

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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

Appellants/Cross-Respondents,  
vs. No.: 80271

Electronically Filed  
Nov 05 2020 05:28 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

TITINA FARRIS and PATRICK  
FARRIS,

Respondents/Cross-Appellants.

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

Appellants,  
vs. No.: 81052

TITINA FARRIS and PATRICK  
FARRIS,

Respondents.

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

**MOTION FOR LEAVE TO FILE VIDEO RECORDING AS PART  
OF RESPONDENTS'/CROSS-APPELLANTS' APPENDIX**

Respondents/Cross-Appellants, Titina Farris and Patrick Farris  
("Plaintiffs"), by and through their counsel of record, respectfully move  
this Honorable Court, to allow the manual filing of Trial Exhibit 10,

which is a video recording of Titina Farris taken by Lowell Pender on April 13, 2015, and which was admitted as evidence at trial in the District Court and will be part of the Respondents/Cross-Appellants' Appendix.<sup>1</sup>

According to NRAP 30(d),

[c]opies of relevant and necessary exhibits shall be clearly identified, and shall be included in the appendix as far as practicable. If the exhibits are too large or otherwise incapable of being reproduced in the appendix, the parties may file a motion requesting the court to direct the district court clerk to transmit the original exhibits. The court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the court's review of the original exhibits is necessary to the determination of the issues.

As stated, Trial Exhibit 10 is a video recording, which is currently in the form of a digital file on a flash drive. The video recording shows Titina Farris' quality of life prior to the July 2015 procedures that gave rise to the claims in this litigation. Titina's quality of life is directly relevant to both the jury's verdict awarding her related damages,<sup>2</sup> as well as the defense's continued factual assertions that her resulting medical

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<sup>1</sup> The Clerk's exhibit list showing Trial Exhibit 10 admitted as evidence is attached hereto as **Exhibit 1**.

<sup>2</sup> The filed special verdict form is attached as **Exhibit 2**.

conditions were all pre-existing. *See, e.g.,* Appellants' Opening Brief at 2–3. Since Trial Exhibit 10 cannot be transmitted to this Court in a traditional appendix, Plaintiffs respectfully request that this Court order the District Court to transmit a copy of Trial Exhibit 10 to this Court pursuant to NRAP 30(d). To the extent that the Court would like a copy of Trial Exhibit 10 in a different format than a digital file on a flash drive to ensure the Court's ability to view the contents, Plaintiffs are willing to cooperate with the Court's order in both the District Court and in this Court. Therefore, Plaintiffs respectfully request that this Court grant their motion for leave to file Trial Exhibit 10 manually.

DATED this 5th day of November, 2020.

CLAGGETT & SYKES LAW FIRM

/s/ Micah S. Echols

Micah S. Echols, Esq.

Nevada Bar No. 8437

4101 Meadows Lane, Suite 100

Las Vegas, Nevada 89107

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

## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **MOTION FOR LEAVE TO FILE VIDEO RECORDING AS PART OF RESPONDENTS' /CROSS-APPELLANTS' APPENDIX** was filed electronically with the Supreme Court of Nevada on the 5th day of November, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kim Mandelbaum  
George Hand  
Robert Eisenberg  
Tara Clark Newberry  
Kimball Jones  
Jacob Leavitt  
Chad Couchot  
Thomas Doyle

I further certify that on this date I served a copy of the following via email:

Aimee Clark Newberry  
810 Durango Drive, Suite 102  
Las Vegas, Nevada 89145  
aclarknewberry@cnlawlv.com

/s/ Anna Gresl  
Anna Gresl, an employee of  
Claggett & Sykes Law Firm

# EXHIBIT 1

# EXHIBIT 1

**EXHIBIT(S) LIST**

Case No.: A-16-739464

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

Dept. No.: **XXXI**

Judge: **JOANNA S. KISHNER**

Court Clerk: Susan Botzenhart

Recorder: **SANDRA HARRELL**

Counsel for Plaintiff: Kimball Jones

Jacob Leavitt, George Hand

Counsel for Defendant: Thomas  
Doyle

Titina Farris PLAINTIFF,

VS.

Barry Rives DEFENDANTS.

## TRIAL BEFORE THE COURT

Plaintiff 'S EXHIBITS (See next page)

[illegible]

**TABLE OF CONTENTS – PLAINTIFFS’ TRIAL EXHIBITS**

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

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

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

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

NO.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ACCEPTED
1.	St. Rose Dominican San Martin Hospital Medical Records and Billing	10-14-19	SKIP	10-14-19
2.	St. Rose Dominican Siena Hospital Billing	→		
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	10-22-19
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 Hamel

DEFENSE COUNSEL: Thomas Doyle

No.	DESCRIPTION	DATE OFFERED	OBJECTION	DATE ADMITTED
A	Portions of medical records from Laparoscopic Surgery of Nevada  Bates: A000001 – A-000042	10-30-19	yes	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		DEFENSE COUNSEL	
C	Medical records from Spring Valley Internal Medicine (Dr. Naomi Chaney).  Bates: C-000001 – C-000111		DEFENSE COUNSEL	
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			

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

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

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

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

# EXHIBIT(S) LIST

Case No.: A-16-739464-C

Trial Date: 10/14/19

Dept. No.: XXXI

Judge: JOANNA S. KISHNER

Titina Farris  
PLAINTIFF,

Court Clerk: Susan Botzenhart

Recorder: Sandra Harrell

Counsel for Plaintiff: Kandall Jones,

vs.

Jacob Leavitt + George Hand

Barry Kives, M.D.  
DEFENDANTS.

Counsel for Defendant: Thomas Doyle

## Jury TRIAL BEFORE THE COURT

Court 'S EXHIBITS

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

# EXHIBIT(S) LIST

A739464

Titina Smith

vs.

Benny King M.D.

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Court

'S EXHIBITS

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

## EXHIBIT(S) LIST

Titina farris

vs. Barry Rives, M.D.

Court's

## 'S EXHIBITS

[illegible]

# 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

# **EXHIBIT 2**

# **EXHIBIT 2**

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

DISTRICT COURT  
 CLARK COUNTY NEVADA

NOV 01 2019

BY, Denise Husted  
**DENISE HUSTED, DEPUTY**

TITINA FARRIS and PATRICK FARRIS  
 Plaintiffs,

CASE NO. A-16-739464-C  
 DEPT. NO.: 31

v.

**SPECIAL VERDICT FORM**

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

Defendants.

A-16-739464-C  
 SVF  
 Special Verdict Form  
 4873587



We the jury in the above-entitled matter, answer the questions submitted to us as follows:

1. Was Dr. Barry Rives negligent in his care and treatment of Titina Farris?

Answer: Yes X No. \_\_\_\_\_

If your answer to Question No. 1 is "Yes," proceed to Question No. 2. If your answer to Question No. 1 is "No," stop here and have the foreperson sign and date this form.

2. Was Dr. Barry Rives' negligence a proximate cause of Titina Farris' injuries and damages?

Answer: Yes X No. \_\_\_\_\_

If your answer to Question No. 2 is "Yes," proceed to Question No. 3, 4 and 5. If your answer to Question No. 2 is "No," stop here and have the foreperson sign and date this form.

3. What are Titina Farris' economic damages:

a. Past medical and related expenses: \$1,063,006.94

b. Present Value of Life Care Plan: \$4,663,473.00

c. Do you believe that the present value of Titina Farris' Life Care Plan should be reduced based on the testimony of defense economist Erik Volk?

Answer: Yes \_\_\_\_\_ No X

If your answer to Question 3c. is "Yes", proceed to

1 Question 3d. If your answer to Question 3c is "No", proceed  
2 to Question 4.

3 d. What percentage between 0% and 30% do you reduce  
4 the present value of Titina Farris' Life Care Plan? \_\_\_\_\_%

5 4. What are Titina Farris' non-economic damages:

6 a. Her past physical and mental pain, suffering, anguish,  
7 disability, and loss of enjoyment of life: \$ 1,571,000

8 b. Her future physical and mental pain, suffering, anguish,  
9 disability, and loss of enjoyment of life: \$ 4,786,000

10 5. What are Patrick Farris' non-economic damages:

11 a. Past loss of companionship, society, comfort,  
12 and consortium: \$ 821,000

13 *Future*  
14 b. ~~Past~~ loss of companionship, society,  
15 comfort, and consortium: \$ 736,000

16 Signed: *CA Racos*  
17 Foreperson

18 Dated: 11-1-19