

**FILED**

**APR 23 2020**

*Elizabeth A. Brown*  
CLERK OF COURT

Electronically Filed  
Apr 30 2020 01:11 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Lee E Szymborski  
4605 Black Stallion Avenue  
North Las Vegas, Nevada 89031  
(702) 726-9956

DISTRICT COURT  
CLARK COUNTY, NEVADA

LEE E. SZYMBORSKI  
PLAINTIFF IN PROPER PERSON  
-VS-  
SPRING MOUNTAIN TREATMENT  
CENTER DOES 1-XX, INCLUSIVE  
AND ROE CORPORATIONS 1-XX,  
INCLUSIVE  
DEFENDANT(S)

CASE NO. A-700178-C

DEPARTMENT 8

**NOTICE OF APPEAL**

Notice is hereby given that LEE E. SZYMBORSKI, PLAINTIFF IN PROPER  
PERSON, hereby appeals to THE SUPREME COURT OF NEVADA from  
The NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT SPRING  
MOUNTAIN TREATMENT CENTER'S MOTION FOR SUMMARY  
JUDGEMENT PER NRCP 56 DATED 30<sup>th</sup> Day of March 2020.

**RECEIVED**

**APR 23 2020**

CLERK OF THE COURT

*Lee E. Szymborski*  
\_\_\_\_\_  
LEE E. SZYMBORSKI

PLEADING TITLE - 1

Lee Szyborski  
4605 Black Stallion  
North Las Vegas, NV

CERTIFIED MAIL



7019 2280 0001 9138 1938

NEVADA District Court Clerk

Regional Justice Center

3rd Floor

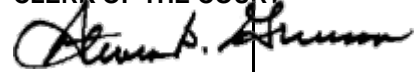
200 Lewis Avenue

Las Vegas NV, 89101-6301

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
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1 ASTA

2  
3  
4  
5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**

9 LEE E. SZYMBORSKI,

10 Plaintiff(s),

11 vs.

12 SPRING MOUNTAIN TREATMENT CENTER,

13 Defendant(s),  
14

Case No: A-14-700178-C

Dept No: VIII

15  
16 **CASE APPEAL STATEMENT**  
17

18 1. Appellant(s): Lee E. Szymborski

19 2. Judge: Trevor Atkin

20 3. Appellant(s): Lee E. Szymborski

21 Counsel:

22 Lee E. Szymborski  
23 4605 Black Stallion Ave.  
24 North Las Vegas, NV 89031

25 4. Respondent (s): Spring Mountain Treatment Center

26 Counsel:

27 Tyson J. Dobbs, Esq.  
28 1140 N. Town Center Dr., Ste. 350  
Las Vegas, NV 89144

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes  
4 Permission Granted: N/A

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, May 20, 2014  
8 \*\*Expires 1 year from date filed Expired

9 Appellant Filed Application to Proceed in Forma Pauperis: Yes,  
10 Date Application(s) filed: December 11, 2019

11 9. Date Commenced in District Court: May 2, 2014

12 10. Brief Description of the Nature of the Action: NEGLIGENCE - Medical/Dental

13 Type of Judgment or Order Being Appealed: Summary Judgment

14 11. Previous Appeal: Yes

15 Supreme Court Docket Number(s): 66398, 80243, 80362

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 30 day of April 2020.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

21 Heather Ungermann, Deputy Clerk  
22 200 Lewis Ave  
23 PO Box 551601  
24 Las Vegas, Nevada 89155-1601  
25 (702) 671-0512

26 cc: Lee E. Szymborski  
27  
28

## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. A-14-700178-C****Lee Szymborski, Plaintiff(s)****vs.****Spring Mountain Treatment Center, Defendant(s)**§  
§  
§  
§  
§  
§  
§  
§Location: **Department 8**Judicial Officer: **Atkin, Trevor**Filed on: **05/02/2014**

Case Number History:

Cross-Reference Case **A700178**

Number:

Supreme Court No.: **66398****80243****80362****CASE INFORMATION****Statistical Closures**

04/07/2020 Summary Judgment

07/23/2014 Motion to Dismiss by the Defendant(s)

Case Type: **Negligence - Other Negligence**Case  
Status: **04/07/2020 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number A-14-700178-C  
Court Department 8  
Date Assigned 09/30/2019  
Judicial Officer Atkin, Trevor**PARTY INFORMATION****Plaintiff****Szymborski, Lee E***Lead Attorneys***Pro Se**

702-726-9956(H)

**Defendant****Dubroca, Darryl**Removed: 07/23/2014  
Dismissed**Dubroca, Darryl**Removed: 05/16/2018  
Dismissed**Spring Mountain Treatment Center**Removed: 07/23/2014  
Dismissed**Spring Mountain Treatment Center****Dobbs, Tyson J.***Retained*

702-889-6400(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

05/02/2014



Complaint

Filed By: Plaintiff Szymborski, Lee E

05/02/2014



Application to Proceed in Forma Pauperis

Filed By: Plaintiff Szymborski, Lee E

05/20/2014

















Order to Proceed In Forma Pauperis

Granted for: Plaintiff Szymborski, Lee E

*Order Granting in Part and Denying in Party Petitioner's Application to Proceed In Forma Pauperis*

# CASE SUMMARY

CASE NO. A-14-700178-C

05/22/2014	 Initial Appearance Fee Disclosure Filed By: Defendant Spring Mountain Treatment Center <i>Spring Mountain Treatment Center's Initial Appearance Fee Disclosure</i>
05/22/2014	 Motion to Dismiss Filed By: Defendant Spring Mountain Treatment Center <i>Defendant Spring Mountain Treatment Center's Motion to Dismiss</i>
05/29/2014	 Initial Appearance Fee Disclosure Filed By: Defendant Dubroca, Darryl <i>Defendant Darryl Dubroca's Initial Appearance Fee Disclosure</i>
05/29/2014	 Joinder Filed By: Defendant Dubroca, Darryl <i>Defendant Darryl Dubroca's Joinder to Spring Mountain Treatment Center's Motion to Dismiss</i>
06/13/2014	 Opposition to Motion Filed By: Plaintiff Szymborski, Lee E <i>Opposition to Motion to Dismiss Complaint</i>
06/24/2014	 Media Request and Order <i>Media Request and Order Allowing Camera Access to Court Proceedings</i>
06/25/2014	 Certificate of Service Filed by: Defendant Spring Mountain Treatment Center <i>Certificate of Service via Hand Delivery of Defendant Spring Mountain Treatment Center and Darryl Dubroca's Motion to Bar Media Presence During Pretrial Hearings on an Order Shortening Time</i>
06/27/2014	 Order Setting Medical/Dental Malpractice Status Check <i>Order Setting Medical/Dental Malpractice Status Check and Trial Setting Conference</i>
07/17/2014	 Order Scheduling Status Check
07/23/2014	 Order to Statistically Close Case <i>Civil Order to Statistically Close Case</i>
07/23/2014	 Order of Dismissal Filed By: Defendant Spring Mountain Treatment Center <i>Order on Defendant Spring Mountain Treatment Center and Darryl Dubroca's Motion to Dismiss</i>
07/30/2014	 Notice of Entry of Order Filed By: Defendant Spring Mountain Treatment Center <i>Notice of Entry of Order on Defendant Spring Mountain Treatment Center and Darryl Dubroca's Motion to Dismiss</i>
08/07/2014	 Motion to Reconsider Filed By: Plaintiff Szymborski, Lee E <i>Motion for Reconsideration, or in the Alternative, Motion to Set Aside</i>
08/07/2014	 Notice of Motion

# CASE SUMMARY

CASE NO. A-14-700178-C

	Filed By: Plaintiff Szymborski, Lee E <i>Notice of Motion on Motion for Reconsideration, or in the Alternative, Motion to Set Aside</i>
08/25/2014	 Certificate of Mailing Filed By: Plaintiff Szymborski, Lee E
08/25/2014	 Notice of Appeal Filed By: Plaintiff Szymborski, Lee E
08/25/2014	 Opposition to Motion Filed By: Defendant Spring Mountain Treatment Center <i>Spring Mountain Treatment Center and Darryl Dubroca's Opposition to Plaintiff's Motion for Reconsideration or in the Alternative, Motion to Set Aside</i>
08/28/2014	 Case Appeal Statement Filed By: Plaintiff Szymborski, Lee E
09/17/2014	 Addendum Filed By: Plaintiff Szymborski, Lee E
09/17/2014	 Certificate of Mailing Filed By: Plaintiff Szymborski, Lee E
09/23/2014	 Order Denying Motion <i>Order Denying Plaintiff's Motion for Reconsideration, or in the Alternative, Motion to Set Aside</i>
03/24/2015	 Request Filed by: Plaintiff Szymborski, Lee E <i>Request for Transcript(s) of Proceedings</i>
03/25/2015	 Statement of Legal Aid Representation and Fee Waiver For: Plaintiff Szymborski, Lee E <i>Statement of Legal Aid Representation</i>
04/13/2015	 Transcript of Proceedings <i>Transcript of Proceedings: Defendant Spring Mountain Treatment Center's Motion to Dismiss Darryl Dubroca's Joinder to Spring Mountain Treatment Center's Motion to Dismiss June 24, 2014</i>
04/13/2015	 Transcript of Proceedings <i>Transcript of Proceedings: Defendant Spring Mountain Treatment Center's Motion to Dismiss; Darryl Dubroca's Joinder to Spring Mountain Treatment Center's Motion to Dismiss -- 6-24-14</i>
11/27/2017	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed in Part, Reversed in Part and Remand</i>
12/13/2017	 Notice of Hearing <i>Notice of Hearing</i>
01/29/2018	 Notice of Appearance <i>Notice Of Appearance Of Counsel</i>

# CASE SUMMARY

CASE NO. A-14-700178-C

01/31/2018	 Motion to Dismiss Filed By: Defendant Spring Mountain Treatment Center; Defendant Dubroca, Darryl <i>Defendants' Motion to Dismiss</i>
02/01/2018	 Certificate of Service Filed by: Defendant Spring Mountain Treatment Center; Defendant Dubroca, Darryl <i>Certificate of Service of Defendants' Motion to Dismiss</i>
02/22/2018	 Opposition to Motion <i>Plaintiff's Opposition to Defendant's Motion to Dismiss</i>
02/27/2018	 Reply to Opposition Filed by: Defendant Spring Mountain Treatment Center <i>Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss</i>
05/16/2018	 Order Filed By: Defendant Spring Mountain Treatment Center; Defendant Dubroca, Darryl <i>Order Granting In Part and Denying In Part Defendants' Motion to Dismiss</i>
05/17/2018	 Notice of Entry Filed By: Defendant Spring Mountain Treatment Center <i>Notice of Entry of Order</i>
05/21/2018	 Amended Complaint <i>Amended Complaint</i>
05/31/2018	 Second Amended Complaint <i>(6/5/18 Withdrawn) Second Amended Complaint</i>
06/05/2018	 Notice of Withdrawal <i>NOTICE OF WITHDRAWAL OF SECOND AMENDED COMPLAINT</i>
06/26/2018	 Stipulation and Order <i>Stipulation and Order Granting The Second Amended Complaint To Be filed</i>
07/03/2018	 Notice of Entry of Order Filed By: Plaintiff Szymborski, Lee E <i>Notice of Entry of Order</i>
07/03/2018	 Second Amended Complaint Filed By: Plaintiff Szymborski, Lee E <i>Second Amended Complaint</i>
07/18/2018	 Motion to Dismiss Filed By: Defendant Spring Mountain Treatment Center <i>Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint</i>
08/10/2018	 Opposition to Motion to Dismiss <i>Plaintiff's Opposition To Defendant's Motion To Dismiss Plaintiff's Second Amended Complaint</i>
08/14/2018	 Reply to Opposition



**CASE SUMMARY**

**CASE NO. A-14-700178-C**

Filed by: Defendant Spring Mountain Treatment Center  
*Defendant Spring Mountain Treatment Center's Reply to Plaintiff's Opposition to Motion to Dismiss Plaintiff's Second Amended Complaint*

08/24/2018



Media Request and Order

*Media Request And Order Allowing Camera Access To Court Proceedings*

10/01/2018



Order

*Order Granting in Part and Denying in Part Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint*

10/03/2018



Notice of Entry

Filed By: Defendant Spring Mountain Treatment Center  
*Notice of Entry of Order*

10/08/2018



Third Amended Complaint

*Third Amended Complaint*

10/22/2018



Answer to Amended Complaint

Filed By: Defendant Spring Mountain Treatment Center  
*Defendants Spring Mountain Treatment Center's Answer to Plaintiff's Third Amended Complaint*

12/12/2018



Appointment of Arbitrator

*Appointment of Arbitrator*

12/21/2018



Notice of Early Arbitration Conference

Filed By: Arbitrator Peterson, Jessica K., ESQ  
*Notice of Early Arbitration Conference*

01/03/2019



Arbitration Discovery Order

Filed By: Arbitrator Peterson, Jessica K., ESQ  
*Arbitration Discovery Order*

05/14/2019



Motion to Compel

Filed By: Defendant Spring Mountain Treatment Center  
*Defendant Spring Mountain Treatment Center's Motion to Compel Discovery and For Sanctions*

05/17/2019



Arbitration Discovery Order

Filed By: Arbitrator Peterson, Jessica K., ESQ  
*Amended Arbitration Discovery Order and Order Regarding Plaintiff's Motion to Compel*

05/17/2019



Notice to Appear for Arbitration Hearing

Filed by: Arbitrator Peterson, Jessica K., ESQ  
*Amended Notice to Appear for Arbitration Hearing*

05/28/2019



Request for Exemption From Arbitration

Filed by: Plaintiff Szymborski, Lee E  
*Plaintiff's Request for Exemption from Arbitration*

06/04/2019






Opposition to Request for Exemption

Filed by: Defendant Spring Mountain Treatment Center  
*Defendant Spring Mountain Treatment Center's Opposition to Request From Exemption from*

# CASE SUMMARY

CASE NO. A-14-700178-C

## Arbitration

06/10/2019	 Reply to Opposition to Request for Exemption Filed by: Plaintiff Szymborski, Lee E <i>Reply to Opposition to Request for Exemption</i>
06/13/2019	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption - GRANTED</i>
06/14/2019	 Arbitrators Bill for Fees and Costs Filed By: Arbitrator Peterson, Jessica K., ESQ <i>Arbitrator's Bill for Fees and Costs</i>
07/03/2019	 Notice Filed By: Plaintiff Szymborski, Lee E <i>Notice of Early Case Conference</i>
07/23/2019	 Joint Case Conference Report Filed By: Plaintiff Szymborski, Lee E <i>Joint Case Conference Report</i>
07/24/2019	 Mandatory Rule 16 Conference Order <i>Mandatory Rule 16 Pre-Trial Scheduling Conference Order</i>
08/02/2019	 Memorandum of Costs and Disbursements Filed By: Defendant Spring Mountain Treatment Center <i>Defendant Spring Mountain Treatment Center's Verified Memorandum of Costs and Disbursements</i>
08/13/2019	 Demand for Jury Trial Filed By: Plaintiff Szymborski, Lee E <i>Demand for Jury Trial</i>
08/14/2019	 Scheduling and Trial Order <i>Scheduling Order and Order Setting Civil Non-Jury Trial, Pre-Trial/Trial Setting Conference, and Calendar Call/Final Pre-Trial Conference</i>
08/14/2019	 Motion to Withdraw As Counsel Filed By: Plaintiff Szymborski, Lee E <i>Motion to Withdraw as Attorney of Record</i>
08/14/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/15/2019	 Scheduling and Trial Order <i>Amended Scheduling Order and Order Setting Civil Non-Jury Trial, Pre-Trial/Trial Setting Conference, and Calendar Call/Final Pre-Trial Conference</i>
08/26/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/28/2019	 Opposition <i>Defendant Spring Mountain Treatment Center, LLC'S Limited Opposition to Plaintiff's Motion to Withdraw as Counsel</i>

# CASE SUMMARY

CASE NO. A-14-700178-C

09/03/2019	 Opposition to Motion Filed By: Plaintiff Szymborski, Lee E <i>Plaintiff's Limited Opposition to 'Plaintiff's Motion to Withdraw as Counsel'</i>
09/03/2019	 Certificate of Service Filed by: Plaintiff Szymborski, Lee E <i>Certificate of Service</i>
09/05/2019	 Notice of Hearing <i>Notice of Resetting of Hearing</i>
09/19/2019	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
09/23/2019	 Motion Filed By: Plaintiff Szymborski, Lee E <i>Motion to Reset Trial to a Jury Trial</i>
09/23/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/23/2019	 Opposition to Motion Filed By: Plaintiff Szymborski, Lee E <i>Limited Opposition to Motion to Withdraw as Attorney</i>
09/23/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/30/2019	Administrative Reassignment - Judicial Officer Change <i>From Vacant DC8 to Judge Trevor L. Atkin</i>
09/30/2019	 Order Filed By: Plaintiff Szymborski, Lee E <i>Order Granting Motion to Withdraw as Attorney of Record</i>
10/02/2019	 Notice of Change of Address <i>Notice of Change of Address</i>
10/03/2019	 Notice of Entry of Order Filed By: Plaintiff Szymborski, Lee E <i>Notice of Entry of Order</i>
10/03/2019	 Opposition to Motion Filed By: Defendant Spring Mountain Treatment Center <i>Defendant Spring Mountain Treatment Center, LLC's Opposition to Plaintiff's Motion to Reset Trial to a Jury Trial</i>
10/09/2019	 Motion to Stay <i>Motion To Stay Discovery</i>
10/09/2019	 Certificate of Service Filed by: Plaintiff Szymborski, Lee E

# CASE SUMMARY















CASE NO. A-14-700178-C

## Certificate of Service

10/18/2019	 Reply to Opposition Filed by: Plaintiff Szymborski, Lee E <i>Response to Opposition Motion to Reset Trial to a Jury Trial</i>
10/18/2019	 Certificate of Service Filed by: Plaintiff Szymborski, Lee E <i>Certificate of Service</i>
10/28/2019	 Opposition Filed By: Defendant Spring Mountain Treatment Center <i>Defendant Spring mountain Treatment Center, LLC'S Opposition to Plaintiff's Motion to Stay Discovery</i>
11/19/2019	 Order Denying Motion <i>Order Denying Plaintiff's Motion to Reset Trial to a Jury Trial</i>
11/19/2019	 Order Denying Motion <i>Order Denying Plaintiff's Motion to Stay Discovery</i>
11/19/2019	 Notice of Entry of Order <i>Notice of Entry of Order Denying Plaintiff's Motion to Reset Trial to a Jury Trial</i>
11/19/2019	 Notice of Entry of Order <i>Notice of Entry of Order Denying Plaintiff's Motion to Stay Discovery</i>
12/11/2019	 Notice of Appeal <i>Notice of Appeal</i>
12/11/2019	 Certificate of Service Filed by: Plaintiff Szymborski, Lee E <i>Certificate of Service</i>
12/11/2019	 Notice of Entry Filed By: Plaintiff Szymborski, Lee E <i>Notice of Entry of Order Denying Plaintiff's Motion to Reset Trial to a Jury Trial</i>
12/11/2019	 Application to Proceed in Forma Pauperis Filed By: Plaintiff Szymborski, Lee E <i>Application to Proceed in Forma Pauperis</i>
12/11/2019	 Notice of Appeal Filed By: Plaintiff Szymborski, Lee E <i>Notice of Appeal</i>
12/11/2019	 Notice of Entry <i>Notice of Entry of Order Denying Plaintiff's Motion to Stay Discovery</i>
12/11/2019	 Certificate of Service Filed by: Plaintiff Szymborski, Lee E <i>Certificate of Service</i>








# CASE SUMMARY

CASE NO. A-14-700178-C

12/11/2019	 Application to Proceed in Forma Pauperis
12/16/2019	 Case Appeal Statement Filed By: Plaintiff Szymborski, Lee E <i>Case Appeal Statement</i>
12/23/2019	 Order to Proceed In Forma Pauperis Granted for: Plaintiff Szymborski, Lee E <i>Order to Proceed In Forma Pauperis</i>
12/30/2019	 Motion Filed By: Plaintiff Szymborski, Lee E <i>Notice of Emergency Motion for Stay of District Court Proceedings</i>
12/30/2019	 Affidavit of Service Filed By: Plaintiff Szymborski, Lee E <i>Affidavit of Service</i>
12/30/2019	 Request Filed by: Plaintiff Szymborski, Lee E <i>Request for All Transcripts Motion to Stay Discovery</i>
12/30/2019	 Motion Filed By: Plaintiff Szymborski, Lee E <i>Motion to Reset Trial to Jury Trial Demand for A Jury Trial</i>
01/03/2020	 Case Appeal Statement Filed By: Plaintiff Szymborski, Lee E <i>Case Appeal Statement</i>
02/05/2020	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
02/07/2020	 Motion for Summary Judgment Filed By: Defendant Spring Mountain Treatment Center <i>Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56</i>
02/07/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/07/2020	 Motion for Summary Judgment Filed By: Defendant Spring Mountain Treatment Center <i>Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56</i>
02/07/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/24/2020	 Motion in Limine <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 1 to Preclude Plaintiff from Offering Testimony at the Time of Trial</i>

# CASE SUMMARY





CASE NO. A-14-700178-C

02/24/2020	 Motion in Limine <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 2 to Preclude Plaintiff from Offering any New Damages for Calculations Not Set Forth in NRCP 16.1 Disclosures</i>
02/24/2020	 Motion in Limine <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 3 to Strike and Preclude Plaintiff from Claiming Personal Injury Damages</i>
02/24/2020	 Motion in Limine <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 4 to Preclude Plaintiff from Eliciting Evidence or Testimony Regarding Sean Szyborski's Medical Treatment at Spring Mountain Treatment Center</i>
02/25/2020	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
02/25/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/25/2020	 Opposition and Countermotion Filed By: Plaintiff Szyborski, Lee E <i>Opposition To Defendant Spring Mountain Treatment Center's Motion For Summary Judgment Per NRCP 56; And Countermotion For Summary Judgment Against Defendant</i>
02/25/2020	 Certificate of Service Filed by: Plaintiff Szyborski, Lee E <i>Certificate of Service</i>
03/03/2020	 Reply to Opposition <i>Defendant Spring Mountain Treatment Center, LLC's Reply to Plaintiff's Opposition to Defendants Motion for Summary Judgment Per NRCP 56 and Opposition to Plaintiff's Countermotion for Summary Judgment Against Defendant</i>
03/05/2020	 Notice of Non Opposition Filed By: Defendant Spring Mountain Treatment Center <i>DEFENDANT SPRING MOUNTAIN TREATMENT CENTER, LLC S NOTICE OF NON-OPPOSITION TO ITS MOTION FOR SUMMARY JUDGMENT AS TO CAUSATION PER NRCP 56</i>
03/06/2020	 Opposition Filed By: Plaintiff Szyborski, Lee E <i>Opposition to Defendant Spring Mountain Treatment Center's Four (4) Motion in Limine's Seeking to Prevent Plaintiff from Setting Forth his Case</i>
03/06/2020	 Certificate of Service Filed by: Plaintiff Szyborski, Lee E <i>Certificate of Service</i>
03/27/2020	 Order Granting Summary Judgment <i>Order Granting Defendant Spring Mountain Treatment Center's Motion for Summary Judgment</i>
03/27/2020	 Order Granting Motion <i>(Duplicate) Order Granting Defendant Spring Mountain Treatment Center's Motion for</i>

# CASE SUMMARY

CASE NO. A-14-700178-C

*Summary Judgment Per NRCP 56*

03/30/2020	 Notice of Entry Filed By: Defendant Spring Mountain Treatment Center <i>Notice of Entry of Order Granting Defendant Spring Mountain Treatment Centers Motion For Summary Judgment NRCP 56</i>
04/07/2020	 Order Granting Motion Filed By: Defendant Spring Mountain Treatment Center <i>(Duplicate) Order Granting Motion for Summary Judgment</i>
04/23/2020	 Notice of Appeal Filed By: Plaintiff Szymborski, Lee E <i>Notice of Appeal</i>
04/30/2020	 Case Appeal Statement Filed By: Plaintiff Szymborski, Lee E <i>Case Appeal Statement</i>
<b><u>DISPOSITIONS</u></b>	
07/23/2014	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Kishner, Joanna S.) Debtors: Lee E Szymborski (Plaintiff) Creditors: Spring Mountain Treatment Center (Defendant), Darryl Dubroca (Defendant) Judgment: 07/23/2014, Docketed: 07/30/2014
05/16/2018	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Kishner, Joanna S.) Debtors: Lee E Szymborski (Plaintiff) Creditors: Darryl Dubroca (Defendant) Judgment: 05/16/2018, Docketed: 05/16/2018
05/16/2018	<b>Order of Dismissal Without Prejudice</b> (Judicial Officer: Kishner, Joanna S.) Debtors: Lee E Szymborski (Plaintiff) Creditors: Spring Mountain Treatment Center (Defendant) Judgment: 05/16/2018, Docketed: 05/16/2018 Comment: Certain Claim
05/16/2018	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Kishner, Joanna S.) Debtors: Lee E Szymborski (Plaintiff) Creditors: Spring Mountain Treatment Center (Defendant) Judgment: 05/16/2018, Docketed: 05/16/2018 Comment: Certain Claim
10/01/2018	<b>Order of Dismissal</b> (Judicial Officer: Kishner, Joanna S.) Debtors: Lee E Szymborski (Plaintiff) Creditors: Spring Mountain Treatment Center (Defendant) Judgment: 10/01/2018, Docketed: 10/02/2018 Comment: Certain Claims
02/05/2020	<b>Clerk's Certificate</b> (Judicial Officer: Atkin, Trevor) Debtors: Lee E Szymborski (Plaintiff) Creditors: Spring Mountain Treatment Center (Defendant) Judgment: 02/05/2020, Docketed: 02/07/2020 Comment: Supreme Court No. 80243 Appeal Dismissed
02/25/2020	<b>Clerk's Certificate</b> (Judicial Officer: Atkin, Trevor) Debtors: Lee E Szymborski (Plaintiff) Creditors: Spring Mountain Treatment Center (Defendant) Judgment: 02/25/2020, Docketed: 02/25/2020 Comment: Supreme Court No 80362 Appeal Dismissed

# CASE SUMMARY


CASE NO. A-14-700178-C

03/27/2020 **Summary Judgment** (Judicial Officer: Atkin, Trevor)  
Debtors: Lee E Szymborski (Plaintiff)  
Creditors: Spring Mountain Treatment Center (Defendant)  
Judgment: 03/27/2020, Docketed: 03/30/2020

## HEARINGS


06/24/2014 **Motion to Dismiss** (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)  
*Defendant Spring Mountain Treatment Center's Motion to Dismiss*  
Granted;


06/24/2014 **Joinder** (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)  
*Darryl Dubroca's Joinder to Spring Mountain Treatment Center's Motion to Dismiss*  
Granted;

06/24/2014  **All Pending Motions** (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.)  
Matter Heard;  
Journal Entry Details:  
*DEFENDANT SPRING MOUNTAIN TREATMENT CENTER'S MOTION TO DISMISS...DARRYL DUBROCA'S JOINDER TO SPRING MOUNTAIN TREATMENT CENTER'S MOTION TO DISMISS Mr. Doyle states he was not served with opposition, happened to notice opposition online late yesterday. Court noted to Mr. Szymborski documents must be properly served. Mr. Doyle argued medical malpractice claim, no affidavit. Mr. Szymborski argued this is an action of negligence, has nothing to do with medical malpractice. Further arguments by Mr. Szymborski. Court stated its findings and ORDERED, Defendant Spring Mountain Treatment Center's Motion to Dismiss and the Joinder thereto are GRANTED; both Spring Mountain Treatment Center and Darryl Dubroca are Dismissed. Mr. Doyle to prepare the order, circulating to Plaintiff. Matter SET for Status Check regarding receipt of proposed order. 7/11/14 STATUS CHECK: ORDER (CHAMBERS) ;*

07/11/2014 **CANCELED Status Check** (3:00 AM) (Judicial Officer: Kishner, Joanna S.)  
*Vacated - per Judge*  
*Status Check: Order 6/24/14*

08/12/2014 **CANCELED Status Check: Medical/Dental Malpractice** (1:00 PM) (Judicial Officer: Wiese, Jerry A.)  
*Vacated - Case Closed*

09/12/2014  **Motion For Reconsideration** (3:00 AM) (Judicial Officer: Kishner, Joanna S.)  
**09/12/2014, 09/19/2014**  
Events: 08/07/2014 Notice of Motion  
*Plaintiff's Motion for Reconsideration, or in the Alternative, Motion to Set Aside*  
Continued;  
Denied;  
Journal Entry Details:  
*Court NOTED a Decision and Order has been filed, denying the motion.;*  
Continued;  
Denied;

02/03/2015  **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. Judicial Executive Assistant, Tatyana Ristic, advised this should be an inactive case, yet the Department closed it. COURT ORDERED, case status to be changed to INACTIVE.;*

08/01/2016  **Status Check: Medical/Dental Malpractice** (8:30 AM) (Judicial Officer: Wiese, Jerry A.)  
Matter Heard;  
Journal Entry Details:



# CASE SUMMARY

CASE NO. A-14-700178-C

*The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Judicial Executive Assistant, Tatyana Ristic advised this case is on appeal. COURT ORDERED, case REOPENED and status to be changed to INACTIVE.;*

01/11/2018



**Hearing (9:00 AM)** (Judicial Officer: Kishner, Joanna S.)

Matter Heard;

Journal Entry Details:

*Mr. Bisson appeared on behalf of Mr. Szymborski and stated he just spoke with Mr. Callister and was informed they were coming in on the case. Court did not see a Notice of Appearance. Mr. Bisson stated they have not officially filed the notice; however, it was discussed last night that he attend today s hearing. Mr. Dobbs had no objection. Upon Court s inquiry, Mr. Szymborski requested that counsel speak on his behalf even though a Notice of Appearance had not been filed. Court advised it has a waiver from both sides. COURT ORDERED, case REOPENED, effective today. Colloquy regarding scheduling. Mr. Dobbs indicated the professional negligence claim was dismissed. Mr. Callister, Esq., appeared later in the hearing and Court explained what occurred in the proceeding. Court advised due to the negligence claims being dismissed this was not a medical malpractice case which means counsel need to file a Joint Case Conference Report (JCCR) to get a scheduling order. Court noted this was a 2014 case. Mr. Dobbs stated this was a 12(b)(5) motion initially and they need to answer. COURT ORDERED, answer/response due within twenty (20) days and then parties can proceed in the ordinary course. ;*

03/06/2018



**Motion to Dismiss (9:30 AM)** (Judicial Officer: Kishner, Joanna S.)

*Defendants' Motion to Dismiss*

Granted in Part; Defendant's Motion to Dismiss

Journal Entry Details:

*After the Court's consideration of the papers submitted by counsel in connection with this matter, and, having heard the oral arguments presented by both Mr. Dobbs and Mr. Callister, COURT stated its FINDINGS and ORDERED Defendants' Motion to Dismiss GRANTED IN PART WITH PREJUDICE and DENIED IN PART WITHOUT PREJUDICE. As to Darryl Dubroca, Defendants' Motion to Dismiss is GRANTED WITH PREJUDICE. As to Spring Mountain Treatment Center, Defendants' Motion to Dismiss plaintiff's First Claim for Negligence is GRANTED WITH LEAVE TO AMEND; Second Claim for Professional Negligence and Third Claim for Malpractice is not before this Court because it was already the subject of a Motion to Dismiss and then it was granted by the Nevada Supreme Court; the Third Claim for Gross Negligence and Negligence Per Se and Fourth Claim for Negligent Hiring, Supervision and Training are GRANTED WITH LEAVE TO AMEND. Additionally, as to Defendant's Motion to Dismiss Plaintiff's Claim for Punitive Damages is GRANTED WITHOUT PREJUDICE. Mr. Dobbs to prepare the Order, to include the date the Amended Pleading is DUE thirty (30) days from Notice of Entry of Order, and circulate it to counsel pursuant to EDCR 7.21.;*

08/21/2018



**Motion to Dismiss (9:30 AM)** (Judicial Officer: Kishner, Joanna S.)

*Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint*

Granted;

Journal Entry Details:

*Court noted it received a Media Request late yesterday and inquired if there was any objection by the parties. There being no objection, Order SIGNED IN OPEN COURT. The Court then addressed Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint, stating its inclination and allowed argument by counsel. Following arguments by Mr. Dobbs and Mr. Callister, COURT ORDERED, Motion GRANTED IN PART and DENIED IN PART; GRANTED as to Punitive Damages and Negligent Hiring; DENIED as to Negligence; and GRANTED WITH LEAVE TO AMEND as to Negligence Per Se, Negligent Supervision and Negligent Training. Amended pleading DUE three weeks from Notice of Entry of Order. Mr. Dobbs to prepare the Order in accordance with EDCR 7.21.;*

08/06/2019



**Mandatory Rule 16 Conference (10:30 AM)** (Judicial Officer: Kishner, Joanna S.)

## MINUTES

Matter Heard;

Journal Entry Details:

*Court addressed the Joint Case Conference Report filed July 23, 2019. Court gave a friendly reminder to the parties about courtesy copies of pleadings being required to be provided to the*

# CASE SUMMARY

CASE NO. A-14-700178-C

*Court. Court noted the parties had decided to exempt this matter from arbitration proceedings, and this case was supposed to be tried long ago. Discussions as to status of medical releases, and whether having a settlement conference done in this matter would be appropriate. Estimate was 4-5 days for a bench trial. Court adopted the proposed discovery deadlines provided in the Joint Case Conference Report. COURT ORDERED, bench trial date SET on the Court's trial stack in April, 2020. New trial order and scheduling order to issue from Chambers. FURTHER, Motions in limine are due February 24, 2020. Matter SET for status check. 1/16/20 9:00 A.M. STATUS CHECK: TRIAL READINESS 3/19/20 10:15 A.M. PRE-TRIAL CONFERENCE 4/14/20 9:00 A.M. CALENDAR CALL 4/20/20 9:00 A.M. BENCH TRIAL;*

## SCHEDULED HEARINGS

**CANCELED Status Check: Trial Readiness** (04/16/2020 at 9:00 AM) (Judicial Officer: Kishner, Joanna S.)

*Vacated - per Judge*

**CANCELED Pre Trial Conference** (04/21/2020 at 8:30 AM) (Judicial Officer: Kishner, Joanna S.)

*Vacated - per Judge*

**CANCELED Calendar Call** (05/18/2020 at 8:30 AM) (Judicial Officer: Kishner, Joanna S.)

*Vacated - per Judge*

*Calendar Call (Bench Trial Setting On or After 06/12/2020)*

**CANCELED Bench Trial** (05/26/2020 at 9:00 AM) (Judicial Officer: Kishner, Joanna S.)

*Vacated - per Judge*

*Bench Trial (Setting On or After 06/12/2020)*

09/04/2019



**Minute Order** (3:00 AM) (Judicial Officer: Kishner, Joanna S.)

Minute Order - No Hearing Held;

Journal Entry Details:

*On August 26, 2019, a document entitled, "Motion to Reset Trial to a Jury Trial" was filed by Plaintiff, Lee Edward Szymborski in proper person. As the Plaintiff is represented by counsel Matthew Callister Esq., Plaintiff, pursuant to the rules, cannot file pleadings on his own behalf. Thus, the document is a rogue pleading. Therefore, the Motion to Reset Trial to a Jury Trial, filed on August 26, 2019, is hereby STRICKEN from the record and the hearing scheduled for September 26, 2019, at 9:00 a.m. is hereby VACATED. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk Susan Botzenhart, to all parties registered for Odyssey File & Serve. sb CLERK'S NOTE: A copy of the above Minute Order was forwarded to Records, for purposes of striking the Motion to Reset Trial to a Jury Trial filed August 26, 2019. sb;*

09/12/2019

**CANCELED Arbitration Hearing** (7:00 AM)

*Vacated - per Order*

09/17/2019



**Motion to Withdraw as Counsel** (9:00 AM) (Judicial Officer: Kishner, Joanna S.)

*Motion to Withdraw as Attorney of Record (for Plaintiff)*

Granted;

Journal Entry Details:

*Court provided the upcoming dates scheduled in this matter; and explained the administrative issues. Statements by Mr. Szymborski. There being no opposition by defense counsel, and there having been good cause shown, COURT ORDERED, Motion GRANTED. Mr. Callister to submit a proposed order to the Court. Mr. Dobbs waived the signing of the proposed order.;*

09/18/2019



**Minute Order** (3:00 AM) (Judicial Officer: Kishner, Joanna S.)

*Minute Order Re: Recusal*



Minute Order - No Hearing Held;

Journal Entry Details:

*Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A) of the Nevada Code of Judicial Conduct, in order to avoid the appearance of impartiality as the Court could be viewed to have information relating to the circumstances of the matter or one of the parties. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures. CLERK'S NOTE: This Minute Order was electronically served to all parties registered for Odyssey File & Serve. A copy of the above Minute Order was forwarded to District Court Clerk's Office Master Calendar, for purposes of reassignment. sb;*

# CASE SUMMARY

CASE NO. A-14-700178-C

09/20/2019	<p><b>CANCELED Motion to Withdraw as Counsel</b> (3:00 AM) (Judicial Officer: Kishner, Joanna S.)  <i>Vacated - Superseding Order</i>  <i>Motion to Withdraw as Attorney of Record</i></p>
09/26/2019	<p><b>CANCELED Motion to Continue Trial</b> (9:00 AM) (Judicial Officer: Kishner, Joanna S.)  <i>Vacated - Inappropriate Documents Filed</i>  <i>Motion to Reset Trial to A Jury Trial</i></p>
11/05/2019	<p> <b>Motion</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Plaintiff's Motion to Reset Trial to a Jury Trial</i>            Denied; Plaintiff's Motion to Reset Trial to a Jury Trial            Journal Entry Details:  <i>Following arguments, COURT FINDS motion is untimely and previously ruled on 9/16/19 for same motion under Rule 38(d). COURT ORDERED, Plaintiff's Motion to Reset Trial to a Jury Trial is DENIED. Colloquy. COURT ORDERED, Bench Trial RESET for an additional 90 days to allow Plaintiff sufficient time to prepare for trial, regardless of self-representation or if Plaintiff retains counsel to represent Plaintiff at trial. COURT FINDS Bench Trial to be set on or after 4/16/20 9:00 a.m. Status Check: Trial Readiness 4/21/20 8:30 a.m. Pretrial Conference 5/18/20 8:30 a.m. Calendar Call (Bench Trial Setting On or After 06/12/2020) 5/26/20 9:00 a.m. Bench Trial (On or After 06/12/2020);</i></p>
11/05/2019	<p><b>CANCELED Opposition</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Vacated - On in Error</i>  <i>Plaintiff's Limited Opposition to Motion to Withdraw as Attorney</i></p>
11/12/2019	<p> <b>Motion to Stay</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Plaintiff's Motion to Stay Discovery</i></p> <p><b>MINUTES</b>            Denied; Plaintiff's Motion to Stay Discovery            Journal Entry Details:  <i>Court STATED its understanding is Plaintiff needs counsel. Mr. Szyzborski stated yes and that he needed time to review the Nevada Rules of Procedure. Mr. Szyzborski advised he is mentally and physically disabled and has to depend on a companion. Mr. Szyzborski requested 90 days so that he would not be prejudiced as this is a meritorious case. Ms. Buys advised they would not normally object to a stay when counsel has withdrawn, but this case has been going on since 2014. This was filed as a pro se complaint, it has gone up to the Supreme Court, sent back down, and gone to arbitration and throughout the entire time plaintiff, through plaintiff's counsel, has been delaying this matter while defense has diligently been trying to move it forward. There were late exemptions to remove it from arbitration, failure to do discovery during arbitration, and now plaintiff is claiming unrelated pre-dating disabilities are excluding him from engaging in litigation. Court NOTED this matter is set for a bench trial on April 20, 2020. The Court is not going to grant a stay of discovery, but will grant 60 days for the plaintiff to get ready. Statements by Mr. Szyzborski and a request for a status check. COURT ORDERED, Trial date VACATED and RESET. COURT FURTHER ORDERED, Status Check: Trial Readiness, Pretrial Conference, and Calendar Call dates SET. Mr. Szyzborski requested the minutes be mailed to him and verified his address and e-mail. 4/16/20 9:00 AM STATUS CHECK: TRIAL READINESS 4/21/20 8:30 AM PRETRIAL CONFERENCE 5/18/20 8:30 AM CALENDAR CALL 5/26/20 9:00 AM BENCH TRIAL CLERK'S NOTE: The above minute order has been distributed to: Lee E. Szyzborski 4605 Black Stallion Avenue North Las Vegas, Nevada 89031 leeandassociates1@outlook.com CLERK'S NOTE: Minutes prepared by Michele Tucker, Courtroom Clerk after review of JAVS. /mlt ;</i></p> <p><b>SCHEDULED HEARINGS</b>  <b>CANCELED Status Check: Trial Readiness</b> (04/16/2020 at 9:00 AM) (Judicial Officer: Kishner, Joanna S.)  <i>Vacated - per Judge</i>  <b>CANCELED Pre Trial Conference</b> (04/21/2020 at 8:30 AM) (Judicial Officer: Kishner, Joanna S.)  <i>Vacated - per Judge</i>  <b>CANCELED Calendar Call</b> (05/18/2020 at 8:30 AM) (Judicial Officer: Kishner, Joanna S.)</p>

# CASE SUMMARY

CASE NO. A-14-700178-C

	<p><i>Vacated - per Judge</i>  <i>Calendar Call (Bench Trial Setting On or After 06/12/2020)</i>  <b>CANCELED Bench Trial</b> (05/26/2020 at 9:00 AM) (Judicial Officer: Kishner, Joanna S.)  <i>Vacated - per Judge</i>  <i>Bench Trial (Setting On or After 06/12/2020)</i></p>
03/10/2020	<p><b>Motion for Summary Judgment</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56</i>            Granted; Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56</p>
03/10/2020	<p><b>Motion for Summary Judgment</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56</i>            Granted; Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56</p>
03/10/2020	<p><b>Opposition and Countermotion</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Opposition to Defendant Spring Mountain Treatment Center's Motion for Summary Judgment Per NRCP 56; and Countermotion for Summary Judgment Against Defendant</i>            Denied; Opposition to Defendant Spring Mountain Treatment Center's Motion for Summary Judgment Per NRCP 56; and Countermotion for Summary Judgment Against Defendant</p>
03/10/2020	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)            Matter Heard;            Journal Entry Details:  <i>Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56 ... Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56 Court notes late opposition will be considered by the Court. Argument by parties. Colloquy regarding service issue to Plaintiff. Court deems Plaintiff's admissions admitted. COURT FINDS good cause shown based upon the facts and ORDERED, Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56 is GRANTED. FURTHER ORDERED, Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56 is GRANTED. Defense to prepare the Findings of Fact, Conclusions of Law and order to include the admissions as well as the duty of care, submit to Court for consideration and distribute a filed copy to all parties involved in this matter.;</i></p>
03/31/2020	<p><b>CANCELED Motion in Limine</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Vacated - per Judge</i>  <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 1 to Preclude Plaintiff from Offering Testimony at the Time of Trial</i></p>
03/31/2020	<p><b>CANCELED Motion in Limine</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Vacated - per Judge</i>  <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 2 to Preclude Plaintiff from Offering any New Damages for Calculations Not Set Forth in NRCP 16.1 Disclosures</i></p>
03/31/2020	<p><b>CANCELED Motion in Limine</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Vacated - per Judge</i>  <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 3 to Strike and Preclude Plaintiff from Claiming Personal Injury Damages</i></p>
03/31/2020	<p><b>CANCELED Motion in Limine</b> (9:00 AM) (Judicial Officer: Atkin, Trevor)  <i>Vacated - per Judge</i>  <i>Defendant Spring Mountain Treatment Center, LLC's Motion in Limine No. 4 to Preclude Plaintiff from Eliciting Evidence or Testimony Regarding Sean Szyborski's Medical Treatment at Spring Mountain Treatment Center</i></p>
04/16/2020	<p><b>CANCELED Status Check: Trial Readiness</b> (9:00 AM) (Judicial Officer: Kishner, Joanna S.)</p>

## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. A-14-700178-C**

	<i>Vacated - per Judge</i>	
04/21/2020	<b>CANCELED Pre Trial Conference</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated - per Judge</i>	
05/18/2020	<b>CANCELED Calendar Call</b> (8:30 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated - per Judge</i> <i>Calendar Call (Bench Trial Setting On or After 06/12/2020)</i>	
05/26/2020	<b>CANCELED Bench Trial</b> (9:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Vacated - per Judge</i> <i>Bench Trial (Setting On or After 06/12/2020)</i>	

**DATE****FINANCIAL INFORMATION**

<b>Defendant</b> Dubroca, Darryl	
Total Charges	223.00
Total Payments and Credits	223.00
<b>Balance Due as of 4/30/2020</b>	<b>0.00</b>
<b>Defendant</b> Spring Mountain Treatment Center	
Total Charges	223.00
Total Payments and Credits	223.00
<b>Balance Due as of 4/30/2020</b>	<b>0.00</b>
<b>Defendant</b> Spring Mountain Treatment Center	
Total Charges	400.00
Total Payments and Credits	400.00
<b>Balance Due as of 4/30/2020</b>	<b>0.00</b>
<b>Plaintiff</b> Szymborski, Lee E	
Total Charges	271.50
Total Payments and Credits	271.50
<b>Balance Due as of 4/30/2020</b>	<b>0.00</b>



CIVIL COVER SHEET

County, Nevada

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

A-14-700178-C  
XXXI

29

I. Party Information

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

Attorney (name/address/phone):

Lee Szymboriski

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

Attorney (name/address/phone):

Spring Mountain Treatment Center  
Darryl Dubroca  
ROE Corporations LXX inclusive

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases

Real Property

- ☐ Landlord/Tenant
  - ☐ Unlawful Detainer
- ☐ Title to Property
  - ☐ Foreclosure
  - ☐ Liens
  - ☐ Quiet Title
  - ☐ Specific Performance
- ☐ Condemnation/Eminent Domain
- ☐ Other Real Property
  - ☐ Partition
  - ☐ Planning/Zoning

Torts

Negligence

- ☐ Negligence - Auto
- ☒ Negligence - Medical/Dental
- ☐ Negligence - Premises Liability (Slip/Fall)
- ☒ Negligence - Other (LS)

Product Liability

- ☐ Product Liability/Motor Vehicle
- ☐ Other Torts/Product Liability

Intentional Misconduct

- ☐ Torts/Defamation (Libel/Slander)
- ☐ Interfere with Contract Rights

Employment Torts (Wrongful termination)

Other Torts

- ☐ Anti-trust
- ☐ Fraud/Misrepresentation
- ☐ Insurance
- ☒ Legal Tort (LS)
- ☐ Unfair Competition

Probate

Estimated Estate Value: \_\_\_\_\_

- ☐ Summary Administration
- ☐ General Administration
- ☐ Special Administration
- ☐ Set Aside Estates
- ☐ Trust/Conservatorships
  - ☐ Individual Trustee
  - ☐ Corporate Trustee
- ☐ Other Probate

Other Civil Filing Types

Construction Defect

- ☐ Chapter 40
- ☐ General

Breach of Contract

- ☐ Building & Construction
- ☐ Insurance Carrier
- ☐ Commercial Instrument
- ☐ Other Contracts/Acc't/Judgment
- ☐ Collection of Actions
- ☐ Employment Contract
- ☐ Guarantee
- ☐ Sale Contract
- ☐ Uniform Commercial Code

Civil Petition for Judicial Review

- ☐ Foreclosure Mediation
- ☐ Other Administrative Law
- ☐ Department of Motor Vehicles
- ☐ Worker's Compensation Appeal

Appeal from Lower Court (also check applicable civil case box)

- ☐ Transfer from Justice Court
- ☐ Justice Court Civil Appeal

Civil Writ

- ☐ Other Special Proceeding

Other Civil Filing

- ☐ Compromise of Minor's Claim
- ☐ Conversion of Property
- ☒ Damage to Property (LS)
- ☐ Employment Security
- ☐ Enforcement of Judgment
- ☒ Foreign Judgment - Civil (LS)
- ☒ Other Personal Property (LS)
- ☐ Recovery of Property
- ☐ Stockholder Suit
- ☒ Other Civil Matters (LS)

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- ☐ NRS Chapters 78-88
- ☐ Commodities (NRS 90)
- ☐ Securities (NRS 90)
- ☐ Investments (NRS 104 Art. 8)
- ☐ Deceptive Trade Practices (NRS 598)
- ☐ Trademarks (NRS 600A)
- ☒ Enhanced Case Mgmt/Business
- ☐ Other Business Court Matters

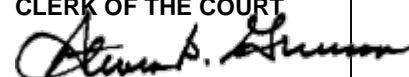
Date

Signature of Initiating party or representative

See other side for family-related case filings

Date

RECEIVED  
MAY 02 2014  
CLERK OF THE COURT



**OGM**

TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
T. CHARLOTTE BUYS, ESQ.  
Nevada Bar No. 14845  
VANESSA M. TURLEY  
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*Attorneys for Defendant*  
*Spring Mountain Treatment Center, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LEE E. SZYMBORSKI,  
  
Plaintiff,

vs.

SPRING MOUNTAIN TREATMENT  
CENTER, DOES I-XX, inclusive, and ROE  
CORPORATIONS I-XX, inclusive  
  
Defendants.

CASE NO. A-14-700178-C  
DEPT NO. VIII

**ORDER GRANTING DEFENDANT**  
**SPRING MOUNTAIN TREATMENT**  
**CENTER'S MOTION FOR SUMMARY**  
**JUDGMENT PER NRCP 56**

**Hearing Date: March 10, 2020**  
**Hearing Time: 9:00 A.M.**

This cause having come on to be heard on March 10, 2020, upon Defendant, Spring Mountain Treatment Center's (hereinafter "Spring Mountain Treatment Center") Motion for Summary Judgment Per NRCP 56; and Spring Mountain Treatment Center being represented by Tyson J. Dobbs, Esq. of the law firm HALL PRANGLE & SCHOONVELD, LLC; and Plaintiff appearing pro se; and the court having reviewed the papers and pleadings on file herein; and heaving heard the argument of the parties; and otherwise duly advised in the premises. The court makes the following Findings of Fact, Conclusions of Law and Order:

...

...

Civil USJR Statistical Closure: Summary Judgment



**FINDINGS OF FACT**

1. Plaintiff, Lee Szymborski, filed his Third Amended Complaint on October 8, 2018.

2. The basis of Plaintiff's Third Amended Complaint is Plaintiff's allegation that his son, Sean Szymborski (an adult), was a patient at Spring Mountain Treatment Center, where he was being treated for psychosis and Spice use. Plaintiff contends that Sean Szymborski was to be discharged from Spring Mountain Treatment Center on May 14, 2013. Plaintiff further alleges that after his son was discharged from Spring Mountain Treatment Center, Sean went to the Plaintiff's home without his permission and destroyed the Plaintiff's property.

3. The North Las Vegas Police Department conducted an investigation into the alleged destruction of Plaintiff's property by his adult son and the records of the North Las Vegas Police Department showed that the Plaintiff called his roommate, Stephen Symmons, (who was living at Plaintiff's residence), on May 14, 2013, and told him that his son, Sean Szymborski was being discharged from Spring Mountain Treatment Center, and would be arriving at the residence that day. The Plaintiff further told his roommate to let Sean into the residence when he arrived.

4. On September 30, 2019, the Court granted the request of Plaintiff's Counsel, Matthew Callister, Esq., to withdraw as Plaintiff's counsel.

5. Plaintiff Lee Szymborski's address for service was identified as 4605 Black Stallion Avenue, North Las Vegas, NV 89031.

6. On October 30, 2019, Defendant propounded written discovery on Plaintiff in the form of a Third Set of Requests for Admission.

7. Defendant's Third Set of Requests for Admission included the following requests:

**REQUEST NO. 11:**

Admit that there is no basis in law or fact for your claim of Negligence (First Claim for Relief) against Defendant Spring Mountain.

**REQUEST NO. 12:**

Admit that there is no basis in law or fact for your claim for Negligence Per Se (Second Claim for Relief) against Defendant Spring Mountain.



**REQUEST NO. 13:**

Admit that there is no basis in law or fact for your claim for Negligent Supervision and Training (Third Claim for Relief) against Defendant Spring Mountain.

8. Defendant's Third Set of Requests were served by U.S. Mail to Lee Szymborski at the address identified in the Order Granting Plaintiff's Counsel's Motion to Withdraw as Counsel - 4605 Black Stallion Avenue, North Las Vegas, NV 89031.

9. On December 9, 2019, Defendant propounded written discovery on Plaintiff in the form of a Fourth Set of Requests for Admission.

10. Defendant's Fourth Set of Requests for Admission included the following requests:

**REQUEST NO. 14:**

Admit that it was reasonable and proper for Lee Szymborski to be discharged from Spring Mountain Treatment Center in a taxicab because he had no other means of transporting himself to his home after being discharged in May of 2013.

**REQUEST NO. 15:**

Admit that Curtis Henson and Stephen Symons resided with you at 4605 Black Stallion Avenue, Las Vegas, Nevada, in May of 2013.

**REQUEST NO. 16:**

Admit that you told Stephen Symons that your son, Sean Szymborski, was being discharged from Spring Mountain Treatment Center on May 14, 2013, and instructed Mr. Symons to let Sean Szymborski into your shared residence.

**REQUEST NO. 17:**

Admit that you were aware that Sean Szymborski was being discharged from Spring Mountain Treatment Center on May 14, 2013.

11. Defendant's Fourth Set of Requests were properly served both by two methods of service including via e-service to the email address leeandassociates1@outlook.com and U.S. Mail to Lee Szymborski at the address of 4605 Black Stallion Avenue, North Las Vegas, NV 89031, which were both identified in the Order Granting Plaintiff's Counsel's Motion to Withdraw as Counsel.

12. Plaintiff's Responses to the Third Set of Requests for Admission were due on or before December 1, 2019.

1           13.     Plaintiff's Responses to the Fourth Set of Requests for Admission were due on or  
2 before January 8, 2020.

3           14.     While the Requests were pending, Mr. Szymborski communicated with Counsel  
4 for Defendant Spring Mountain Treatment Center using the same email address  
5 (leeandassociates1@outlook.com) to which Plaintiff was electronically served the Third and  
6 Fourth Sets of Requests for Admission in addition to being served via U.S. mail.

7           15.     There was no extension of the deadline for Plaintiff's responses to Defendant's  
8 Third and Fourth Requests for Admission, be it by Court order or by agreement of the parties.

9           16.     Plaintiff did not serve any responses to the Third and Fourth Sets of Requests for  
10 Admission within 30 days of receipt of the requests and failed to provide any subsequent  
11 response to the same.

12           17.     Discovery closed in this case on January 8, 2020.

13           18.     On February 7, 2020, Defendant filed a Motion for Summary Judgment due to  
14 Plaintiff's failure to provide responses to Requests for Admission within the timeframe and due  
15 to Plaintiff's failure to establish that Spring Mountain Treatment Center owed Plaintiff a duty of  
16 care.

17           19.     Further, Defendant Spring Mountain Treatment Center filed a second Motion for  
18 Summary Judgment as to Causation Per NRCP 56 on February 7, 2020.

19           20.     Plaintiff's Opposition to Defendants two Motions for Summary Judgment were  
20 due on February 21, 2020 and the matters were set for hearing on March 10, 2020.

21           21.     There was no extension of the deadline for an Opposition to the Motions for  
22 Summary Judgment granted by the Court or agreed to by the parties.

23           22.     Plaintiff failed to file an Opposition to the Motion for Summary Judgment before  
24 the February 21, 2020, deadline.

25           23.     Plaintiff filed an "Opposition and Countermotion for Summary Judgment" on  
26 February 25, 2020, in response to Defendant's Motion for Summary Judgment as to Plaintiff's  
27 failure to establish a duty of care.  
28

24. Plaintiff did not file an Opposition to Defendant's Motion for Summary Judgment as to Causation Per NRCP 56.

### **CONCLUSION OF LAW**

#### **Summary Judgment:**

25. Summary judgment is appropriate and shall be rendered forthwith when the pleadings and other evidence on file demonstrate that no "...genuine issue as to any material fact remains and that the moving party is entitled to judgment as a matter of law..." *Wood v. Safeway, Inc.*, 121 P.3d 1026 (Nev. 2005).

26. Moreover, the non-moving party may not rest upon general allegations and conclusions but must, by affidavit or otherwise, present specific facts demonstrating the existence of a genuine factual issue. *See Wood v. Safeway supra*.

#### **Duty of Care:**

27. In Nevada, the determination of whether a Defendant owes a Plaintiff a duty of care is a question of law. *See Scialabba v. Brandise Const. Co., Inc.*, 112 Nev. 965, 968, 921 P.2d 928, 930 (1996); *see also Butler ex rel. Biller v. Bayer*, 123 Nev. 450, 461 168 P.3d 1055, 1063 (Nev. 2007).

28. There is no duty owed to control the dangerous conduct of another or to warn others of the dangerous conduct except when there is a special relationship between the parties or between the defendant and the identifiable victim, and the harm created by the defendant's conduct is reasonably foreseeable. *Lee v. GNLV Corp.*, 117 Nev. 291, 295, 22 P.3d 209, 212 (2001); *Mangeris v. Gordon*, 94 Nev. 400, 402-03, 580 P.2d 481, 483 (1978).

29. Consistent with Nevada law, Plaintiff has failed to demonstrate any special relationship between Plaintiff and Spring Mountain Treatment Center because Plaintiff was not a patient to the facility. Furthermore, Plaintiff has failed to establish that Defendant had any information that Sean Szymborski had a history of violent conduct, that he had made threats directed to anyone, much less Plaintiff (or Plaintiff's property for that matter), or that he had intentions of causing any damage to Plaintiff's home, or any other information to make it

1 reasonably foreseeable to Spring Mountain that Sean would enter Plaintiff's home and caused  
2 the alleged damages.

3 30. Therefore, as there was no special relationship between the Plaintiff and  
4 Defendant Spring Mountain Treatment Center and it was not foreseeable that Sean Szymborski  
5 would intentionally cause property damage, Plaintiff has failed to establish that Defendant owed  
6 Plaintiff (a third-party, non-patient) a duty of care.

7  
8 **Plaintiff's Failure to Respond for Requests for Admission – Matters Deemed**  
9 **Admitted:**

10 31. "Unanswered requests for admissions may be relied on as the basis for granting  
11 summary judgment." *See Conlon v. United States*. 474 F.3d 616, 621 (9th Cir. 2007).

12 32. NRCP 36 states in pertinent part:

13 (a) Request for Admission. A party may serve upon any other  
14 party a written request for the admission, for purposes of the  
15 pending action only, of the truth of any matters within the scope of  
16 Rule 26(b) set forth in the request that relate to statements or  
17 opinions of fact or of the application of law to fact, including the  
18 genuineness of any documents described in the request. . . .

19 Each matter of which an admission is requested shall be  
20 separately set forth. The matter is admitted unless, within 30 days  
21 after service of the request, or within such shorter or longer time as  
22 the court may allow, or the parties may agree to in writing, subject  
23 to Rule 29, the party to whom the request is directed serves upon  
24 the party requesting the admission a written answer or objection  
25 addressed to the matter, signed by the party or by the party's  
26 attorney. If objection is made, the reasons therefor shall be stated. .  
27 . . .

28 (b) Effect of Admission. Any matter admitted under this rule  
is conclusively established unless the court on motion permits  
withdrawal or amendment of the admission. Subject to the  
provisions of Rule 16 governing amendment of a pretrial order, the  
court may permit withdrawal or amendment when the presentation  
of the merits of the action will be subserved thereby and the party  
who obtained the admission fails to satisfy the court that  
withdrawal or amendment will prejudice that party in maintaining  
the action or defense on the merits. Any admission made by a party  
under this rule is for the purpose of the pending action only and is

not an admission for any other purpose nor may it be used against the party in any other proceeding.

33. The Nevada Supreme Court has confirmed that “NRCPP 36 addresses admissions and provides that unless the party upon whom a request for admissions is served answers or objects to the request within thirty days of receipt, the admissions are deemed admitted.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1389 (1993).

34. “Where demand is made upon a party for admission of facts and such party fails to respond to the request, matters contained therein are deemed admitted.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1389 (1993) quoting *Woods v. Label Investment Corp.*, 107 Nev. 419, 425, 812 P.2d 1293, 1297 (1991) (citing *Dzack v. Marshall*, 80 Nev. 345, 393 P.2d 610 (1964)).

35. Further, “[a]ny matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission.” NRCPP 36(b).

36. “[E]ven if a request is objectionable, if a party fails to object and fails to respond to the request, that party should be held to have admitted the matter.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1389 (1993) (quoting *Jensen v. Pioneer Dodge Center, Inc.*, 702 P.2d 98, 100–01 (Utah 1985)).

37. “It is well settled that failure to respond to a request for admissions will result in those matters being deemed conclusively established.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1390 (1993) (citing *Woods*, 107 Nev. at 425, 812 P.2d at 1297). “This is so even if the established matters are ultimately untrue.” *Id.* (citing *Lawrence v. Southwest Gas Corp.*, 89 Nev. 433, 514 P.2d 868 (1973)).

38. In this case, because Plaintiff failed to respond to Defendant’s Requests for Admission within 30 days of receipt, and the deadline for serving his responses had not otherwise been extended by the Court or agreement of the parties, the requests for admission are deemed admitted for purposes of NRCPP 36.

39. It is therefore conclusively established that:

- Plaintiff, Lee Szymborski, was not a patient of Spring Mountain Treatment Center;

- Plaintiff knew Sean Szyborski was being discharged from Spring Mountain Treatment Center;
- Plaintiff knew when Sean Szyborski was to be discharged;
- Plaintiff told his roommates that Sean Szyborski was being discharged and to let him into the Plaintiff's home; and
- Plaintiff consented to Sean's presence on his property.

40. Because Plaintiff's Complaint is for negligence, in order to prevail, a plaintiff must establish by a preponderance of the evidence: (1) the existence of a duty of care, (2) breach of that duty, (3) that the Defendant's conduct is both the actual and proximate cause of Plaintiff's injury, and (4) that the Plaintiff suffered damages as a result of the Defendant's action. *See Klasch v. Walgreen Co.*, 127 Nev. 832, 837, 264 P.3d 1155, 1158 (Nev. 2011) (*citing Sanchez v. Wal-Mart Stores*, 221 P.3d 1276, 1280 (Nev. 2009)).

41. Plaintiff has not established that Defendant Spring Mountain Treatment Center owed him a duty, and per Plaintiff's failure to timely respond to Defendant's Requests for Admission, it is conclusively established that: Plaintiff was not a patient at Spring Mountain Treatment Center, Plaintiff knew Sean Szyborski was being discharged from Spring Mountain Treatment Center, knew when Sean Szyborski was being discharged from Spring Mountain Treatment Center; and Plaintiff consented to Sean Szyborski's presence on his property.

42. Moreover, Plaintiff's Opposition to the Motion for Summary Judgment did not offer any admissible evidence to demonstrate any genuine issue of fact for trial, as to any elements of any of Plaintiff's causes of action.

42. Plaintiff has thus failed to show a genuine issue of material fact for trial that defendant breached a duty to Plaintiff, or that any alleged breach of duty was the legal cause of injury or damage to Plaintiff.

44. Therefore, Defendant is entitled to Judgment as a matter of law, and Defendant's Motion for Summary Judgment is GRANTED as to each and every one of Plaintiff's causes of action in the Complaint.

45. Further, after receiving no opposition to the same Defendant's Motion for Summary Judgment as to Causation Per NRCP 56 is also GRANTED.

46. Plaintiff's Opposition and Countermotion for Summary Judgment is DENIED.

47. There being no remaining causes of action, Judgment is entered in favor of Defendant.

**IT IS SO ORDERED.**

Dated this 26 day of March, 2020.



DISTRICT COURT JUDGE  
Trevor L. Atkin

TS

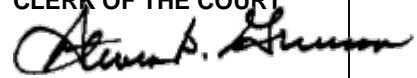
Respectfully submitted by:

DATED this 26<sup>th</sup> day of March, 2020

HALL PRANGLE & SCHOONVELD, LLC

By: /s/: T. Charlotte Buys, Esq.  
TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
T. CHARLOTTE BUYS, ESQ.  
Nevada Bar No. 14845  
VANESSA M. TURLEY  
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1140 North Town Center Drive, Ste. 350  
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*Attorneys for Defendant*  
*Spring Mountain Treatment Center, LLC*

HALL PRANGLE & SCHOONVELD, LLC  
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LAS VEGAS, NEVADA 89144  
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NEO  
TYSON J. DOBBS, ESQ.  
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*Attorneys for Defendant*  
*Spring Mountain Treatment Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

LEE E. SZYMBORSKI,

Plaintiff,

vs.

SPRING MOUNTAIN TREATMENT  
CENTER, DOES I-XX, inclusive, and ROE  
CORPORATIONS I-XX, inclusive,

Defendants.

CASE NO.: A-14-700178-C  
DEPT. NO.: VIII

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT SPRING  
MOUNTAIN TREATMENT CENTER'S  
MOTION FOR SUMMARY  
JUDGMENT PER NRCP 56**

PLEASE TAKE NOTICE that an Order Granting Defendant Spring Mountain Treatment Center's Motion for Summary Judgment Per NRCP 56 was entered in the above-entitled Court on the 26<sup>th</sup> day of March, 2020, a copy of which is attached hereto.

DATED this 30<sup>th</sup> day of March, 2020.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/ T. Charlotte Buys  
TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
T. CHARLOTTE BUYS, ESQ.  
Nevada Bar No. 14845  
VANESSA TURLEY, ESQ.  
Nevada Bar No. 14635  
1140 N. Town Center Dr., Ste. 350  
Las Vegas, NV 89144  
*Attorneys for Defendant*  
*Spring Mountain Treatment Center, LLC*



**HALL PRANGLE & SCHOONVELD, LLC**  
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TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 30<sup>th</sup> day of March, 2020, I served a true and correct copy of the foregoing

**NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT SPRING MOUNTAIN**

**TREATMENT CENTER'S MOTION FOR SUMMARY JUDGMENT PER NRCP 56** as follows:

  X   the E-Service Master List for the above referenced matter in the Eighth Judicial District Court e-filing System in accordance with the electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules;

  X   U.S. Mail, first class postage pre-paid, to the following parties at their last known address;

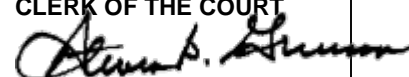
  X   U.S. Mail, first class postage pre-paid, certified with return receipt requested to the following parties at their last known address;

\_\_\_\_\_ Receipt of Copy at their last known address:

Lee Edward Szymborski  
4605 Black Stallion Avenue  
North Las Vegas, NV 89031  
*Plaintiff*

/s/ Reina Claus

An employee of HALL PRANGLE & SCHOONVELD, LLC



**OGM**

TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
T. CHARLOTTE BUYS, ESQ.  
Nevada Bar No. 14845  
VANESSA M. TURLEY  
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Phone: 702-889-6400  
Facsimile: 702-384-6025  
[efile@hpslaw.com](mailto:efile@hpslaw.com)  
*Attorneys for Defendant*  
*Spring Mountain Treatment Center, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LEE E. SZYMBORSKI,  
  
Plaintiff,

vs.

SPRING MOUNTAIN TREATMENT  
CENTER, DOES I-XX, inclusive, and ROE  
CORPORATIONS I-XX, inclusive  
  
Defendants.

CASE NO. A-14-700178-C  
DEPT NO. VIII

**ORDER GRANTING DEFENDANT**  
**SPRING MOUNTAIN TREATMENT**  
**CENTER'S MOTION FOR SUMMARY**  
**JUDGMENT PER NRCP 56**

**Hearing Date: March 10, 2020**  
**Hearing Time: 9:00 A.M.**

This cause having come on to be heard on March 10, 2020, upon Defendant, Spring Mountain Treatment Center's (hereinafter "Spring Mountain Treatment Center") Motion for Summary Judgment Per NRCP 56; and Spring Mountain Treatment Center being represented by Tyson J. Dobbs, Esq. of the law firm HALL PRANGLE & SCHOONVELD, LLC; and Plaintiff appearing pro se; and the court having reviewed the papers and pleadings on file herein; and heaving heard the argument of the parties; and otherwise duly advised in the premises. The court makes the following Findings of Fact, Conclusions of Law and Order:

...

...

Civil USJR Statistical Closure: Summary Judgment

**FINDINGS OF FACT**

1. Plaintiff, Lee Szymborski, filed his Third Amended Complaint on October 8, 2018.

2. The basis of Plaintiff's Third Amended Complaint is Plaintiff's allegation that his son, Sean Szymborski (an adult), was a patient at Spring Mountain Treatment Center, where he was being treated for psychosis and Spice use. Plaintiff contends that Sean Szymborski was to be discharged from Spring Mountain Treatment Center on May 14, 2013. Plaintiff further alleges that after his son was discharged from Spring Mountain Treatment Center, Sean went to the Plaintiff's home without his permission and destroyed the Plaintiff's property.

3. The North Las Vegas Police Department conducted an investigation into the alleged destruction of Plaintiff's property by his adult son and the records of the North Las Vegas Police Department showed that the Plaintiff called his roommate, Stephen Symmons, (who was living at Plaintiff's residence), on May 14, 2013, and told him that his son, Sean Szymborski was being discharged from Spring Mountain Treatment Center, and would be arriving at the residence that day. The Plaintiff further told his roommate to let Sean into the residence when he arrived.

4. On September 30, 2019, the Court granted the request of Plaintiff's Counsel, Matthew Callister, Esq., to withdraw as Plaintiff's counsel.

5. Plaintiff Lee Szymborski's address for service was identified as 4605 Black Stallion Avenue, North Las Vegas, NV 89031.

6. On October 30, 2019, Defendant propounded written discovery on Plaintiff in the form of a Third Set of Requests for Admission.

7. Defendant's Third Set of Requests for Admission included the following requests:

**REQUEST NO. 11:**

Admit that there is no basis in law or fact for your claim of Negligence (First Claim for Relief) against Defendant Spring Mountain.

**REQUEST NO. 12:**

Admit that there is no basis in law or fact for your claim for Negligence Per Se (Second Claim for Relief) against Defendant Spring Mountain.

**REQUEST NO. 13:**

Admit that there is no basis in law or fact for your claim for Negligent Supervision and Training (Third Claim for Relief) against Defendant Spring Mountain.

8. Defendant's Third Set of Requests were served by U.S. Mail to Lee Szymborski at the address identified in the Order Granting Plaintiff's Counsel's Motion to Withdraw as Counsel - 4605 Black Stallion Avenue, North Las Vegas, NV 89031.

9. On December 9, 2019, Defendant propounded written discovery on Plaintiff in the form of a Fourth Set of Requests for Admission.

10. Defendant's Fourth Set of Requests for Admission included the following requests:

**REQUEST NO. 14:**

Admit that it was reasonable and proper for Lee Szymborski to be discharged from Spring Mountain Treatment Center in a taxicab because he had no other means of transporting himself to his home after being discharged in May of 2013.

**REQUEST NO. 15:**

Admit that Curtis Henson and Stephen Symons resided with you at 4605 Black Stallion Avenue, Las Vegas, Nevada, in May of 2013.

**REQUEST NO. 16:**

Admit that you told Stephen Symons that your son, Sean Szymborski, was being discharged from Spring Mountain Treatment Center on May 14, 2013, and instructed Mr. Symons to let Sean Szymborski into your shared residence.

**REQUEST NO. 17:**

Admit that you were aware that Sean Szymborski was being discharged from Spring Mountain Treatment Center on May 14, 2013.

11. Defendant's Fourth Set of Requests were properly served both by two methods of service including via e-service to the email address leeandassociates1@outlook.com and U.S. Mail to Lee Szymborski at the address of 4605 Black Stallion Avenue, North Las Vegas, NV 89031, which were both identified in the Order Granting Plaintiff's Counsel's Motion to Withdraw as Counsel.

12. Plaintiff's Responses to the Third Set of Requests for Admission were due on or before December 1, 2019.

1           13.     Plaintiff's Responses to the Fourth Set of Requests for Admission were due on or  
2 before January 8, 2020.

3           14.     While the Requests were pending, Mr. Szymborski communicated with Counsel  
4 for Defendant Spring Mountain Treatment Center using the same email address  
5 (leeandassociates1@outlook.com) to which Plaintiff was electronically served the Third and  
6 Fourth Sets of Requests for Admission in addition to being served via U.S. mail.

7           15.     There was no extension of the deadline for Plaintiff's responses to Defendant's  
8 Third and Fourth Requests for Admission, be it by Court order or by agreement of the parties.

9           16.     Plaintiff did not serve any responses to the Third and Fourth Sets of Requests for  
10 Admission within 30 days of receipt of the requests and failed to provide any subsequent  
11 response to the same.

12           17.     Discovery closed in this case on January 8, 2020.

13           18.     On February 7, 2020, Defendant filed a Motion for Summary Judgment due to  
14 Plaintiff's failure to provide responses to Requests for Admission within the timeframe and due  
15 to Plaintiff's failure to establish that Spring Mountain Treatment Center owed Plaintiff a duty of  
16 care.

17           19.     Further, Defendant Spring Mountain Treatment Center filed a second Motion for  
18 Summary Judgment as to Causation Per NRCP 56 on February 7, 2020.

19           20.     Plaintiff's Opposition to Defendants two Motions for Summary Judgment were  
20 due on February 21, 2020 and the matters were set for hearing on March 10, 2020.

21           21.     There was no extension of the deadline for an Opposition to the Motions for  
22 Summary Judgment granted by the Court or agreed to by the parties.

23           22.     Plaintiff failed to file an Opposition to the Motion for Summary Judgment before  
24 the February 21, 2020, deadline.

25           23.     Plaintiff filed an "Opposition and Countermotion for Summary Judgment" on  
26 February 25, 2020, in response to Defendant's Motion for Summary Judgment as to Plaintiff's  
27 failure to establish a duty of care.  
28

24. Plaintiff did not file an Opposition to Defendant's Motion for Summary Judgment as to Causation Per NRCp 56.

### **CONCLUSION OF LAW**

#### **Summary Judgment:**

25. Summary judgment is appropriate and shall be rendered forthwith when the pleadings and other evidence on file demonstrate that no "...genuine issue as to any material fact remains and that the moving party is entitled to judgment as a matter of law..." *Wood v. Safeway, Inc.*, 121 P.3d 1026 (Nev. 2005).

26. Moreover, the non-moving party may not rest upon general allegations and conclusions but must, by affidavit or otherwise, present specific facts demonstrating the existence of a genuine factual issue. *See Wood v. Safeway supra*.

#### **Duty of Care:**

27. In Nevada, the determination of whether a Defendant owes a Plaintiff a duty of care is a question of law. *See Scialabba v. Brandise Const. Co., Inc.*, 112 Nev. 965, 968, 921 P.2d 928, 930 (1996); *see also Butler ex rel. Biller v. Bayer*, 123 Nev. 450, 461 168 P.3d 1055, 1063 (Nev. 2007).

28. There is no duty owed to control the dangerous conduct of another or to warn others of the dangerous conduct except when there is a special relationship between the parties or between the defendant and the identifiable victim, and the harm created by the defendant's conduct is reasonably foreseeable. *Lee v. GNLV Corp.*, 117 Nev. 291, 295, 22 P.3d 209, 212 (2001); *Mangeris v. Gordon*, 94 Nev. 400, 402-03, 580 P.2d 481, 483 (1978).

29. Consistent with Nevada law, Plaintiff has failed to demonstrate any special relationship between Plaintiff and Spring Mountain Treatment Center because Plaintiff was not a patient to the facility. Furthermore, Plaintiff has failed to establish that Defendant had any information that Sean Szymborski had a history of violent conduct, that he had made threats directed to anyone, much less Plaintiff (or Plaintiff's property for that matter), or that he had intentions of causing any damage to Plaintiff's home, or any other information to make it

1 reasonably foreseeable to Spring Mountain that Sean would enter Plaintiff's home and caused  
2 the alleged damages.

3 30. Therefore, as there was no special relationship between the Plaintiff and  
4 Defendant Spring Mountain Treatment Center and it was not foreseeable that Sean Szymborski  
5 would intentionally cause property damage, Plaintiff has failed to establish that Defendant owed  
6 Plaintiff (a third-party, non-patient) a duty of care.

7  
8 **Plaintiff's Failure to Respond for Requests for Admission – Matters Deemed**  
9 **Admitted:**

10 31. "Unanswered requests for admissions may be relied on as the basis for granting  
11 summary judgment." *See Conlon v. United States*. 474 F.3d 616, 621 (9th Cir. 2007).

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18 genuineness of any documents described in the request. . . .

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20 separately set forth. The matter is admitted unless, within 30 days  
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22 the court may allow, or the parties may agree to in writing, subject  
23 to Rule 29, the party to whom the request is directed serves upon  
24 the party requesting the admission a written answer or objection  
25 addressed to the matter, signed by the party or by the party's  
26 attorney. If objection is made, the reasons therefor shall be stated. .  
27 . . .

28 (b) Effect of Admission. Any matter admitted under this rule  
is conclusively established unless the court on motion permits  
withdrawal or amendment of the admission. Subject to the  
provisions of Rule 16 governing amendment of a pretrial order, the  
court may permit withdrawal or amendment when the presentation  
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who obtained the admission fails to satisfy the court that  
withdrawal or amendment will prejudice that party in maintaining  
the action or defense on the merits. Any admission made by a party  
under this rule is for the purpose of the pending action only and is

not an admission for any other purpose nor may it be used against the party in any other proceeding.

33. The Nevada Supreme Court has confirmed that “NRCPP 36 addresses admissions and provides that unless the party upon whom a request for admissions is served answers or objects to the request within thirty days of receipt, the admissions are deemed admitted.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1389 (1993).

34. “Where demand is made upon a party for admission of facts and such party fails to respond to the request, matters contained therein are deemed admitted.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1389 (1993) quoting *Woods v. Label Investment Corp.*, 107 Nev. 419, 425, 812 P.2d 1293, 1297 (1991) (citing *Dzack v. Marshall*, 80 Nev. 345, 393 P.2d 610 (1964)).

35. Further, “[a]ny matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission.” NRCPP 36(b).

36. “[E]ven if a request is objectionable, if a party fails to object and fails to respond to the request, that party should be held to have admitted the matter.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1389 (1993) (quoting *Jensen v. Pioneer Dodge Center, Inc.*, 702 P.2d 98, 100–01 (Utah 1985)).

37. “It is well settled that failure to respond to a request for admissions will result in those matters being deemed conclusively established.” *Smith v. Emery*, 109 Nev. 737, 741; 856 P.2d 1386, 1390 (1993) (citing *Woods*, 107 Nev. at 425, 812 P.2d at 1297). “This is so even if the established matters are ultimately untrue.” *Id.* (citing *Lawrence v. Southwest Gas Corp.*, 89 Nev. 433, 514 P.2d 868 (1973)).

38. In this case, because Plaintiff failed to respond to Defendant’s Requests for Admission within 30 days of receipt, and the deadline for serving his responses had not otherwise been extended by the Court or agreement of the parties, the requests for admission are deemed admitted for purposes of NRCPP 36.

39. It is therefore conclusively established that:

- Plaintiff, Lee Szymborski, was not a patient of Spring Mountain Treatment Center;



- Plaintiff knew Sean Szymborski was being discharged from Spring Mountain Treatment Center;
- Plaintiff knew when Sean Szymborski was to be discharged;
- Plaintiff told his roommates that Sean Szymborski was being discharged and to let him into the Plaintiff's home; and
- Plaintiff consented to Sean's presence on his property.

40. Because Plaintiff's Complaint is for negligence, in order to prevail, a plaintiff must establish by a preponderance of the evidence: (1) the existence of a duty of care, (2) breach of that duty, (3) that the Defendant's conduct is both the actual and proximate cause of Plaintiff's injury, and (4) that the Plaintiff suffered damages as a result of the Defendant's action. *See Klasch v. Walgreen Co.*, 127 Nev. 832, 837, 264 P.3d 1155, 1158 (Nev. 2011) (*citing Sanchez v. Wal-Mart Stores*, 221 P.3d 1276, 1280 (Nev. 2009)).

41. Plaintiff has not established that Defendant Spring Mountain Treatment Center owed him a duty, and per Plaintiff's failure to timely respond to Defendant's Requests for Admission, it is conclusively established that: Plaintiff was not a patient at Spring Mountain Treatment Center, Plaintiff knew Sean Szymborski was being discharged from Spring Mountain Treatment Center, knew when Sean Szymborski was being discharged from Spring Mountain Treatment Center; and Plaintiff consented to Sean Szymborski's presence on his property.

42. Moreover, Plaintiff's Opposition to the Motion for Summary Judgment did not offer any admissible evidence to demonstrate any genuine issue of fact for trial, as to any elements of any of Plaintiff's causes of action.

42. Plaintiff has thus failed to show a genuine issue of material fact for trial that defendant breached a duty to Plaintiff, or that any alleged breach of duty was the legal cause of injury or damage to Plaintiff.

44. Therefore, Defendant is entitled to Judgment as a matter of law, and Defendant's Motion for Summary Judgment is GRANTED as to each and every one of Plaintiff's causes of action in the Complaint.


45. Further, after receiving no opposition to the same Defendant's Motion for Summary Judgment as to Causation Per NRCP 56 is also GRANTED.

46. Plaintiff's Opposition and Countermotion for Summary Judgment is DENIED.

47. There being no remaining causes of action, Judgment is entered in favor of Defendant.

**IT IS SO ORDERED.**

Dated this 26 day of March, 2020.

  
DISTRICT COURT JUDGE  
Trevor L. Atkin

TS

Respectfully submitted by:

DATED this 26<sup>th</sup> day of March, 2020

HALL PRANGLE & SCHOONVELD, LLC

By: /s/: T. Charlotte Buys, Esq.  
TYSON J. DOBBS, ESQ.  
Nevada Bar No. 11953  
T. CHARLOTTE BUYS, ESQ.  
Nevada Bar No. 14845  
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1140 North Town Center Drive, Ste. 350  
Las Vegas, Nevada 89144  
*Attorneys for Defendant*  
*Spring Mountain Treatment Center, LLC*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**June 24, 2014**

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A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

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**June 24, 2014**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Bonaventure, Joseph T.

**COURTROOM:** RJC Courtroom 12B

**COURT CLERK:** Sandra Harrell

**RECORDER:** Rachelle Hamilton

**REPORTER:**

**PARTIES**

**PRESENT:**      Doyle, Kerry J.      Attorney  
                         Szymborski, Lee E      Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT SPRING MOUNTAIN TREATMENT CENTER'S MOTION TO DISMISS...DARRYL DUBROCA'S JOINDER TO SPRING MOUNTAIN TREATMENT CENTER'S MOTION TO DISMISS

Mr. Doyle states he was not served with opposition, happened to notice opposition online late yesterday. Court noted to Mr. Szymborski documents must be properly served. Mr. Doyle argued medical malpractice claim, no affidavit. Mr. Szymborski argued this is an action of negligence, has nothing to do with medical malpractice. Further arguments by Mr. Szymborski. Court stated its findings and ORDERED, Defendant Spring Mountain Treatment Center's Motion to Dismiss and the Joinder thereto are GRANTED; both Spring Mountain Treatment Center and Darryl Dubroca are Dismissed. Mr. Doyle to prepare the order, circulating to Plaintiff. Matter SET for Status Check regarding receipt of proposed order.

7/11/14 STATUS CHECK: ORDER (CHAMBERS)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**September 19, 2014**

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A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

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**September 19, 2014      3:00 AM      Motion For  
Reconsideration**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** No Location

**COURT CLERK:** Shelly Landwehr

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court NOTED a Decision and Order has been filed, denying the motion.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**February 03, 2015**

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A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

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**February 03, 2015**

**1:00 PM**

**Status Check:  
Medical/Dental  
Malpractice**

**HEARD BY:** Wiese, Jerry A.

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Alice Jacobson  
Tena Jolley  
Treva Palmer  
Michelle Jones  
Keri Cromer

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Judicial Executive Assistant, Tatyana Ristic, advised this should be an inactive case, yet the Department closed it. COURT ORDERED, case status to be changed to INACTIVE.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**August 01, 2016**

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A-14-700178-C	Lee Szymborski, Plaintiff(s) vs. Spring Mountain Treatment Center, Defendant(s)
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<b>August 01, 2016</b>	<b>8:30 AM</b>	<b>Status Check: Medical/Dental Malpractice</b>
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**HEARD BY:** Wiese, Jerry A.

**COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Alice Jacobson  
Kory Schlitz  
Olivia Black

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Med-Mal Status Check was conducted by Judge Jerry A. Wiese II. Judicial Executive Assistant, Tatyana Ristic advised this case is on appeal. COURT ORDERED, case REOPENED and status to be changed to INACTIVE.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence****COURT MINUTES****January 11, 2018**

A-14-700178-C      Lee Szymborski, Plaintiff(s)  
                                  vs.  
                                  Spring Mountain Treatment Center, Defendant(s)

**January 11, 2018      9:00 AM      Hearing**

**HEARD BY:** Kishner, Joanna S.**COURTROOM:** RJC Courtroom 12B**COURT CLERK:** Louisa Garcia**RECORDER:** Sandra Harrell**REPORTER:****PARTIES**

<b>PRESENT:</b>	Bisson, Mitchell	Attorney
	Callister, Matthew Q	Attorney
	Dobbs, Tyson J.	Attorney
	Szymborski, Lee E	Plaintiff

**JOURNAL ENTRIES**

- Mr. Bisson appeared on behalf of Mr. Szymborski and stated he just spoke with Mr. Callister and was informed they were coming in on the case. Court did not see a Notice of Appearance. Mr. Bisson stated they have not officially filed the notice; however, it was discussed last night that he attend today s hearing. Mr. Dobbs had no objection. Upon Court s inquiry, Mr. Szymborski requested that counsel speak on his behalf even though a Notice of Appearance had not been filed. Court advised it has a waiver from both sides. COURT ORDERED, case REOPENED, effective today. Colloquy regarding scheduling. Mr. Dobbs indicated the professional negligence claim was dismissed. Mr. Callister, Esq., appeared later in the hearing and Court explained what occurred in the proceeding. Court advised due to the negligence claims being dismissed this was not a medical malpractice case which means counsel need to file a Joint Case Conference Report (JCCR) to get a scheduling order. Court noted this was a 2014 case. Mr. Dobbs stated this was a 12(b)(5) motion initially and they need to answer. COURT ORDERED, answer/response due within twenty (20) days and then parties can proceed in the ordinary course.





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**August 21, 2018**

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A-14-700178-C	Lee Szymborski, Plaintiff(s)
	vs.
	Spring Mountain Treatment Center, Defendant(s)

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**August 21, 2018      9:30 AM      Motion to Dismiss**

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

**COURT CLERK:** Tena Jolley

**RECORDER:** Sandra Harrell

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Callister, Matthew Q	Attorney
	Dobbs, Tyson J.	Attorney
	Szymborski, Lee E	Plaintiff

**JOURNAL ENTRIES**

- Court noted it received a Media Request late yesterday and inquired if there was any objection by the parties. There being no objection, Order SIGNED IN OPEN COURT.

The Court then addressed Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint, stating its inclination and allowed argument by counsel. Following arguments by Mr. Dobbs and Mr. Callister, COURT ORDERED, Motion GRANTED IN PART and DENIED IN PART; GRANTED as to Punitive Damages and Negligent Hiring; DENIED as to Negligence; and GRANTED WITH LEAVE TO AMEND as to Negligence Per Se, Negligent Supervision and Negligent Training. Amended pleading DUE three weeks from Notice of Entry of Order. Mr. Dobbs to prepare the Order in accordance with EDCR 7.21.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**August 06, 2019**

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A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

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**August 06, 2019      10:30 AM      Mandatory Rule 16  
Conference**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** RJC Courtroom 12B

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Sandra Harrell

**REPORTER:**

**PARTIES**

**PRESENT:**      Bisson, Mitchell      Attorney  
                         Dobbs, Tyson J.      Attorney

**JOURNAL ENTRIES**

- Court addressed the Joint Case Conference Report filed July 23, 2019. Court gave a friendly reminder to the parties about courtesy copies of pleadings being required to be provided to the Court. Court noted the parties had decided to exempt this matter from arbitration proceedings, and this case was supposed to be tried long ago. Discussions as to status of medical releases, and whether having a settlement conference done in this matter would be appropriate. Estimate was 4-5 days for a bench trial. Court adopted the proposed discovery deadlines provided in the Joint Case Conference Report. COURT ORDERED, bench trial date SET on the Court's trial stack in April, 2020. New trial order and scheduling order to issue from Chambers. FURTHER, Motions in limine are due February 24, 2020. Matter SET for status check.

1/16/20 9:00 A.M. STATUS CHECK: TRIAL READINESS

3/19/20 10:15 A.M. PRE-TRIAL CONFERENCE

4/14/20 9:00 A.M. CALENDAR CALL

4/20/20 9:00 A.M. BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**September 04, 2019**

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A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

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**September 04, 2019      3:00 AM      Minute Order**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** Chambers

**COURT CLERK:** Susan Botzenhart

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- On August 26, 2019, a document entitled, "Motion to Reset Trial to a Jury Trial" was filed by Plaintiff, Lee Edward Szymborski in proper person. As the Plaintiff is represented by counsel Matthew Callister Esq., Plaintiff, pursuant to the rules, cannot file pleadings on his own behalf. Thus, the document is a rogue pleading. Therefore, the Motion to Reset Trial to a Jury Trial, filed on August 26, 2019, is hereby STRICKEN from the record and the hearing scheduled for September 26, 2019, at 9:00 a.m. is hereby VACATED.

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

CLERK'S NOTE: A copy of the above Minute Order was forwarded to Records, for purposes of striking the Motion to Reset Trial to a Jury Trial filed August 26, 2019. sb

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Negligence - Other Negligence

## COURT MINUTES

September 17, 2019

A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

**September 17, 2019      9:00 AM      Motion to Withdraw as Counsel**

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

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Sandra Harrell

**REPORTER:**

## PARTIES

**PRESENT:** Callister, Matthew Q Attorney  
Dobbs, Tyson J. Attorney  
Szymborski, Lee E Plaintiff

## JOURNAL ENTRIES

- Court provided the upcoming dates scheduled in this matter; and explained the administrative issues. Statements by Mr. Szymborski. There being no opposition by defense counsel, and there having been good cause shown, COURT ORDERED, Motion GRANTED. Mr. Callister to submit a proposed order to the Court. Mr. Dobbs waived the signing of the proposed order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**September 18, 2019**

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A-14-700178-C	Lee Szymborski, Plaintiff(s)
	vs.
	Spring Mountain Treatment Center, Defendant(s)

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**September 18, 2019     3:00 AM             Minute Order**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** Chambers

**COURT CLERK:** Susan Botzenhart

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A) of the Nevada Code of Judicial Conduct, in order to avoid the appearance of impartiality as the Court could be viewed to have information relating to the circumstances of the matter or one of the parties. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures.

CLERK'S NOTE: This Minute Order was electronically served to all parties registered for Odyssey File & Serve. A copy of the above Minute Order was forwarded to District Court Clerk's Office Master Calendar, for purposes of reassignment. sb









requested the minutes be mailed to him and verified his address and e-mail.

4/16/20 9:00 AM STATUS CHECK: TRIAL READINESS

4/21/20 8:30 AM PRETRIAL CONFERENCE

5/18/20 8:30 AM CALENDAR CALL

5/26/20 9:00 AM BENCH TRIAL

CLERK'S NOTE: The above minute order has been distributed to:

Lee E. Szymborski  
4605 Black Stallion Avenue  
North Las Vegas, Nevada 89031  
leeandassociates1@outlook.com

CLERK'S NOTE: Minutes prepared by Michele Tucker, Courtroom Clerk after review of JAVS. /mlt

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Other Negligence**

**COURT MINUTES**

**March 10, 2020**

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A-14-700178-C      Lee Szymborski, Plaintiff(s)  
vs.  
Spring Mountain Treatment Center, Defendant(s)

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**March 10, 2020**

**9:00 AM**

**All Pending Motions**

**HEARD BY:**    Atkin, Trevor

**COURTROOM:**   Phoenix Building 11th Floor  
110

**COURT CLERK:**   Alan Castle

**RECORDER:**    Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

**PRESENT:**      Dobbs, Tyson J.                      Attorney  
                         Szymborski, Lee E                      Plaintiff

**JOURNAL ENTRIES**

- Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56 ... Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56

Court notes late opposition will be considered by the Court. Argument by parties. Colloquy regarding service issue to Plaintiff. Court deems Plaintiff's admissions admitted. COURT FINDS good cause shown based upon the facts and ORDERED, Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment per NRCP 56 is GRANTED. FURTHER ORDERED, Defendant Spring Mountain Treatment Center, LLC's Motion for Summary Judgment as to Causation Per NRCP 56 is GRANTED. Defense to prepare the Findings of Fact, Conclusions of Law and order to include the admissions as well as the duty of care, submit to Court for consideration and distribute a filed copy to all parties involved in this matter.



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**LEE E. SZYMBORSKI**  
**4605 BLACK STALLION AVE.**  
**NORTH LAS VEGAS, NV 89031**

**DATE: April 30, 2020**  
**CASE: A-14-700178-C**

**RE CASE:** LEE E. SZYMBORSKI vs. SPRING MOUNTAIN TREATMENT CENTER

NOTICE OF APPEAL FILED: April 23, 2020

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☒ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

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***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# 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):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANT SPRING MOUNTAIN TREATMENT CENTER'S MOTION FOR SUMMARY JUDGMENT PER NRCP 56; NOTICE OF ENTRY OF RODE GRANTING DEFENDANT SPRINGS MOUNTAIN TREATMENT CENTER'S MOTION FOR SUMMARY JUDGMENT PER NRCP 56; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

LEE E. SZYMBORSKI,

Plaintiff(s),

vs.

SPRING MOUNTAIN TREATMENT  
CENTER,

Defendant(s),

Case No: A-14-700178-C

Dept No: VIII

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 30 day of April 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk