
KIMBALL JONES, ESQ.
Nevada Bar No. 12982
JACOB G. LEAVITT, ESQ.
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Phone: (702) 656-5814
Email: Ghand@HandSullivan.com

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA LLC; DOES I-V, inclusive; and ROE CORPORATIONS I-V, inclusive, Defendants.	Case No.: A-16-739464-C Dept. No.: 31 **ORDER ON PLAINTIFFS' MOTION FOR FEES AND COSTS AND DEFENDANTS' MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS**

Plaintiffs' Motion for Fees and Costs having come on for hearing on the 7th day of January, 2020, at 10:00 a.m., KIMBALL JONES, ESQ., with the Law Offices of **BIGHORN LAW**, and GEORGE F. HAND, ESQ. with the Law Offices of **HAND & SULLIVAN, LLC**, appearing on behalf of Plaintiffs, and THOMAS J. DOYLE, ESQ., with the Law Offices of **SCHUERING ZIMMERMAN & DOYLE, LLP**, appearing on behalf of Defendants, and Defendants' Motion to

Re-Tax and Settle Plaintiffs' Costs having come on for hearing on the 7th day of January, 2020, at 10:00 a.m. and February 11, 2020 at 9:30 a.m. with the Honorable Court having reviewed the pleadings and papers on file herein and with hearing the arguments of counsel:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiffs' Request for Attorneys' Fees

The Court finds that attorneys' fees are properly awarded to Plaintiffs in this matter for the reasons outlined in Plaintiffs' Motion, Reply, and supporting affidavits.

Under *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983), *Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 955 P.2d 661 (1998), and *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969), the Court considers the following factors in making an award of attorney fees to Plaintiffs based upon an offer of judgment: According to *Beattie*, the Court is required to consider: (1) whether the plaintiff's claim was brought in good faith; (2) whether the defendants' offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror are reasonable and justified in amount. *Id.*, 99 Nev. at 588–589, 668 P.2d at 274.

Since Plaintiffs are the prevailing offerors, however, the analysis of the *Beattie* factors is reversed, such that the Court considers: (1) whether the defendant's claim or defense was brought in good faith; (2) whether the plaintiff's offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the defendant's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror are reasonable and justified in amount. *See Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 252, 955 P.2d 661, 673 (1998).

With regard to the reasonableness of requested attorneys' fees, the Court considers the *Brunzell* factors: (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and

character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; and (4) the result: whether the attorney was successful and what benefits were derived. *See Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). If the record reflects that the court properly considered these factors, there is no abuse of discretion. *See Wynn v. Smith*, 117 Nev. 6, 13,16 P.3d 424, 428–429 (2001); *Beattie v. Thomas*, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983). Further, the Court retains the right to determine a reasonable amount of attorneys' fees. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864–865, 124 P.3d 530, 548–549 (2005).

Beattie/Yahama Factors

1. Whether the Defendants' Defenses Were Brought in Good Faith.

Defendants' defenses, and refusal to pay the Offer of Judgment, were not brought in good faith based on the facts of this case. It was known by Defendants before the trial commenced and at the time of the NRS 41A.081 settlement conference that there were serious issues ~~with the~~ credibility ~~of counsel and Defendant~~ Rives concerning the *Center v. Rives* case. In fact, before the trial commenced, there were pending NRCP 37 motions before this Court. Despite the demonstrated misconduct by Defendants in discovery and depositions, Defendants still elected to risk going to trial. In fact, ~~it was a possibility that~~ terminating sanctions ~~may issue~~, based on the aforementioned conduct by Defendants. Moreover, given Defendants' (and Counsel's) knowledge of this misconduct, ~~they were also obliged to~~ consider and calculate the impact of the discovery and likely consequences of their misconduct.

Further, there were serious problems with Defendants' expert opinions. The defense liability expert, Dr. Brian Juell, opined at trial that the use of a LigaSure was relatively contraindicated and that it should not be used in the setting of the subject surgery if there was any other alternative, such as cold scissors. Then, it was established that Defendant Rives actually had cold scissors, but used the LigaSure anyway. The defense should have been aware of this weakness in their own case when they rejected Plaintiffs' offer.

Defendants also tried to put forth a defense that the sepsis of Plaintiff Titina Farris originated from "pulmonary aspiration syndrome." This defense was put forward, despite no other physician, treating Titina Farris during her hospitalization, ever diagnosing her with this condition. This spurious defense was clearly attempted to misdirect attention from Defendant Rives' failure to treat the sepsis originating from the holes in the bowel that he caused and failed to adequately repair. Dr. Juell still tried to put forth this theory before the jury, even though it was shown at trial that he opined in his expert reports that Titina Farris had pulmonary aspiration syndrome without first reviewing the relevant films. Thus, this first *Beattie* factor weighs in Plaintiffs' favor.

2. Whether the Plaintiffs' Offer of Judgment Was Reasonable and in Good Faith in Both Its Timing and Amount.

Plaintiffs' Offer of Judgment was reasonable and was in good faith in timing and amount, and Defendants' decision to reject the offer was grossly unreasonable. Plaintiffs served their offer of judgment for $1,000,000 on June 5, 2019. At the time, expert reports had been exchanged, key witnesses were deposed, and medical records had been exchanged. Thus, Defendants were aware of all the supporting information for Plaintiffs' Offer of Judgment, including Plaintiffs' injuries, related medical specials, and pain and suffering. The amount of Plaintiffs' Offer of Judgment was less than Plaintiffs' disclosed past medical expenses and was, therefore, reasonable and in good faith. This second *Beattie* factor weighs in Plaintiffs' favor.

3. Whether the Defendants' Decision to Reject the Offer and Proceed to Trial Was Grossly Unreasonable or in Bad Faith.

In light of the severity of Plaintiffs' injuries and damages, as well as a very strong case of liability, presented at the time of their Offer of Judgment, it was grossly unreasonable and in bad faith for Defendants to reject the $1,000,000 offer and proceed to trial. At the time of Plaintiffs' Offer of Judgment, they had already disclosed over $4,000,000 in special damages. Defendants simply undervalued this case, as evidenced by their zero offer of judgment. The Court weighs this third *Beattie* factor in favor of Plaintiffs, despite Defendants' argument that its experts had differing opinions.

4. Whether the Fees Sought by the Offeror are Reasonable and Justified in Amount.

The amount of attorney's fees requested by Plaintiffs are reasonable and justified in amount based on the outcome at trial. Plaintiffs contracted to pay an attorney's fees in the amount of 40% of the gross recovery. That amount totals $2,547,122.21 (40% of $6,367,805.52). Even if attorneys' fees are calculated under NRS 7.095 on $6,367,805.52, that amount is $1,026,835.83. Although the Court of Appeals has approved a determination of attorney fees based upon a contingency fee agreement, this Court determines that NRS 7.095 is controlling in this matter. *See O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. Adv. Op. 7, 429 P.3d 664, 671–672 (Nev. App. 2018). Thus, the Court awards Plaintiffs the sum of $821,468.66 in attorney fees, as further elaborated based upon the *Brunzell* factors.

***Brunzell* Factors**

1. Qualities of the Advocates.

Mr. Jones is a managing partner with the Law Offices of BIGHORN LAW. He graduated Magna Cum Laude from Brigham Young University-Idaho in 2005 and graduated as the top student in economics that year. He graduated from Brigham Young University in 2008 and was awarded a Dean's Scholarship for academic merit all three years of law school. Mr. Jones was first admitted to practice law in Nevada in 2013, scoring in the 98th percentile nationally on the MBE. He has also passed the Idaho Bar Exam. Mr. Jones has prevailed in more than 95 percent of the arbitrations and trials he has litigated. Further, he has recovered more than $30,000,000 for clients through judgments and settlements in the last six years. Mr. Jones' usual and customary fee on an hourly basis is $500.00 an hour, which is at or below average for attorneys of his skill and experience who handle similar matters in Clark County, Nevada.

Likewise, Mr. Leavitt is a partner with Bighorn Law. He has been licensed to practice law since 2012 and has a billing rate of $500.00 per hour, a rate at or below average for attorneys of his skill and experience who handle similar matters in Clark County, Nevada. Mr. Leavitt graduated Cum Laude from the University of Las Vegas, Nevada in 2004. He attended Cooley Law School

on scholarship and graduated in the top 13% of his class. Mr. Leavitt completed an externship under retired Nevada Supreme Court Justice Michael Cherry and is admitted to practice in the Ninth Circuit Court of Appeals. Mr. Leavitt has conducted numerous trials and administrative proceedings.

Mr. Hand is a partner of Hand & Sullivan, LLC. He is licensed to practice law in Nevada and New York. He has been licensed to practice law in Nevada for sixteen years. Prior to that, he was licensed as an attorney in New York where he practiced in areas of personal injury, medical malpractice, and insurance defense litigation. He has conducted more than 125 jury and bench trials. Mr. Hand also served as a Deputy County Attorney for Nassau County, New York. Mr. Hand's billing rate of $500.00 per hour is at or below average for attorneys of his skill and experience who handle similar matters in Clark County, Nevada.

Additionally, the Court found this factor to be considered by the Court and was not contested by Defendants in written opposition or in argument.

Therefore, the qualities of the advocates who performed work in this matter are proven. Further, the market rate of $500.00 per hour is appropriate under *Marrocco v. Hill*, 291 F.R.D. 586 (D. Nev. 2013), for this type of case.

2. Character of the Work to be Done.

Plaintiffs' Counsel was engaged in proving a complicated and complex Professional Negligence matter of medical malpractice, an area of law few practitioners of law engage in due to the complexity and stringent laws. In this case the legal work required retaining and questioning numerous experts and dealing with nuanced medical topics which not only increased the actual cost of litigating, but also consumed many hours of research and preparation. The nature of the work was time-consuming, complicated and difficult due to the nature of the area of law and medicine combined.

3. Work Actually Performed by the Lawyer.

Plaintiffs' Counsel engaged in multitudinous depositions, written discovery, and this work culminated in a three-week trial on the matter. Plaintiffs' Counsel worked extensively for the

entirety of trial and demonstrated substantial skill in the work performed. Coupled with the second factor, the character of the work, the work performed included long hours of trial and the long hours of preparation during the hours of the day while not in trial. Not only did the work require preparation for the substance of the trial, yet the numerous issues Defendants raised requiring many hearings outside the presence of the jury.

Albeit there are three attorneys on this matter, the substantive matter of the trial coupled with the many collateral issues required the presence and work of all in order to effectively try the case.

4. Result—whether the Attorney was Successful and what Benefits were Derived.

Plaintiffs were successful in their attempts before this Court. The jury returned a verdict of more than $13 million, and the Court Awarded a Judgment on the Verdict in favor of Plaintiffs and against Defendants in the amount of $6,367,805.52. Plaintiffs' Counsel was able to procure a highly favorable outcome for their clients.

Therefore, the Court found Attorneys' Fees in the amount of $821,468.66 are properly granted to Plaintiffs in this matter, pursuant to *Brunzell, Beattie, O'Connell*, NRCP 68, and NRS 7.095.

It is undisputed that Plaintiffs served an offer of judgment for $1,000,000 under NRCP 68 and that Defendants chose to let that offer expire. The offer was made several months after expert witness disclosures. It is undisputed that at the time of the offer Plaintiffs had already disclosed more than $4,000,000 in special damages. Moreover, Plaintiffs' experts had already outlined the breaches in the standard of care that the jury ultimately agreed were committed by Defendants. Ultimately, the Court finds that Defendants' decision to reject the offer was unreasonable. Under NRCP 68, attorney fees are properly awarded for Plaintiffs and against Defendants.

NRCP 68 (f) states: Penalties for Rejection of Offer

(1) In General. If the offeree rejects an offer and fails to obtain a more favorable judgment:

(A) the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment; and

(B) the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer.

Plaintiffs served an Offer of Judgment on June 5, 2019. Judgment in the amount of $6,367,805.52 was entered on November 14, 2019. Pursuant to NRCP 68(f)(1)(B) Defendants must pay applicable interest on the judgment from the time of the offer to the time of entry of the judgment in the amount of $202,269.96 (interest calculated at 5.50% prime plus 2% for a total of 7.5% from the date of the Offer of Judgment, June 5, 2019 to Entry of Judgment on November 14, 2019, for a total of 162 days = $1,248.58 per day) pursuant to NRS 17.130.

The Court then needs to analyze the attorney fees to be awarded. *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. Adv. Op. 7, 429 P. 3d 664 (Nev. App. 2018) demonstrates that attorney fees are appropriately awarded based on contingency fee agreements, which is the nature of the agreement between Plaintiffs and Counsel in this matter. Given the $6,565,830.84 judgment in this matter, Plaintiffs' attorney fees would be approximately $1,026,835.82 under the sliding scale of NRS 7.095. However, at the time of the offer of judgment in this matter, approximately twenty percent (20%) of the total attorney work had already been performed. As a result, the Court determined that the fee should be reduced by an additional 20% and that eighty percent (80%) of the projected contingent fee under the NRS 7.095 sliding scale, or $821,468.66, should be awarded. The Court further analyzed whether this number was unreasonable, given the hours likely expended by Plaintiffs' attorneys in this case multiplied by their reasonable billing rates. The Court determined that $821,468.66 was not unreasonable and was likely comparable to the amount that would be awarded had Plaintiffs' attorneys billed their time on an hourly basis. As NRS 7.095 already has a built-in reduction, and given the Court's decision to further reduce the fee to only the percentage of work done after the offer, no further reduction is warranted. Plaintiffs are awarded $821,468.66 in attorney fees.

Plaintiffs' Request for Additional Attorneys' Fees as a Sanction

The Court did find there was significant inappropriate conducted by Defendants and Defense Counsel. This misconduct was the basis of numerous hearings and was an ongoing problem during discovery and through the end of trial. The Court found this to be a substantive and compelling reason to consider striking Defendants' Answer and that the misconduct was certainly a proper basis to award substantial attorney fees to Plaintiffs and against Defendants. Sanctionable conduct in this case included, but is not limited to the following: (1) Defendants and their Counsel intentionally withholding evidence during discovery; (2) Defendants omitting relevant evidence that had been asked for regarding his medical malpractice history; (3) Defendant blurting out that Plaintiff's bills were paid through medical insurance to the jury; (4) Defendants' Counsel signing affidavits containing verifiably false information for procedural reasons prior to trial; (5) Defendants improperly filing numerous "offers of proof" after the close of evidence and without leave of the Court; and (6) Defendants violating Court orders during the course of trial on numerous occasions, including during the cross-examination of Dr. Michael Hurwitz. *See* NRCP 37; *Emerson v. Eighth Judicial Dist. Court*, 127 Nev. 672, 263 P.3d 224 (2011).

Nevertheless, the Court did not find it appropriate to award additional attorneys' fees above the $821,468.66 already awarded. However, the Court did find that independent of *Brunzell, Beattie, O'Connell*, NRCP 68 and NRS 7.095, $821,468.66 in attorney fees would be properly awarded to Plaintiffs as a sanction for inappropriate conduct by Defendants and Defense Counsel in this matter. Thus, the total award of $821,468.66 in Attorneys' Fees is granted, with these two independent grounds supporting the Court's finding for this award: (1) the analysis under *Brunzell, Beattie, O'Connell*, NRCP 68 and NRS 7.095 and (2) the misconduct of Defendants and their counsel.

THEREFORE, IT IS ORDERED that Plaintiffs' Request for Attorneys' Fees is GRANTED in the amount of Eight Hundred Twenty-One Thousand Four Hundred Sixty-Eight Dollars and Sixty-Six Cents ($821,468.66).

IT IS FURTHER ORDERED that Plaintiffs' Request for Costs and Defendants' Motion to Re-Tax such Costs is CONTINUED to February 11, 2020 at 9:30 a.m., for Supplemental Pleadings to be filed.

IT IS FURTHER ORDERED that the Supplemental Briefing Schedule SET as follows: Plaintiffs' Supplemental Opposition due January 21, 2020 and Defendants' Supplemental Reply due February 3, 2020.

Plaintiffs' Costs and Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs

On November 19, 2019, Plaintiffs filed a Verified Memorandum of Costs and Disbursements in the total amount of $153,118.26. On November 22, 2019, Defendants filed a Motion to Re-Tax and Settle Plaintiffs' Costs. On January 21, 2020 Plaintiffs filed a Supplemental Verified Memorandum of Costs and Disbursements in the total amount of $153,118.26. On January 21, 2020, Plaintiffs filed a Supplemental Opposition to Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs. On February 3, 2020 Defendants filed a Supplemental Reply to Plaintiffs' Opposition to Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs. The matter having come on for hearing on February 11, 2020 at 9:30 a.m., the Court makes the following Findings of Facts and Conclusions of Law:

NRS 18.005(5) states, "Reasonable fees of not more than five expert witnesses in an amount of not more than $1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee."

Plaintiffs' have submitted fees paid to experts as follows:

1.	Michael Hurwitz, M.D. (surgeon)	$ 11,000.00
2.	Justin Willer, M.D. (neurologist)	$ 17,245.00
3.	Alex Barchuck, M.D. (physical medicine and rehabilitaton)	$ 26,120.00
4.	Dawn Cook, R.N. (life care planning)	$ 23,960.03
5.	Alan Stein, M.D. (infectious diseases)	$ 19,710.00

6.	Daniel Feingold, M.D. (surgeon)	$ 2,000.00
7.	Terence Clauretie, Ph.D. (economist)	$ 3,500.00

The Court has analyzed the factors in *Frazier v Drake*, 131 Nev. 632 (2015) and has determined that the circumstances surrounding certain of the expert's testimony were necessary to require larger fees than $1,500.00 per expert. The Court is only considering the fees of experts Hurwitz, Willer, Barchuk, Cook, and Stein as NRS 18.005(5) limits recoverable expert fees to five experts. This was a medical malpractice case that took approximately three weeks to try. There were complex medical issues as to both the standard of care, proximate cause and damages that required medical expert review and testimony. Plaintiffs' experts Hurwitz, Willer, Barchuk, and Cook testified at trial. Plaintiffs' infectious disease expert Alan Stein, M.D. from New York was present in Las Vegas prepared to testify. Dr. Stein did not testify at the trial. The opinions of Plaintiffs' experts Hurwitz, Willer, Barchuk, Cook, and Stein aided the jury in deciding the case as each area of medical specialty in that each area of medical specialty was at issue during the trial. Plaintiffs' experts Hurwitz, Willer, Barchuk, Cook, and Stein were not repetitive of each other as they each addressed different medical issues and were of different specialties. The extent and nature of the work performed by the experts was of high quality. The various experts' education and training was significant and extensive. Experts Hurwitz, Willer, Barchuk, and Cook spent time preparing and testifying at trial. Experts Hurwitz, Willer, Barchuk, Cook, and Stein were also deposed in the case and prepared expert reports. The fees charged by these experts are similar to the experts in other malpractice cases in this venue. Dawn Cook was a local expert. Dr. Barchuk traveled from the Bay area. Dr. Willer and Dr. Stein traveled from the New York City area. Dr. Hurwitz traveled from Orange County, California. The fees charged by these experts are comparable to what a local expert would charge.

Pursuant to the factors in *Frazier v. Drake*, 131 Nev. 632, 650–51, 357 P.3d 365, 377–78 (Nev. App. 2015) the Court therefore awards the following expert fees:

Dr. Hurwitz: $ 11,000.00

Dr. Willer: $ 17,245.00

Dr. Barchuk: $ 26,120.00

Dawn Cook: $ 13,960.03

Dr. Stein: $ 1,500.00

Pursuant to the same *Frazier* factors, this Court does not find $19,710.00 for Plaintiffs' Expert Dr. Alan J. Stein is warranted, as Dr. Stein did not testify at trial in this matter and reduces the amount for Dr. Stein to $1,500.00. This Court further does not find that $23,960.03 for Plaintiffs' Expert Dawn Cook is warranted, as Ms. Cook billed for items that can be utilized in other life care plans and incorporated other number from other experts which Plaintiff was already charged for and, thus, not approving the double charging and reduces the amount for Ms. Cook to $13,960.03.

Pursuant to NRCP 68, Plaintiffs' request in the amount of $1,200.00 for the "Day In The Life Video," is not warranted, as Plaintiffs did not utilize this video during the trial in this matter.

As to Plaintiffs' request for costs for deposition testimony, the Court finds the video charge portion of these costs is not warranted, as the video portion of the deposition testimony was not utilized during the trial in this matter and, therefore, reduces said deposition testimony costs by $5,032.02.

Pursuant to *Cadle Co. v. Woods & Erickson, LLP*, 345 P.3d 1049 (2015) and *Bobby Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352 (1998), Plaintiffs' remaining costs are warranted.

THEREFORE, IT IS ORDERED that Plaintiffs' Request for Attorneys' Fees is GRANTED in the amount of Eight Hundred Twenty-One Thousand Four Hundred Sixty-Eight Dollars and Sixty-Six Cents ($821,468.66).

IT IS FURTHER ORDERED that pursuant to NRCP 68(f)(1)(B), Defendants are to pay the applicable interest on the Judgment in the amount of $6,367,805.52 from the date of the Offer of Judgment on June 5, 2019 to entry of the Judgment on November 14, 2019 in the amount of $202,269.96;

IT IS FURTHER ORDERED that Plaintiffs' Request for Costs and Defendants' Motion to Retax Costs are each GRANTED IN PART AND DENIED IN PART.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for Experts Dr. Michael Hurwitz, Dr. Justin Willer, Dr. Alex Barchuk, Dawn Cook, R.N. and Dr. Alan Stein are GRANTED in the total amount of $69,825.03.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for Expert Dr. Alan J. Stein is reduced to $1,500.00.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for Expert Dawn Cook is reduced to $13,960.03.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for the "Day In The Life Video," in the amount of $1,200.00 is DENIED.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for deposition testimony is reduced by $5,032.02.

IT IS FURTHER ORDERED that Plaintiffs' remaining Costs request in the amount of $44,851.21 is GRANTED.

IT IS FURTHER ORDERED that the total amount of Plaintiffs' Cost Award in this matter is $113,186.24.

THEREFORE, IT IS ORDERED that Plaintiffs' Costs are Re-Taxed in the amount of $113,186.24.

IT IS FURTHER ORDERED that interest on Plaintiffs' costs of $113,186.24 will accrue from November 14, 2019 (the date of entry of judgment) at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

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IT IS FURTHER ORDERED that interest on Plaintiffs' award of attorneys' fees of $821,468.66 will accrue from the date of entry of this order at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

DATED this 23 day of March, 2020.

JOANNA S. KISHNER
DISTRICT COURT JUDGE

Respectfully Submitted By:

BIGHORN LAW

George F. Hand (8483)

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DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA LLC; DOES I-V, inclusive; and ROE CORPORATIONS I-V, inclusive, Defendants.	Case No.: A-16-739464-C Dept. No.: 31

NOTICE OF ENTRY OF ORDER ON PLAINTIFFS' MOTION FOR FEES AND COSTS AND DEFENDANTS' MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS

PLEASE TAKE NOTICE that an Order on Plaintiffs' Motion for Fees and Costs and Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs heard on the 7th day of January, 2020 and on the 11th day of February, 2020 was entered in the above-entitled Court on the 30th day of March, 2020, a true and correct copy of which is attached hereto as Exhibit "A".

DATED the 31st day of March, 2020.

HAND & SULLIVAN, LLC

/s/ George F. Hand
George F. Hand, Esq.
Nevada State Bar No. 8483
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I am employed in the County of Clark, State of Nevada. I am over the age of 18 and not a party to the within action. My business address is 3442 N. Buffalo Drive, Las Vegas, NV 89129.

On March 31, 2020, I served the within document(s) described as:

NOTICE OF ENTRY OF ORDER ON PLAINTIFFS' MOTION FOR FEES AND COSTS AND DEFENDANTS' MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS

on the interested parties in this action as stated on the below mailing list.

☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed to Defendant's last-known address. I placed such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Las Vegas, Nevada. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (BY ELECTRONIC SERVICE) By e-serving through Odyssey, pursuant to Administrative Order 14-2 mandatory electronic service, a true file stamped copy of the foregoing document(s) to the last known email address listed below of each Defendant which Plaintiff knows to be a valid email address for each Defendant.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Anna Grigoryan
(Type or print name)

/s/ Anna Grigoryan
(Signature)

Farris v. Rives, et al.

Court Case No.: A-16-739464-C

SERVICE LIST

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EXHIBIT “A”

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DISTRICT COURT

CLARK COUNTY, NEVADA

TITINA FARRIS and PATRICK FARRIS, Plaintiffs, vs. BARRY RIVES, M.D.; LAPAROSCOPIC SURGERY OF NEVADA LLC; DOES I-V, inclusive; and ROE CORPORATIONS I-V, inclusive, Defendants.	Case No.: A-16-739464-C Dept. No.: 31 **ORDER ON PLAINTIFFS' MOTION FOR FEES AND COSTS AND DEFENDANTS' MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS**

Plaintiffs' Motion for Fees and Costs having come on for hearing on the 7th day of January, 2020, at 10:00 a.m., KIMBALL JONES, ESQ., with the Law Offices of **BIGHORN LAW**, and GEORGE F. HAND, ESQ. with the Law Offices of **HAND & SULLIVAN, LLC**, appearing on behalf of Plaintiffs, and THOMAS J. DOYLE, ESQ., with the Law Offices of **SCHUERING ZIMMERMAN & DOYLE, LLP**, appearing on behalf of Defendants, and Defendants' Motion to

Re-Tax and Settle Plaintiffs' Costs having come on for hearing on the 7th day of January, 2020, at 10:00 a.m. and February 11, 2020 at 9:30 a.m. with the Honorable Court having reviewed the pleadings and papers on file herein and with hearing the arguments of counsel:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiffs' Request for Attorneys' Fees

The Court finds that attorneys' fees are properly awarded to Plaintiffs in this matter for the reasons outlined in Plaintiffs' Motion, Reply, and supporting affidavits.

Under *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983), *Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 955 P.2d 661 (1998), and *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969), the Court considers the following factors in making an award of attorney fees to Plaintiffs based upon an offer of judgment: According to *Beattie*, the Court is required to consider: (1) whether the plaintiff's claim was brought in good faith; (2) whether the defendants' offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the plaintiff's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror are reasonable and justified in amount. *Id.*, 99 Nev. at 588–589, 668 P.2d at 274.

Since Plaintiffs are the prevailing offerors, however, the analysis of the *Beattie* factors is reversed, such that the Court considers: (1) whether the defendant's claim or defense was brought in good faith; (2) whether the plaintiff's offer of judgment was reasonable and in good faith in both its timing and amount; (3) whether the defendant's decision to reject the offer and proceed to trial was grossly unreasonable or in bad faith; and (4) whether the fees sought by the offeror are reasonable and justified in amount. *See Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 252, 955 P.2d 661, 673 (1998).

With regard to the reasonableness of requested attorneys' fees, the Court considers the *Brunzell* factors: (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and

character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; and (4) the result: whether the attorney was successful and what benefits were derived. *See Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). If the record reflects that the court properly considered these factors, there is no abuse of discretion. *See Wynn v. Smith*, 117 Nev. 6, 13,16 P.3d 424, 428–429 (2001); *Beattie v. Thomas*, 99 Nev. 579, 588-89, 668 P.2d 268, 274 (1983). Further, the Court retains the right to determine a reasonable amount of attorneys' fees. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864–865, 124 P.3d 530, 548–549 (2005).

Beattie/Yahama Factors

1. Whether the Defendants' Defenses Were Brought in Good Faith.

Defendants' defenses, and refusal to pay the Offer of Judgment, were not brought in good faith based on the facts of this case. It was known by Defendants before the trial commenced and at the time of the NRS 41A.081 settlement conference that there were serious issues ~~with the~~ credibility ~~of counsel and Defendant Rives~~ concerning the *Center v. Rives* case. In fact, before the trial commenced, there were pending NRCP 37 motions before this Court. Despite the demonstrated misconduct by Defendants in discovery and depositions, Defendants still elected to risk going to trial. In fact, ~~it was a possibility that~~ terminating sanctions ~~may issue~~, based on the aforementioned conduct by Defendants. Moreover, given Defendants' (and Counsel's) knowledge of this misconduct, ~~they were also obliged to~~ consider and calculate the impact of the discovery and likely consequences of their misconduct.

Further, there were serious problems with Defendants' expert opinions. The defense liability expert, Dr. Brian Juell, opined at trial that the use of a LigaSure was relatively contraindicated and that it should not be used in the setting of the subject surgery if there was any other alternative, such as cold scissors. Then, it was established that Defendant Rives actually had cold scissors, but used the LigaSure anyway. The defense should have been aware of this weakness in their own case when they rejected Plaintiffs' offer.

Defendants also tried to put forth a defense that the sepsis of Plaintiff Titina Farris originated from "pulmonary aspiration syndrome." This defense was put forward, despite no other physician, treating Titina Farris during her hospitalization, ever diagnosing her with this condition. This spurious defense was clearly attempted to misdirect attention from Defendant Rives' failure to treat the sepsis originating from the holes in the bowel that he caused and failed to adequately repair. Dr. Juell still tried to put forth this theory before the jury, even though it was shown at trial that he opined in his expert reports that Titina Farris had pulmonary aspiration syndrome without first reviewing the relevant films. Thus, this first *Beattie* factor weighs in Plaintiffs' favor.

2. Whether the Plaintiffs' Offer of Judgment Was Reasonable and in Good Faith in Both Its Timing and Amount.

Plaintiffs' Offer of Judgment was reasonable and was in good faith in timing and amount, and Defendants' decision to reject the offer was grossly unreasonable. Plaintiffs served their offer of judgment for $1,000,000 on June 5, 2019. At the time, expert reports had been exchanged, key witnesses were deposed, and medical records had been exchanged. Thus, Defendants were aware of all the supporting information for Plaintiffs' Offer of Judgment, including Plaintiffs' injuries, related medical specials, and pain and suffering. The amount of Plaintiffs' Offer of Judgment was less than Plaintiffs' disclosed past medical expenses and was, therefore, reasonable and in good faith. This second *Beattie* factor weighs in Plaintiffs' favor.

3. Whether the Defendants' Decision to Reject the Offer and Proceed to Trial Was Grossly Unreasonable or in Bad Faith.

In light of the severity of Plaintiffs' injuries and damages, as well as a very strong case of liability, presented at the time of their Offer of Judgment, it was grossly unreasonable and in bad faith for Defendants to reject the $1,000,000 offer and proceed to trial. At the time of Plaintiffs' Offer of Judgment, they had already disclosed over $4,000,000 in special damages. Defendants simply undervalued this case, as evidenced by their zero offer of judgment. The Court weighs this third *Beattie* factor in favor of Plaintiffs, despite Defendants' argument that its experts had differing opinions.

4. Whether the Fees Sought by the Offeror are Reasonable and Justified in Amount.

The amount of attorney's fees requested by Plaintiffs are reasonable and justified in amount based on the outcome at trial. Plaintiffs contracted to pay an attorney's fees in the amount of 40% of the gross recovery. That amount totals $2,547,122.21 (40% of $6,367,805.52). Even if attorneys' fees are calculated under NRS 7.095 on $6,367,805.52, that amount is $1,026,835.83. Although the Court of Appeals has approved a determination of attorney fees based upon a contingency fee agreement, this Court determines that NRS 7.095 is controlling in this matter. *See O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. Adv. Op. 7, 429 P.3d 664, 671–672 (Nev. App. 2018). Thus, the Court awards Plaintiffs the sum of $821,468.66 in attorney fees, as further elaborated based upon the *Brunzell* factors.

***Brunzell* Factors**

1. Qualities of the Advocates.

Mr. Jones is a managing partner with the Law Offices of BIGHORN LAW. He graduated Magna Cum Laude from Brigham Young University-Idaho in 2005 and graduated as the top student in economics that year. He graduated from Brigham Young University in 2008 and was awarded a Dean's Scholarship for academic merit all three years of law school. Mr. Jones was first admitted to practice law in Nevada in 2013, scoring in the 98th percentile nationally on the MBE. He has also passed the Idaho Bar Exam. Mr. Jones has prevailed in more than 95 percent of the arbitrations and trials he has litigated. Further, he has recovered more than $30,000,000 for clients through judgments and settlements in the last six years. Mr. Jones' usual and customary fee on an hourly basis is $500.00 an hour, which is at or below average for attorneys of his skill and experience who handle similar matters in Clark County, Nevada.

Likewise, Mr. Leavitt is a partner with Bighorn Law. He has been licensed to practice law since 2012 and has a billing rate of $500.00 per hour, a rate at or below average for attorneys of his skill and experience who handle similar matters in Clark County, Nevada. Mr. Leavitt graduated Cum Laude from the University of Las Vegas, Nevada in 2004. He attended Cooley Law School

on scholarship and graduated in the top 13% of his class. Mr. Leavitt completed an externship under retired Nevada Supreme Court Justice Michael Cherry and is admitted to practice in the Ninth Circuit Court of Appeals. Mr. Leavitt has conducted numerous trials and administrative proceedings.

Mr. Hand is a partner of Hand & Sullivan, LLC. He is licensed to practice law in Nevada and New York. He has been licensed to practice law in Nevada for sixteen years. Prior to that, he was licensed as an attorney in New York where he practiced in areas of personal injury, medical malpractice, and insurance defense litigation. He has conducted more than 125 jury and bench trials. Mr. Hand also served as a Deputy County Attorney for Nassau County, New York. Mr. Hand's billing rate of $500.00 per hour is at or below average for attorneys of his skill and experience who handle similar matters in Clark County, Nevada.

Additionally, the Court found this factor to be considered by the Court and was not contested by Defendants in written opposition or in argument.

Therefore, the qualities of the advocates who performed work in this matter are proven. Further, the market rate of $500.00 per hour is appropriate under *Marrocco v. Hill*, 291 F.R.D. 586 (D. Nev. 2013), for this type of case.

2. Character of the Work to be Done.

Plaintiffs' Counsel was engaged in proving a complicated and complex Professional Negligence matter of medical malpractice, an area of law few practitioners of law engage in due to the complexity and stringent laws. In this case the legal work required retaining and questioning numerous experts and dealing with nuanced medical topics which not only increased the actual cost of litigating, but also consumed many hours of research and preparation. The nature of the work was time-consuming, complicated and difficult due to the nature of the area of law and medicine combined.

3. Work Actually Performed by the Lawyer.

Plaintiffs' Counsel engaged in multitudinous depositions, written discovery, and this work culminated in a three-week trial on the matter. Plaintiffs' Counsel worked extensively for the

entirety of trial and demonstrated substantial skill in the work performed. Coupled with the second factor, the character of the work, the work performed included long hours of trial and the long hours of preparation during the hours of the day while not in trial. Not only did the work require preparation for the substance of the trial, yet the numerous issues Defendants raised requiring many hearings outside the presence of the jury.

Albeit there are three attorneys on this matter, the substantive matter of the trial coupled with the many collateral issues required the presence and work of all in order to effectively try the case.

4. Result—whether the Attorney was Successful and what Benefits were Derived.

Plaintiffs were successful in their attempts before this Court. The jury returned a verdict of more than $13 million, and the Court Awarded a Judgment on the Verdict in favor of Plaintiffs and against Defendants in the amount of $6,367,805.52. Plaintiffs' Counsel was able to procure a highly favorable outcome for their clients.

Therefore, the Court found Attorneys' Fees in the amount of $821,468.66 are properly granted to Plaintiffs in this matter, pursuant to *Brunzell, Beattie, O'Connell*, NRCP 68, and NRS 7.095.

It is undisputed that Plaintiffs served an offer of judgment for $1,000,000 under NRCP 68 and that Defendants chose to let that offer expire. The offer was made several months after expert witness disclosures. It is undisputed that at the time of the offer Plaintiffs had already disclosed more than $4,000,000 in special damages. Moreover, Plaintiffs' experts had already outlined the breaches in the standard of care that the jury ultimately agreed were committed by Defendants. Ultimately, the Court finds that Defendants' decision to reject the offer was unreasonable. Under NRCP 68, attorney fees are properly awarded for Plaintiffs and against Defendants.

NRCP 68 (f) states: Penalties for Rejection of Offer

(1) In General. If the offeree rejects an offer and fails to obtain a more favorable judgment:

(A) the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment; and

(B) the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer.

Plaintiffs served an Offer of Judgment on June 5, 2019. Judgment in the amount of $6,367,805.52 was entered on November 14, 2019. Pursuant to NRCP 68(f)(1)(B) Defendants must pay applicable interest on the judgment from the time of the offer to the time of entry of the judgment in the amount of $202,269.96 (interest calculated at 5.50% prime plus 2% for a total of 7.5% from the date of the Offer of Judgment, June 5, 2019 to Entry of Judgment on November 14, 2019, for a total of 162 days = $1,248.58 per day) pursuant to NRS 17.130.

The Court then needs to analyze the attorney fees to be awarded. *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. Adv. Op. 7, 429 P. 3d 664 (Nev. App. 2018) demonstrates that attorney fees are appropriately awarded based on contingency fee agreements, which is the nature of the agreement between Plaintiffs and Counsel in this matter. Given the $6,565,830.84 judgment in this matter, Plaintiffs' attorney fees would be approximately $1,026,835.82 under the sliding scale of NRS 7.095. However, at the time of the offer of judgment in this matter, approximately twenty percent (20%) of the total attorney work had already been performed. As a result, the Court determined that the fee should be reduced by an additional 20% and that eighty percent (80%) of the projected contingent fee under the NRS 7.095 sliding scale, or $821,468.66, should be awarded. The Court further analyzed whether this number was unreasonable, given the hours likely expended by Plaintiffs' attorneys in this case multiplied by their reasonable billing rates. The Court determined that $821,468.66 was not unreasonable and was likely comparable to the amount that would be awarded had Plaintiffs' attorneys billed their time on an hourly basis. As NRS 7.095 already has a built-in reduction, and given the Court's decision to further reduce the fee to only the percentage of work done after the offer, no further reduction is warranted. Plaintiffs are awarded $821,468.66 in attorney fees.

Plaintiffs' Request for Additional Attorneys' Fees as a Sanction

The Court did find there was significant inappropriate conducted by Defendants and Defense Counsel. This misconduct was the basis of numerous hearings and was an ongoing problem during discovery and through the end of trial. The Court found this to be a substantive and compelling reason to consider striking Defendants' Answer and that the misconduct was certainly a proper basis to award substantial attorney fees to Plaintiffs and against Defendants. Sanctionable conduct in this case included, but is not limited to the following: (1) Defendants and their Counsel intentionally withholding evidence during discovery; (2) Defendants omitting relevant evidence that had been asked for regarding his medical malpractice history; (3) Defendant blurting out that Plaintiff's bills were paid through medical insurance to the jury; (4) Defendants' Counsel signing affidavits containing verifiably false information for procedural reasons prior to trial; (5) Defendants improperly filing numerous "offers of proof" after the close of evidence and without leave of the Court; and (6) Defendants violating Court orders during the course of trial on numerous occasions, including during the cross-examination of Dr. Michael Hurwitz. *See* NRCP 37; *Emerson v. Eighth Judicial Dist. Court*, 127 Nev. 672, 263 P.3d 224 (2011).

Nevertheless, the Court did not find it appropriate to award additional attorneys' fees above the $821,468.66 already awarded. However, the Court did find that independent of *Brunzell, Beattie, O'Connell*, NRCP 68 and NRS 7.095, $821,468.66 in attorney fees would be properly awarded to Plaintiffs as a sanction for inappropriate conduct by Defendants and Defense Counsel in this matter. Thus, the total award of $821,468.66 in Attorneys' Fees is granted, with these two independent grounds supporting the Court's finding for this award: (1) the analysis under *Brunzell, Beattie, O'Connell*, NRCP 68 and NRS 7.095 and (2) the misconduct of Defendants and their counsel.

THEREFORE, IT IS ORDERED that Plaintiffs' Request for Attorneys' Fees is GRANTED in the amount of Eight Hundred Twenty-One Thousand Four Hundred Sixty-Eight Dollars and Sixty-Six Cents ($821,468.66).

IT IS FURTHER ORDERED that Plaintiffs' Request for Costs and Defendants' Motion to Re-Tax such Costs is CONTINUED to February 11, 2020 at 9:30 a.m., for Supplemental Pleadings to be filed.

IT IS FURTHER ORDERED that the Supplemental Briefing Schedule SET as follows: Plaintiffs' Supplemental Opposition due January 21, 2020 and Defendants' Supplemental Reply due February 3, 2020.

Plaintiffs' Costs and Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs

On November 19, 2019, Plaintiffs filed a Verified Memorandum of Costs and Disbursements in the total amount of $153,118.26. On November 22, 2019, Defendants filed a Motion to Re-Tax and Settle Plaintiffs' Costs. On January 21, 2020 Plaintiffs filed a Supplemental Verified Memorandum of Costs and Disbursements in the total amount of $153,118.26. On January 21, 2020, Plaintiffs filed a Supplemental Opposition to Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs. On February 3, 2020 Defendants filed a Supplemental Reply to Plaintiffs' Opposition to Defendants' Motion to Re-Tax and Settle Plaintiffs' Costs. The matter having come on for hearing on February 11, 2020 at 9:30 a.m., the Court makes the following Findings of Facts and Conclusions of Law:

NRS 18.005(5) states, "Reasonable fees of not more than five expert witnesses in an amount of not more than $1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee."

Plaintiffs' have submitted fees paid to experts as follows:

1.	Michael Hurwitz, M.D. (surgeon)	$ 11,000.00
2.	Justin Willer, M.D. (neurologist)	$ 17,245.00
3.	Alex Barchuck, M.D. (physical medicine and rehabilitaton)	$ 26,120.00
4.	Dawn Cook, R.N. (life care planning)	$ 23,960.03
5.	Alan Stein, M.D. (infectious diseases)	$ 19,710.00

6. Daniel Feingold, M.D. (surgeon) $ 2,000.00

7. Terence Clauretie, Ph.D. (economist) $ 3,500.00

The Court has analyzed the factors in *Frazier v Drake*, 131 Nev. 632 (2015) and has determined that the circumstances surrounding certain of the expert's testimony were necessary to require larger fees than $1,500.00 per expert. The Court is only considering the fees of experts Hurwitz, Willer, Barchuk, Cook, and Stein as NRS 18.005(5) limits recoverable expert fees to five experts. This was a medical malpractice case that took approximately three weeks to try. There were complex medical issues as to both the standard of care, proximate cause and damages that required medical expert review and testimony. Plaintiffs' experts Hurwitz, Willer, Barchuk, and Cook testified at trial. Plaintiffs' infectious disease expert Alan Stein, M.D. from New York was present in Las Vegas prepared to testify. Dr. Stein did not testify at the trial. The opinions of Plaintiffs' experts Hurwitz, Willer, Barchuk, Cook, and Stein aided the jury in deciding the case as each area of medical specialty in that each area of medical specialty was at issue during the trial. Plaintiffs' experts Hurwitz, Willer, Barchuk, Cook, and Stein were not repetitive of each other as they each addressed different medical issues and were of different specialties. The extent and nature of the work performed by the experts was of high quality. The various experts' education and training was significant and extensive. Experts Hurwitz, Willer, Barchuk, and Cook spent time preparing and testifying at trial. Experts Hurwitz, Willer, Barchuk, Cook, and Stein were also deposed in the case and prepared expert reports. The fees charged by these experts are similar to the experts in other malpractice cases in this venue. Dawn Cook was a local expert. Dr. Barchuk traveled from the Bay area. Dr. Willer and Dr. Stein traveled from the New York City area. Dr. Hurwitz traveled from Orange County, California. The fees charged by these experts are comparable to what a local expert would charge.

Pursuant to the factors in *Frazier v. Drake*, 131 Nev. 632, 650–51, 357 P.3d 365, 377–78 (Nev. App. 2015) the Court therefore awards the following expert fees:

Dr. Hurwitz: $ 11,000.00

Dr. Willer: $ 17,245.00

Dr. Barchuk: $ 26,120.00

Dawn Cook: $ 13,960.03

Dr. Stein: $ 1,500.00

Pursuant to the same *Frazier* factors, this Court does not find $19,710.00 for Plaintiffs' Expert Dr. Alan J. Stein is warranted, as Dr. Stein did not testify at trial in this matter and reduces the amount for Dr. Stein to $1,500.00. This Court further does not find that $23,960.03 for Plaintiffs' Expert Dawn Cook is warranted, as Ms. Cook billed for items that can be utilized in other life care plans and incorporated other number from other experts which Plaintiff was already charged for and, thus, not approving the double charging and reduces the amount for Ms. Cook to $13,960.03.

Pursuant to NRCP 68, Plaintiffs' request in the amount of $1,200.00 for the "Day In The Life Video," is not warranted, as Plaintiffs did not utilize this video during the trial in this matter.

As to Plaintiffs' request for costs for deposition testimony, the Court finds the video charge portion of these costs is not warranted, as the video portion of the deposition testimony was not utilized during the trial in this matter and, therefore, reduces said deposition testimony costs by $5,032.02.

Pursuant to *Cadle Co. v. Woods & Erickson, LLP*, 345 P.3d 1049 (2015) and *Bobby Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352 (1998), Plaintiffs' remaining costs are warranted.

THEREFORE, IT IS ORDERED that Plaintiffs' Request for Attorneys' Fees is GRANTED in the amount of Eight Hundred Twenty-One Thousand Four Hundred Sixty-Eight Dollars and Sixty-Six Cents ($821,468.66).

IT IS FURTHER ORDERED that pursuant to NRCP 68(f)(1)(B), Defendants are to pay the applicable interest on the Judgment in the amount of $6,367,805.52 from the date of the Offer of Judgment on June 5, 2019 to entry of the Judgment on November 14, 2019 in the amount of $202,269.96;

IT IS FURTHER ORDERED that Plaintiffs' Request for Costs and Defendants' Motion to Retax Costs are each GRANTED IN PART AND DENIED IN PART.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for Experts Dr. Michael Hurwitz, Dr. Justin Willer, Dr. Alex Barchuk, Dawn Cook, R.N. and Dr. Alan Stein are GRANTED in the total amount of $69,825.03.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for Expert Dr. Alan J. Stein is reduced to $1,500.00.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for Expert Dawn Cook is reduced to $13,960.03.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for the "Day In The Life Video," in the amount of $1,200.00 is DENIED.

IT IS FURTHER ORDERED that Plaintiffs' Costs request for deposition testimony is reduced by $5,032.02.

IT IS FURTHER ORDERED that Plaintiffs' remaining Costs request in the amount of $44,851.21 is GRANTED.

IT IS FURTHER ORDERED that the total amount of Plaintiffs' Cost Award in this matter is $113,186.24.

THEREFORE, IT IS ORDERED that Plaintiffs' Costs are Re-Taxed in the amount of $113,186.24.

IT IS FURTHER ORDERED that interest on Plaintiffs' costs of $113,186.24 will accrue from November 14, 2019 (the date of entry of judgment) at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

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IT IS FURTHER ORDERED that interest on Plaintiffs' award of attorneys' fees of $821,468.66 will accrue from the date of entry of this order at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions, plus 2 percent. The rate is to be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

DATED this 23 day of March, 2020.

JOANNA S. KISHNER
DISTRICT COURT JUDGE

Respectfully Submitted By:

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DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **December 13, 2016**

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

December 13, 2016 8:55 AM Discovery Conference

HEARD BY: Bulla, Bonnie **COURTROOM:** RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **February 06, 2017**

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

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

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

COURT CLERK: Alice Jacobson
Fernanda Kriese
Denise Duron
Cassidy Wagner

RECORDER:

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **August 08, 2018**

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

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

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

COURT CLERK: Vanessa Medina
Sharyne Suehiro
Michaela Tapia
Dauriana Simpson

RECORDER:

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

3/18/19 JURY TRIAL (DEPT 31)

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**December 18, 2018**

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

December 18, 2018 9:00 AM Status Check

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

COURT CLERK: Tena Jolley

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

January 07, 2019 **9:30 AM** **Telephonic Conference**

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

COURT CLERK: Tena Jolley

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

July 16, 2019 **9:00 AM** **Status Check**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**September 05, 2019**

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

September 05, 2019 9:00 AM Status Check

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **September 12, 2019**

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

September 12, 2019 10:15 AM Pre Trial Conference

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

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

HEARD BY: Truman, Erin **COURTROOM:** No Location

COURT CLERK: Jennifer Lott

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **September 26, 2019**

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

September 26, 2019 10:00 AM Motion for Sanctions

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 02, 2019**

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

October 02, 2019 **10:00 AM** **Settlement Conference**

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

COURT CLERK: Kimberly Estala

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

October 07, 2019 **8:30 AM** **All Pending Motions**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **October 08, 2019**

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

October 08, 2019 **9:00 AM** **Calendar Call**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 10, 2019**

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

October 10, 2019 **1:30 PM** **All Pending Motions**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

October 14, 2019 **8:30 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

Mr. Hand and Plaintiffs not present.

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

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

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

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

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

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

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

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

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 15, 2019**

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

October 15, 2019 **1:00 PM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

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

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

October 16, 2019 **9:30 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

Juror consultant Amy Hanegan, present in Court.

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

PROSPECTIVE JURY PANEL PRESENT: Voir Dire commenced further.

Lunch recess until 1:15 p.m.

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

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

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

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

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

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 17, 2019**

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

October 17, 2019 **12:30 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 18, 2019**

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

October 18, 2019 **9:00 AM** **Jury Trial**

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

COURT CLERK: Alice Jacobson

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

JURY PRESENT: Barry Rives sworn and testified.

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

JURY PRESENT: Michael Hurwitz sworn and testified.

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

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

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

Trial CONTINUED 10/21/19.

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

October 21, 2019 **9:00 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

will be revisited.

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

Lunch recess.

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

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

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

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

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

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

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

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 22, 2019**

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

October 22, 2019 **10:30 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

up for the afternoon.

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

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

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

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

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 22, 2019**

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

October 22, 2019 **1:00 PM** **Motion to Strike**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 23, 2019**

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

October 23, 2019 **9:45 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

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

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

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

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

Evening recess. TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **October 23, 2019**

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

October 23, 2019 **1:00 PM** **Motion to Strike**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

- COURT ORDERED, Motion CONTINUED.

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 24, 2019**

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

October 24, 2019 **10:15 AM** **Jury Trial**

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

COURT CLERK: Shelley Boyle

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 28, 2019**

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

October 28, 2019 **8:30 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

Lunch recess.

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

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

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

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

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

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

Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED.

TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 29, 2019**

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

October 29, 2019 **9:00 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

Lunch recess.

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

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

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

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 30, 2019**

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

October 30, 2019 **8:30 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

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

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

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

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**October 31, 2019**

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

October 31, 2019 **8:00 AM** **Jury Trial**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

Lunch recess.

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

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

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

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

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

Evening recess. Plaintiffs' Renewed Motion to Strike CONTINUED.

TRIAL CONTINUES.

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental **COURT MINUTES** **November 01, 2019**

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

November 01, 2019 8:30 AM All Pending Motions

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

COURT CLERK: Denise Husted

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

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

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

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

November 07, 2019 9:30 AM All Pending Motions

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

STATUS CHECK: JUDGMENT

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

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

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

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

SHOW CAUSE HEARING

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

Remaining portion of Plaintiffs' Renewed Motion to Strike CONTINUED.

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**November 13, 2019**

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

November 13, 2019 10:15 AM All Pending Motions

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

SHOW CAUSE HEARING

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

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

November 14, 2019 1:30 PM All Pending Motions

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

- PLAINTIFFS' RENEWED MOTION TO STRIKE

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

ORDER TO SHOW CAUSE

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

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

PLAINTIFFS' MOTION FOR SANCTIONS

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

November 20, 2019 **1:30 PM** **Motion for Sanctions**

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

COURT CLERK: Michaela Tapia

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

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

JOURNAL ENTRIES

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

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

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**January 07, 2020**

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

January 07, 2020 **10:00 AM** **All Pending Motions**

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

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

Doyle, Thomas J.	Attorney
Hand, George F.	Attorney
Jones, Kimball	Attorney

JOURNAL ENTRIES

- PLAINTIFFS' MOTION FOR FEES AND COSTS

Arguments by Mr. Jones and Mr. Doyle. Discussion as to Capana case law and NRCP 68. Court stated findings; and provided analysis under Beattie, Brunzell, and NRS 7.095. Court also noted it will not impose additional sanctions. COURT ORDERED, attorney fees GRANTED in the amount of $821,468.66.

DEFENDANTS BARRY J. RIVES, M.D.'S AND LAPAROSCOPIC SURGERY OF NEVADA, LLC'S MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS

Following arguments by counsel as to costs and Dr. Stein, COURT ORDERED, Motion CONTINUED to February 11, 2020 at 9:30 A.M., for supplemental pleadings to be filed. FURTHER, briefing schedule SET as follows: Plaintiffs' supplemental opposition due January 21, 2020, Defendants' supplemental reply due February 3, 2020.

DISTRICT COURT
CLARK COUNTY, NEVADA

Malpractice - Medical/Dental	**COURT MINUTES**	**February 11, 2020**

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

February 11, 2020 **9:30 AM** **Motion to Retax**

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

COURT CLERK: Michaela Tapia

RECORDER: Sandra Harrell

REPORTER:

PARTIES PRESENT:

Doyle, Thomas J.	Attorney
Hand, George F.	Attorney

JOURNAL ENTRIES

- Following arguments by counsel, COURT ORDERED, motion GRANTED IN PART, DENIED IN PART. Other than Stein and Cook, the motion is GRANTED; the Court finds it is appropriate and meets all the Frasier factors. As to Dr. Stein, COURT ORDERED, Dr. Stein's amount is lowered to $1,500.00. As to Dr. Cook, COURT FURTHER ORDERED, Dr. Cook's amount is reduced to $13,960.03. ADDITIONALLY, the $5,032.02 cost is reduced. COURT FINDS, the remaining costs are appropriately supported and GRANTED. Mr. Hand to provide the net figure to Mr. Doyle.

EXHIBIT(S) LIST

Case No.: A-16-739464

Dept. No.: XXXI

Titina Farris PLAINTIFF,

vs.

Barry Rives DEFENDANTS.

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

Judge: JOANNA S. KISHNER

Court Clerk: Susan Botzenhart

Recorder: SANDRA HARRELL

Counsel for Plaintiff: Kimball Jones Jacob Leavitt, George Hand

Counsel for Defendant: Thomas Doyle

Jury TRIAL BEFORE THE COURT

Plaintiff 'S EXHIBITS (See next page)

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted

TABLE OF CONTENTS – PLAINTIFFS' TRIAL EXHIBITS

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

CASE NO.: A-16-739464-C

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

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

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

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

EXHIBIT INDEX

DEFENDANTS' TRIAL EXHIBITS **CASE NO. A-16-739464-C**

TITINA FARRIS &PATRICK FARRIS **v.** **BARRY RIVES, M.D. and LAPAROSCOPIC SURGERY OF NEVADA, LLC**

PLAINTIFFS' COUNSEL: Kimball Jones
Jacob Leavitt
George Hand

DEFENSE COUNSEL: Thomas Doyle

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

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

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

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

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

EXHIBIT(S) LIST

Case No.: A-16-739464-C

Dept. No.: XXXI

Trial Date: 10/14/19

Judge: JOANNA S. KISHNER

Court Clerk: Susan Botzenhart

Recorder: Sandra Harrell

Titina Farris
PLAINTIFF,

vs.

Barry Rives, M.D.
DEFENDANTS.

Counsel for Plaintiff: Randall Jones, Jacob Leavitt + George Hand

Counsel for Defendant: Thomas Doyle

Jury. **TRIAL BEFORE THE COURT**

Court **'S EXHIBITS**

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

A739464

EXHIBIT(S) LIST

Tina Farris vs. Barry Rives M.D.

page 2

Court 'S EXHIBITS

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

EXHIBIT(S) LIST

Titina farris

VS. Barry Rives, M.D.

Court's 'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
43.	Juror Question	10-30-19	no	10-30-19	
44.	Juror Question	10-31-19	no	10-31-19	
45.	Juror Question	10-31-19	no	10-31-19	
46.	Juror Question	10-31-19	no	10-31-19	

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):

SUPPLEMENTAL AND/OR AMENDED NOTICE OF APPEAL; SUPPLEMENTAL CASE APPEAL STATEMENT; SUPPLEMENTAL NOTICE OF FILING COST BOND; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; JUDGMENT ON VERDICT; NOTICE OF ENTRY OF JUDGMENT; ORDER ON PLAINTIFFS' MOTION FOR FEES AND COSTS AND DEFENDANTS' MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS; NOTICE OF ENTRY OF ORDER ON PLAINTIFFS' MOTION FOR FEES AND COSTS AND DEFENDANTS' MOTION TO RE-TAX AND SETTLE PLAINTIFFS' COSTS; DISTRICT COURT MINUTES; EXHIBITS LIST

TITINA FARRIS; PATRICK FARRIS,

Plaintiff(s),

vs.

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

Defendant(s),

Case No: A-16-739464-C

Dept No: XXXI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 14 day of April 2020.

Steven D. Grierson, Clerk of the Court

Amanda Hampton, Deputy Clerk