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## Respondents.

## **GENERAL INFORMATION**

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## **WARNING**

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Judicial District

Department 4

County Judge The Hon. Nadia Krall

District Ct. Case No. A780853

**2. Attorney filing this docketing statement**

Attorney Lauren D. Calvert, Esq.

Telephone (702) 363-5100

Firm Messner Reeves LLP

Address 8945 West Russell Road, Suite 300

Las Vegas, Nevada 89148

Client(s) ESTATE of DELORIS ANN BATSON; and MICHELLE ORDWAY,

personal representative of the Estate of DELORIS ANN BATSON.

**3. Attorney(s) representing respondents(s):**

Attorney Benjamin Cloward, Esq.

Telephone (702) 550-7537

Firm Richard Harris Law Firm

Address 801 S 4th St.

Las Vegas, NV 89101

Client(s) KIMBERLY STILES, individually, as natural parent and legal guardian of

SARAH STILES, a minor.

**4. Nature of disposition below (check all that apply):**

☐ Judgment after bench trial

☐ Dismissal:

☒ Judgment after jury verdict

☐ Lack of jurisdiction

☐ Summary judgment

☐ Failure to state a claim

☐ Default judgment

☐ Failure to prosecute

☐ Grant/Denial of NRCP 60(b) relief

☐ Other (specify):

☐ Grant/Denial of injunction

☐ Divorce Decree:

☐ Grant/Denial of declaratory relief

☐ Original ☐ Modification

☐ Review of agency determination

☐ Other disposition (specify):

**5. Does this appeal raise issues concerning any of the following?**

☐ Child Custody

☐ Venue

☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

**7. Pending and prior proceedings in other courts.** List the case name, number, and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

This case arises out of a January 25, 2015, accident that occurred at the intersection of Rampart and Alta Drive at approximately 9:52 a.m. in Las Vegas, Clark County, Nevada. Deloris Batson was driving a 2013 Honda Odyssey Van westbound in

1 the number two travel lane. Kimberly Stiles was driving a 2007 Mercedes C230 heading  
2 southbound in the number three travel lane. The vehicles collided in the intersection,  
3 with the front of Appellant's vehicle striking the driver side of Respondents' vehicle.  
4 This caused Appellant's vehicle to rotate approximately 180 degrees clockwise on its  
5 vertical axis coming to rest facing eastward in the east bound lane. Respondents' vehicle  
6 continued in a southwesterly direction, coming to rest facing southwest in the east  
7 bound turn lane. Ms. Batson unfortunately passed away prior to the commencement of  
8 trial. As such, a paralegal from defense counsel's office, Michelle Ordway, sat at  
9 Appellant's table in place of the Estate.

12 Liability was not disputed, and trial proceeded on causation and damages. After  
13 deliberating for approximately two and a half hours, the jury returned a verdict finding  
14 for Plaintiff Stills and awarding her a total of \$342,864.51 in damages. The verdict was  
15 8-0, in favor of Respondent.

18 **9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate  
19 sheets as necessary): The district court improperly instructed the jury. Specifically, the  
20 district court gave instructions related to medical malpractice in this auto accident case  
21 where no medical malpractice was alleged as a cause of action. The district court also  
22 improperly instructed the jury as to the hiring of experts by Respondents and the burden  
23 of proof of plaintiffs generally in relation to the hiring retained experts. The district  
24 court further improperly limited Appellant's ability to cross-examine Respondents'

1 treating physician, who also presented as Respondents' retained expert. The district  
2 court also allowed Respondents to introduce undisclosed documents and records.

3 **10. Pending proceedings in this court raising the same or similar issues.** If you are  
4 aware of any proceedings presently pending before this court which raises the same or  
5 similar issues raised in this appeal, list the case name and docket numbers, and identify  
6 the same or similar issue raised:  
7

8 None.  
9

10 **11. Constitutional issues.** If this appeal challenges the constitutionality of a statute,  
11 and the state, any state agency, or any officer or employee thereof is not a party to this  
12 appeal, have you notified the clerk of this court and the attorney general in accordance  
13 with NRAP 44 and NRS 30.130?  
14

15 ☒ N/A

16 ☐ No

17 ☐ Yes

18 If not, explain:  
19  
20

21 **12. Other issues.** Does this appeal involve any of the following issues?

22 ☐ Reversal of well-settled Nevada precedent (identify the case(s))

23 ☐ An issue arising under the United States and/or Nevada Constitutions

24 ☐ A substantial issue of first impression

25 ☐ An issue of public policy

26 ☐ An issue where en banc consideration is necessary to maintain uniformity of this  
27  
28

1 court's decisions

2 ☐ A ballot question

3 If so, explain:

4  
5 **13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly  
6 set forth whether the matter is presumptively retained by the Supreme Court or assigned  
7 to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under  
8 which the matter falls. If appellant believes that the Supreme Court should retain the  
9 case despite its presumptive assignment to the Court of Appeals, identify the specific  
10 issue(s) or circumstance(s) that warrant retaining the case, and include an explanation  
11 of their importance or significance:  
12  
13

14 This matter is not presumptively assigned to the Court of Appeals because it is  
15 an appeal from a judgment, exclusive of interest, attorney fees, and costs, of more than  
16 \$250,000 in a tort case. NRAP 17(b)(5). Because the lower court gave instructions  
17 related to medical malpractice in this auto accident case (where no medical malpractice  
18 was alleged as a cause of action), incorrectly instructed the jury as to the hiring of  
19 experts and incorrectly instructed the jury as to the burden of proof of plaintiffs,  
20 generally, in relation to the hiring retained experts, Appellants believe this matter  
21 should be retained by the Supreme Court.  
22  
23  
24

25 **14. Trial.** If this action proceeded to trial, how many days did the trial last? 6 days.

26 Was it a bench or jury trial? Jury.  
27  
28

1 **15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a  
2 justice recuse him/herself from participation in this appeal? If so, which Justice?

3 No.

4  
5 **TIMELINESS OF NOTICE OF APPEAL**

6 **16. Date of entry of written judgment or order appealed from**

7 If no written judgment or order was filed in the district court, explain the basis for  
8 seeking appellate review: N/A.

10 **17. Date written notice of entry of judgment or order was served** July 23, 2021.

11 Was service by:

12 ☐ Delivery

13 ☒ Mail/electronic/fax

15 **18. If the time for filing the notice of appeal was tolled by a post-judgment motion**

16 **(NRCP 50(b), 52(b), or 59)** N/A

18 (a) Specify the type of motion, the date and method of service of the motion, and  
19 the date of filing.

20 ☐ NRCP 50(b) - Date of filing:

21 ☐ NRCP 52(b) - Date of filing:

22 ☐ NRCP 59 - Date of filing:

23  
24  
25 **NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or**  
26 **reconsideration may toll the time for filing a notice of appeal. See AA Primo**  
27 **Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).**  
28



1 (b) Date of entry of written order resolving tolling motion:

2 (c) Date written notice of entry of order resolving tolling motion was served:

3 Was service by:

4 ☐ Delivery

5 ☐ Mail

6 19. Date notice of appeal filed: August 4, 2021.

7 If more than one party has appealed from the judgment or order, list the date each  
8 notice of appeal was filed and identify by name the party filing the notice of appeal:

9 20. Specify statute or rule governing the time limit for filing the notice of appeal,  
10 e.g., NRAP 4(a) or other: NRAP 4(a).

### 11 **SUBSTANTIVE APPEALABILITY**

12 21. Specify the statute or other authority granting this court jurisdiction to review  
13 the judgment or order appealed from:

14 (a)

15 ☒ NRAP 3A(b)(1) ☐ NRS 38.205

16 ☐ NRAP 3A(b)(2) ☐ NRS 233B.150

17 ☐ NRAP 3A(b)(3) ☐ NRS 703.376

18 ☐ Other (specify)

19 (b) Explain how each authority provides a basis for appeal from the judgment or order:

20 This is an appeal from a final judgment entered in an action commenced in the court  
21 in which the judgment was rendered.

1 22. List all parties involved in the action or consolidated actions in the district court:

2 (a) Parties:

3 KIMBERLY STILES, individually, as natural parent and legal guardian of  
4 SARAH STILES, a minor

6 ESTATE of DELORIS ANN BATSON

7 MICHELLE ORDWAY, personal representative of the Estate of DELORIS ANN  
8 BATSON

10 (b) If all parties in the district court are not parties to this appeal, explain in detail why  
11 those parties are not involved in this appeal, e.g., formally dismissed, not served, or  
12 other: N/A

14 23. Give a brief description (3 to 5 words) of each party's separate claims,  
15 counterclaims, cross-claims, or third-party claims and the date of formal disposition of  
16 each claim.

18 Respondents brought claims against Appellant for negligence. The claim was  
19 resolved by jury verdict on July 10, 2021, entered and noticed on July 23, 2021.

21 24. Did the judgment or order appealed from adjudicate ALL the claims alleged below  
22 and the rights and liabilities of ALL the parties to the action or consolidated actions  
23 below?

25 ☒ Yes

26 ☐ No

27 25. If you answered "No" to question 24, complete the following:  
28

1 (a) Specify the claims remaining pending below:

2 (b) Specify the parties remaining below:

3 (c) Did the district court certify the judgment or order appealed from as a final judgment  
4 pursuant to NRCP 54(b)?

6 ☐ Yes

7 ☐ No

8  
9 (d) Did the district court make an express determination, pursuant to NRCP 54(b), that  
10 there is no just reason for delay and an express direction for the entry of judgment?

11 ☐ No

12 ☐ Yes

13  
14 26. If you answered "No" to any part of question 25, explain the basis for seeking  
15 appellate review (e.g., order is independently appealable under NRAP 3A(b)):  
16

17 27. Attach file-stamped copies of the following documents:

- 18 • The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- 19 • Any tolling motion(s) and order(s) resolving tolling motion(s)
- 20 • Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims,  
21 crossclaims and/or third-party claims asserted in the action or consolidated action  
22 below, even if not at issue on appeal
- 23 • Any other order challenged on appeal
- 24 • Notices of entry for each attached order
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**VERIFICATION**

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information, and belief, and that I have attached all required documents to this docketing statement.**

Name of appellant

Clark County, Nevada

State and county where signed

Lauren D. Calvert, Esq.

Name of counsel of record

September 7, 2021

Date Signature of counsel of record

DATED this 7<sup>th</sup> day of September 2021.

**MESSNER REEVES LLP**

/s/ Lauren D. Calvert

M. Caleb Meyer, Esq.

Nevada Bar No. 13379

Renee M. Finch, Esq.

Nevada Bar No. 13118

Lauren D. Calvert, Esq.

Nevada Bar No. 10534

8945 W. Russell Road, Suite 300

Las Vegas, Nevada 89148

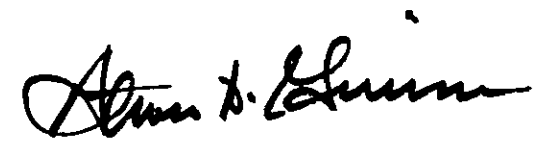
*Attorneys for Appellants*

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# EXHIBIT 1

  
CLERK OF THE COURT

**COMP**  
BENJAMIN P. CLOWARD, ESQ.  
Nevada Bar No. 11087  
**CLOWARD HICKS & BRASIER, PLLC**  
4101 Meadows Lane, Suite 210  
Las Vegas, NV 89107  
Telephone: (702) 628-9888  
Facsimile: (702) 960-4118  
[Bcloward@chblawyers.com](mailto:Bcloward@chblawyers.com)  
*Attorneys for Plaintiffs*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

KIMBERLY STILES, individually, as  
natural parent and legal guardian of SARAH  
STILES, a minor.

Plaintiffs,

vs.

DELORIS ANN BATSON; and DOES 1  
through 20, inclusive,

Defendants.

CASE NO: A - 1 6 - 7 4 6 7 3 8 - C  
DEPT NO. IV

**PLAINTIFF'S COMPLAINT**

COMES NOW, Plaintiffs, KIMBERLY STILES, individually, as natural parent and legal guardian of SARAH STILES, a minor, by and through their counsel of record, BENJAMIN P. CLOWARD, ESQ. of CLOWARD HICKS & BRASIER, PLLC., and for their causes of action against Defendants, and each of them, complains and alleges as follows:

**JURISDICTION**

1. At all times relevant, Plaintiff, KIMBERLY STILES, was and is a resident of the County of Clark, State of Nevada.

1           2.       That at all times relevant to these proceedings, Plaintiff, SARAH STILES, a minor by  
2 and through her natural parent and legal guardian KIMBERLY STILES, was and is a resident of Clark  
3 County, Nevada.  
4

5           3.       At all times relevant, upon information and belief, Defendant, KIM IAN UBINA, was  
6 and is a resident of the County of Clark, State of Nevada.

7           4.       The identity of Defendants DOES 1 through 5 is unknown at this time, however,  
8 Plaintiffs allege that DOES 1 through 5 are the owners of the vehicle that caused the Plaintiffs'  
9 vehicle to crash. Plaintiff requests leave of the Court to amend this Complaint to name the  
10 Defendant specifically when the identity becomes known.

11           5.       The identity of Defendants DOE 6 through 10 is unknown at this time, however,  
12 Plaintiffs allege that DOE 6 through 10 are other driver(s) who were driving the vehicle(s) that  
13 caused the collision with the Plaintiff vehicle. Plaintiff request leave of the Court to amend this  
14 Complaint to name the Defendant specifically when the identity becomes known.  
15

16           6.       The identities of Defendants DOES 11 through 20, are unknown at this time and may be  
17 individuals, corporations, associations, partnerships, subsidiaries, holding companies, owners,  
18 predecessor or successor entities, joint venturers, parent corporations or other related business  
19 entities of Defendants, inclusive, who were acting on behalf of or in concert with, or at the direction  
20 of Defendants and may be responsible for the injurious activities of the other Defendants. Plaintiff  
21 allege that each named and Doe Defendant negligently, willfully, intentionally, recklessly,  
22 vicariously, or otherwise, caused, directed, allowed or set in motion the injurious events set forth  
23 herein. Each named and Doe Defendant is legally responsible for the events and happenings stated  
24 in this Complaint, and thus proximately caused injury and damages to Plaintiff. Plaintiff requests  
25 leave of the Court to amend this Complaint to name the Doe Defendants specifically when their  
26 identities become known.  
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**FACTS COMMON TO ALL CAUSES OF ACTION**

7. On or about January 25, 2015, Plaintiff, KIMBERLY STILES was the driver and SARAH STILES, a minor was a passengers in a 2007 Mercedes C230 that was traveling southbound on Rampart in the intersection of Alta in Clark County, Nevada.

8. The Defendant, DELORES ANN BATSON was the driver of a 2013 Honda odyssey traveling westbound on Alta when she failed to obey a red traffic signal and T-Boned the Stiles vehicle.

9. Plaintiffs KIMBERLY STILES And SARAH STILES, a minor sustained substantive injury as a result of this collision.

10. Defendants were the owners and operators of motor vehicles, their employers and family members, while in the course and scope of employment and/or family purpose, which were entrusted and driven in such a negligent, reckless and careless manner so as to cause a collision with Plaintiffs vehicle.

11. Defendant was operating the vehicle in a negligent, careless, reckless and wanton manner thereby causing a collision with the Plaintiffs vehicle. That by reason of the Defendant's negligent acts and as a direct and proximate result thereof, Plaintiffs sustained great pain of body and mind, and mental stress and anxiety, all or some of which conditions may be permanent and disabling in nature, all to Plaintiffs' damage in an amount in excess of Ten Thousand Dollars and No Cents (\$10,000.00).

12. As a direct and proximate result of the Defendants' negligence, Plaintiffs sustained serious injuries and suffered great pain of body and mind, some of which conditions are permanent and disabling, all to their general damage in an amount in excess of Ten Thousand Dollars (\$10,000.00).

13. As a further direct and proximate result of the Defendants' negligence, Plaintiffs incurred expenses for medical care and treatment in an amount to be determined at trial.

14. As a further direct and proximate result of the Defendant and Doe Defendants' negligence, Plaintiff, KIMBERLY STILES sustained loss of earnings and earning capacity in an amount to be determined at trial.

15. As a direct and proximate result, Plaintiffs had to retain counsel to prosecute this action and is entitled to attorney fees and costs.

### PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, expressly reserves the right to amend this Complaint prior to or at the time of trial of this action to insert those items of damage not yet fully ascertainable, pray judgment against the Defendants, and each of them, as follows:

1. General damages in an amount in excess of \$10,000.00;
2. Special damages to be determined at the time of trial;
3. Medical and incidental expenses already incurred and to be incurred;
4. Lost earnings and earning capacity;
5. Reasonable attorney's fees and costs of suit;
6. Interest at the statutory rate; and,
7. For such other relief as this Court deems just and proper.

DATED THIS 15 day of November, 2016

**CLOWARD HICKS & BRASIER, PLLC**

BENJAMIN P. CLOWARD, ESQ.  
Nevada Bar No. 11087  
4101 Meadows Lane, Suite 210  
Las Vegas, Nevada 89107  
*Attorneys for Plaintiffs*

1 **IAFD**

2 BENJAMIN P. CLOWARD, ESQ.

3 Nevada Bar No. 11087

4 **CLOWARD HICKS & BRASIER, PLLC**

5 4101 Meadows Lane, Suite 210

6 Las Vegas, NV 89107

7 Bcloward@chblawyers.com

8 *Attorneys for Plaintiffs*

9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 KIMBERLY STILES, individually, as )  
12 natural parent and legal guardian of SARAH )  
13 STILES, a minor. )

14 Plaintiffs, )

15 vs. )

16 DELORIS ANN BATSON; and DOES 1 )  
17 through 20, inclusive, )

18 Defendants. )

CASE NO:

DEPT NO.

19 **INITIAL APPEARANCE FEE DISCLOSURE**

20 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for fees  
21 appearing in the above entitled action as indicated below:

22 KIMBERLY STILES \$ 270.00  
23 SARAH STILES \$ 30.00

24 **TOTAL REMITTED: \$ 300.00**

25 DATED this 17 day of November, 2016

26 **CLOWARD HICKS & BRASIER, PLLC**

27 BENJAMIN P. CLOWARD, ESQ.

28 Nevada Bar No. 11087

4101 Meadows Lane, Suite 210

Las Vegas, Nevada 89107

*Attorneys for Plaintiffs*

# EXHIBIT 2

*Heather S. Harris*

CLERK OF THE COURT

**BENJAMIN P. CLOWARD, ESQ.**

Nevada Bar No. 11087

**MARK L. JACKSON, ESQ.**

Nevada Bar No. 10905

**RICHARD HARRIS LAW FIRM**

801 South Fourth Street

Las Vegas, Nevada 89101

Telephone: (702) 444-4444

Facsimile: (702) 444-4455

Email: MJackson@RichardHarrisLaw.com

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

KIMBERLY STILES, individually, as natural  
parent and legal guardian of SARAH STILES,  
a minor.

Plaintiffs,

vs.

MICHELLE ORDWAY, personal  
representative of the Estate of DELORIS ANN  
BATSON; and DOES 1 through 20, inclusive,

Defendants.

CASE NO.: A-16-746738-C

DEPT NO.: 4

**JUDGMENT UPON THE JURY**  
**VERDICT**

Date of Decision: June 17, 2021

This action came on for trial before the court and the jury, the Honorable, Nadia Krall,  
District Judge, presiding, and the issues having been duly tried and the jury having duly  
rendered its verdict.<sup>1</sup>

IT IS ORDERED AND ADJUDGED that Plaintiff KIMBERLY STILES have and  
recover of Defendant MICHELLE ORDWAY, personal representative of the Estate of  
DELORIS ANN BATSON as follows:

///

///

---

<sup>1</sup> Exhibit 1: Jury Verdict

Past Medical Expenses: \$222,864.51

Past Pain and Suffering: \$120,000.00

**TOTAL DAMAGES: \$342,864.51**

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's past damages shall bear Pre-Judgment interest in accordance with *Lee v. Ball*, 116 P.3d 64, (2005) at the rate of 3.25% per annum plus 2%<sup>2</sup> from the date of service of the Summons and Complaint<sup>3</sup>, on February 15, 2017, through June 17, 2021, as follows:

**PRE-JUDGMENT INTEREST ON PAST MEDICAL DAMAGES:**

02/15/2017 through 6/17/2021 = **\$50,744.42**

[(1,583 days) at (prime rate (3.25%) plus 2 percent = 5.25%)]

[Interest is approximately \$ 32.06 per day]

**PRE-JUDGMENT INTEREST ON PAST PAIN AND SUFFERING:**

02/15/2017 through 6/17/2021 = **\$27,323.01**

[(1,583 days) at (prime rate (3.25%) plus 2 percent = 5.25%)]

[Interest is approximately \$17.26 per day]

**TOTAL JUDGMENT:**

Past Medical Damages \$222,864.51

Past Pain and Suffering \$120,000.00

Prejudgment Interest \$78,067.43

**TOTAL JUDGMENT \$420,931.94**

///

///

<sup>2</sup> Prime Rate as of July 1, 2021

<sup>3</sup> **Exhibit 2:** Answer

1 NOW, THEREFORE, Judgment Upon the Verdict in favor of the Plaintiff is as follows:

2 KIMBERLY STILES is hereby given Two Hundred Twenty-Two Thousand Eight  
3 Hundred Sixty-Four and 51/100 dollars (\$222,864.51), in past medical damages and One  
4 Hundred Twenty Thousand and 00/100 dollars (\$120,000.00) in past pain and suffering  
5 (totaling Three Hundred Forty-Two Thousand Eight Hundred Sixty-Four and 51/100 dollars  
6 (\$342,864.51), which shall bear post-judgment interest at the current rate of 5.25% per day,  
7 until satisfied.  
8

9 IT IS SO ORDERED.  
10

11 Dated this 10th day of July, 2021

12   
13

14 DISTRICT COURT JUDGE

15 E8B 15D 9D39 48E8

16 Nadia Krall

17 District Court Judge  
18

19 Submitted by:

20 RICHARD HARRIS LAW FIRM

21 /s/ Mark L. Jackson, Esq.

22 BENJAMIN P. CLOWARD, ESQ.

23 Nevada Bar No. 11087

24 MARK L. JACKSON, ESQ.

25 Nevada Bar No. 10905

26 801 South Fourth Street

27 Las Vegas, Nevada 89101

28 Attorneys for Plaintiffs

# **Exhibit 1**

# **Exhibit 1**



3:20 PM  
FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

JUN 17 2021

DISTRICT COURT  
CLARK COUNTY, NEVADA

KIMBERLY STILES,

Plaintiffs,

vs.

MICHELLE ORDWAY, personal  
representative of the Estate of DELORIS ANN  
BATSON;

Defendants.

CASE NO.: A-16-746738-C

DEPT NO.: 4

JILL M CHAMBERS, DEPUTY

VERDICT FORM

VERDICT FORM

We, the jury in the above-entitled action, find for the Plaintiff and against the  
Defendant and assess the total amount of the Plaintiff's damages as follows:

Past Medical Expenses \$ 222,864.51

Past Pain and Suffering \$ 120,000

Future Pain and Suffering \$ 0

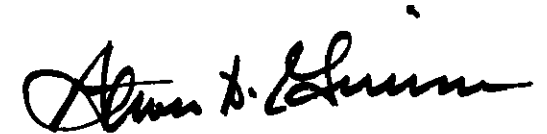
Total Damages \$ 342,864.51

DATED this 17 day of June, 2021.

[Signature]  
FOREPERSON #7

# **Exhibit 2**

# **Exhibit 2**



CLERK OF THE COURT

1 **ANS**  
2 M. Caleb Meyer, Esq.  
3 Nevada Bar No. 13379  
4 Christopher M. Hanley, Esq.  
5 Nevada Bar No. 11391  
6 MESSNER REEVES LLP  
7 5556 S. Fort Apache Road, Suite 100  
8 Las Vegas, Nevada 89148  
9 Telephone: (702) 363-5100  
10 Facsimile: (702) 363-5101  
11 E-mail: [chanley@messner.com](mailto:chanley@messner.com)  
12 [cmeyer@messner.com](mailto:cmeyer@messner.com)  
13 *Attorneys for Defendant*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11  
12 KIMBERLY STILES, individually, as natural  
13 parent and legal guardian of SARAH STILES, a  
14 minor;

14 Plaintiffs,

15 vs.

16 DELORIS ANN BATSON; and DOES 1  
17 through 20, inclusive,

18 Defendants.

Case No. A-16-746738-C  
Dept. No. IV

**DEFENDANT DELORIS ANN  
BATSON'S ANSWER TO  
PLAINTIFFS' COMPLAINT**

19 COMES NOW, Defendant DELORIS ANN BATSON, by and through her counsel,  
20 MESSNER REEVES LLP, and answers Plaintiffs' Complaint and responds and alleges as  
21 follows:  
22

23 **JURISDICTION**

24 1. Defendant is without knowledge as to the truth or veracity of this allegation  
25 contained in ¶ 1 of Plaintiffs' Complaint, and therefore denies the same.

26 2. Defendant is without knowledge as to the truth or veracity of this allegation  
27 contained in ¶ 2 of Plaintiffs' Complaint, and therefore denies the same.

1           3.       Defendant is without knowledge as to the truth or veracity of this allegation  
2 contained in ¶ 3 of Plaintiffs' Complaint, and therefore denies the same.

3           4.       Defendant is without knowledge as to the truth or veracity of this allegation  
4 contained in ¶ 4 of Plaintiffs' Complaint, and therefore denies the same.

5           5.       Defendant is without knowledge as to the truth or veracity of this allegation  
6 contained in ¶ 5 of Plaintiffs' Complaint, and therefore denies the same.

7           6.       Defendant is without knowledge as to the truth or veracity of this allegation  
8 contained in ¶ 6 of Plaintiffs' Complaint, and therefore denies the same.

9                                   **FACTS COMMON TO ALL CAUSES OF ACTION**

10          7.       Defendant is without knowledge as to the truth or veracity of this allegation  
11 contained in ¶ 7 of Plaintiffs' Complaint, and therefore denies the same.

12          8.       Defendant denies the allegation contained in ¶ 8 of Plaintiffs' Complaint.

13          9.       Defendant is without knowledge as to the truth or veracity of this allegation  
14 contained in ¶ 9 of Plaintiffs' Complaint, and therefore denies the same.

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21                                   **AFFIRMATIVE DEFENSES**

22                                   **FIRST AFFIRMATIVE DEFENSE**

23                                   ***Failure to State a Claim***

24           The Complaint, and each and every cause of action stated therein, fails to state facts  
25 sufficient to constitute a cause of action, or any cause of action.

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**SECOND AFFIRMATIVE DEFENSE**

*Action Barred by Statute of Limitations*

The Complaint, and each and every cause of action contained therein is barred by the applicable Statutes of Limitations.

**THIRD AFFIRMATIVE DEFENSE**

*Fictitious Defendant*

Defendant is not legally responsible for the acts and/or omissions of those who are named as fictitious Defendant.

**FOURTH AFFIRMATIVE DEFENSE**

*Comparative Fault*

Plaintiffs’ damages, if any, were proximately caused and contributed to, in whole or in part, by Plaintiffs’ conduct, thereby completely or partially barring the Plaintiffs’ recovery herein.

**FIFTH AFFIRMATIVE DEFENSE**

*Comparative Fault of Third Parties*

Plaintiffs’ damages, if any, were proximately caused and contributed to, in whole or in part, by the acts of others; wherefore any recovery obtained by Plaintiffs from Defendant, should be reduced by an amount equal to the percentage of the fault of others who caused or contributed to the damages alleged in the Complaint.

**SIXTH AFFIRMATIVE DEFENSE**

*Apportionment of Fault*

Plaintiffs’ damages, if any, were proximately caused and contributed to, in whole or in part, by the acts of others; wherefore any recovery obtained by Plaintiffs must be divided between the Defendants so that each pays only his, her or its fair share in relationship to his, her or its amount of fault.

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**SEVENTH AFFIRMATIVE DEFENSE**

*Assumption of the Risk*

Plaintiffs knew of and fully understood the danger and risk incident to the undertaking, and voluntarily undertook the risk that led to the accident or injuries alleged in the Complaint.

**EIGHTH AFFIRMATIVE DEFENSE**

*Consent*

Plaintiffs agreed to, and participated in, those actions claimed to have caused injury or damage. Since such participation and consent were given knowingly and voluntarily, the claims are invalid.

**NINTH AFFIRMATIVE DEFENSE**

*Failure to Mitigate Damages*

Plaintiffs failed to take reasonable steps to minimize or prevent the damages alleged in the Complaint.

**TENTH AFFIRMATIVE DEFENSE**

*Equitable Doctrines of Estoppel & Laches*

Plaintiffs unreasonably delayed filing the Complaint, which has unduly and severely prejudiced the defense of the action, thereby barring or diminishing recovery herein under the Doctrines of Estoppel & Laches.

**ELEVENTH AFFIRMATIVE DEFENSE**

*Waiver*

Plaintiffs, by way of acts and omissions, have waived any entitlement to any recovery herein.

**TWELFTH AFFIRMATIVE DEFENSE**

*Doctrine of Unclean Hands*

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Unclean Hands.

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**THIRTEENTH AFFIRMATIVE DEFENSE**

*Intervening or Supervening Cause*

Plaintiffs’ damages, if any, were proximately caused, or made worse, by an event that occurred after the accident described in the complaint, thus Defendant is not responsible.

**FOURTEENTH AFFIRMATIVE DEFENSE**

*Attorneys’ Fees*

It has been necessary for Defendant to retain the services of an attorney to defend this action, and Defendant is entitled to a reasonable sum as and for attorneys’ fees.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant, pursuant to N.R.C.P. 11, reserves the right to amend this Answer to allege additional affirmative defenses, if subsequent investigation so warrants.

WHEREFORE, Defendants pray:

- 1. That Plaintiffs take nothing by way of the Complaint on file;
- 2. For an award of costs to Defendant; and
- 3. For such other and further relief as the Court deems proper.

DATED this 8<sup>th</sup> day of March, 2017.

MESSNER REEVES LLP  
  
*/s/ Christopher M. Hanley, Esq.*  
  
\_\_\_\_\_  
M. Caleb Meyer, Esq.  
Nevada Bar No. 13379  
Christopher M. Hanley, Esq.  
Nevada Bar No. 11391  
5556 S. Fort Apache Road, Suite 100  
Las Vegas, Nevada 89148  
Attorneys for Defendant

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1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 Kimberly Stiles, Plaintiff(s) CASE NO: A-16-746738-C  
7 vs. DEPT. NO. Department 4  
8 Estate of Deloris Ann Batson,  
9 Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Judgment on Jury Verdict was served via the court's electronic eFile  
system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/10/2021

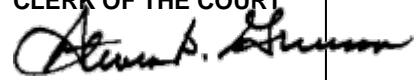
15 "Tina Jarchow, paralegal" .	tina@chblawyers.com
16 Benjamin Cloward .	bcloward@CHBLawyers.com
17 Benjamin Cloward .	Benjamin@richardharrislaw.com
18 Caleb Meyer .	cmeyer@messner.com
19 David J. Martin .	dmartin@richardharrislaw.com
20 Kimberly Shonfeld .	kshonfeld@messner.com
21 Olivia Bivens .	olivia@chblawyers.com
22 Olivia Bivens .	olivia@richardharrislaw.com
23 Stacey Crawford .	stacey@richardharrislaw.com
24 Tina Jarchow .	tina@richardharrislaw.com
25 Renee Finch	rfinch@messner.com

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E-file ZDOC	zdocteam@richardharrislaw.com
Nicole Griffin	ngriffin@richardharrislaw.com
Rosanne Means	rmeans@richardharrislaw.com
Mark Jackson	mjackson@richardharrislaw.com
Christina Mundy-Mamer	cmamer@messner.com
Rhonda Onorato	ronorato@messner.com
John Coupe	jcoupe@richardharrislaw.com

# EXHIBIT 3



**BENJAMIN P. CLOWARD, ESQ.**

Nevada Bar No. 11087

**MARK L. JACKSON, ESQ.**

Nevada Bar No. 10905

**RICHARD HARRIS LAW FIRM**

801 South Fourth Street

Las Vegas, Nevada 89101

Telephone: (702) 444-4444

Facsimile: (702) 444-4455

Email: MJackson@RichardHarrisLaw.com

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

KIMBERLY STILES, individually, as natural  
parent and legal guardian of SARAH STILES,  
a minor.

Plaintiffs,

vs.

MICHELLE ORDWAY, personal  
representative of the Estate of DELORIS ANN  
BATSON; and DOES 1 through 20, inclusive,

Defendants.

CASE NO.: A-16-746738-C  
DEPT NO.: 4

**NOTICE OF ENTRY OF JUDGMENT  
UPON THE JURY VERDICT**

**PLEASE TAKE NOTICE** that a Judgment Upon the Jury Verdict was entered on July  
10, 2021. A true and exact copy is attached hereto as **Exhibit 1**.

DATES: July 23, 2021

**RICHARD HARRIS LAW FIRM**

/s/ Benjamin P. Cloward, Esq.

BENJAMIN P. CLOWARD, ESQ.

Nevada Bar No. 11087

MARK L. JACKSON, ESQ.

Nevada Bar No.: 10905

801 S. Fourth Street

Las Vegas, NV 89101

**CERTIFICATE OF SERVICE**

Pursuant to NEFCR 9, NRCP 5(b), LR IC 4-1, and/or FRCP 5(b), I hereby certify that on this date, I caused to be served a true copy of the foregoing **NOTICE OF ENTRY OF JUDGMENT UPON THE JURY VERDICT** as follows:

- ☐ **U.S. Mail:** By depositing a true and correct copy of said document(s) via U.S. mail, with postage pre-paid and addressed as listed below.
- ☐ **Hand Delivery:** I caused said document(s) to be delivered to the address(es) list below;
- ☐ **Electronic Mail:** I caused said document(s) to be delivered by emailing an attached Adobe Acrobat PDF of the document to the email address(es) identified above.
- ☒ **Electronic Service:** I caused said document to be delivered by electronic means upon all eligible electronic recipients via the United States District Court CM/ECF system or Clark County District Court E-Filing system (Odyssey).

M. Caleb Meyer, Esq.  
Renee Finch, Esq.  
Christina Mundy-Mamer, Esq.  
MESSNER REEVES LLP  
8945 W. Russell Road, Suite 300  
*Attorneys for Defendant*

Dated: July 23, 2021

/s/ John Coupe  
An employee of RICHARD HARRIS LAW FIRM

# Exhibit 1

# Exhibit 1

*Heather S. Harris*  
CLERK OF THE COURT

**BENJAMIN P. CLOWARD, ESQ.**  
Nevada Bar No. 11087  
**MARK L. JACKSON, ESQ.**  
Nevada Bar No. 10905  
**RICHARD HARRIS LAW FIRM**  
801 South Fourth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 444-4444  
Facsimile: (702) 444-4455  
Email: MJackson@RichardHarrisLaw.com  
*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

KIMBERLY STILES, individually, as natural  
parent and legal guardian of SARAH STILES,  
a minor.

Plaintiffs,

vs.

MICHELLE ORDWAY, personal  
representative of the Estate of DELORIS ANN  
BATSON; and DOES 1 through 20, inclusive,

Defendants.

CASE NO.: A-16-746738-C  
DEPT NO.: 4

**JUDGMENT UPON THE JURY**  
**VERDICT**

Date of Decision: June 17, 2021

This action came on for trial before the court and the jury, the Honorable, Nadia Krall,  
District Judge, presiding, and the issues having been duly tried and the jury having duly  
rendered its verdict.<sup>1</sup>

IT IS ORDERED AND ADJUDGED that Plaintiff KIMBERLY STILES have and  
recover of Defendant MICHELLE ORDWAY, personal representative of the Estate of  
DELORIS ANN BATSON as follows:

///

///

---

<sup>1</sup> Exhibit 1: Jury Verdict

Past Medical Expenses: \$222,864.51

Past Pain and Suffering: \$120,000.00

**TOTAL DAMAGES: \$342,864.51**

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's past damages shall bear Pre-Judgment interest in accordance with *Lee v. Ball*, 116 P.3d 64, (2005) at the rate of 3.25% per annum plus 2%<sup>2</sup> from the date of service of the Summons and Complaint<sup>3</sup>, on February 15, 2017, through June 17, 2021, as follows:

**PRE-JUDGMENT INTEREST ON PAST MEDICAL DAMAGES:**

02/15/2017 through 6/17/2021 = **\$50,744.42**

[(1,583 days) at (prime rate (3.25%) plus 2 percent = 5.25%)]

[Interest is approximately \$ 32.06 per day]

**PRE-JUDGMENT INTEREST ON PAST PAIN AND SUFFERING:**

02/15/2017 through 6/17/2021 = **\$27,323.01**

[(1,583 days) at (prime rate (3.25%) plus 2 percent = 5.25%)]

[Interest is approximately \$17.26 per day]

**TOTAL JUDGMENT:**

Past Medical Damages \$222,864.51

Past Pain and Suffering \$120,000.00

Prejudgment Interest \$78,067.43

**TOTAL JUDGMENT \$420,931.94**

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<sup>2</sup> Prime Rate as of July 1, 2021

<sup>3</sup> Exhibit 2: Answer



NOW, THEREFORE, Judgment Upon the Verdict in favor of the Plaintiff is as follows:

KIMBERLY STILES is hereby given Two Hundred Twenty-Two Thousand Eight Hundred Sixty-Four and 51/100 dollars (\$222,864.51), in past medical damages and One Hundred Twenty Thousand and 00/100 dollars (\$120,000.00) in past pain and suffering (totaling Three Hundred Forty-Two Thousand Eight Hundred Sixty-Four and 51/100 dollars (\$342,864.51), which shall bear post-judgment interest at the current rate of 5.25% per day, until satisfied.

IT IS SO ORDERED.

Dated this 10th day of July, 2021



DISTRICT COURT JUDGE

E8B 15D 9D39 48E8

Nadia Krall

District Court Judge

Submitted by:

**RICHARD HARRIS LAW FIRM**

/s/ Mark L. Jackson, Esq.

**BENJAMIN P. CLOWARD, ESQ.**

Nevada Bar No. 11087

**MARK L. JACKSON, ESQ.**

Nevada Bar No. 10905

801 South Fourth Street

Las Vegas, Nevada 89101

*Attorneys for Plaintiffs*

# **Exhibit 1**

# **Exhibit 1**

3:20 PM  
FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

JUN 17 2021

DISTRICT COURT  
CLARK COUNTY, NEVADA

KIMBERLY STILES,

Plaintiffs,

vs.

MICHELLE ORDWAY, personal  
representative of the Estate of DELORIS ANN  
BATSON;

Defendants.

CASE NO.: A-16-746738-C

DEPT NO.: 4

JILL M CHAMBERS, DEPUTY

VERDICT FORM

VERDICT FORM

We, the jury in the above-entitled action, find for the Plaintiff and against the  
Defendant and assess the total amount of the Plaintiff's damages as follows:

Past Medical Expenses \$ 222,864.51

Past Pain and Suffering \$ 120,000

Future Pain and Suffering \$ 0

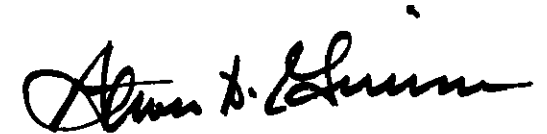
Total Damages \$ 342,864.51

DATED this 17 day of June, 2021.

#7  
FOREPERSON

# **Exhibit 2**

# **Exhibit 2**



CLERK OF THE COURT

1 **ANS**  
2 M. Caleb Meyer, Esq.  
3 Nevada Bar No. 13379  
4 Christopher M. Hanley, Esq.  
5 Nevada Bar No. 11391  
6 MESSNER REEVES LLP  
7 5556 S. Fort Apache Road, Suite 100  
8 Las Vegas, Nevada 89148  
9 Telephone: (702) 363-5100  
10 Facsimile: (702) 363-5101  
11 E-mail: [chanley@messner.com](mailto:chanley@messner.com)  
12 [cmeyer@messner.com](mailto:cmeyer@messner.com)  
13 *Attorneys for Defendant*

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10 **CLARK COUNTY, NEVADA**

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BATSON'S ANSWER TO  
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*Fictitious Defendant*

Defendant is not legally responsible for the acts and/or omissions of those who are named as fictitious Defendant.

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Plaintiffs' damages, if any, were proximately caused and contributed to, in whole or in part, by Plaintiffs' conduct, thereby completely or partially barring the Plaintiffs' recovery herein.

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*Apportionment of Fault*

Plaintiffs' damages, if any, were proximately caused and contributed to, in whole or in part, by the acts of others; wherefore any recovery obtained by Plaintiffs must be divided between the Defendants so that each pays only his, her or its fair share in relationship to his, her or its amount of fault.

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*Consent*

Plaintiffs agreed to, and participated in, those actions claimed to have caused injury or damage. Since such participation and consent were given knowingly and voluntarily, the claims are invalid.

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*Failure to Mitigate Damages*

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Plaintiffs unreasonably delayed filing the Complaint, which has unduly and severely prejudiced the defense of the action, thereby barring or diminishing recovery herein under the Doctrines of Estoppel & Laches.

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*Waiver*

Plaintiffs, by way of acts and omissions, have waived any entitlement to any recovery herein.

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It has been necessary for Defendant to retain the services of an attorney to defend this action, and Defendant is entitled to a reasonable sum as and for attorneys' fees.

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Defendant, pursuant to N.R.C.P. 11, reserves the right to amend this Answer to allege additional affirmative defenses, if subsequent investigation so warrants.

WHEREFORE, Defendants pray:

- 1. That Plaintiffs take nothing by way of the Complaint on file;
- 2. For an award of costs to Defendant; and
- 3. For such other and further relief as the Court deems proper.

DATED this 8<sup>th</sup> day of March, 2017.

MESSNER REEVES LLP

*/s/ Christopher M. Hanley, Esq.*

\_\_\_\_\_  
M. Caleb Meyer, Esq.  
Nevada Bar No. 13379  
Christopher M. Hanley, Esq.  
Nevada Bar No. 11391  
5556 S. Fort Apache Road, Suite 100  
Las Vegas, Nevada 89148  
Attorneys for Defendant

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1 **CSERV**

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CLARK COUNTY, NEVADA

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6 Kimberly Stiles, Plaintiff(s) CASE NO: A-16-746738-C  
7 vs. DEPT. NO. Department 4  
8 Estate of Deloris Ann Batson,  
9 Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Judgment on Jury Verdict was served via the court's electronic eFile  
system to all recipients registered for e-Service on the above entitled case as listed below:

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