

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARILEE BROWN, MARILOU BROWN
GREGORY J. BROWN,

Appellants,

vs.

ST. MARY'S REGIONAL MEDICAL CENTER;
TAMI EVANS; PREM REDDY, M.D.;
MARK MCALLISTER, M.D.; TANZEEL
ISLAM, M.D., SRIDEVI CHALLAPALLI, M.D.,

Respondents.

Case No. 81434
Electronically Filed
Dist. Ct. Case No. 2020 02:35 p.m.
CV20-00472 Elizabeth A. Brown
Clerk of Supreme Court

**JOINDER IN MOTION TO DISMISS APPEAL
FOR LACK OF JURISDICTION**

Respondent, MARK MCALLISTER, M.D., through his counsel, LEMONS, GRUNDY & EISENBERG, hereby joins in the Motion to Dismiss Appeal for Lack of Jurisdiction filed July 15, 2020 on behalf of Respondents ST. MARY'S REGIONAL MEDICAL CENTER, TAMMY EVANS, PREM REDDY, M.D., TANZEEL ISLAM, M.D. and SHRIDEVI CHALLAPALLI, M.D. (collectively, "St. Mary's").

MEMORANDUM OF POINTS AND AUTHORITIES

By way of background, Plaintiffs/Appellants filed this medical malpractice action on March 3, 2020, in proper person. The action is based on allegations of medical malpractice/wrongful death related to care and treatment provided to decedent Beverly Morris Brown in December 2018 and February 2019. Plaintiffs' lengthy complaint reflects that their claims against Dr. McAllister – an interventional radiologist – are based solely on the medical treatment he rendered

to plaintiffs' decedent. Their allegation is that the "Interventionist Radiologist's aspiration error should NOT have BEEN DONE ..." *See Complaint (filed 3/3/20), p. 2, lines 25-26; p. 9, ¶10 and p. 12, ¶16.*¹ The Complaint also reveals that plaintiffs' claims, including the wrongful death claim, are attributed to "negligent, malpractice errors caused by defendants." *Complaint, p. 10, ¶8.*

Based on the foregoing allegations, which are at the heart of a medical malpractice/professional negligence claim, a Motion to Dismiss pursuant to NRS 41A.071 was separately filed on behalf of Dr. McAllister on April 3, 2020, after the filing of St. Mary's Motion to Dismiss for Failure to Comply with NRS 41A.071. Opposition and reply memoranda were filed by the parties. On June 8, 2020, the District Court issued an Order Granting Motion to Dismiss Plaintiffs' Complaint for Failure to Comply with NRS 41A.071. The Order ruled that plaintiffs failed to comply with NRS 41A.071's expert witness requirement, thus mandating dismissal. Although the Order did not specifically analyze Dr. McAllister's motion (which was made on the same ground), it concluded by stating that "this case is DISMISSED to include all motions that are pending or have been submitted to this Court." *Order, p. 9. A copy of the Order Granting Motion to Dismiss Plaintiffs' Complaint for Failure to Comply with NRS 41A.071, filed in the District Court on June 8, 2020, is attached hereto as Exhibit 1.* As St. Mary's Motion to Dismiss the Appeal for Lack of Jurisdiction notes, and as reflected in the

¹ Plaintiffs' March 3, 2020 Complaint is attached as Exhibit 2 to St. Mary's Motion to Dismiss Appeal.

District Court's Order, the District Court did not reach the argument regarding plaintiffs' standing. *Id.*

The Order disposes of all parties and all claims, making this action ripe for appeal. *See* NRAP 3A. Nevertheless, this appeal is jurisdictionally deficient for the reason set forth in St. Mary's Motion to Dismiss the Appeal for Lack of Jurisdiction, namely, that the proper person plaintiffs/appellants are legally prohibited from representing any person or entity other than themselves individually before this Court. Accordingly, as a party respondent to this appeal, Dr. McAllister hereby joins in St. Mary's Motion to Dismiss the Appeal for Lack of Jurisdiction, the arguments in which are equally applicable to Respondent Mark McAllister, M.D.

DATED this 31st day of July, 2020


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MARK MCALLISTER, M.D.

CERTIFICATE OF SERVICE

I hereby certify that the within *Joinder in Motion to Dismiss Appeal for Lack of Jurisdiction* was filed electronically with the Nevada Supreme Court on this date. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Michael Prangle

I further certify that the within document mailed to the following:

Richard De Jong
Hall Prangle & Schoonveld, LLC

Marilou Brown
Marilee Brown
Gregory Brown
45 Nives Court
Sparks, NV 89441

Dated: July 31, 2020

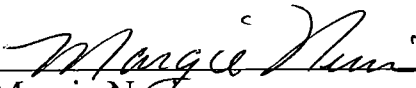

Margie Nevin

EXHIBIT INDEX
to
Joinder in Motion to Dismiss Appeal for Lack of Jurisdiction

Brown, et al.
v.
St. Mary's Regional Medical Center, et al.
Case No. 81434

<u>Exhibit</u>	<u>Description</u>	<u>Page(s)</u>
1	<i>Order Granting Motion to Dismiss Plaintiffs' Complaint for Failure to Comply with NRS 41A.071, filed in the Second Judicial District Court, State of Nevada on June 8, 2020</i>	10

EXHIBIT 1

EXHIBIT 1

3060

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

MARILEE BROWN, MARILOU BROWN,
GREGORY J. BROWN (for Beverly M.
Brown's family),

Plaintiffs,

Case No.: CV20-00422

Dept. No.: 1

vs.

ST. MARY'S REGIONAL MEDICAL
CENTER; TAMI EVANS; PREM REDDY,
M.D.; MARK McALLISTER, M.D.; TANZEEL
ISLAM, M.D.; SRIDEVI CHALLAPALLI,
M.D., and DOES I through X, inclusive; ROE
BUSINESSES I through X, inclusive,

Defendants.

**ORDER GRANTING MOTION TO DISMISS PLAINTIFFS' COMPLAINT
FOR FAILURE TO COMPLY WITH NRS 41A.071**

Currently before the Court is Defendants Saint Mary's Regional Medical Center, Tammy Evans (erroneously named as Tami Evans), and Prem Reddy, M.D.'s (collectively "Defendants Saint Mary's") *Motion to Dismiss Plaintiffs' Complaint for Failure to Comply with NRS 41A.071* ("Motion") filed March 26, 2020. On April 13, 2020, Plaintiffs filed an *Opposition to Defendants' Motion to Dismiss – to Include Amendments/Clarification, et al as Specified in Their Civil Complaint; and Amendment Request Here to Include Additional Plaintiff (Return Service of Summons and Additional Laintiff [sic] Documentation Submitted Separately)* ("Opposition"). On April 20, 2020, Defendants filed a *Reply in Support of Motion to Dismiss* and submitted the Motion to the Court for

1 consideration. On May 15, 2020, Defendants Saint Mary's filed an *Errata to Defendants St. Mary's*
2 *Regional Medical Center, Tammy Evans, and Prem Reddy M.D.'s Reply in Support of Motion to*
3 *Dismiss*. Plaintiffs filed *Plaintiffs' (a) Opposition to Defendant Tammy Evans' (Tiffany Coury) /*
4 *Prem Reddy MD's May 15, 2020 Errata Related to Plaintiffs' May 14, 2020 (& Prior) Default*
5 *Motions Against Defendants Tanzeel Islam and Sridevi Chapallapalli; (b) in Support of Plaintiffs'*
6 *May 6 / 14, 2020 Supplemental & Dismissal Filings Nexused to Defendants' Replies/Errata; (c) With*
7 *Plaintiffs' Notice of Their Request for Submission of all Adjudicated Filings for no Response / Other*
8 *(Separate Filings)* on May 28, 2020.

9 **I. Background**

10 On March 3, 2020, Plaintiffs filed the *Civil Complaint* ("Complaint") in this case which
11 alleges medical negligence / malpractice. *See generally* Compl. On April 13, 2020, Plaintiffs filed
12 an *Amendment to Civil Complaint / Return Service of Summons* ("Amendment to Complaint") which
13 sought to substitute Tiffany Coury for Defendant Tammy Evans and add Mr. Gregory J. Brown as a
14 Plaintiff but did not alter or add to the factual allegations set forth in the Complaint. *See generally*
15 *Am. to Compl.* Plaintiffs allege Beverly Morris Brown ("Ms. Brown") died on March 5, 2019 as a
16 result of the treatment she received in December 2018 and February 2019 from Defendants. Mot. at
17 3:8–12.

18 **II. Relevant Legal Authority**

19 In reviewing a motion to dismiss pursuant to Nevada Rules of Civil Procedure Rule 12(b)(5)
20 for failure to state a claim upon which relief can be granted, the "court must construe the pleadings
21 liberally and accept all factual allegations in the complaint as true . . . [and] draw every fair inference
22 in favor of the non-moving party. 'A complaint will not be dismissed for failure to state a claim unless
23 it appears beyond a doubt that the plaintiff could prove no set of facts which, if accepted by the trier
24 of fact, would entitle him or her to relief.'" *Blackjack Bonding v. City of Las Vegas Mun. Court*, 116
25 Nev. 1213, 1217, 14 P.3d 1275, 1278 (2000) (citing *Simpson v. Mars, Inc.*, 113 Nev. 188, 190, 929
26 P.2d 966, 967 (1997)). As Nevada is a "notice-pleading" jurisdiction, a complaint need only set forth
27 sufficient facts to demonstrate the necessary elements of a claim for relief so that the defending party
28 has "adequate notice of the nature of the claim and relief sought." *Hay v. Hay*, 100 Nev. 196, 198,

1 678 P.2d 672, 674 (1984); see also *Stockmeier v. Nevada Dep't of Corrections*, 124 Nev. 313, 316,
2 183 P.3d 133, 135 (2008) (dismissing a claim, pursuant to NRCP 12(b)(5), is proper where the
3 allegations are insufficient to establish the elements of a claim for relief).

4 NRS 41A.071 provides:

5 If an action for professional negligence is filed in the district court, the district
6 court shall dismiss the action, without prejudice, if the action is filed without an
7 affidavit that:

- 8 1. Supports the allegations contained in the action;
- 9 2. Is submitted by a medical expert who practices or has practiced in an area that
10 is substantially similar to the type of practice engaged in at the time of the
11 alleged professional negligence;
- 12 3. Identifies by name, or describes by conduct, each provider of health care who
13 is alleged to be negligent; and
- 14 4. Sets forth factually a specific act or acts of alleged negligence separately as
15 to each defendant in simple, concise and direct terms.

16 The Nevada Supreme Court has held that pursuant to NRS 41A.071 “a complaint filed without
17 a supporting medical expert affidavit is void ab initio and must be dismissed. Because a void
18 complaint does not legally exist, it cannot be amended . . . and an NRS 41A.071 defect cannot be
19 cured through amendment.” *Washoe Med. Ctr. v. Second Judicial Dist. Court of State of Nev. ex rel.*
20 *Cty. of Washoe*, 122 Nev. 1298, 1301–02, 148 P.3d 790, 792 (2006). The court went on to state that
21 the “shall” in NRS 41A.071 “is mandatory and does not denote judicial discretion.” *Id.* at 1303
22 (citations omitted).

23 NRS 41A.015 defines professional negligence as: “[t]he failure of a provider of health care, in
24 rendering services, to use the reasonable care, skill or knowledge used under similar circumstances
25 by similarly trained and experienced providers of health care.” When a plaintiff’s claim is for injuries
26 resulting from negligent medical treatment, the claim sounds in medical malpractice. *Szymborski v.*
27 *Spring Mountain Treatment Center*, 133 Nev. 638, 642, 403 P.3d 1280, 1284 (2017) (citations
28 omitted). *Szymborski* stands for the proposition that “allegations of breach of duty involving medical
judgment, diagnosis, or treatment indicate that a claim is for medical malpractice.” *Id.* When a
plaintiff’s claim is for injuries resulting from negligent acts that did not affect the medical treatment
of a patient, the claim sounds in ordinary negligence. *Id.* (citations omitted). If the alleged breach of

1 a duty of care set forth in the complaint is one that was based upon medical art or science, training or
2 expertise, then it is a claim for medical malpractice. *Id.* (citations omitted). By extension, if the jury
3 can only evaluate the plaintiff's claims after presentation of the standards of care by a medical expert,
4 then it is a medical malpractice case. *Id.* (citing, *Humboldt Gen. Hosp. v. Sixth Judicial Dist. Court*,
5 132 Nev. 544, 550–51, 376 P3d 167, 172 (2016)). If, on the other hand, the reasonableness of the
6 health care provider's actions can be evaluated by jurors on the basis of their common knowledge and
7 experience, then the claim is likely based in ordinary negligence. *Id.* 133 Nev. at 642 (citations
8 omitted). Given the subtle distinction, a single set of circumstances may sound in both ordinary
9 negligence and medical malpractice, and an inartful complaint will likely use terms that invoke both
10 causes of action. *Id.* (citing, *Mayo v. United States*, 785 F.Supp.2d 692, 695 (M.D. Tenn. 2011)). It
11 is the nature of the grievance rather than the form of the pleadings that determines the character of
12 the action. *Id.* (citing, *State Farm Mut. Auto. Ins. Co. v. Wharton*, 88 Nev. 183, 186, 495 P.2d 359,
13 361 (1972)).

14 **III. Analysis**

15 Defendants Saint Mary's argue all of Plaintiffs' factual claims arise out of medical care,
16 treatment, and alleged breaches of the medical providers' duties of care and therefore sound in
17 medical malpractice. Mot. at 4:3–5; 5:19–22. Defendants Saint Mary's maintain all of Plaintiffs'
18 allegations fall within the definition of professional negligence pursuant to NRS 41A.015. *Id.* at
19 5:26–6:4. Defendants Saint Mary's contend Plaintiffs failed to satisfy the affidavit requirement
20 pursuant to NRS 41A.071 and the Complaint must be dismissed. *Id.* at 6:5–7:10.

21 Plaintiffs request a hearing to clarify this matter. Opp. at 1:15. Plaintiffs contend their claims
22 in the Complaint rely upon other statutes. *Id.* at 2:13–14. Plaintiffs assert the Complaint can be tolled
23 pursuant to NRS 41A.097(2) and that should be considered as a mitigating factor and for this Court
24 to maintain all the issues until Plaintiffs can obtain a medical expert affidavit because such a dismissal
25 would be prejudicial to Plaintiffs as they may not be able to re-file any medical issues due to running
26 of the statute of limitations. *Id.* at 2:15–3:5; 5:3–6. Plaintiffs assert it is within this Court's discretion
27 whether to dismiss the action. *Id.* at 3:5–6. Plaintiffs insist the word "shall" in NRS 41A.071 is not
28 mandatory and argue cases should be decided upon the merits rather than dismissed on procedural

1 grounds. *Id.* at 3:11–4:7. Plaintiffs claim because pleadings of a pro per litigant are held to a less
2 stringent standard, the Complaint should not be dismissed. *Id.* at 4:8–9. Plaintiffs insist there are
3 factual allegations in the Complaint that are non-medical including: (1) failure to follow protocol; (2)
4 lack of communication; (3) age/other discrimination / jeopardy to the elderly; (4) negligence
5 jeopardizing patients/others safety related to infectious persons; and (5) failure to expedite medical
6 documentation that jeopardized this patient’s case. *Id.* at 4:9–14; 5:6–12. Plaintiffs state that in the
7 Complaint they requested the ability to amend the Complaint, and they should be allowed to do so in
8 this instance without having all of their non-medical claims dismissed as that would cause significant
9 hardship. *Id.* at 5:12–16.

10 Plaintiffs then claim they themselves are sufficiently familiar with this case to prepare a joint
11 affidavit that illustrates their education, experience, and caretaking of patients that will suffice until
12 Plaintiffs can obtain a proper medical expert affidavit if required. *Id.* at 6:11–24. Plaintiffs assert it
13 is difficult to obtain written or testimonial support from medical experts because they fear reprisal,
14 damage to their reputation, or denial of hospital rights in speaking out. *Id.* at 8:9–16. Plaintiffs allege
15 Defendants Saint Mary’s failed to perform an investigation into the facts surrounding Ms. Brown’s
16 death and instead engaged in a coverup. *Id.* at 9:16–20. Plaintiffs maintain a jury can evaluate
17 Plaintiffs claims despite any procedural shortcomings, especially those based on the nonmedical
18 functions. *Id.* at 11:14–19. Plaintiffs state that it is the substance rather than the form of the claim
19 that must be examined. *Id.* at 16:21–17:1. Plaintiffs request this Court allow them to amend the
20 Complaint to: (1) add age/other discrimination violations; (2) add Gregory J. Brown as a Plaintiff; (3)
21 clarify, correct, and amend the Complaint; and (4) time to secure a medical expert affidavit if
22 necessary.¹ *Id.* at 20:13–22.

23 In the Reply, Defendants Saint Mary’s maintain the application of NRS 41A.071 focuses on
24 whether a defendant is a provider of health care and whether the allegations in a complaint
25 contemplate a failure in rendering of services by that provider. Reply at 5:3–7. Defendants Saint
26 Mary’s argue that all of the allegations are in relation to medical care and treatment provided to Ms.

27 ¹ The Amendment to the Complaint adding/substituting parties was filed concurrently with the Opposition on
28 April 13, 2020 and does not allege any claims for discrimination or request additional time to secure a medical
expert affidavit.

1 Brown at Saint Mary's Regional Medical Center, a licensed hospital and the respective physicians
2 who practice there. *Id.* at 5:8–18. Defendants Saint Mary's maintain a plaintiff cannot avoid
3 application of NRS 41A.071 through artful pleading and emphasize Plaintiffs' claims arise out of
4 breaches of duties involving medical judgment, diagnosis, or treatment. *Id.* at 5:19–6:2. Defendants
5 Saint Mary's point out that the Nevada Supreme Court has held that "allegations of negligent
6 maintenance of medical records are properly characterized as medical malpractice." *Id.* at 6:5–8;
7 *Jones v. Wilkin*, 111 Nev. 1335, 1338, 905 P.2d 166, 168 (1995). Defendants Saint Mary's argue
8 Plaintiffs seek to impose liability for treatment Ms. Brown received for a foot wound, an atrial
9 fibrillation, an improper amputation, low oxygen levels, and a pulmonary injury. Reply at 6:14–16.
10 Defendants Saint Mary's state these allegations clearly implicate professional negligence and the
11 Complaint repeatedly describes these claims as one for medical malpractice. *Id.* at 6:14–19.
12 Defendants Saint Mary's also contend Plaintiffs lack standing to bring this suit as self-represented
13 litigants on behalf of their mother's estate. *Id.* at 7:1–8:2.

14 Having reviewed the pleadings on file and having reviewed the facts and legal support set
15 forth therein, this Court finds good cause to grant the Motion. For NRS 41A.071 to apply to this
16 action, it must be an action for professional negligence. Plaintiffs allege "Defendants did commit
17 Medical Negligent actions to include Medicinal, Treatment, Judgment, protocol, Etc [sic] errors,
18 against the Plaintiffs which led to the Wrongful Suffering and Death of their mother" Compl. at
19 14:26–27. This language or substantially similar language is repeated three times in this section of
20 the Complaint. *Id.* at 14:22–15:13. Further, all of the allegations contained in the Complaint directly
21 involve medical judgment, diagnosis, or treatment that Ms. Brown allegedly received or should have
22 received, which the Nevada Supreme Court has held means the claim sounds in professional
23 negligence. *Szymborski*, 133 Nev. at 642.

24 This Court has reviewed the allegations contained in the Complaint. Contrary to Plaintiffs'
25 claim that there are factual allegations in the Complaint that are non-medical (to include failure to
26 follow protocol, lack of communication, age/other discrimination/jeopardy to the elderly, negligence
27 jeopardizing patients/others safety related to infectious persons, and failure to expedite medical
28 documentation that jeopardized this patient's case) each of these allegations is inextricably tied to a

1 claim for professional negligence and Plaintiffs cannot now claim otherwise for the sole purpose of
2 remedying a violation of NRS 41A.071.

3 To evaluate whether the medical professionals in this case followed established protocol
4 necessarily requires expert testimony to explain the standard of care. *Id.* The protocol Plaintiffs claim
5 was not followed related to the amount and type of medication administered to Ms. Brown which is
6 rooted in professional negligence, as the Complaint contends that the physicians prescribed the
7 medication. Compl. at 3:22–27.

8 As to the alleged “lack of communication,” the only usage of the word “communication” in
9 the Complaint deals with “the communication between providers and patients/patients’ families so as
10 to ensure the improvement of quality care, healthcare Improvement and less Medical Medicinal,
11 Judgment mistakes/error that lead to the deteriorating medical condition, suffering and preventable
12 death of patients as what happened in this case” Compl. at 16:26–17:2. The failure of
13 communication alleged is related directly to quality of care, the deteriorating medical condition,
14 suffering and preventable death of Ms. Brown and thus is rooted in professional negligence.
15 *Szymborski*, 133 Nev. at 642. In some instances, the failure to communicate is co-extensive with the
16 failure to follow procedure, and in other instances it overlaps with the failure to provide medical
17 documentation. Mot. at 2:20–22; 9:16–10:2. Regardless, these do not form an independent basis for
18 an ordinary negligence claim such that an expert affidavit would not be required in this case.

19 Further, the Complaint does not set forth a claim for age discrimination and there is no factual
20 explanation or legal support for the allegation of “jeopardy to the elderly.” Any negligence claim
21 derived from exposure to an infected patient as alleged by Plaintiffs is purported to be the direct result
22 of the medical decisions made for and treatment provided to Ms. Brown and as such falls squarely
23 within the scope of a professional negligence claim. *Szymborski*, 133 Nev. at 642. As for the failure
24 to expedite the medical documentation in this case, the Nevada Supreme Court has held “allegations
25 of negligent maintenance of medical records are properly characterized as medical malpractice.”
26 *Jones*, 111 Nev. at 1338. Failure to expedite the medical documents is pertinent to the diagnosis and
27 treatment of Ms. Brown and therefore does not state a claim for ordinary negligence. *Szymborski*,
28 133 Nev. at 642.

Moreover, and importantly, there are no separate claims for relief pled in the Complaint related to the purported non-medical claims. The Complaint sets forth a “Statement of Facts Main Medical Malpractice Information Summary,” a “Background History,” a “Primary Background Related to ISSUE AT HAND- Patient Beverly M. Brown,” “ISSUE AT HAND FOR MEDICAL NEGLIGENCE/MALPRACTICE- History and Details,” “MAIN MEDICAL NEGLIGENCE SUMMARY INFORMATION” and “MAIN MEDICAL MALPRACTICE INFORMATION (REITERATED).” With the exception of the “Background” sections, each of these headings references “Medical Malpractice” or “Medical Negligence” or both. There are no allegations in the Complaint related to ordinary negligence. By way of example, a reading of the section labeled “MAIN MEDICAL NEGLIGENCE SUMMARY INFORMATION” reveals allegations that pertain to Ms. Brown that relate to lack of care on behalf of treating physicians to include failure to look at Ms. Brown’s “extensive medical information provided by the family,” an “error in a pulmonary procedure by the Interventional Radiologist as they had been attempting to remove fluid from this patient’s lungs” and removal of “critical life saving medication” “needed to prevent arterial blockages” that “ultimately led to Beverly M. Brown’s blockages, stroke, heart stress/CHF UNCONTROLLABLE AFIB, returned infectious Pneumonia and Death at Renown hospital.” *Id.* at 9:5-10; 10:18-20. To the extent Plaintiffs are now contending that claims for ordinary negligence were pled, they have failed to set forth the necessary elements of those claims and/or factual allegations sufficient to support those claims denying Defendants “adequate notice of the nature of the claim and relief sought” in violation of *Hay*.

Accordingly, this Court finds that Plaintiffs’ Complaint (as originally filed and as amended to add or substitute parties) states a claim or claims for professional negligence and as such NRS 41A.071 applies. Plaintiffs admit that the Complaint does not contain a medical expert affidavit. Opp. at 3:3–6. As noted above, the Nevada Supreme Court has held that “a complaint filed without a supporting medical expert affidavit is void ab initio and must be dismissed. Because a void complaint does not legally exist, it cannot be amended . . . and an NRS 41A.071 defect cannot be cured through amendment” as well as pointing out that the word “shall” in NRS 41A.071 “is mandatory and does not denote judicial discretion.” *Washoe Med. Ctr.*, 122 Nev. at 1301–02, 1303.

1 The Nevada Supreme Court has acknowledged that NRS 41A.071 applies to all medical malpractice
2 actions even if the person is representing themselves. *Anderson v. Sierra Surgery Hosp.*, Case No.
3 58753, 2012 WL 2308670, *1 (2012).

4 As such, this Court finds that dismissal of Plaintiffs' Complaint is proper pursuant to NRS
5 41A.071. This Court does not reach Defendants Saint Mary's argument regarding Plaintiffs' standing
6 because it has found the Complaint to be void ab initio pursuant to NRS 41A.071.

7 Based upon the foregoing and good cause appearing,

8 IT IS HEREBY ORDERED that Defendants Saint Mary's *Motion to Dismiss Plaintiffs'*
9 *Complaint for Failure to Comply with NRS 41A.071* is GRANTED and this case is DISMISSED to
10 include all motions that are pending or have been submitted to this Court.

11 IT IS SO ORDERED.

12 DATED this 8th day of June, 2020.



KATHLEEN DRAKULICH
DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 CASE NO. CV20-00422

3 I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of
4 the STATE OF NEVADA, COUNTY OF WASHOE; that on the 8th day of June, 2020, I
5 electronically filed the **ORDER GRANTING MOTION TO DISMISS PLAINTIFFS'**
6 **COMPLAINT FOR FAILURE TO COMPLY WITH NRS 41A.071** with the Clerk of the
7 Court by using the ECF system.

8 I further certify that I transmitted a true and correct copy of the foregoing document by the
9 method(s) noted below:

10 **Electronically filed with the Clerk of the Court by using the ECF system which will send a notice**
11 **of electronic filing to the following:**

12 EDWARD LEMONS, ESQ. for MARK MCALLISTER

13 RICHARD DE JONG, ESQ. for TAMI EVANS, PREM REDDY, M.D.,
14 ST. MARY'S REGIONAL MEDICAL CENTER, et al.

15 ALICE CAMPOS MERCADO, ESQ for MARK MCALLISTER

16 **Deposited to the Second Judicial District Court mailing system in a sealed envelope for postage**
17 **and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

18 MARILEE BROWN
19 45 NIVES COURT
20 SPARKS, NV 89441

21 MARILOU BROWN
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24 GREGORY J BROWN
25 45 NIVES COURT
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27 
28 Department I Judicial Assistant