

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARELL L. MOORE and CHARLENE
A. MOORE, individually and as
husband and wife;;

Appellants,

v.

JASON LASRY, M.D., individually;
FREMONT EMERGENCY SERVICES
(MANDAVIA), LTD.; TERRY
BARTMUS, RN, APRN; and DOES I
through X, inclusive; and ROE
CORPORATIONS I through V,
inclusive;

Respondents.

Supreme Court No. 81659

District Court No. 19-17-766429-0

Electronically Filed
Aug 31 2020 06:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE APPEAL STATEMENT

Plaintiffs, DARELL L. MOORE and CHARLENE A. MOORE, by and through their attorneys of record, MATTHEW W. HOFFMANN, ESQ., of the law firm of ATKINSON WATKINS & HOFFMANN, LLP., and E. BREEN ARNTZ, ESQ., hereby submit their Case Appeal Statement pursuant to NRAP 3(f) as follows:

1. Name of appellant filing this case appeal statement:

Darell L. Moore

Charlene A. Moore

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

Honorable Judge Kathleen Delaney, Eighth Judicial District Court,

department 25.

3. Identify each appellant and the name and address of counsel for each appellant:

Darell L. Moore

c/o Matthew W. Hoffmann, Esq.

ATKINSON WATKINS & HOFFMANN, LLP

10789 W. Twain Ave., Ste. 100

Las Vegas, NV 89135

c/o E. Breen Arntz, Esq.

5545 Mountain Vista, Ste. E.

Las Vegas, NV 89120

Charlene A. Moore

c/o Matthew W. Hoffmann, Esq.

ATKINSON WATKINS & HOFFMANN, LLP

10789 W. Twain Ave., Ste. 100

Las Vegas, NV 89135

c/o E. Breen Arntz, Esq.

5545 Mountain Vista, Ste. E

Las Vegas, NV 89120

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- 4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent, (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):**

Jason Lasry, M.D.

c/o Robert C. McBride, Esq.

Chelsea Hueth, Esq.

MCBRIDE HALL

8329 W. Sunset Road, Suite 260

Las Vegas, NV 89113

Fremont Emergency Services (Mandavia), LTD.

c/o Keith A. Weaver, Esq.

Alissa Bestick, Esq.

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Blvd., Suite 600

Las Vegas, NV. 89118

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Terry Bartmus, RN, APRN

c/o Keith A. Weaver, Esq.

Alissa Bestick, Esq.

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Blvd., Suite 600

Las Vegas, NV. 89118

- 5. Indicate whether any attorney identified above in response to questions 3 or 4 is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):**

All attorneys listed in response to questions 3 and 4 are licensed to practice law in Nevada.

- 6. Indicate whether appellant was represented by appointed or retained counsel in the district court:**

Appellants were represented by retained counsel in the district court.

- 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

Appellants are being represented by retained counsel on appeal.

- 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court granting such**

leave:

No.

- 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):**

Complaint filed on December 18, 2017.

- 10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:**

This is a medical malpractice action resulting from an above-the-knee amputation that occurred on or about December 25, 2016. On that date, Appellant Darell presented to the emergency department at Dignity Health dba St. Rose Hospital- San Martin (hereafter, “St. Rose”) with a one-day history of pain in the calf area of his left leg.

He was noted to have a prior history of deep vein thrombosis and a prior femoral and/or popliteal artery bypass surgery on December 11, 2014. The previous procedure of putting a bypass and graft was performed at the same hospital as the visit on December 25, 2016. An ultrasound was ordered to rule out DVT in the left leg, which was negative, but which also showed an occlusion of the left femoral-popliteal arterial bypass graft. No further treatment was recommended in response to the left arterial occlusion and the differential diagnosis did not include arterial

occlusion despite Appellant Darell's history of a prior femoral-popliteal bypass and despite the fact he reported pain increased with walking. Appellant Darell was discharged with aftercare instructions for musculoskeletal pain as well as hypertension.

On December 28, 2016, Appellant Darell returned to the emergency department at St. Rose. At that time, Appellant Darell reported persistent and increasing left leg pain. An arterial duplex ultrasound of the left leg was performed and once again showed occlusion of the left leg graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedi arteries. Appellant Darell was noted to have an ischemic lower extremity and started on anticoagulants including heparin and tissue plasminogen activator.

Appellant Darell was eventually admitted to the Intensive Care Unit in critical condition. On January 2, 2017, Appellant Darell underwent an above-the-knee amputation of his left lower extremity under the care of Holman Chan, M.D. He was discharged on January 5, 2017.

Appellants are appealing the Order on Plaintiffs' Motion for New Trial filed in district court. The relief granted by the district court was to Respondents by denying Appellants' Motion for New Trial.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and the Supreme Court docket number of the prior proceeding:

No.

12. Indicate whether this appeal involves child custody or visitation:

No.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Yes.

DATED this 31st day of August, 2019.

/s/ E. Breen Arntz, Esq.

MATTHEW W. HOFFMANN, ESQ.

Nevada Bar No. 9061

ATKINSON WATKINS & HOFFMANN, LLP

10789 W. Twain Avenue, Suite 100

Las Vegas, NV 89135

Ph: 702-562-6000

Attorneys for Appellants

BREEN ARNTZ, ESQ.

Nevada Bar No. 3853

5545 Mountain Vista, Ste. E

Las Vegas, NV 89120

Ph: 702-595-4800

Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ATKINSON WATKINS & HOFFMANN, LLP and that on the 31st day of August, 2020, I caused to be served via EFlex, the Court's e-filing/eservice system, a true and correct copy of the document described herein:

Document Served: **CASE APPEAL STATEMENT**

Person(s) Served:

Robert C. McBride, Esq.
Nevada Bar No. 7082
Chelsea Hueth, Esq.
Nevada Bar No. 10904
MCBRIDE HALL
8329 W. Sunset Road, Suite 260
Las Vegas, NV 89113
Attorneys for Respondent Jason Lasry, M.D.

Keith A. Weaver, Esq.
Nevada Bar No. 10271
Alissa Bestick, Esq.
Nevada Bar No. 14979C
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV. 89118
*Attorneys for Respondents Fremont Emergency Services (Mandavia), Ltd.
And Terry Bartmus, A.P.R.N.*

E. Breen Arntz, Esq.
Nevada Bar No. 3853
5545 Mountain Vista, Ste. E
Las Vegas, NV 89120
Ph: 702-384-1616
Co-Counsel for Appellants

/s/ Erika Jimenez

An Employee of Atkinson Watkins & Hoffmann, LLP