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Electronically Filed
Dec 29 2021 05:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI KIA, M.D., and NEVADA
HOSPITALIST GROUP, LLP,

Supreme Court No: 83357

Petitioners,
v.

District Court No.: A-17-757722-C

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE JASMIN-LILLY-
SPELLS,

Respondents,
and

CHLOE GREEN, FRANK J. DELEE,
M.D., FRANK J. DELEE, P.C., and
SUNRISE HOSPITAL AND MEDICAL
CENTER, LLC.

**REAL PARTY IN INTEREST FRANK J. DELEE, M.D. AND FRANK J.
DELEE, M.D., PC'S SUPPLEMENTAL APPENDIX TO MOTION FOR
LEAVE TO JOIN RESPONDENT CHLOE GREEN'S ANSWER TO ALI
KIA, M.D.'S PETITION FOR WRIT OF MANDAMUS**

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DOCUMENT**PAGE NO.**

Joinder to Plaintiff's (1) Motion for Reconsideration
and (2) Motion for Leave of Court to Amend
Complaint filed October 22, 2020

DE LEE0001-
DE LEE0049

Errata to Joinder to Plaintiff's (1) Motion for
Reconsideration and (2) Motion for Leave of Court to
Amend Complaint filed October 23, 2020

DE LEE0050-
DE LEE0053

Order Granting in Part and Denying in Part Plaintiff's
Motion for Leave to Amend Complaint filed
December 15, 2020

DE LEE0054-
DE LEE0060

Notice of Entry of Order Granting in Part and
Denying in Part Plaintiff's Motion for Leave to Amend
Complaint filed December 15, 2020

DE LEE0061-
DE LEE0069

CERTIFICATE OF MAILING

I hereby certify that on this 29th day of December, 2021, I served the foregoing
**REAL PARTY IN INTEREST FRANK J. DELEE, M.D. AND FRANK J.
DELEE, M.D., PC'S SUPPLEMENTAL APPENDIX TO MOTION FOR
LEAVE TO JOIN RESPONDENT CHOLOE GREEN'S ANSWER TO
PETITIONER ALI KIA'S PETITION FOR WRIT OF MANDAMUS** upon the
following parties by placing a true and correct copy thereof in the United States Mail
in Las Vegas, Nevada with first class postage fully prepaid:

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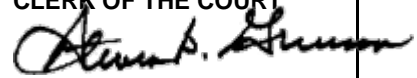
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CERTIFICATE OF MAILING-CONT'D

THE HONORABLE JASMIN LILLY- SPEARS The Eighth Judicial District Court Department 23 Regional Justice Center 200 Lewis Avenue Las Vegas, NV 89155 <i>Respondent</i>	Aaron Ford Attorney General Nevada Department of Justice 100 North Carson Street Carson City, NV 89701 <i>Counsel for Respondent</i>
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BY: /s/ Jennifer Davidson
An Employee of





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and Frank J. DeLee M.D., P.C.*

DISTRICT COURT

CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual; FRANK
J. DELEE MD, PC, a Domestic Professional
Corporation, SUNRISE HOSPITAL AND
MEDICAL CENTER, LLC, a Foreign Limited-
Liability Company,

Defendants.

CASE NO.: A-17-757722-C
DEPT. NO.: IX

**DEFENDANTS FRANK J. DeLEE,
M.D. AND FRANK J. DeLEE, M.D.,
P.C.'S JOINDER TO PLAINTIFF'S (1)
MOTION FOR RECONSIDERATION,
AND (2) MOTION FOR LEAVE OF
COURT TO AMEND COMPLAINT**

Defendants Frank J. DeLee, M.D. and Frank J. DeLee M.D., P.C. (collectively "DeLee Defendants"), by and through their attorneys of record, Eric K. Stryker and Brigitte E. Foley, of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, hereby join Plaintiff's (1) Motion for Reconsideration, and (2) Motion for Leave of Court to Amend Complaint and incorporate all arguments and points and authorities thereto as though fully set forth herein.

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1. Dr. DeLee Did Not Discharge Plaintiff From Sunrise Hospital on July 16, 2016, as Alleged in Plaintiffs' Complaint and Affidavit of Dr. Karamardian.

In other words, Dr. Kia called Dr. DeLee to generally discuss the Plaintiff's case *as a courtesy*. Dr. DeLee informed the Sunrise Hospital staff that **he was going to be out of town**, and therefore Dr. Kia ordered the admission of Plaintiff to Sunrise Hospital's medical/surgical unit. Dr. Kia was the admitting/attending physician during this admission, and **Dr. Kia discharged later the patient.**¹ Dr. Kia never asked Dr. DeLee to come to Sunrise Hospital to formally consult on the patient's care, and never provided Dr. DeLee with any medical records or medical imaging during Plaintiff's July 14-16, 2016 admission at Sunrise Hospital. Up to the date of Dr. Kia's order discharging Plaintiff from the hospital on July 16, 2016, Dr. Kia agreed that he could have obtained a physician consultation from any medical specialty he considered necessary for patient care.

1 Plaintiff's claim that Dr. DeLee breached a duty to provide 30 days of follow up care "when he did not provide Choloe competent care during her second hospital stay even though he was paid, through Medicaid, to provide the care" is unsupported by any expert testimony. Indeed, if that accusation were true, then no physician would choose to practice Obstetrics, because they would never be allowed to leave town for a vacation.

1 More importantly, if at any time Dr. Kia was concerned that Plaintiff's suspected small
2 bowel obstruction required surgical management, he would have called a General Surgeon for that
3 treatment, and not an Obstetrician like Dr. DeLee. A medical decision on whether a suspected
4 small bowel obstruction requires surgery is only made between the attending Hospitalist (Dr. Kia)
5 and the consulting non-party general surgeon (Kitae Kim, M.D.). None of these operative facts are
6 disputed by Dr. Kia, who testified:
7

8 Q. Okay. How did she become your patient?

9 A. I was consulted through the emergency department and became her attending
10 physician on July 14, 2016.

11 ...

12 Q. ... What about **did you request a surgical consult?**

13 A. **I did.** On the 14th of July when the -- first night the patient came in, typically
14 with the small bowel obstruction I get general surgery on the case as well.

15 Q. ... And who -- did a surgeon see her?

16 A. **I consulted Dr. Kitae Kim who was the trauma surgeon/general surgeon on**
17 **for that night.**

18 ...

19 Q. I'm just asking, did the surgeon -- what did the surgeon tell you?

20 A. **His recommendation was to keep her NPO, so nothing by mouth,** no food,
21 no liquids, and if I recall, it was strict NPO, so no water, no ice chips. If she was to
22 get worse throughout the night, **my instruction was to order an NG tube, a**
23 **nasogastric tube,** which she did not require, **to give her IV fluids and repeat**
24 **imaging.** So that would have been a KUB, an x-ray of her abdomen within the next
25 24 to 48 hours, which we did obtain.

26 ...

27 Q. Okay. And there are times a small bowel obstruction doesn't resolve itself;
28 correct?

A. Correct.

Q. And then you need surgery?

A. It can be managed medically, but **it's really a clinical judgment from the**
24 **surgeon and the hospitalist.**

25 ...

26 Q. ... **Were you calling him formally to have [Dr. DeLee] come to the hospital**
27 **and walk into the room and treat the patient at the bedside?**

28 A. **Not necessarily.**

Q. Okay.

1 A. Just a consult.

2 Q. And just a telephonic informal consult?

3 A. To initially notify him that his patient was admitted under my service at Sunrise
4 Hospital on 7/14.

5 **Q. And you do that as a courtesy?**

6 **A. I typically do.**

7 ...
8 Q. You never provided Dr. DeLee with copies of any medical records or copies of
9 any medical imaging for this patient's admission to Sunrise Hospital during her July
10 14, 2016 admission?

11 A. No, I did not.

12 ...
13 Q. And based on this chart entry, it would indicate that Dr. DeLee informed the
14 treatment team that he was out of town; correct? ... Is that your interpretation of that
15 note?

16 A. Yes.

17 Q. Okay. For he will be out of town you take to understand that the patient should
18 be admitted to the medicine unit because Dr. DeLee would be out of town?

19 A. Yes, correct.

20 ...
21 Q. Is it fair to say that you were in control over management of this patient's
22 treatment while you were the attending physician for this patient from July 14th,
23 2016 until the time of discharge?

24 A. Control? I'm not quite understanding.

25 Q. For example, if you wanted her to see a consultant of any particular medical
26 specialty, that's something that you could have made happen if you considered it to
27 be necessary?

28 A. I felt I was, yes.

Q. And you maintained that control right up until the time of her discharge?

A. I did, yes.

...
Q. K-I-T-A-E Kim. Dr. Kim is a surgeon?

A. Yes, a general and trauma surgeon.

Q. ... And so in leaving this aside, **I believe you told us that on at least two
occasions during the admission you had conversations with Dr. Kim, the
surgeon, as to how to manage this patient; true?**

A. I consulted him for the patient, not -- and **I was looking for feedback from his**
—

1 Q. Sure.

2 A. -- point of view.

3 Q. You were seeking the superior knowledge of a surgeon as to the best way to
4 care for this patient?

5 A. Correct.

6 Q. And so you provided Dr. Kim information about this patient, and am I
7 correct that Dr. Kim agreed with your plan?

8 A. I believe so, yes.

9 ...
10 Q. If the suspected small bowel obstruction or ileus were to proceed to the point
11 that you were concerned this patient would require surgery to address it, who
12 would you call to perform surgery to address a small bowel obstruction or ileus
13 that required surgical intervention?

14 A. For small bowel obstruction, ileus, it's typically the general surgeon on call.

15 Q. Okay.

16 A. And so the general surgeon.

17 Q. And of the doctors whose names have been discussed today, would that have
18 been Dr. Kitae Kim?

19 A. Yes.

20 *Deposition of Ali Kia, M.D., attached Exhibit A at 18, 31, 33-34, 52, 57, 69-70, 73 (objections*
21 *omitted)(emphasis added).*

22 The above testimony clarifies that: (1) Dr. DeLee was never asked to come to Sunrise
23 Hospital to treat Plaintiff between July 14-16, 2016, because he clearly communicated to the
24 treatment team that was out of town; and (2) the pivotal decision of whether to perform surgery on
25 Plaintiff's suspected small bowel obstruction, or instead discharge the patient from the hospital,
26 was a decision made between the non-party Hospitalist Dr. Kia and non-party General Surgeon
27 Dr. Kim.

28 The DeLee Defendants join Plaintiff's motions for reconsideration and motion to amend
her complaint because given the evidence above, reconsideration of the Court's prior order
granting Dr. Kia's motion to dismiss is appropriate, and allowing the amendment of Plaintiff's

complaint to add Dr. Kia and his employer is the most appropriate relief under the circumstances.

POINTS AND AUTHORITIES

I. NRS §41A.071 DOES NOT REQUIRE A PHYSICIAN DEFENDANT TO BE IDENTIFIED BY NAME IN AN EXPERT AFFIDAVIT.

The Court granted former defendant Nevada Hospitalist Group, LLP's Motion for Judgment on the Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder to same seeking dismissal of Defendant Sunrise Hospital's Third Party Complaint against them apparently based on an incorrect assumption that a physician must identified by name in the affidavit of the Plaintiff's expert witness supportive of the complaint:

Plaintiff's complaint and affidavit **do not identify Dr. Kia or Nevada Hospitalist Group ("NHG")**. ... Because **neither Dr. Kia nor NHG are identified in the complaint or the affidavit** there is no identified specific act or specific acts of alleged professional negligence by Dr. Kia and NHG. **Instead, the complaint and affidavit only identifies Sunrise Hospital and Dr. DeLee** when laying the facts and circumstances that form the cause of action involving the alleged professional negligence.

Order Regarding Third-Party Defendant Nevada Hospitalist Group, LLP's Motion for Judgment on The Pleadings and Third-Party Defendant Ali Kia, M.D.'s Joinder Thereto, at 3 lines 14-15, and 16-18, on file and incorporated herein by reference.

The DeLee Defendants agree with Plaintiff that a plain reading of NRS §41A.071 allowed the Plaintiff **two alternative means** to support her complaint with an expert witness affidavit, and in turn, for Third Party Defendant Sunrise Hospital to have done so as well:

NRS 41A.071 Dismissal of action filed without affidavit of medical expert. If an action for professional negligence is filed in the district court, the district court shall dismiss the action, without prejudice, if the action is filed without an affidavit that:

1. Supports the allegations contained in the action;
2. Is submitted by a medical expert who practices or has practiced in an area that is substantially similar to the type of practice engaged in at the time of the alleged professional negligence;
3. **Identifies by name, or describes by conduct**, each provider of health care who is alleged to be negligent; and

1 4. Sets forth factually a specific act or acts of alleged negligence separately
2 as to each defendant in simple, concise and direct terms.

3 (Emphasis added.)

4 This Nevada statute unambiguously allows a plaintiff to either “identify by name, **or**
5 **describe by conduct** each provider of healthcare who is alleged to be negligent.” Hence the Order
6 Regarding Third-Party Defendant Nevada Hospitalist Group, LLP’s Motion For Judgment on The
7 Pleadings and Third-Party Defendant Ali Kia, M.D.’S Joinder Thereto contained a misstatement
8 of Nevada law, for which reconsideration is appropriate.²

9 **II. NRS §41A.071 ALLOWS A PLAINTIFF TO DESCRIBE BY CONDUCT A**
10 **PHYSICIAN DEFENDANT’S ALLEGED PROFESSIONAL**
11 **NEGLIGENCE, WHICH WAS DONE.**

12 Dr. DeLee agrees with Plaintiff that the affidavit of her expert witness Lisa Kamardian,
13 M.D. did “describe by conduct” the alleged professional negligence claimed – to wit, discharge of
14 the patient from Sunrise Hospital:

15 She was **admitted to the medical/surgical unit** because of the diagnosis of sepsis.
16 **She was discharged on July 16, 2016.** The discharge was discussed and confirmed
17 by Dr. DeLee. **This discharge violated the standard of care. Ms, Green was**
18 **discharged despite the fact that she was not able to tolerate a regular diet.**
19 **Further, on the day of her discharge, her KUB showed multiple dilated loops of**
 bowel, thought to be related to a small bowel obstruction, yet she was sent
 home. An intraperitoneal abscess was suspected on a CT scan, yet she was still
 sent home, This was a violation of the standard of care by Sunrise Hospital and Dr.
 DeLee,

20 *Affidavit of Lisa Kamardian, M.D.* at para. 5, attached Exhibit B to Plaintiff’s Complaint, on file
21 and incorporated herein by reference (emphasis added).

22 All of the boldfaced language in Dr. Kamardian’s affidavit “described by conduct” alleged
23 actions/inactions of Ali Kia, M.D. which Plaintiff claims fell below the standard of care. They
24

25 _____
26 ² If the Court is concerned that Plaintiff’s motion for reconsideration is somehow untimely, despite the
27 legal arguments addressing same in Plaintiff’s motion, Joining Defendants would add that the June 1, 2020
28 Administrative Order 20-17 pointed out: “This is not the time to press for unwarranted tactical
advantages...” To the extent that a deadline for reconsideration, Plaintiff’s motion for reconsideration may
also be interpreted as a request for an order extending time to submit a motion for reconsideration under
EDCR 5.513(a).

1 included multiple specific acts of alleged negligence attributable to Dr. Kia, albeit without naming
2 him directly. Again, however NRS 41A.071 did not require that he be identified by name directly,
3 as long as the specific acts of alleged negligent conduct was described. Therefore since the affidavit
4 sufficiently described multiple specific acts of Dr. Kia (considering small bowel obstruction,
5 ordering medical imaging, having thoughts about the findings shown on medical imaging, the
6 ordering patient discharge), Sunrise Hospital should have been entitled to utilize the affidavit to
7 pursue its third party claims against Dr. Kia and his employer, and Plaintiff should now be allowed
8 to do so in an amended complaint.
9

10 While Plaintiff's expert witness erroneously attributed Dr. Kia's hospital admission,
11 suspicion of a small bowel obstruction, orders for medical imaging, and ultimate order for patient
12 discharge to Defendant Dr. DeLee, (who was out of town), the evidence above clearly confirms
13 this was all "conduct" and "specific acts" of Dr. Kia that were described in Dr. Kamardian's
14 affidavit. Reading the affidavit in combination with the affidavit, as the Court is required to do,
15 Plaintiff satisfied the low pleading threshold NRS §41A.071 was intended to provide. The error of
16 Plaintiff's retained expert witness Dr. Kamardian should not befall the Plaintiff, who apparently
17 relied in good faith on her retained expert's expertise in interpreting the complex medical chart,
18 which was hardly a model of clarity. For example, page one the Plaintiff's discharge order did not
19 identify "Ali Kia, M.D.," but instead cryptically identified only "KIAAL" in the upper right hand
20 corner below:
21

22
23 . . .

24 . . .

25 . . .
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1 Order Date: 07/16/16 —Service—
2 Category Procedure Name Order Number Date Time Pri Qty Ord Source Status Ordered
DISCHG DISCHARGE ORDER 20160716-0093 07/16/16 R E TRN KIAAL
3 Other Provider : Sig Lvl Provider :
4 :
5 Discharge order written date: 07/16/16
6 Discharge order written time: 1521
7 Discharge To: Home
8 Discharge Type: Adult
9 * New/Additional DME/Home Health orders with Discharge?
10 N
11 Does patient have any of the following conditions at discharge?
12 NONE
13 .

14 *Excerpt of Plaintiff's Sunrise Hospital Medical Records, at SH00638, attached Exhibit B.*

15 Similarly, a subsequent portion of the physician order for discharge *two pages later*
16 cryptically included four references to a "DR. KIAAL," (who does not exist), and three references
17 to a "Kia.Ali MD" – all of which only appeared under an "audit trail" which Plaintiff's expert
18 witness may not have understood to be part of the actual physician order. Indeed, two out of three
19 references to Kia.Ali MD" were shaded over by the chart, potentially making them illegible to
20 Plaintiff's expert:

21 **Order's Audit Trail of Events**

22 1 07/16/16 1521 DR.KIAAL Order ENTER in POM
23 2 07/16/16 1521 DR.KIAAL Ordering Doctor: Kia.Ali MD
24 3 07/16/16 1521 DR.KIAAL Order Source: EPOM
25 4 07/16/16 1521 DR.KIAAL Signed by Kia.Ali MD
26 5 07/16/16 1554 DNURRAW order viewed from Order Management
27 6 07/16/16 1736 DNURNPS order acknowledged

28 Electronically signed by Kia.Ali MD on 07/16/16 at 1521

Id. at

SH000640.

22 As a matter of public policy, it is not asking too much of former Third Party Defendant Ali
23 Kia, M.D. to sign his physician order as "Ali Kia, M.D." so that others may timely identify his role
24 in patient care.

25 Further, as a matter of public policy, allowing Dr. Kia to continue to avoid this lawsuit
26 would only encourage similar cryptic chart entries by other physicians, possibly in an attempt to
27 avoid being later sued for their treatment. Such practices can also compromise patient care, because
28

1 physicians would not be able to identify other physicians involved in medical treatment to discuss
2 a patient's history or notify them of critical findings that arise during treatment.

3 If instead the Sunrise Hospital computer system was responsible for these confusing
4 entries, the fact remains that Plaintiff did not cause them. In either scenario, the above ambiguities
5 may easily explain why Plaintiff's expert misunderstood the Plaintiff's July 16, 2016 discharge to
6 have been ordered by Dr. DeLee, (when it clearly was not), because the face of the physician order
7 for discharge never once stated "Ali Kia, M.D." Further, Plaintiff or her counsel may have had
8 difficulty identifying and locating a "DR. KIAAL" - who does not exist.

10 **III. THE DELEE DEFENDANTS ALSO HAVE RIGHTS TO**
11 **INDEMNIFICATION AND CONTRIBUTION AGAINST DR. KIA, FOR**
12 **WHICH THE STATUTE OF LIMITATIONS HAS NOT YET BEGIN TO**
13 **RUN.**

14 As described above, Dr. Kia admitted Plaintiff to Sunrise Hospital on July 14, 2016, and
15 made the decision to discharge the patient on July 15, 2016. Whether or not that decision fell below
16 the standard of care or not may be an issue at trial. To the extent Plaintiff's claims against Dr.
17 DeLee involve a patient discharge ordered by another physician while he was out of town, the
18 DeLee Defendants still have the right to bring a third party claims against Dr. Kia for any alleged
19 "active negligence" in discharging the patient at a time her experts claim she was not stable for
20 discharge.

21 However the DeLee Defendants respectfully submit that this issue should not be their legal
22 battle to fight, and that they should not bear the fees and costs of such third party litigation. Judicial
23 economy favors allowing Plaintiff to present her case to the jury with all pertinent treating
24 physicians at trial, especially when she has already engaged two experts who have opined
25 regarding Dr. Kia's care. If the DeLee Defendants are forced to bring a third party action, then the
26 current trial date will unlikely be maintained, and additional discovery delays will ensue.

27 As a practical matter, given Plaintiff's substantial compliance with NRS §41A.071 in the
28

1 face of an ambiguous physician order above, the most expedient way to proceed is to grant the
2 Plaintiff's motion for reconsideration and motion to amend complaint, so that discovery may
3 proceed and the existing trial date hopefully maintained.

4 **CONCLUSION**

5 For the reasons set forth above, the DeLee Defendants respectfully join Plaintiff's motion
6 for reconsideration and motion to amend complaint to add Dr. Kia and his employer as additional
7 defendants to this action.
8

9 DATED: October 22, 2020

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

11 By: /s/Eric K. Stryker

12 ERIC K. STRYKER, ESQ.
13 Nevada Bar No. 5793
14 BRIGETTE E. FOLEY, ESQ.
15 Nevada Bar No.: 12965
16 6689 Las Vegas Blvd., Suite 200
17 Las Vegas, NV 89119
18 *Attorneys for Defendants, Frank J. DeLee,*
19 *M.D. and Frank J. DeLee M.D., P.C.*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WILSON ELSE
MOSKOWITZ EDELMAN & DICKER LLP, and that on this 22nd day of October, 2020, I served
a true and correct copy of the foregoing **DEFENDANTS FRANK J. DeLEE, M.D. AND
FRANK J. DeLEE, M.D., P.C.'S JOINDER TO PLAINTIFF'S (1) MOTION FOR
RECONSIDERATION, AND (2) MOTION FOR LEAVE OF COURT TO AMEND
COMPLAINT** as follows:

- ☒ via electronic means by operation of the Court's electronic filing system, upon
each party in this case who is registered as an electronic case filing user with the
Clerk
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed
envelope upon which first class postage was prepaid in Las Vegas, Nevada

By: _____



An Employee of WILSON ELSE MOSKOWITZ
EDELMAN & DICKER LLP

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EXHIBIT A

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3 * * * * *
4 CHOLOE GREEN, an individual,)
5)
6 Plaintiff,)
7)
8 vs.) Case No.: A-17-757722-C
9) Dept. No.: VIII
10 FRANK J. DELEE, M.D., an)
11 individual; FRANK J. DELEE)
12 MD, PC, a Domestic)
13 Professional Corporation,)
14 SUNRISE HOSPITAL AND MEDICAL)
15 CENTER, LLC, a Foreign)
16 Limited-Liability Company,)
17)
18 Defendants.)
19 _____)
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**CONDENSED
TRANSCRIPT**

26 DEPOSITION OF ALI KIA, M.D.
27 Taken on Wednesday, November 14, 2018
28 At 1:35 p.m.
29 Taken at 610 South Ninth Street
30 Las Vegas, Nevada
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<p style="text-align: right;">Page 2</p> <p>1 DEPOSITION OF ALI KIA, M.D., taken at the Law Office of 2 Daniel Marks, 610 South Ninth Street, Las Vegas, Nevada, 3 on Wednesday, November 14, 2018, at 1:35 p.m., before 4 Terri M. Hughes, Certified Court Reporter, in and for the 5 State of Nevada. 6 APPEARANCES: 7 For the Plaintiff: 8 DANIEL MARKS, ESQ. 9 NICOLE M. YOUNG, ESQ. 10 Law Office of Daniel Marks 11 610 South Ninth Street 12 Las Vegas, Nevada 89101 13 (702) 386-0536 14 15 For the Defendants, Frank J. DeLee, M.D. and Frank J. 16 DeLee, M.D., P.C.: 17 ERIC K. STRYKER, ESQ. 18 Wilson Elser Moskowitz Edelman & Dicker LLP 19 300 South Fourth Street 20 11th Floor 21 Las Vegas, Nevada 89101 22 (702) 727-1400 23 24 For the Defendant, Sunrise Hospital and Medical Center, 25 LLC: 26 MICHAEL E. PRANGLE, ESQ. 27 Hall Prangle and Schoonveld LLC 28 1160 North Town Center Drive 29 Suite 200 30 Las Vegas, Nevada 89144 31 (702) 212-1457 32 33 For the Deponent: 34 LAURA S. LUCERO, ESQ. 35 Collinson, Daehnke, Inlow & Greco 36 2110 East Flamingo Road 37 Suite 305 38 Las Vegas, Nevada 89119 39 (702) 979-2132</p>	<p style="text-align: right;">Page 4</p> <p>1 (In an off-the-record discussion held prior to the 2 commencement of the deposition proceedings, counsel 3 agreed to waive the court reporter requirements under 4 Rule 30(b)(4) of the Nevada Rules of Civil Procedure.) 5 Whereupon -- 6 ALI KIA, M.D., 7 being first duly sworn to tell the truth, the whole truth, 8 and nothing but the truth, was examined and testified as 9 follows: 10 EXAMINATION 11 BY MR. MARKS: 12 Q. State your name, please. 13 A. Ali Kia. 14 Q. And what's your business address? 15 A. 3022 South Durango Drive, 89119. 16 Q. And who are -- 17 A. Las Vegas. 18 Q. Who are you employed by? 19 A. I'm self-employed. 20 Q. Okay. Have you had your deposition taken before? 21 A. No, first time. 22 Q. Okay. So you had an opportunity to discuss the 23 rules of a deposition with your attorney? 24 A. I have. 25 Q. Okay. So just in addition to what she told you,</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX 2 Witness: ALI KIA, M.D. 3 Examination Further Examination 4 By Mr. Marks 4 62, 70, 73 5 By Mr. Prangle 48 68 6 By Mr. Stryker 50 72 7 8 EXHIBITS 9 Plaintiff's Page 10 1 - Copy of Deponent's Documents..... 74 11 2 - SH000706-SH000707..... 20 12 3 - Discharge Summary..... 26 13 4 - Emergency Provider Report..... 40 14 5 - Progress Note..... 41 15 6 - History and Physical..... 43 16 7 - Discharge Report..... 46 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 I'll just highlight. Everything is being taken down by 2 the court reporter, and you'll have an opportunity in a 3 couple of weeks to read your deposition. Under our rules 4 you can make changes if you think either the court 5 reporter got it wrong or if you when you reread it think 6 the answer is wrong, you can change your answer. 7 A. Okay. 8 Q. If the matter went to trial, we could read what 9 you said here today and then read your change to the court 10 or the jury and that could affect your credibility or 11 believability. Do you understand? 12 A. I do. 13 Q. The court reporter administered an oath. Even 14 though we're in informal surroundings, meaning there's no 15 judge, it's not a courthouse, the oath is exactly the same 16 oath as if we were in court, so it carries the same 17 obligation to tell the truth and the same penalties of 18 perjury for failing to tell the truth. Do you understand? 19 A. I do. 20 Q. Okay. I'll try to let you finish your question, 21 try to let me finish my -- my question, you finish your 22 answer, because the court reporter can only take down one 23 person at a time. Do you understand? 24 A. I do. 25 Q. All right. If you don't understand a question,</p>

<p style="text-align: right;">Page 6</p> <p>1 tell me, I'll rephrase it. Your attorney could make 2 objections from time to time. Unless she would instruct 3 you not to answer a question, normally the objections are 4 preserved and you would answer. Do you understand? 5 A. I do. 6 Q. Okay. So when you say you're self-employed, do 7 you have your own professional practice? 8 A. I do. 9 Q. Can you give us the name? 10 A. Ali Kia, M.D., Inc., Incorporated. 11 Q. And how long have you had that? 12 A. Since 2008, February. 13 Q. Okay. And what's your -- do you have a specialty 14 in medicine? 15 A. Internal medicine. 16 Q. Okay. Are you board certified? 17 A. I am. 18 Q. And when did you become board certified? 19 A. 2006 and renewed in 2016. 20 Q. Okay. And I'm going to ask a little about your 21 educational background. Your attorney said she could 22 supplement with your CV, but I'll hit the highlights. 23 Where did you go to college? 24 A. UC -- University of California-Riverside. 25 Q. Okay. UNLV played them last night.</p>	<p style="text-align: right;">Page 8</p> <p>1 A. No, just the USMLE, the board exam. There's three 2 total, and I took and passed all of them on the first 3 attempt. 4 Q. Okay. And then did you -- after medical school 5 did you start your internship/residency? 6 A. I did. At UMC, University of Nevada School of 7 Medicine, which now it's UNLV as of this last year. 8 Q. Okay. So you started your residency I assume July 9 of '02 right after you graduated? 10 A. July of -- July of '03. 11 Q. Okay. 12 A. Uh-huh. I did a cardiology research fellowship in 13 Southern California prior to that. 14 Q. Okay. All right. We'll come back to that 15 fellowship. Well, why don't you explain that fellowship? 16 A. It was a research-based fellowship. 17 Q. At what school? 18 A. University of Southern California. 19 Q. USC? 20 A. The county, USC County. 21 Q. And was it in cardiology? 22 A. In the cardiology department. 23 Q. Okay. And then you went to -- you did your 24 internship/residency. Was it considered University of 25 Nevada-Reno at that point?</p>
<p style="text-align: right;">Page 7</p> <p>1 A. I missed that one. 2 Q. Right. And then what year did you graduate? 3 A. 1997. 4 Q. And I assume you got a Bachelor of Science in a 5 field? 6 A. In biology and minored in psychology. 7 Q. Okay. And then you went to -- did you go to 8 medical school right away? 9 A. In 1998 I did, yes. 10 Q. Okay. And what medical school did you go to? 11 A. Ross University. 12 Q. Which one? 13 A. Ross University. 14 Q. And where is that? 15 A. It's a Caribbean-based school. 16 Q. Which island? 17 A. Dominica. 18 Q. Okay. And how many years were you in Dominica? 19 A. Two years on the island and then two years 20 clinical rotations in Chicago and Southern California. 21 Q. Okay. And when did you get your -- you got an 22 M.D. degree; correct? 23 A. In June of 2002. 24 Q. Okay. And after that did you have to take any 25 sort of exam as an international student?</p>	<p style="text-align: right;">Page 9</p> <p>1 A. It was. 2 Q. Okay. But you were based here in Las Vegas at UMC 3 Hospital? 4 A. Yes, that's correct. 5 Q. And how long was that -- is your residency/ 6 internship combined four years? 7 A. Three years for internal medicine. 8 Q. Three years? 9 A. Uh-huh. 10 Q. Okay. And then after that you passed your boards? 11 A. I did. So I took my boards August of 2006 and got 12 the results, passed it in September and -- 13 Q. Sorry. Go ahead. 14 A. Yeah, and then started my practice October of 15 2006. 16 Q. And I was going to ask, did you do any other 17 training before you started your practice? 18 A. No. 19 Q. Okay. The fellowship that you did, how does that 20 relate to residency and internship? 21 A. It increases your credibility in trying to obtain 22 a specialty after residency. So I had the opportunity to 23 do approximately eight months. It was a research trial 24 that we did at USC through the cardiology department. 25 Q. Okay.</p>

<p style="text-align: right;">Page 10</p> <p>1 A. So we were enrolling patients and randomizing 2 them to do two different medications. 3 Q. So then when you started your -- so in '06 did you 4 then start your private practice? 5 A. I did, yes. 6 Q. And were you employed by anyone in private 7 practice? 8 A. At the time it was a group called Rancho Internal 9 Medicine. 10 Q. Okay. And did you see patients in the office as 11 well as the hospital? 12 A. Just in the hospital. 13 Q. Okay. And for how long did you work at Rancho 14 Internal Medicine? 15 A. For one year. 16 Q. And then where did you work? 17 A. And then we were solo practitioners, so we were 18 independent contractors helping out other groups. 19 Q. Okay. What is your relationship then with Sunrise 20 Hospital. Did you work as a hospitalist at Sunrise? 21 A. Yes, I did. I started there in -- at the end of 22 2007. 23 Q. And are you still there? 24 A. I am. 25 Q. And is that the only hospital you generally work</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. In terms of your working at Sunrise now -- 2 A. Uh-huh. 3 Q. -- do you get a schedule, the days you're on call, 4 so to speak, at Sunrise? 5 A. For the group of Nevada Hospitalist Group, and we 6 cover one of the insurance -- major insurances in town, 7 namely Health Plan of Nevada. 8 Q. Okay. So you have your own P.C., professional 9 corporation, but through Nevada Hospitalist you're 10 assigned Sunrise Hospital? 11 A. Yes, correct. So as an independent contractor. 12 Q. But you go virtually every day to Sunrise to see 13 patients? 14 A. Yeah, the days I'm covering. We do get days off 15 also. 16 Q. But you work five, six days a week? 17 A. Roughly. 18 Q. Okay. And was that the same in 2016? 19 A. It was roughly the same. It's been since 2016 20 about the same. 21 Q. So you were employed -- you were an independent 22 contractor but employed through Nevada Hospitalist 23 covering patients at Sunrise in July of 2016? 24 A. That's correct. 25 Q. So the patient didn't choose you, the patient</p>
<p style="text-align: right;">Page 11</p> <p>1 at? 2 A. It's not. I also cover University Medical Center. 3 I'm on teaching staff at UNLV for the School of Medicine. 4 Q. When did you get on teaching staff? 5 A. July of 2017. 6 Q. And what do you do as teaching staff? 7 A. My title is an adjunct professor of medicine. 8 Q. So adjunct means clinical? 9 A. Clinical, teaching rounds with the residents and 10 seeing patients, admitting and -- 11 Q. So how often do you do UMC versus Sunrise? 12 A. I'm at UMC every day now, so not too many 13 patients, but we break up our teaching weeks. Whenever 14 they need, I help them out. 15 Q. And how often are you at Sunrise? 16 A. Every day. 17 Q. So you're at both every day? 18 A. I alternate a little. I cover the Pioneer Group, 19 which is a group at UMC, and then Nevada Hospitalist Group 20 at Sunrise Hospital. 21 Q. Okay. So in terms of your interaction at Sunrise, 22 calling your attention to the year 2016, is it the same 23 now as it was in 2016, your interactions or working at 24 Sunrise? 25 A. I'm not quite sure I understand the question.</p>	<p style="text-align: right;">Page 13</p> <p>1 through Sunrise was assigned to you? 2 A. Yes, correct, through mostly the emergency 3 department. 4 Q. Okay. And could you tell me what a hospitalist 5 does? 6 A. They oversee inpatient services and management 7 including patient care and also very close association 8 with the medical staff and administration of the facility 9 to see that we follow the hospital guidelines as well as 10 the national guidelines and the insurance guidelines. 11 Q. You mean for patient care? 12 A. That's correct, yes. 13 Q. For how many days you can stay in a hospital? 14 A. I'm not quite sure. 15 Q. Is it for the days of stay, patient care when you 16 say the national guidelines and hospital guidelines? 17 A. Yes, for the patient's stay during their 18 hospitalization, but then we also do clerical type work, 19 so overseeing charts and signing off and -- well, at UMC 20 we do co-signing for the residents. At Sunrise I don't 21 have residents. It's just my private patients. 22 Q. So as a hospitalist are you essentially the 23 attending, what they used to call the attending for the 24 patient? 25 A. Majority of the time I'm the attending, oftentimes</p>

<p style="text-align: right;">Page 14</p> <p>1 I'm a consulting physician.</p> <p>2 Q. And why would you be consulting versus attending?</p> <p>3 How do you explain the difference?</p> <p>4 A. Some of the times patients are in the intensive</p> <p>5 care unit, and Sunrise Hospital has a closed ICU. So the</p> <p>6 intensivist, the ICU physicians would consult me for</p> <p>7 medicine, and then I typically take over the case and</p> <p>8 discharge the patient from that point.</p> <p>9 Q. If it's not an ICU patient, then effectively you'd</p> <p>10 be the attending at Sunrise if the patient is assigned to</p> <p>11 you?</p> <p>12 A. No. The only other case is if I'm consulted by a</p> <p>13 surgeon that the patient is under their service, I'm still</p> <p>14 a consultant.</p> <p>15 Q. Okay. And you're paid directly Sunrise to you or</p> <p>16 through Nevada Hospitalist?</p> <p>17 A. Through Nevada Hospitalist Group.</p> <p>18 Q. So it goes Sunrise, Nevada Hospitalist to you?</p> <p>19 A. No. Sunrise is separate. I do my billing through</p> <p>20 Nevada Hospitalist Group.</p> <p>21 Q. Okay. And they bill Sunrise?</p> <p>22 A. No, they don't. They bill the insurance of the</p> <p>23 patient.</p> <p>24 Q. Okay. What about Medicare and Medicaid, how does</p> <p>25 that work?</p>	<p style="text-align: right;">Page 16</p> <p>1 I was supplied the records that he authored, and he did</p> <p>2 review those. However, as a hospitalist and seeing</p> <p>3 patients in the hospital, he has access generally while</p> <p>4 he's seeing the patient to all of the records. So his</p> <p>5 answers today to questions that you ask are going to be</p> <p>6 somewhat limited to the documents he's seeing in front of</p> <p>7 him because he doesn't have access to all of the records</p> <p>8 that I had requested.</p> <p>9 MR. MARKS: Okay.</p> <p>10 BY MR. MARKS:</p> <p>11 Q. Let's see -- Doctor, if there's something in a</p> <p>12 different record, let me know and we'll have to try to</p> <p>13 deal with it, but I intend to ask you questions about</p> <p>14 records that I thought you had signed off on so that you'd</p> <p>15 be familiar with. But my question was really, what did</p> <p>16 you review? Did someone provide you a stack of records?</p> <p>17 You have something in front of you?</p> <p>18 A. Yes.</p> <p>19 Q. So could I see what records you have?</p> <p>20 A. Sure.</p> <p>21 MR. STRYKER: Counsel, could you perhaps read</p> <p>22 the Bates numbers so all of us know what those documents</p> <p>23 are?</p> <p>24 MR. MARKS: Sure. I'm just trying to see if</p> <p>25 this is all in order.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. I'll get those as my private patients, and then I</p> <p>2 bill through -- not through Nevada Hospitalist Group. I</p> <p>3 have a billing company, Management Solutions, that I bill</p> <p>4 through.</p> <p>5 Q. So if a patient has Medicare or Medicaid, you are</p> <p>6 their doctor, not through another agency, it's through</p> <p>7 your own private practice?</p> <p>8 A. Typically under the umbrella of another group.</p> <p>9 Q. Nevada Hospitalist?</p> <p>10 A. Nevada Hospitalist. Sometimes I cover for</p> <p>11 physicians that are out of town through Pioneer Group or</p> <p>12 there's also the other physicians that would round at</p> <p>13 Sunrise Hospital are primary physicians that have office</p> <p>14 outpatient, so they're not -- they do hospitalist type</p> <p>15 work but they ask me to follow their patients.</p> <p>16 Q. Okay. Let me ask -- you have records in front of</p> <p>17 you. Did you review some records?</p> <p>18 A. For?</p> <p>19 Q. In preparation for this deposition?</p> <p>20 A. For our case I have, yes.</p> <p>21 Q. Could you tell us what you reviewed?</p> <p>22 MS. LUCERO: And before we dive into that, I</p> <p>23 just want to put something on the record. I did request</p> <p>24 the hospital chart in preparation for the doctor to</p> <p>25 prepare for his deposition. I wasn't given those records.</p>	<p style="text-align: right;">Page 17</p> <p>1 MS. LUCERO: They're not in order I don't</p> <p>2 believe.</p> <p>3 MR. MARKS: They're not in order?</p> <p>4 MS. LUCERO: I don't believe so. I was only</p> <p>5 provided documents that he authored.</p> <p>6 MR. MARKS: Did you get them from Sunrise</p> <p>7 counsel?</p> <p>8 MS. LUCERO: Yes, and only the documents he</p> <p>9 authored.</p> <p>10 MR. MARKS: They're not in order. I can make</p> <p>11 copies and give them to everybody.</p> <p>12 MR. STRYKER: That'd be great. Thank you.</p> <p>13 MR. MARKS: Because --</p> <p>14 MS. LUCERO: I believe they're his orders as</p> <p>15 well.</p> <p>16 MR. MARKS: All right. Just so the record is</p> <p>17 clear, I guess we'll mark as Exhibit 1 records that Dr.</p> <p>18 Kia's counsel obtained from Sunrise.</p> <p>19 BY MR. MARKS:</p> <p>20 Q. And then, Doctor, if I ask you about records, I'll</p> <p>21 obviously give you a chance to read it. It's not going to</p> <p>22 be a closed book exam or anything like that, okay?</p> <p>23 So I'm just trying to see if these are the same</p> <p>24 that I copied so we don't duplicate everything. All</p> <p>25 right. So at a break we'll mark your set as Exhibit 1.</p>

<p style="text-align: right;">Page 18</p> <p>1 A. Thank you.</p> <p>2 Q. And then everyone can get a copy.</p> <p>3 Talking about Choloe Green, do you remember her at</p> <p>4 all?</p> <p>5 A. I do.</p> <p>6 Q. Okay. How did she become your patient?</p> <p>7 A. I was consulted through the emergency department</p> <p>8 and became her attending physician on July 14, 2016.</p> <p>9 Q. And was that the emergency department at Sunrise?</p> <p>10 A. Yes, correct.</p> <p>11 Q. So they really assigned her to you?</p> <p>12 A. They did. I was on call at the time.</p> <p>13 Q. Okay. And do you remember how she presented at</p> <p>14 the emergency room? What were her complaints? You can</p> <p>15 look at your records.</p> <p>16 A. I do. Chief complaint was abdominal pain.</p> <p>17 Q. Okay. And she presented at the emergency room on</p> <p>18 June -- was it July 14th?</p> <p>19 A. July 14th.</p> <p>20 Q. July 14th, 2016; correct?</p> <p>21 A. Yes, correct.</p> <p>22 Q. And was she admitted?</p> <p>23 A. She was, to inpatient status.</p> <p>24 Q. And when she's admitted from the emergency room to</p> <p>25 inpatient, she's then assigned to you?</p>	<p style="text-align: right;">Page 20</p> <p>1 medications in case she did have some nausea, vomiting.</p> <p>2 And in the emergency department what was ordered was a CAT</p> <p>3 scan, an ultrasound, and those were the two imaging</p> <p>4 studies that we had.</p> <p>5 MR. MARKS: All right. Let me mark some</p> <p>6 exhibits. So this, I guess, would be number 2, because</p> <p>7 we'll mark his as number 1.</p> <p>8 (Plaintiff's Exhibit 2 was marked for</p> <p>9 identification.)</p> <p>10 BY MR. MARKS:</p> <p>11 Q. So, Doctor, Exhibit 2, which is Bates stamped</p> <p>12 SH000706 may be part of what was produced to you, but it</p> <p>13 will be easier, I think, if we just go through this.</p> <p>14 MR. PRANGLE: What's the exhibit?</p> <p>15 MS. YOUNG: 2.</p> <p>16 MR. PRANGLE: This is 2?</p> <p>17 MS. YOUNG: Yes.</p> <p>18 BY MR. MARKS:</p> <p>19 Q. So this indicates 7/14 at 6:50 p.m. Would this be</p> <p>20 from the emergency room and then she was assigned to you?</p> <p>21 A. Yes, correct.</p> <p>22 Q. And Wayne Jacobs is in the emergency room?</p> <p>23 A. He's a radiologist that works at Sunrise Hospital.</p> <p>24 Q. And what about Dr. Lev?</p> <p>25 A. Dr. Lev is an interventional -- a</p>
<p style="text-align: right;">Page 19</p> <p>1 A. She was.</p> <p>2 Q. Okay. So once she was assigned to you on July</p> <p>3 14th, 2016, could you give me an overview of what you did</p> <p>4 medically?</p> <p>5 A. Initially we did --</p> <p>6 MS. LUCERO: An overview just on July 14th or</p> <p>7 her whole hospitalization?</p> <p>8 BY MR. MARKS:</p> <p>9 Q. Well, start with July 14th.</p> <p>10 A. Uh-huh.</p> <p>11 Q. I don't want you to go for three days. Why don't</p> <p>12 you kind of start what you -- you saw her, you know, if</p> <p>13 you examined her, your plan, and then at some point I'll</p> <p>14 ask follow-up questions.</p> <p>15 A. Sure. So I was called through the emergency</p> <p>16 department around 20 hundred on the evening of the 14th of</p> <p>17 July, and I typically review the records, labs prior to</p> <p>18 seeing the patient.</p> <p>19 Q. Right.</p> <p>20 A. At that time they moved Ms. Green up to the floor,</p> <p>21 to the medical floor, and then I saw her that evening with</p> <p>22 her nurse present and asked her about her symptoms. So</p> <p>23 she came in with abdominal pain, and she did have a fever</p> <p>24 on admission, just a single temperature, and we admitted</p> <p>25 her, gave her IV fluids, pain medications and some nausea</p>	<p style="text-align: right;">Page 21</p> <p>1 neurointerventional radiologist at Sunrise Hospital, works</p> <p>2 in the same group.</p> <p>3 Q. Okay. So she appeared increasing abdominal pain,</p> <p>4 nausea, vomiting and bloating for several days following</p> <p>5 cesarean section. Is that what you recall?</p> <p>6 A. I recalled abdominal pain.</p> <p>7 Q. Okay. And you recall being contacted at about</p> <p>8 8:00 p.m., which is 20 hundred hours --</p> <p>9 A. Yes.</p> <p>10 Q. -- or 20 hours?</p> <p>11 A. Around the time of 8:00 p.m. on the 14th of July.</p> <p>12 Q. Okay.</p> <p>13 A. Correct.</p> <p>14 Q. And the impression was gas and fluid distention of</p> <p>15 stomach and proximal small bowel compatible small bowel</p> <p>16 obstruction, moderate amount of free fluid in the abdomen</p> <p>17 and pelvis with several small gas bubbles anterior to the</p> <p>18 uterus, intraperitoneal abscess suspected. Was that</p> <p>19 communicated to you?</p> <p>20 A. Yes, it was.</p> <p>21 Q. Okay. So based on that did you undertake certain</p> <p>22 medical plans and treatment of Ms. Green?</p> <p>23 A. I did at the time.</p> <p>24 Q. Okay. And what did you do then?</p> <p>25 A. We kept her NPO, nothing by mouth.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. Right.</p> <p>2 A. Gave her IV fluids, IV antibiotics empirically,</p> <p>3 pain control, nausea control, admitted her to the medical</p> <p>4 floor.</p> <p>5 Q. Right.</p> <p>6 A. Initially she coded. She had a fever and elevated</p> <p>7 white blood cell count.</p> <p>8 Q. And what is that indicative of?</p> <p>9 A. It could be indicative of a sepsis and --</p> <p>10 although --</p> <p>11 Q. Do you recall -- I'm sorry. Do you recall her</p> <p>12 fever, how high it was?</p> <p>13 A. The highest throughout the entire three days was</p> <p>14 38.1 degrees Celsius.</p> <p>15 Q. What does that --</p> <p>16 A. That's a low grade fever.</p> <p>17 Q. Okay. All right. So did you -- what tests, if</p> <p>18 any, did you do?</p> <p>19 A. She had a CBC, complete blood count, she had a</p> <p>20 comprehensive metabolic panel. So it's basically a</p> <p>21 chemistry panel including liver enzymes and liver studies.</p> <p>22 She had a urinalysis, and the CAT scan ultrasound she had</p> <p>23 declined to have.</p> <p>24 Q. So did you reach a conclusion as to what her</p> <p>25 medical condition was?</p>	<p style="text-align: right;">Page 24</p> <p>1 her white blood cell count stay elevated, but her fever</p> <p>2 resolved. She only had one episode of elevation in her</p> <p>3 temperature.</p> <p>4 Q. But you thought still that she -- at the time of</p> <p>5 discharge you thought she still had a small bowel</p> <p>6 obstruction?</p> <p>7 A. That --</p> <p>8 MR. STRYKER: Object to the form. Misstates</p> <p>9 the testimony. Go ahead.</p> <p>10 MR. MARKS: You can answer.</p> <p>11 BY MR. MARKS:</p> <p>12 Q. In other words, people can object.</p> <p>13 A. Okay.</p> <p>14 Q. There's no judge in the room. So I know it's</p> <p>15 distracting, but they're allowed to object.</p> <p>16 A. Okay.</p> <p>17 Q. And unless your attorney tells you, "Don't</p> <p>18 answer," we would say, "Please answer."</p> <p>19 A. Okay.</p> <p>20 Q. And that may happen from time to time.</p> <p>21 A. Okay. Sure.</p> <p>22 Q. All right. So I can repeat the question.</p> <p>23 A. Can you?</p> <p>24 Q. At the time of discharge she still had a small</p> <p>25 bowel obstruction?</p>
<p style="text-align: right;">Page 23</p> <p>1 A. She had post -- she was five days post C-section,</p> <p>2 abdominal pain. We thought -- we admitted her for a</p> <p>3 possible small bowel obstruction or ileus, and then there</p> <p>4 was fluid collection in her abdomen, so I kept her on</p> <p>5 antibiotics.</p> <p>6 Q. Okay.</p> <p>7 A. So sepsis possibly related to --</p> <p>8 Q. Small bowel obstruction?</p> <p>9 A. Or the fluid within her abdomen.</p> <p>10 Q. Okay.</p> <p>11 A. Abdominal pain, low grade fever and sepsis and</p> <p>12 leukocytosis, so elevated white blood cell count was also</p> <p>13 on my problem list.</p> <p>14 Q. Your what list, I'm sorry?</p> <p>15 A. My problem list.</p> <p>16 Q. Okay. So you go through a list of what it could</p> <p>17 be, you get the results of the tests. Did you reach a</p> <p>18 conclusion as to what was wrong with her?</p> <p>19 A. Not that night. We were -- we had just a working</p> <p>20 diagnosis.</p> <p>21 Q. What about later over the three days; did you ever</p> <p>22 reach a conclusion?</p> <p>23 A. We did. Abdominal pain was resolving, she had</p> <p>24 better pain. Small bowel obstruction I thought became an</p> <p>25 ileus. She was passing gas and had bowel movements, and</p>	<p style="text-align: right;">Page 25</p> <p>1 MR. STRYKER: Same objection.</p> <p>2 THE WITNESS: She -- which seemed to be</p> <p>3 resolving.</p> <p>4 BY MR. MARKS:</p> <p>5 Q. Okay. Tell me about -- but -- so she did have it,</p> <p>6 you thought it was resolving?</p> <p>7 A. Yes. Sometimes an ileus type picture can -- a</p> <p>8 small bowel obstruction or ileus sometimes go hand-in-</p> <p>9 hand.</p> <p>10 Q. What's an ileus?</p> <p>11 A. Ileus, it's the intestinal wall, it's not</p> <p>12 contracting. It doesn't have the normal or typical</p> <p>13 peristalsis that we see for different reasons. Sometimes</p> <p>14 postoperative, sometimes medication related. And so</p> <p>15 sometimes what's an ileus is read or thought of as a small</p> <p>16 bowel obstruction.</p> <p>17 Q. Okay. Did you think there might be a perforation</p> <p>18 in the bowel?</p> <p>19 A. No, I had not.</p> <p>20 Q. Okay. Does small bowel obstructions not resolve</p> <p>21 where surgery is needed?</p> <p>22 A. Yes.</p> <p>23 Q. What did you base your opinion that this one was</p> <p>24 resolving?</p> <p>25 A. Clinically how the patient is doing, their level</p>

<p style="text-align: right;">Page 26</p> <p>1 of pain. She wasn't having any nausea or vomiting. Her 2 abdomen initially was slightly distended, but there's no 3 rigidity and no guarding, and within 24 hours she had a 4 soft abdomen with normal bowel sounds. 5 MR. MARKS: All right. Let me show you the 6 next exhibit. 7 (Plaintiff's Exhibit 3 was marked for 8 identification.) 9 BY MR. MARKS: 10 Q. I'm showing you Exhibit 3, Doctor. This is your 11 discharge summary; correct? 12 A. This is my discharge summary, correct. 13 Q. Okay. It lists you as the admitting physician; 14 correct? 15 A. Yes. 16 Q. And she's in the hospital from 7/14 to 7/16 of 17 2016; correct? 18 A. Yes, that's correct. 19 Q. Where it says, Condition: Fair, is that her 20 condition at discharge? 21 A. Yes, it was. 22 Q. Diet: Clear liquid diet as tolerated to advance as 23 per OB/GYN, Dr. DeLee. So she wasn't eating solid foods; 24 correct? 25 A. No, not at the time of discharge.</p>	<p style="text-align: right;">Page 28</p> <p>1 or -- 2 A. Oh, no, it's electronic. 3 Q. So you're saying in the chart for the patient at 4 Sunrise you charted phone calls with Dr. DeLee? 5 A. I did. 6 Q. And are those part of the records you've had an 7 opportunity to review? 8 A. Not part of the records that I reviewed, no. 9 Q. So where in the records would they be so we can 10 look for them? 11 A. They may have been in the progress notes or -- 12 mostly in the progress notes. 13 Q. And those are computerized? 14 A. Yes. 15 Q. Okay. So tell me, do you recall without looking 16 at your notes what you and Dr. DeLee discussed on the 17 15th? 18 A. I do. 19 Q. Okay. What do you recall? 20 A. I called Dr. DeLee and explained that Ms. Green 21 was in the hospital on the date and her presenting 22 symptoms and what we were treating and how we were 23 managing her. He agreed with what we were doing, and I 24 explained to him that we did have a CT scan, a CAT scan of 25 her abdomen on admission that did show a small bowel</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. Now, did you have any phone calls with Dr. 2 DeLee? 3 A. I did. 4 Q. And do you recall how many calls? 5 A. I'm sorry? 6 Q. Do you recall how many phone calls during this 7 three-day period? 8 A. What I recall was three phone calls. 9 Q. Do you recall what days? 10 A. On 7/15 and twice on 7/16/2016, so the day of 11 discharge. 12 Q. Okay. And are those calls documented? 13 A. I believe so. I'd have to -- 14 Q. Are they in the records that were provided by 15 Sunrise? 16 A. No. 17 Q. So where would they be? 18 A. I -- I had charted on the records that I did 19 discuss with Dr. DeLee. 20 Q. What do you mean you charted? You have to explain 21 that. 22 A. But as far as phone logs, I don't have phone logs, 23 no. 24 Q. Okay. I'm saying, are they in the Sunrise 25 records, the paper -- is it paper records in those days</p>	<p style="text-align: right;">Page 29</p> <p>1 obstruction and the fluid collection. He stated that was 2 typically post C-section type of findings that we do see 3 and that we can keep her overnight and see how her 4 symptoms are throughout the next 24 to 48 hours. 5 Q. Okay. Anything else about that call? 6 A. No. 7 Q. What about on the 16th, the first call you 8 remember on the 16th? 9 A. I gave Dr. DeLee updates as to her condition, her 10 vitals, her labs, any new imaging, which would have been a 11 KUB, it's an x-ray of the abdomen on the 16th, how she 12 felt, what our plans for discharge would be and that she 13 was ambulating or walking around and she was tolerating a 14 liquid diet okay and that she had passed gas one time and 15 had three small bowel movements as per the nurse's 16 documentation -- the patient's nurse's documentation. 17 Q. Okay. And what about -- and what did he say 18 relating to that? 19 A. He said, If she looks okay and stable, she can go 20 home and follow up with me. 21 Q. Did he come in to visit her at the hospital during 22 those three days? 23 A. I'm not aware. 24 Q. What about the third call? 25 A. I'm sorry, was that a question?</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Was there a third call? Do you recall the 2 conversation, the second call on the 16th with Dr. DeLee? 3 A. I believe I spoke with the patient, her sister and 4 then called the patient's mother and then called Dr. DeLee 5 to give him a second update on the 16th prior to her being 6 discharged. 7 Q. And do you recall any of the substance of that 8 call? 9 A. Not -- no, it's been quite a while. I don't. 10 Q. Okay. Did you ever get an OB/G consult for 11 Ms. Green? 12 A. I'm sorry? 13 Q. Did you ever obtain an OB/G consult, an OB/GYN 14 consult? 15 A. Dr. DeLee was consulted. 16 Q. Okay. But anybody that actually in the hospital 17 came to see her? 18 A. He was her OB, so he was consulted. 19 Q. So you're saying you consulted him by phone? 20 A. Initially the emergency room physician who 21 admitted the patient to me placed a call to Dr. DeLee as 22 well. 23 Q. Right. 24 A. And then I placed a follow-up call on the 15th and 25 16th.</p>	<p style="text-align: right;">Page 32</p> <p>1 surgical, but I did have surgery on the case as a 2 consultant, but she did not require surgery, so there was 3 no surgical report. 4 Q. Okay. 5 A. Or op note, is that what you're -- 6 Q. Let me rephrase it or just ask another question. 7 Dr. Kim was the trauma surgeon on call in the emergency 8 room or just on call? 9 A. On call throughout the hospital. 10 Q. Okay. So on the 14th you requested a surgical 11 consult with Dr. Kim? 12 A. I did, yes. 13 Q. Do you know whether Dr. Kim ever saw the patient? 14 A. I'm not aware. 15 Q. Okay. Did you ever get any sort of report orally 16 or in writing from Dr. Kim? 17 A. Via telephone consultation. 18 Q. And what was Dr. Kim's telephone call to you? 19 What did he say? 20 A. I gave him a brief history of Ms. Green to Dr. Kim 21 stating that she came in, presented with abdominal pain 22 and we had a CT scan that showed a small bowel 23 obstruction, gave him her vitals, her history, she was 24 C-section. And typically the way we manage medically with 25 a small bowel obstruction or ileus is keep the patient NPO</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. Okay. But all contact with Dr. DeLee was by 2 phone? 3 A. Yes. 4 Q. Okay. So nobody -- there are no OB/Gs that saw 5 the patient in the hospital between July 14th and July 6 16th? 7 A. I'm not aware. 8 Q. Okay. What about did you request a surgical 9 consult? 10 A. I did. On the 14th of July when the -- first 11 night the patient came in, typically with the small bowel 12 obstruction I get general surgery on the case as well. 13 Q. Okay. And who -- did a surgeon see her? 14 A. I consulted Dr. Kitae Kim who was the trauma 15 surgeon/general surgeon on for that night. 16 Q. Did that person examine Ms. Green? 17 A. I'm not aware. 18 MS. LUCERO: Objection. Calls for speculation. 19 Only answer if you know. 20 THE WITNESS: Oh, okay. 21 I'm not aware. Yeah, I don't know. 22 BY MR. MARKS: 23 Q. Did you ever get a report from Dr. Kim, a surgical 24 report? 25 A. We spoke on the -- well, there was nothing</p>	<p style="text-align: right;">Page 33</p> <p>1 or nothing by mouth, sometimes we place an NG tube that 2 goes in through the nose into the stomach. She did not 3 require that. IV fluid hydration, repleting her 4 electrolytes, and sometimes we give IV antibiotics. 5 Because she had a fever when she came in, we gave her IV 6 antibiotics. 7 Q. I'm just asking, did the surgeon -- what did the 8 surgeon tell you? 9 A. His recommendation was to keep her NPO, so nothing 10 by mouth, no food, no liquids, and if I recall, it was 11 strict NPO, so no water, no ice chips. If she was to get 12 worse throughout the night, my instruction was to order an 13 NG tube, a nasogastric tube, which she did not require, to 14 give her IV fluids and repeat imaging. So that would have 15 been a KUB, an x-ray of her abdomen within the next 24 to 16 48 hours, which we did obtain. 17 Q. Did you ever call the surgeon back after -- 18 A. I did. I spoke with Dr. Kim the following day, 19 which was on 7/15 -- 20 Q. Right. 21 A. -- and gave him updates as to how she was doing. 22 Q. But you don't know if he ever saw her, saw Choloe 23 Green? 24 A. I'm not aware. 25 Q. Okay. And there are times a small bowel</p>

<p style="text-align: right;">Page 34</p> <p>1 obstruction doesn't resolve itself; correct?</p> <p>2 A. Correct.</p> <p>3 Q. And then you need surgery?</p> <p>4 A. It can be managed medically, but it's really a</p> <p>5 clinical judgment from the surgeon and the hospitalist.</p> <p>6 Q. Okay. And also if you don't get better, you can</p> <p>7 become septic, right, because there's a blockage?</p> <p>8 A. That's correct, that would be a complication.</p> <p>9 Q. And if you become septic, often you need emergency</p> <p>10 surgery; correct?</p> <p>11 A. If that's the true source, then, yes, you would</p> <p>12 need emergency surgery.</p> <p>13 Q. All right. Returning to Exhibit 3, to follow-up</p> <p>14 with Dr. DeLee by Monday, in two days. Do you know what</p> <p>15 day of the week 7/16 was?</p> <p>16 A. I would have to look at the calendar. I don't.</p> <p>17 Q. Okay. All right. So discharge diagnosis, she</p> <p>18 still had abdominal pain; correct?</p> <p>19 A. She -- yes, correct.</p> <p>20 Q. Everything in the discharge diagnosis is what you</p> <p>21 think she has at discharge; correct?</p> <p>22 A. Yes, correct.</p> <p>23 Q. So she had an ileus, possible partial small bowel</p> <p>24 obstruction you said resolving; correct?</p> <p>25 A. So my clinical judgment was that it was more an</p>	<p style="text-align: right;">Page 36</p> <p>1 as needed.</p> <p>2 Q. But she was in pain?</p> <p>3 A. She was in pain.</p> <p>4 Q. Okay. So I'm going to look at the hospital</p> <p>5 course. The patient was claiming she was in pain and the</p> <p>6 medicine wasn't what, helping her pain?</p> <p>7 A. I believe it was. She was on two different pain</p> <p>8 medications. Dilaudid was the IV pain medication and then</p> <p>9 the -- she was also given an oral pain medication as well.</p> <p>10 Q. The white count was high; right?</p> <p>11 A. Yes.</p> <p>12 Q. So that was -- white count high is an indication</p> <p>13 of infection; right?</p> <p>14 A. It can be.</p> <p>15 MR. STRYKER: Object to the form.</p> <p>16 THE WITNESS: Not -- there are times where the</p> <p>17 white blood cell count is high in the setting of no</p> <p>18 infection.</p> <p>19 BY MR. MARKS:</p> <p>20 Q. Okay. But you said she does have ileus and small</p> <p>21 bowel obstruction in the narrative section at the bottom</p> <p>22 of the page of Exhibit 3; correct?</p> <p>23 A. She did have ileus and small bowel obstruction.</p> <p>24 Yes, correct, uh-huh.</p> <p>25 Q. Now, what was her creatine of 0.47, what is that</p>
<p style="text-align: right;">Page 35</p> <p>1 ileus rather than a small bowel obstruction.</p> <p>2 Q. Post C-section five days prior to admission. So</p> <p>3 we're now on seven or eight days?</p> <p>4 A. That would be correct.</p> <p>5 Q. Status post abscess, you're saying she came in</p> <p>6 septic?</p> <p>7 A. She came in with triggering sepsis parameters.</p> <p>8 Q. Okay. What's the leukocytosis?</p> <p>9 A. Leukocytosis is elevated white blood cell count.</p> <p>10 Q. So when she was discharged she still had that?</p> <p>11 A. That's correct.</p> <p>12 Q. And then what's the next thing, number 6?</p> <p>13 A. Number 6 is hypokalemia, so a low potassium level.</p> <p>14 Q. And what is the significance of that?</p> <p>15 A. Sometimes lack of fluid, dehydration, fluid</p> <p>16 shifts, a number of different causes. Medications can</p> <p>17 cause that.</p> <p>18 Q. And then you say possible narcotic dependence.</p> <p>19 What did you base that on?</p> <p>20 A. When the patient came in, she was requesting IV</p> <p>21 pain medication, specifically Dilaudid, and she was</p> <p>22 requesting increasing IV pain medications. However, in my</p> <p>23 clinical judgment I felt given her age and circumstance I</p> <p>24 thought it would be safe to cap her Dilaudid at one</p> <p>25 milligram IV every four hours, not scheduled PRN, meaning</p>	<p style="text-align: right;">Page 37</p> <p>1 significance?</p> <p>2 A. Oh, creatinine is -- it's a number of -- a measure</p> <p>3 of kidney function.</p> <p>4 Q. Right.</p> <p>5 A. And it's a substance that our body excretes.</p> <p>6 Q. Okay.</p> <p>7 A. Typically the normal creatinine would be around</p> <p>8 1.0.</p> <p>9 Q. So this is low?</p> <p>10 A. She was in the normal range.</p> <p>11 Q. Okay. And you say trace bacteria, what does that</p> <p>12 mean?</p> <p>13 A. She had a urinalysis on admission, only one that</p> <p>14 I'm aware, and the urinalysis give us a spectrum or a</p> <p>15 picture as to if a urinary tract infection could have been</p> <p>16 causing abdominal pain, which that's a possibility. So</p> <p>17 the urinalysis typically just looks at how much white</p> <p>18 blood cell counts there are, the cell counts, the red</p> <p>19 blood cells, and there's also two -- two additional</p> <p>20 components that would indicate a urine infection, a</p> <p>21 nitrite and leukocyte esterase, which were both negative,</p> <p>22 so that would not -- it did not indicate a urinary tract</p> <p>23 infection at the time.</p> <p>24 Q. Okay. If you go to page 2 of the exhibit,</p> <p>25 radiographic imaging, a KUB. That's a type of imaging?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. Yes, it is.</p> <p>2 Q. On July 16th showed multiple dilated left small</p> <p>3 bowel abdominal loops related to a small bowel obstruction</p> <p>4 versus ileus, gastric banding. What does that mean?</p> <p>5 A. A KUB is a kidney ureter bladder. It's an x-ray</p> <p>6 of the abdomen. It's a very useful short study that we</p> <p>7 look at, and we typically do serial imaging. So it's a</p> <p>8 good, easy, quick test to assess whether her bowel</p> <p>9 obstruction was getting worse, was there more loops of</p> <p>10 bowel or another thing the KUB picks up is if there's any</p> <p>11 free air, that would indicate a perforation of bowel.</p> <p>12 Q. Okay. This is saying multiple dilated left small</p> <p>13 bowel abdominal loops related to small bowel obstruction?</p> <p>14 A. Which are typically seen with an ileus and/or a</p> <p>15 small bowel obstruction.</p> <p>16 Q. Okay. Then you say later on in that narrative, CT</p> <p>17 abdomen and pelvis showed a gas and fluid filled</p> <p>18 distention of the stomach and proximal small bowel</p> <p>19 compatible to a small bowel obstruction. Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. Then you say, moderate amount of free fluid in the</p> <p>22 abdomen and pelvis with several small gas bubbles anterior</p> <p>23 to the uterus. What does that signify?</p> <p>24 A. The CT scan, it -- this was the CT scan on</p> <p>25 admission, so the small bowel loops are typically seen</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. In terms of the treatment, you did all these</p> <p>2 tests, your conclusion was was a small bowel obstruction</p> <p>3 was there but would resolve itself?</p> <p>4 A. Yes, correct.</p> <p>5 Q. Is that it?</p> <p>6 And you thought she wasn't -- even though she had</p> <p>7 an elevated white count, you thought she was no longer</p> <p>8 septic?</p> <p>9 A. No, she did not meet criteria for sepsis on</p> <p>10 discharge.</p> <p>11 Q. Okay. Let me show you -- is this the -- okay.</p> <p>12 MR. MARKS: Let's mark this next in order.</p> <p>13 (Plaintiff's Exhibit 4 was marked for</p> <p>14 identification.)</p> <p>15 THE REPORTER: Exhibit 4.</p> <p>16 BY MR. MARKS:</p> <p>17 Q. Doctor, I found some records from Sunrise that I</p> <p>18 think referenced one of your comments. Do you recognize</p> <p>19 these as computer-generated notes or chart notes?</p> <p>20 A. I do.</p> <p>21 Q. For this patient, Ms. Green?</p> <p>22 A. I do.</p> <p>23 Q. Okay. There's a Bates stamp at the bottom on the</p> <p>24 right-hand side, but if you go to 782, in the middle of</p> <p>25 the page under Re-Evaluation & MDM, is this you or was</p>
<p style="text-align: right;">Page 39</p> <p>1 with an ileus or a small bowel obstruction. And then the</p> <p>2 second component, bubbles anterior to the uterus, would be</p> <p>3 typical of post C-section.</p> <p>4 Q. What is intraperitoneal abscess suspected, what</p> <p>5 does that mean?</p> <p>6 A. I believe that was referring to fluid collection</p> <p>7 within the abdomen.</p> <p>8 Q. Okay. Which is a sign of what?</p> <p>9 A. Typically postoperative after a C-section or any</p> <p>10 type of abdominal surgery.</p> <p>11 Q. For how long would there be fluid in the abdomen?</p> <p>12 A. It varies per patient.</p> <p>13 Q. But would it be -- would you have fluid in the</p> <p>14 abdomen eight days after C-section?</p> <p>15 A. I can't --</p> <p>16 MR. STRYKER: Incomplete hypothetical. Go</p> <p>17 ahead.</p> <p>18 THE WITNESS: I can't comment from an OB</p> <p>19 standpoint, but from an internal medicine standpoint I've</p> <p>20 seen fluid collection one to two weeks after surgical</p> <p>21 intervention, yes.</p> <p>22 BY MR. MARKS:</p> <p>23 Q. So after she was discharged, your idea was she'd</p> <p>24 go back to Dr. DeLee two days later?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 41</p> <p>1 this the emergency room or someone else? It says general</p> <p>2 surgeon called, stated to consult OB and then will be</p> <p>3 reconsulted if needed. Dr. Frank DeLee will see patient,</p> <p>4 requested admission to OB?</p> <p>5 A. I believe this was emergency department.</p> <p>6 Q. Okay.</p> <p>7 MR. MARKS: Could you mark this next in order?</p> <p>8 (Plaintiff's Exhibit 5 was marked for</p> <p>9 identification.)</p> <p>10 THE REPORTER: Exhibit 5.</p> <p>11 BY MR. MARKS:</p> <p>12 Q. I'm showing you Exhibit 5. Are those additional</p> <p>13 chart notes for Choloe Green?</p> <p>14 Is that correct? I didn't hear an answer.</p> <p>15 A. Yes, this is -- this is my -- this would be my</p> <p>16 note.</p> <p>17 Q. And are these the chart notes for 7/15 of 2016?</p> <p>18 A. Yes, that's correct.</p> <p>19 Q. Okay. So on page 1 of the exhibit under patient</p> <p>20 reports, she was not passing gas and no bowel movement;</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. And then if you go to the last page, 7/15 where it</p> <p>24 says Plan, what does CPM mean?</p> <p>25 A. Continue present management.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. So hold discharge, meaning she wasn't going to be 2 released on the 15th; correct? 3 A. I'm sorry? 4 Q. Hold discharge, meaning she wasn't going to be 5 released on the 15th? 6 A. That's correct, yes. 7 Q. Then it says, patient not passing gas, no bowel 8 movement; correct? 9 A. That's correct. 10 Q. Optimize symptom control. What does SUPP care 11 mean? 12 A. Supportive care. So with the IV fluids, pain 13 management and keeping her on a medical floor and 14 continuing ongoing nursing care that she required. 15 Q. Then it says, trial of clears tonight to tomorrow. 16 What does it mean, trial of clears tonight to tomorrow? 17 A. We were going to see how she would tolerate a 18 clear liquid diet. Typically we denote it as "clears". 19 Q. Then it says DC home tomorrow. What does DC mean? 20 A. Discharge. 21 Q. Well, so you were planning on the 15th to 22 discharge her on the 16th even though she still wasn't 23 passing gas? 24 A. We were anticipating a discharge within 24 hours. 25 Q. I had lengthy -- what is DW?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Well, look at a page 2. It looks like it was 2 electronically signed by you on 7/17? 3 A. That's correct. 4 Q. So this is something you did after she was 5 discharged? 6 A. No. 7 MR. PRANGLE: Just object. 8 THE WITNESS: Yeah. 9 MR. PRANGLE: It has a different date for the 10 dictation. 11 MS. LUCERO: Join. 12 MR. MARKS: You can answer. 13 THE WITNESS: Oh, yeah. 14 My dictation was on 7/14/2016, and typically 15 within 48 hours of discharge we have our patient's chart 16 review for our history and physical, discharge summary 17 that we do sign electronically. 18 BY MR. MARKS; 19 Q. Okay. But -- so the top part showing discharge 20 date, that -- is that on a form that's automatically 21 printed? In other words, you're saying you dictated this 22 on the 14th, but it's showing the discharge date of the 23 16th? 24 MR. PRANGLE: Just object to foundation. 25 MS. LUCERO: Objection. Join. Calls for</p>
<p style="text-align: right;">Page 43</p> <p>1 A. Discussion with. 2 Q. Patient, patient sister at bedside. I also 3 discussed with patient's OB, Dr. DeLee, recommends 4 discharge when patient stable and to follow up in 5 outpatient in Dr. DeLee's office. I explained this to 6 patient. She is agreeable to trial clears, requesting 7 Dilaudid for pain. So you're saying in this note she's 8 going to be treated by Dr. DeLee in his office for this? 9 A. Yes, we were anticipating that. 10 Q. And what were you waiting for, just to see if she 11 passed gas? 12 A. I wanted to make sure she was stable as far as not 13 requiring inpatient hospitalization any longer. So that 14 would be waiting to pass gas, have a bowel movement, have 15 better pain control and continue to have normal vital 16 signs, which she did on 7/15. 17 MR. MARKS: Can you mark this next in order? 18 (Plaintiff's Exhibit 6 was marked for 19 identification.) 20 THE REPORTER: Exhibit 6. 21 BY MR. MARKS: 22 Q. So this is your history and physical? 23 A. Yes, it is. 24 Q. And do you know when you would have done this? 25 A. On 7/14/2016.</p>	<p style="text-align: right;">Page 45</p> <p>1 speculation. 2 MR. MARKS: Okay. I'm just asking him. He 3 signed the document. 4 BY MR. MARKS: 5 Q. So can you explain it to me? 6 A. Was there -- 7 Q. Is this a document -- 8 A. -- a question? 9 Q. All right. Let me rephrase it. Did you draft 10 this document on the 14th? 11 A. On July 14th I did, yes, electronically. 12 Q. And then it wasn't transcribed till the 17th? 13 A. I'm not aware of when it was actually transcribed. 14 However, typically they're transcribed much sooner than 15 that. 16 Q. Okay. So when you say review of symptoms under -- 17 towards the bottom of page 1 where it says review of 18 systems -- 19 A. Correct. 20 Q. -- it says she has severe abdominal pain. Is that 21 as of the 14th? 22 A. Yes, on admission. So my history, physical exam, 23 one component would be the review of systems, and that was 24 on the date of admission, which, yes, would have been July 25 14th of 2016.</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. Okay. And under history, which is towards the</p> <p>2 top, you say she was found to have a partial small bowel</p> <p>3 obstruction?</p> <p>4 A. Yes, correct.</p> <p>5 MR. MARKS: Would you mark that, please?</p> <p>6 (Plaintiff's Exhibit 7 was marked for</p> <p>7 identification.)</p> <p>8 THE REPORTER: Exhibit 7.</p> <p>9 BY MR. MARKS:</p> <p>10 Q. This is another document. I think it was produced</p> <p>11 by Sunrise, SH638 Bates stamped at the bottom. Towards</p> <p>12 the top it says, Comment: Per Dr. Kia, do not call for KUB</p> <p>13 result. M.D. will follow up in a.m., 7/16/16. Can you</p> <p>14 explain that?</p> <p>15 A. I couldn't recall. I'm sorry.</p> <p>16 Q. Do you know what M.D. will follow up in a.m.?</p> <p>17 A. I'm not --</p> <p>18 Q. Okay. Did you see -- as the hospitalist you saw</p> <p>19 Choloe Green on the 14th, 15th and 16th?</p> <p>20 A. I did, yes.</p> <p>21 Q. And you agreed that she should be discharged?</p> <p>22 A. On the 16th of July, yes.</p> <p>23 Q. And she was discharged on the 16th; correct?</p> <p>24 A. I believe she was, yes.</p> <p>25 Q. All right.</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Did you ever review the records from Centennial</p> <p>2 Hospital?</p> <p>3 A. I was not aware she was at another hospital.</p> <p>4 Q. You know nothing about that?</p> <p>5 A. I had not followed up after this.</p> <p>6 Q. And you never saw her or saw any records of her?</p> <p>7 A. I'm sorry?</p> <p>8 Q. You never saw her or saw any records regarding</p> <p>9 what happened after?</p> <p>10 A. I don't understand.</p> <p>11 Q. After Sunrise, after she was discharged?</p> <p>12 A. After Sunrise I'm not aware of what transpired.</p> <p>13 MR. MARKS: Okay. I'll pass the witness.</p> <p>14 MR. STRYKER: Go ahead.</p> <p>15 EXAMINATION</p> <p>16 BY MR. PRANGLE:</p> <p>17 Q. Doctor, my name is Mike Prangle. I represent</p> <p>18 Sunrise. And I think you told us this earlier, but is it</p> <p>19 correct to say that you were not an employee of Sunrise</p> <p>20 Hospital while you cared for this patient?</p> <p>21 A. That's correct.</p> <p>22 Q. You were an independent contractor?</p> <p>23 A. Yes, correct.</p> <p>24 Q. The group that you were affiliated with was Nevada</p> <p>25 Hospitalist Group?</p>
<p style="text-align: right;">Page 47</p> <p>1 A. Uh-huh.</p> <p>2 Q. Did you -- just so I'm clear, so she came in with</p> <p>3 a small bowel obstruction, she left with a small bowel</p> <p>4 obstruction; is that right?</p> <p>5 MS. LUCERO: Objection. Mischaracterizes the</p> <p>6 testimony.</p> <p>7 MR. STRYKER: Join.</p> <p>8 BY MR. MARKS:</p> <p>9 Q. Didn't she leave with a small bowel obstruction?</p> <p>10 Isn't that in your discharge diagnosis?</p> <p>11 A. I stated that it had resolved.</p> <p>12 Q. Didn't it say resolving?</p> <p>13 A. Yes.</p> <p>14 Q. But she still had a small bowel obstruction;</p> <p>15 correct?</p> <p>16 If you go to Exhibit 3, she still had abdominal</p> <p>17 pain, she still had ileus, possible partial small bowel</p> <p>18 obstruction resolving; correct?</p> <p>19 A. Discharge summary. Yes, correct.</p> <p>20 Q. And she had a high white count?</p> <p>21 A. Yes, correct.</p> <p>22 Q. All right. Do you know what happened to her</p> <p>23 shortly thereafter she was released from Sunrise,</p> <p>24 discharged from Sunrise Hospital?</p> <p>25 A. I do not.</p>	<p style="text-align: right;">Page 49</p> <p>1 A. That's correct.</p> <p>2 Q. When did you begin your affiliation with that</p> <p>3 group?</p> <p>4 A. Nevada Hospitalist Group?</p> <p>5 Q. Yes.</p> <p>6 A. That would have been January of 2016.</p> <p>7 Q. And in terms of how it was that you were at</p> <p>8 Sunrise Hospital on July 14th, the day that this patient</p> <p>9 was assigned to you, was that done pursuant to a call</p> <p>10 schedule?</p> <p>11 A. Yes, correct.</p> <p>12 Q. And who prepared that call schedule?</p> <p>13 A. It would have been Nevada Hospitalist Group.</p> <p>14 Q. And so --</p> <p>15 A. They have a team that they set up the call</p> <p>16 schedule for the HPN or --</p> <p>17 Q. So Nevada Hospitalist Group per that schedule is</p> <p>18 the one who selected you to be at Sunrise on July 14th?</p> <p>19 A. Yes.</p> <p>20 Q. Would you agree with me that Sunrise Hospital did</p> <p>21 not in any way select you to be the on-call physician for</p> <p>22 July 14th?</p> <p>23 A. I wasn't aware, no.</p> <p>24 Q. Okay. Because that scheduling -- that</p> <p>25 decision-making process was done by Nevada Hospitalist</p>

<p style="text-align: right;">Page 50</p> <p>1 Group; true?</p> <p>2 A. Yes, correct.</p> <p>3 Q. And then just lastly, with regard to -- it was</p> <p>4 your decision to discharge this patient?</p> <p>5 A. It was.</p> <p>6 Q. In your opinion was it reasonable within the</p> <p>7 standard of care to discharge this patient notwithstanding</p> <p>8 the fact that she still had symptoms consistent with</p> <p>9 either an ileus or a resolving small bowel obstruction?</p> <p>10 A. I felt at that point that she would -- was</p> <p>11 reasonably safe for discharge.</p> <p>12 Q. And, Doctor, considering all of your care over</p> <p>13 those three days, would you agree with me that all of your</p> <p>14 care fully complied with the standard of care?</p> <p>15 A. I do.</p> <p>16 MR. PRANGLE: Thank you, Doctor.</p> <p>17 I'm done.</p> <p>18 EXAMINATION</p> <p>19 BY MR. STRYKER:</p> <p>20 Q. Doctor, my name is Eric Stryker.</p> <p>21 A. Sure.</p> <p>22 Q. I represent defendant, Dr. DeLee. He's an</p> <p>23 obstetrician who I think you discussed some telephonic</p> <p>24 discussions with earlier in the course of your deposition.</p> <p>25 I'm going to have you, please, fish out of the stack of</p>	<p style="text-align: right;">Page 52</p> <p>1 patient?</p> <p>2 A. I was.</p> <p>3 Q. Because his patient had presented to Sunrise</p> <p>4 Hospital?</p> <p>5 A. Yes, correct.</p> <p>6 Q. Okay. Were you calling him formally to have him</p> <p>7 come to the hospital and walk into the room and treat the</p> <p>8 patient at the bedside?</p> <p>9 A. Not necessarily.</p> <p>10 Q. Okay.</p> <p>11 A. Just a consult.</p> <p>12 Q. And just a telephonic informal consult?</p> <p>13 A. To initially notify him that his patient was</p> <p>14 admitted under my service at Sunrise Hospital on 7/14.</p> <p>15 Q. And you do that as a courtesy?</p> <p>16 A. I typically do.</p> <p>17 Q. Okay. Could I have you direct your attention to</p> <p>18 Exhibit 4 again?</p> <p>19 A. Sure.</p> <p>20 Q. I apologize. I'm going to have you turn to page 9</p> <p>21 of 11. It's two pages from the end.</p> <p>22 A. Uh-huh. I got it.</p> <p>23 Q. I apologize, three pages from the end.</p> <p>24 A. Uh-huh.</p> <p>25 Q. But it's Bates stamped SH000783. Is it common</p>
<p style="text-align: right;">Page 51</p> <p>1 exhibits in front of you what I believe has been marked</p> <p>2 for identification as Exhibit 5. And if I numbered it</p> <p>3 correctly, it would be the progress note from July 14th.</p> <p>4 It looks a little like this. I'll show you page 1 of my</p> <p>5 document, and you tell me if it matches page 1 of your</p> <p>6 document.</p> <p>7 A. It looks different.</p> <p>8 Q. I may have mismarked it. I apologize.</p> <p>9 MR. PRANGLE: This is our 5.</p> <p>10 MR. STRYKER: It's SH000775 is the Bates number</p> <p>11 on the bottom.</p> <p>12 MR. MARKS: That's 4, Counsel.</p> <p>13 MR. STRYKER: Oh, my apologies.</p> <p>14 MR. MARKS: It's our Exhibit 4.</p> <p>15 MR. STRYKER: Okay. If I can have you turn to</p> <p>16 Plaintiff's Exhibit 4, please.</p> <p>17 MS. LUCERO: This one.</p> <p>18 THE WITNESS: Oh, okay.</p> <p>19 BY MR. STRYKER:</p> <p>20 Q. And before I get too far into the document, during</p> <p>21 your discussion with Dr. DeLee, do you recall anything</p> <p>22 else that you told him that you haven't already described</p> <p>23 for us today?</p> <p>24 A. Not that I recall.</p> <p>25 Q. Were you calling him to keep him updated on his</p>	<p style="text-align: right;">Page 53</p> <p>1 practice for practitioners at Sunrise Hospital to make a</p> <p>2 note of consultants that they call on a patient?</p> <p>3 A. I'm sorry. I didn't hear you. I apologize.</p> <p>4 Q. I apologize. Let me rephrase the question.</p> <p>5 A. Uh-huh.</p> <p>6 Q. Is it common for physicians at Sunrise Hospital to</p> <p>7 make a notation of consultants that they call on a</p> <p>8 patient?</p> <p>9 A. It varies based on the practitioner.</p> <p>10 Q. Okay. Looking at what we see under consultant at</p> <p>11 the bottom of the page, Consultation 1, it says</p> <p>12 Referral/Consultant Name, Frank -- DeLee, Frank J M.D.?</p> <p>13 A. Yes, correct.</p> <p>14 Q. And it looks like a requested call time was at</p> <p>15 1920 hours or 7:20 p.m. That would be prior to your</p> <p>16 involvement with the patient care?</p> <p>17 A. Yes.</p> <p>18 Q. Because I think you testified earlier you came on</p> <p>19 board at approximately 2000 hours?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And it indicates at the bottom of the page,</p> <p>22 Call returned?</p> <p>23 A. Yes.</p> <p>24 Q. Would that indicate to you that Dr. DeLee returned</p> <p>25 the call?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. Not to me. These are not --</p> <p>2 Q. But to whoever called him?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Next page. Top line of Bates SH000784</p> <p>5 would seem to indicate to me that the call was returned at</p> <p>6 1933 hours. Would that be in layperson's terms 7:33 p.m.?</p> <p>7 A. Yes.</p> <p>8 Q. So that's 13 minutes after he got the call?</p> <p>9 A. My math. Yes, it would.</p> <p>10 Q. Would you consider that to be a timely response if</p> <p>11 you had called an obstetrician?</p> <p>12 A. A reasonable response.</p> <p>13 Q. Okay. And then under Call Returned Date, it was</p> <p>14 returned the same date, July 14, 2016?</p> <p>15 A. I'm sorry?</p> <p>16 Q. I apologize. Right under the 1933, the Call</p> <p>17 Returned Date was July 14, 2016?</p> <p>18 A. Oh, okay. Correct.</p> <p>19 Q. Okay. And under Consultant it reads, and I'll</p> <p>20 read slowly, quote, Will see patient, agrees with eval,</p> <p>21 agrees with plan, says to admit to medicine, for he will</p> <p>22 be out of town, close quote.</p> <p>23 Did I read that correctly?</p> <p>24 A. You did, yes.</p> <p>25 Q. Would that indicate to you based on your</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. And the patient was not administered -- the</p> <p>2 patient was not admitted to the obstetrics unit?</p> <p>3 A. She would not require -- typically it's a labor</p> <p>4 and delivery. So she would not be -- they -- we typically</p> <p>5 don't admit patients to labor and delivery.</p> <p>6 Q. And based on this chart entry, it would indicate</p> <p>7 that Dr. DeLee informed the treatment team that he was out</p> <p>8 of town; correct?</p> <p>9 MR. MARKS: Calls for speculation.</p> <p>10 BY MR. STRYKER:</p> <p>11 Q. Is that your interpretation of that note?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. For he will be out of town you take to</p> <p>14 understand that the patient should be admitted to the</p> <p>15 medicine unit because Dr. DeLee would be out of town?</p> <p>16 A. Yes, correct.</p> <p>17 Q. Okay. Thank you very much. Do you recall Dr.</p> <p>18 DeLee ever telling you that he would come in and see the</p> <p>19 patient at Sunrise Hospital?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. If a small bowel obstruction does not --</p> <p>22 strike that.</p> <p>23 Sitting here today do you know for a fact whether</p> <p>24 or not this patient actually had a small bowel</p> <p>25 obstruction?</p>
<p style="text-align: right;">Page 55</p> <p>1 understanding of the Sunrise Hospital medical</p> <p>2 recordkeeping system that Dr. DeLee communicated to</p> <p>3 whoever it was that called him that the patient should be</p> <p>4 admitted to the medicine floor because he would be out of</p> <p>5 town?</p> <p>6 A. I don't understand the question.</p> <p>7 Q. Sure. Based on your review of that document,</p> <p>8 would that indicate to you that my client, Dr. DeLee, told</p> <p>9 whoever it was that called him that the patient should be</p> <p>10 admitted to the medicine floor because Dr. DeLee would be</p> <p>11 out of town?</p> <p>12 MR. MARKS: Calls for speculation.</p> <p>13 THE WITNESS: His -- that would tell me the</p> <p>14 instruction was to admit the patient to medicine, and I</p> <p>15 happened to be on call for this patient's insurance during</p> <p>16 that time, which she was admitted under my service,</p> <p>17 correct.</p> <p>18 BY MR. STRYKER:</p> <p>19 Q. And what is the medical floor?</p> <p>20 A. A non-ICU, a non-PACU or postanesthesia recovery</p> <p>21 floor. So typically if there's two tiers, there's a</p> <p>22 medical-surgical floor and a medical-telemetry floor.</p> <p>23 Telemetry we just monitor heart rate.</p> <p>24 Q. Is there an obstetrics unit?</p> <p>25 A. There is, yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 A. I don't.</p> <p>2 Q. For example, findings can appear on medical</p> <p>3 imaging that might be consistent with an ileus or a small</p> <p>4 bowel obstruction, but does that mean a hundred percent of</p> <p>5 the time that the patient always has a small bowel</p> <p>6 obstruction or an ileus?</p> <p>7 A. Medically in my expertise, no, not one hundred</p> <p>8 percent of the time.</p> <p>9 Q. Okay. Dr. DeLee never saw any medical records for</p> <p>10 this patient, did he, to your knowledge?</p> <p>11 A. I'm not aware.</p> <p>12 Q. Okay. You've never given him any?</p> <p>13 A. I have not provided Dr. DeLee any medical records.</p> <p>14 Q. And to clarify, you never gave him any of this</p> <p>15 patient's medical records during her July 14, 2016</p> <p>16 admission to Sunrise Hospital?</p> <p>17 A. I don't understand the question. I apologize.</p> <p>18 Q. You never provided Dr. DeLee with copies of any</p> <p>19 medical records or copies of any medical imaging for this</p> <p>20 patient's admission to Sunrise Hospital during her July</p> <p>21 14, 2016 admission?</p> <p>22 A. No, I did not.</p> <p>23 Q. Okay. He never issued any orders for this patient</p> <p>24 during her admission at Sunrise Hospital July 14th, 2016,</p> <p>25 did he?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. Telephonically?</p> <p>2 Q. In any way?</p> <p>3 A. I don't understand the question.</p> <p>4 Q. Did he write any orders or issue any orders for</p> <p>5 this patient's treatment?</p> <p>6 MS. LUCERO: I'm just going to object, because</p> <p>7 it may call for speculation, that he hasn't seen all of</p> <p>8 the records.</p> <p>9 MR. STRYKER: Fair enough.</p> <p>10 BY MR. STRYKER:</p> <p>11 Q. And that's a fair point. You have not seen all of</p> <p>12 the medical records from this patient's admission at</p> <p>13 Sunrise Hospital on July 14th, 2016, have you?</p> <p>14 A. I have not.</p> <p>15 Q. Okay. And you would reserve your right to offer</p> <p>16 additional testimony or opinions at trial if you were</p> <p>17 shown additional pages of the medical records you have not</p> <p>18 seen today, wouldn't you?</p> <p>19 A. Yes.</p> <p>20 MS. LUCERO: Yes.</p> <p>21 BY MR. STRYKER:</p> <p>22 Q. Okay. Given the documents that you have been</p> <p>23 shown regarding this patient's presentation at Sunrise</p> <p>24 Hospital on July 14 through her discharge in 2016, have</p> <p>25 you seen any orders that were issued by Dr. DeLee for</p>	<p style="text-align: right;">Page 60</p> <p>1 A. No.</p> <p>2 Q. Did she say who called who, whether she called Dr.</p> <p>3 DeLee or whether Dr. DeLee called her?</p> <p>4 A. She did not specify, no.</p> <p>5 Q. Do you have any other information regarding any of</p> <p>6 those conversations that the patient may have had with my</p> <p>7 client?</p> <p>8 A. I don't.</p> <p>9 Q. Okay. Are you aware of any instance in which Dr.</p> <p>10 DeLee came to Sunrise Hospital during that admission of</p> <p>11 July 14, 2016 to discharge to physically examine this</p> <p>12 patient?</p> <p>13 A. I'm not aware.</p> <p>14 Q. Are you aware of any compensation or payment Dr.</p> <p>15 DeLee received to provide care and treatment to this</p> <p>16 patient during her admission at Sunrise Hospital from July</p> <p>17 14, 2016 to the date of her discharge?</p> <p>18 A. I'm not aware.</p> <p>19 Q. Is it fair to say that you were in control over</p> <p>20 management of this patient's treatment while you were the</p> <p>21 attending physician for this patient from July 14th, 2016</p> <p>22 until the time of discharge?</p> <p>23 A. Control? I'm not quite understanding.</p> <p>24 Q. For example, if you wanted her to see a consultant</p> <p>25 of any particular medical specialty, that's something that</p>
<p style="text-align: right;">Page 59</p> <p>1 patient treatment?</p> <p>2 A. I'm not aware. I -- the records I was provided, I</p> <p>3 did not have access to knowing that.</p> <p>4 Q. To your knowledge did Dr. DeLee have any direct</p> <p>5 communication with this patient during her admission at</p> <p>6 Sunrise Hospital from July 14, 2016 until her discharge?</p> <p>7 A. Uhm --</p> <p>8 Q. To your knowledge?</p> <p>9 A. Can you clarify that question?</p> <p>10 Q. Sure. Are you aware of any direct communications</p> <p>11 by telephone or e-mail or text message between this</p> <p>12 patient and my client, Dr. DeLee, during the time she was</p> <p>13 at Sunrise Hospital from July 14, 2016 until she was</p> <p>14 discharged?</p> <p>15 A. I'm not certain. I believe the patient did</p> <p>16 mention that she did speak with Dr. DeLee at some time</p> <p>17 during her hospital stay between July 14 to July 16.</p> <p>18 Q. And what did she tell you about that?</p> <p>19 A. She said she spoke with Dr. DeLee and gave him</p> <p>20 updates and that he was aware that she was in the</p> <p>21 hospital.</p> <p>22 Q. Did she say specifically what updates she gave</p> <p>23 him?</p> <p>24 A. No.</p> <p>25 Q. Did she say what day that phone call was made?</p>	<p style="text-align: right;">Page 61</p> <p>1 you could have made happen if you considered it to be</p> <p>2 necessary?</p> <p>3 A. I felt I was, yes.</p> <p>4 Q. And you maintained that control right up until the</p> <p>5 time of her discharge?</p> <p>6 A. I did, yes.</p> <p>7 Q. Okay. Do you recall any other conversations with</p> <p>8 my client, Dr. DeLee, that we have not already covered</p> <p>9 during the course of this deposition?</p> <p>10 A. No.</p> <p>11 Q. How many patients have you treated with a small</p> <p>12 bowel -- strike that.</p> <p>13 How many patients have you treated with a suspected</p> <p>14 small bowel obstruction or ileus prior to July 14, 2016?</p> <p>15 Hundreds?</p> <p>16 A. I don't know the number, but there's -- I've seen</p> <p>17 it quite a lot. I've been in practice since 2006, so...</p> <p>18 Q. Would it be over a hundred patients?</p> <p>19 A. Yes.</p> <p>20 Q. With that type of condition?</p> <p>21 A. Yes.</p> <p>22 Q. Have some of them done well after discharge when</p> <p>23 they've had a resolving small bowel -- suspected small</p> <p>24 bowel obstruction or ileus?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 62</p> <p>1 MR. STRYKER: No further questions. I thank 2 you for your time. 3 FURTHER EXAMINATION 4 BY MR. MARKS: 5 Q. I have a couple of follow-up. 6 Doctor, did you ever tell Dr. DeLee not to show up? 7 A. I'm sorry? 8 Q. Did you ever tell Dr. DeLee not to show up -- 9 A. Not to show up? 10 Q. -- at Sunrise Hospital from July 14th to July 11 16th? 12 A. No. 13 Q. In fact, do you recall Dr. DeLee ever telling you 14 he was going out of town -- 15 A. No. 16 Q. -- personally? 17 If Dr. DeLee was going out of town, wouldn't the 18 normal practice be he would have coverage with another 19 OB/G? 20 MR. STRYKER: Foundation. Speculation. 21 MR. MARKS: You can answer. 22 BY MR. MARKS: 23 Q. If he's a one-man OB/G and was going out of town, 24 wouldn't he have coverage? 25 MR. STRYKER: Same objection.</p>	<p style="text-align: right;">Page 64</p> <p>1 fine. 2 BY MR. MARKS: 3 Q. I mean, I think we -- I thought we got you 4 everything that we were going to show you for the depo, 5 but I think you got it from Sunrise or from someone 6 anyway. This stuff that we gave that you had your name on 7 it, you either authored or dealt with; correct? 8 A. Just what I was provided. 9 Q. Right. And I didn't ask you anything that you 10 didn't author or sign or provide; correct? 11 A. I don't -- 12 Q. We never asked you questions about anything that 13 you didn't author or see, it all had your name on it? 14 A. That's not correct. 15 Q. We showed you things that you didn't -- that were 16 not signed by you? 17 A. Yes. 18 Q. What did we show you that was not signed by you? 19 A. Namely Exhibit -- 20 MS. LUCERO: This one. 21 THE WITNESS: Oh, Exhibit 4, Exhibit 2. 22 BY MR. MARKS: 23 Q. Well, let's take Exhibit 4. Isn't Exhibit 4 we 24 showed you because it related to a note of a conversation 25 with Dr. DeLee that you referenced?</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: I'm not aware. 2 BY MR. MARKS: 3 Q. Okay. Regarding the medical records, you keep 4 saying about you haven't seen all the records. The 5 records that you were prevented from seeing, you were 6 prevented from seeing by Sunrise Hospital; correct? 7 A. No, that's not correct. 8 Q. Who prevented you from seeing the records? 9 MS. LUCERO: For the record, I requested them 10 of plaintiff's counsel, of you, and I was provided a 11 discharge summary was the only thing I was provided. And 12 in light of that, Sunrise Hospital was kind enough to 13 provide at least the medical records that he authored. 14 But in light of the fact that you were unwilling to 15 provide my office with medical records, Sunrise counsel 16 was unwilling to provide the complete set of medical 17 record. 18 MR. MARKS: All right. I don't think that 19 we're not willing to provide. 20 MS. LUCERO: I spoke with Ms. Young. 21 MR. MARKS: This is kind of an unfortunate 22 process. 23 MS. LUCERO: She refused to give them to me. 24 MR. MARKS: All right. 25 MS. YOUNG: No, incorrect statement, but that's</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Is this a question? 2 Q. Yeah. Exhibit 4 references a note of a phone call 3 with Dr. DeLee. 4 A. Where in my -- 5 MS. LUCERO: Objection. Mischaracterizes his 6 testimony. 7 BY MR. MARKS: 8 Q. Exhibit 2 is something you would have had access 9 to at the time you received the patient from the emergency 10 room; correct? 11 A. That's correct. 12 Q. Okay. And I thought Exhibit 4 was your chart 13 notes? 14 A. No, not Exhibit 4. 15 Q. Okay. It's the emergency room record that you 16 would have seen on or about the 14th of July? 17 A. I believe so. 18 Q. Okay. Regarding how you got involved in the care 19 of Ms. Green, I think you said you worked for Nevada 20 Hospitalist? 21 A. Yes. 22 Q. Okay. They have a regular contract with Sunrise 23 to provide hospitalist care in July of 2016; correct? 24 A. For a particular insurance. 25 MS. LUCERO: Objection. Calls for speculation.</p>

<p style="text-align: right;">Page 66</p> <p>1 BY MR. MARKS:</p> <p>2 Q. For particular insurance. And you regularly go to</p> <p>3 Sunrise and provide that care; correct?</p> <p>4 A. Can you rephrase?</p> <p>5 Q. In other words, I think you said earlier in the</p> <p>6 deposition you regularly go to Sunrise, provide</p> <p>7 hospitalist care pursuant to arrangements between Nevada</p> <p>8 Hospitalist and Sunrise?</p> <p>9 A. Correct.</p> <p>10 Q. And you're the attending for a certain amount of</p> <p>11 patients including Ms. Green in July of 2016?</p> <p>12 A. For some of the patients, correct.</p> <p>13 Q. But including Ms. Green, you were the attending</p> <p>14 physician for Ms. Green --</p> <p>15 A. That is correct.</p> <p>16 Q. -- in July of 2016?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you're saying -- counsel asked you, do</p> <p>19 some people that have a small bowel obstruction, it</p> <p>20 resolves without surgery; correct?</p> <p>21 A. They're -- that can be an outcome of small bowel</p> <p>22 obstruction.</p> <p>23 Q. Others don't resolve without surgery and need</p> <p>24 surgery, can become septic and don't have a great recovery</p> <p>25 or a great outcome; correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 I was provided.</p> <p>2 Q. I'm just saying, you're not aware sitting here</p> <p>3 today --</p> <p>4 A. I'm not aware.</p> <p>5 Q. -- whether the surgeon actually examined</p> <p>6 Ms. Green?</p> <p>7 A. I'm not aware.</p> <p>8 MR. MARKS: Okay. That's all I have.</p> <p>9 FURTHER EXAMINATION</p> <p>10 BY MR. PRANGLE:</p> <p>11 Q. Doctor, I have two quick things.</p> <p>12 A. Sure.</p> <p>13 Q. And I apologize. On this issue of why it was that</p> <p>14 you were called to care for this patient, earlier I asked</p> <p>15 you about the scheduling for call. Counsel raised an</p> <p>16 interesting point, and I think you did allude to this</p> <p>17 earlier, but that there were something to do with</p> <p>18 Ms. Green's insurance that dictated that you would become</p> <p>19 her attending physician; is that correct?</p> <p>20 A. Yes, correct.</p> <p>21 Q. And do you know what insurance she had?</p> <p>22 A. It's been a while. I believe it was Health Plan</p> <p>23 of Nevada, and it would have been a Medicaid product under</p> <p>24 Smart Choice.</p> <p>25 Q. Gotcha. So let's assume that you're correct, that</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Correct.</p> <p>2 MR. STRYKER: Incomplete hypothetical.</p> <p>3 BY MR. MARKS:</p> <p>4 Q. And you don't know what the outcome was for Ms.</p> <p>5 Green?</p> <p>6 MR. STRYKER: Compound.</p> <p>7 BY MR. MARKS:</p> <p>8 Q. You don't know what the outcome was because you</p> <p>9 didn't -- no one told you what happened?</p> <p>10 A. Not after July -- not after the patient was</p> <p>11 discharged.</p> <p>12 Q. And you never talked to Dr. DeLee about what</p> <p>13 happened?</p> <p>14 A. No, I have not.</p> <p>15 Q. Had you ever worked with Dr. DeLee before this</p> <p>16 patient?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Okay. And as far as you know, there was no OB/G,</p> <p>19 OB/GYN doctor who saw Ms. Green at Sunrise Hospital</p> <p>20 between the 14th and the 16th?</p> <p>21 A. I'm not aware.</p> <p>22 Q. Okay. And you're not aware of whether the surgeon</p> <p>23 actually examined Ms. Green between the 14th and the 16th;</p> <p>24 correct?</p> <p>25 A. I'm not aware. I was limited the medical records</p>	<p style="text-align: right;">Page 69</p> <p>1 it was Health Plan of Nevada. There was some, and I'll</p> <p>2 call it requirement that because this patient had Health</p> <p>3 Plan of Nevada as insurance they had to pick you as the</p> <p>4 physician who would be her attending?</p> <p>5 A. Yes.</p> <p>6 Q. Lastly, you alluded earlier to a consultation you</p> <p>7 made with a surgeon, and I believe you told us it was Dr.</p> <p>8 Kim?</p> <p>9 A. Dr. Kitae Kim, yes.</p> <p>10 Q. And what prompted me to this is -- you still have</p> <p>11 Exhibit 4 in front of you?</p> <p>12 A. I do.</p> <p>13 Q. If you can turn to page 784, which is the third to</p> <p>14 last page or second to last page.</p> <p>15 A. Sure.</p> <p>16 Q. Do you see the reference to Dr. Kim on this?</p> <p>17 MS. LUCERO: (Indicating.)</p> <p>18 THE WITNESS: Yes, I do.</p> <p>19 BY MR. PRANGLE:</p> <p>20 Q. Okay. So -- and it's Kitae Kim?</p> <p>21 A. Yes.</p> <p>22 Q. K-I-T-A-E Kim. Dr. Kim is a surgeon?</p> <p>23 A. Yes, a general and trauma surgeon.</p> <p>24 Q. Okay. And so in leaving this aside, I believe you</p> <p>25 told us that on at least two occasions during the</p>

<p style="text-align: right;">Page 70</p> <p>1 admission you had conversations with Dr. Kim, the surgeon, 2 as to how to manage this patient; true? 3 A. I consulted him for the patient, not -- and I was 4 looking for feedback from his -- 5 Q. Sure. 6 A. -- point of view. 7 Q. You were seeking the superior knowledge of a 8 surgeon as to the best way to care for this patient? 9 A. Correct. 10 Q. And so you provided Dr. Kim information about this 11 patient, and am I correct that Dr. Kim agreed with your 12 plan? 13 A. I believe so, yes. 14 MR. PRANGLE: All right. Thank you, Doctor. 15 FURTHER EXAMINATION 16 BY MR. MARKS: 17 Q. Let me just follow up. You don't recall Dr. Kim 18 ever examining the patient? 19 A. I'm not aware. 20 Q. Regarding the whole issue of how you were 21 assigned, I think counsel said she or they chose you. You 22 were assigned through arrangements between the company, 23 Nevada Hospitalist, and Sunrise to be assigned to 24 Ms. Green; correct? 25 MR. PRANGLE: Objection. Misstates the</p>	<p style="text-align: right;">Page 72</p> <p>1 Do you want us to make copies, Counsel? So while we're 2 waiting should we -- do you want copies of what's Exhibit 3 1 or you just want it attached? 4 MR. PRANGLE: Attached is fine for me. 5 MR. STRYKER: Attached is fine for me. 6 MR. MARKS: Okay. 7 FURTHER EXAMINATION 8 BY MR. STRYKER: 9 Q. Doctor, you were taught in medical school how to 10 treat a suspected small bowel obstruction or ileus; true? 11 A. I was. 12 Q. Okay. And at the same time you reached out to a 13 general surgeon because if the suspected small bowel 14 obstruction or ileus were to get worse, you would want to 15 have someone available to perform surgery to surgically 16 address that condition? 17 A. Yes, correct. 18 Q. Okay. Did you ever tell my client, Dr. DeLee, 19 that an obstetric examination was essential prior to this 20 patient's discharge? 21 A. I'm not aware. I could not recall. 22 Q. Is that something that you would tell an 23 obstetrician in this type of patient's presentation, that 24 she needs to have an obstetrical examination before 25 discharge?</p>
<p style="text-align: right;">Page 71</p> <p>1 testimony. 2 MR. MARKS: Isn't that correct, sir? 3 THE WITNESS: Can I answer that? 4 MS. LUCERO: You can answer. 5 THE WITNESS: Oh, okay. 6 Yes, I was. I was actually on call. 7 BY MR. MARKS: 8 Q. Right. Ms. Green never called you, you were 9 assigned? 10 A. That's correct. 11 Q. Okay. Regarding her insurance, HPN, did that 12 affect the amount of days she was allowed to be in the 13 hospital for something like a small bowel obstruction? 14 A. No. 15 Q. Okay. So you felt she was ready to be discharged 16 based on your medical judgment? 17 A. I did. 18 Q. Okay. And you don't know what happened the next 19 day? 20 A. No. 21 MR. MARKS: All right. That's all I have. 22 Thank you for coming. 23 MR. STRYKER: I have more. I apologize. 24 MR. MARKS: You do? Oh, sorry. Okay. 25 That's fine. Just jump right in. That's fine.</p>	<p style="text-align: right;">Page 73</p> <p>1 A. That would be their judgment, an obstetrician's 2 judgment. 3 Q. If the suspected small bowel obstruction or ileus 4 were to proceed to the point that you were concerned this 5 patient would require surgery to address it, who would you 6 call to perform surgery to address a small bowel 7 obstruction or ileus that required surgical intervention? 8 A. For small bowel obstruction, ileus, it's typically 9 the general surgeon on call. 10 Q. Okay. 11 A. And so the general surgeon. 12 Q. And of the doctors whose names have been discussed 13 today, would that have been Dr. Kitae Kim? 14 A. Yes. 15 MR. STRYKER: Okay. Thank you very much. 16 MR. PRANGLE: Nothing further from me. 17 MR. MARKS: I just have one clarification. 18 FURTHER EXAMINATION 19 BY MR. MARKS: 20 Q. Dr. Kim -- you would be calling whoever's on call 21 that day, right, Dr. Kim who was on call just different 22 days? 23 A. On call for that shift, yes, correct. 24 Q. Okay. 25 A. For that day.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. And, again, you talked to Dr. Kim by phone, but</p> <p>2 you don't know whether Dr. Kim ever examined the patient?</p> <p>3 A. I spoke with Dr. Kim.</p> <p>4 Q. But you don't know whether he ever examined the</p> <p>5 patient?</p> <p>6 A. I'm not aware.</p> <p>7 MR. MARKS: Okay. That's all I have.</p> <p>8 MR. PRANGLE: Nothing.</p> <p>9 MR. MARKS: Okay. You'll take care of the</p> <p>10 reading and signing, Counsel?</p> <p>11 MS. LUCERO: Yes, we'll read and sign.</p> <p>12 MR. STRYKER: E-Tran.</p> <p>13 THE REPORTER: Mr. Prangle, E-Tran; right?</p> <p>14 MR. PRANGLE: E-Tran only for me.</p> <p>15 (Plaintiff's Exhibit 1 was marked for</p> <p>16 identification.)</p> <p>17 (Thereupon, the taking of the deposition was</p> <p>18 concluded at 3:03 p.m.)</p> <p>19 * * * * *</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 76</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 STATE OF NEVADA)</p> <p>4) ss:</p> <p>5 COUNTY OF CLARK)</p> <p>6</p> <p>7 I, Terri M. Hughes, CCR No. 619, do hereby</p> <p>8 certify: That I reported the deposition of ALI KIA, M.D.,</p> <p>9 commencing on Wednesday, November 14, 2018, at 1:35 p.m.</p> <p>10 That prior to being deposed, the witness was</p> <p>11 duly sworn by me to testify to the truth, the whole truth</p> <p>12 and nothing but the truth. That I thereafter transcribed</p> <p>13 my said shorthand notes into typewritten form, and that</p> <p>14 the typewritten transcript of said deposition is a</p> <p>15 complete, true and accurate transcription of my said</p> <p>16 shorthand notes. That prior to the conclusion of the</p> <p>17 proceedings, pursuant to NRCP 30(e) the reading and</p> <p>18 signing of the transcript was requested by the witness or</p> <p>19 a party.</p> <p>20 I further certify that I am not a relative or</p> <p>21 employee of counsel of any of the parties, nor a relative</p> <p>22 or employee of the parties involved in said action, nor a</p> <p>23 person financially interested in said action.</p> <p>24 IN WITNESS WHEREOF, I have set my hand in my</p> <p>25 office in the County of Clark, State of Nevada, this 4th</p> <p>day of December, 2018.</p> <p style="text-align: right; margin-top: 20px;">_____ Terri M. Hughes, CCR No. 619</p>																																																				
<p style="text-align: right;">Page 75</p> <p>1 CERTIFICATE OF DEPONENT</p> <p>2</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">PAGE</th> <th style="width: 10%;">LINE</th> <th style="width: 10%;">CHANGE</th> <th style="width: 80%;">REASON</th> </tr> <tr><td>3</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>4</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>5</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>6</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>7</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>8</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>9</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>10</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>11</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>12</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>13</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>14</td><td>_____</td><td>_____</td><td>_____</td></tr> </table> <p>15 * * * * *</p> <p>16 I, ALI KIA, M.D., deponent herein, do hereby</p> <p>17 certify and declare the within and foregoing transcription</p> <p>18 to be my deposition in said action; that I have read,</p> <p>19 corrected and do hereby affix my signature to said</p> <p>20 deposition.</p> <p>21</p> <p>22 _____</p> <p>23 Ali Kia, M.D., Deponent</p> <p>24</p> <p>25</p>	PAGE	LINE	CHANGE	REASON	3	_____	_____	_____	4	_____	_____	_____	5	_____	_____	_____	6	_____	_____	_____	7	_____	_____	_____	8	_____	_____	_____	9	_____	_____	_____	10	_____	_____	_____	11	_____	_____	_____	12	_____	_____	_____	13	_____	_____	_____	14	_____	_____	_____	Empty space for page 75 content
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EXHIBIT B

RUN DATE: 07/27/16
RUN TIME: 0110
RUN USER: HPF.FEED

MEDITECH FACILITY: COCSZ
IDEV - Discharge Report

PAGE 51

PATIENT: GREEN, CHLOE S
ACCOUNT NO: [REDACTED]

A/S: 30 F
LOC: D.E4
RM: D.4508
BD: 0

ADMIT: 07/14/16
DISCH/DEP: 07/16/16
STATUS: IN
UNIT NO: D001315049

ATTEND DR: Kia, Ali MD
REPORT STATUS: FINAL

Press <Enter> for Order Details below

Comment: PER DR KIA DO NOT CALL FOR KUB RESULT MD WILL FOLLOW UP
IN AM 07/16/16

Order's Audit Trail of Events

1 07/16/16 0522 DNUR.CCV Order ENTER in OM
2 07/16/16 0522 DNUR.CCV Ordering Doctor: Kia, Ali MD
3 07/16/16 0522 DNUR.CCV Order Source: TELEPHONE & VERIFIED
4 07/16/16 0522 interface order's status changed from TRANS to ACTIVE by NUR
5 07/16/16 0540 DNUR.CCV order acknowledged
6 07/16/16 0713 DNUR.CCV order viewed from Order Management
7 07/16/16 1818 DR KIAAL Signed by Kia, Ali MD

Electronically signed by Kia, Ali MD on 07/16/16 at 1818

Order Date: 07/16/16		—Service—											
Category	Procedure Name	Order Number	Date	Time	Pri	Qty	Ord	Source	Status	Ordered By			
DISCHG	DISCHARGE ORDER	20160716-0093	07/16/16		R		E		TRN	KIAAL			
Other Provider :		Sig Lvl Provider :											

Discharge order written date: 07/16/16
Discharge order written time: 1521
Discharge To: Home
Discharge Type: Adult
* New/Additional DME/Home Health orders with Discharge?
N

Does patient have any of the following conditions at discharge?
NONE

Aspirin at Discharge?
Aspirin Contraindications:
Other Specific Reason:
EJ Fraction:
ACE/ARB at Discharge?
ACE/ARB Contraindications:
Other Specific Reason:

LDL Level:
Statin at Discharge?
Statin Contraindications:
Other Specific Reason:
Beta Blocker at Discharge?
Beta Blocker Contraindications:

Other Specific Reason:

Antithrombotic at Discharge?
Antithrombotic Contraindications:

Other Specific Reason:
Antiplatelet Therapy at Discharge?

PERMANENT MEDICAL RECORD COPY

RUN DATE: 07/27/16
RUN TIME: 0110
RUN USER: HPF.FEED

MEDITECH FACILITY: COCSZ
IDEV - Discharge Report

PAGE 52

PATIENT: GREEN, CHLOE S
ACCOUNT NO: [REDACTED]

A/S: 30 F
LOC: D.E4
RM: D.4508
BD: 0

ADMIT: 07/14/16
DISCH/DEP: 07/16/16
STATUS: IN
UNIT NO: D001315049

ATTEND DR: Kia, Ali MD
REPORT STATUS: FINAL

Antiplatelet Contraindications:

Other Specific Reason:

HX or current AFIB/AFLUTTER:
Anticoagulation Therapy at Discharge?

Anticoagulation Contraindications:

Other Specific Reason:
Assessed for Rehabilitation?
Reason for not ordering Rehab:

Weight Monitoring:
Kg: 104.54
Weight - Lb: 230
Other Specific Frequency:

What anticoagulation med is patient being sent home on:

List reason for medication choice:

Diet: Soft
Activity/Exercise/Limitations: No limitations
Lifting Restrictions:

Return to Work/School:
OK to Drive:

Call Your Doctor If -
Fever Greater Than: 101.5

1st Follow Up:
2nd:
3rd:
Physician: NO PRIMARY OR FAMILY PHYSICIAN
Follow-Up with: Provider Entered Above
Follow up in: 1 week
Reason: MED FUP

Physician: Delee, Frank J MD
Follow-Up with: Provider Entered Above
Follow up in: 1 week
Reason: OB FUP
Physician:
Follow-Up with:
Follow up in:
Reason:

Physician:
Follow-Up with:
Follow up in:
Reason:

PERMANENT MEDICAL RECORD COPY

RUN DATE: 07/27/16
RUN TIME: 0110
RUN USER: HPF.FEED

MEDITECH FACILITY: COCSZ
IDEV - Discharge Report

PAGE 53

PATIENT: GREEN, CHLOE S
ACCOUNT NO: [REDACTED]

A/S: 30 F
LOC: D.E4
RM: D.4508
BD: 0

ADMIT: 07/14/16
DISCH/DEP: 07/16/16
STATUS: IN
UNIT NO: D001315049

ATTEND DR: Kia, Ali MD
REPORT STATUS: FINAL

Physician:
Follow-Up with:
Follow up in:
Reason:
Physician:

Follow-Up with:
Follow up in:
Reason:
Physician:
Follow-Up with:
Follow up in:
Reason:
Physician:

Follow-Up with:
Follow up in:

Reason:
Physician:
Follow-Up with:
Follow up in:
Reason:

== INFANT/NICU ==

== INFANT/PEDIATRIC/NICU ==
Primary Dx of Asthma:

Provide Pre-printed Mother/Infant Instructions:

== Outpatient Services Needs ==

== REHAB / SNF / LTAC / HOSPICE ONLY ==

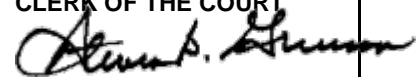
Rehabilitation Potential: (Group response undefined)
Anticipated LOS:
I certify that post-hospital skilled services are required at an extended
care facility as a continuation for which he/she was receiving in-patient
hospital services prior to the transfer to the extended care facility.

Order's Audit Trail of Events

1	07/16/16 1521 DR.KIAAL	Order ENTER in POM
2	07/16/16 1521 DR.KIAAL	Ordering Doctor: Kia, Ali MD
3	07/16/16 1521 DR.KIAAL	Order Source: EPOM
4	07/16/16 1521 DR.KIAAL	Signed by Kia, Ali MD
5	07/16/16 1554 DNURRAW	order viewed from Order Management
6	07/16/16 1736 DNURNPS	order acknowledged

Electronically signed by Kia, Ali MD on 07/16/16 at 1521

PERMANENT MEDICAL RECORD COPY



ERR
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*Attorney for Defendants, Frank J. DeLee, M.D.
and Frank J. DeLee M.D., P.C.*

DISTRICT COURT

CLARK COUNTY, NEVADA

CHLOE GREEN, an individual,

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual; FRANK
J. DELEE MD, PC, a Domestic Professional
Corporation, SUNRISE HOSPITAL AND
MEDICAL CENTER, LLC, a Foreign Limited-
Liability Company,

Defendants.

CASE NO.: A-17-757722-C
DEPT. NO.: IX

**DEFENDANTS FRANK J. DeLEE,
M.D. AND FRANK J. DeLEE, M.D.,
P.C.'S ERRATA TO JOINDER TO
PLAINTIFF'S (1) MOTION FOR
RECONSIDERATION, AND (2)
MOTION FOR LEAVE OF COURT TO
AMEND COMPLAINT**

Defendants Frank J. DeLee, M.D. and Frank J. DeLee M.D., P.C. (collectively "DeLee Defendants"), by and through their attorneys of record, Eric K. Stryker and Brigitte E. Foley, of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, hereby submit the following errata to their joinder to Plaintiff's (1) Motion for Reconsideration, and (2) Motion for Leave of Court to Amend Complaint.

...

...

...

1 **PARTIAL JOINDER WAS INTENDED BY THE DELEE DEFENDANTS**

2 Defendants Frank DeLee, M.D. and DeLee, P.C. (“DeLee Defendants”) respectively
3 submit that they unintentionally submitted a joinder to Plaintiff’s motion for reconsideration and
4 motion to amend complaint, when only a partial joinder was intended. Defendants DeLee focused
5 their factual and legal arguments on the issue of whether or not the expert witness affidavit of Lisa
6 Karamardian, M.D. was sufficient to meet the threshold pleading standard of NRS §41A.071
7 relative to former Third Party Defendant Ali Kia, M.D. The DeLee Defendants asserted that it is,
8 because it described the alleged negligent conduct of attending physician Dr. Kia and specific acts
9 he performed (ie. discharge of the patient home without surgery¹).
10

11 The DeLee Defendants did not intend to join Plaintiff’s motion for reconsideration or
12 motion to amend complaint to add corporate negligence cause of action against Sunrise Hospital
13 related to inflammatory and unfounded allegations² of prior settlements and claimed alcohol use
14 in 2015, (over a year prior to Ms. Green’s treatment at issue), raised against Dr. DeLee in an
15 unrelated action. Those allegations were not specifically discussed in the Plaintiff’s pending
16 motions, however to avoid any misunderstandings the DeLee Defendants join Sunrise Hospital’s
17 opposition to Plaintiff’s motions to the extent that Plaintiff seek to add any causes of action against
18 any Defendant relating to those scandalous, irrelevant and/or unfounded allegations.
19
20

21 **CONCLUSION**

22 For the reasons set forth above, the DeLee Defendants respectfully request that the Court
23 consider its joinder to Plaintiff’s motion for reconsideration and motion to amend complaint as
24

25 ¹ Only one healthcare provider, Dr. Kia, ordered the Plaintiff’s discharge on July 16, 2016, therefore the
discharge order can only have been the specific conduct of Dr. Kia.

26 ² Plaintiff’s Motion to Amend Complaint filed June 3, 2020 claims at page six that Dr. DeLee “made
27 statements confirming his intoxication” referencing paragraphs 15-16 of the Complaint filed in case A-16-
28 736708-C. That statement in Plaintiff’s motion to amend was a blatant falsehood, because neither the cited
paragraphs alleged that Dr. DeLee had “made statements confirming his intoxication,” and he has never
done so at any time.

1 limited joinders.

2 DATED: October 23, 2020

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

4 /s/*Eric K. Stryker*
5 By: _____

6 ERIC K. STRYKER, ESQ.

Nevada Bar No. 5793

BRIGETTE E. FOLEY, ESQ.

Nevada Bar No.: 12965

6689 Las Vegas Blvd., Suite 200

Las Vegas, NV 89119

7 *Attorneys for Defendants, Frank J. DeLee,*
8 *M.D. and Frank J. DeLee M.D., P.C.*

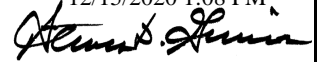
1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of WILSON ELSE
3 MOSKOWITZ EDELMAN & DICKER LLP, and that on this 23rd day of October, 2020, I served
4 a true and correct copy of the foregoing **DEFENDANTS FRANK J. DeLEE, M.D. AND**
5 **FRANK J. DeLEE, M.D., P.C.'S ERRATA TO JOINDER TO PLAINTIFF'S (1) MOTION**
6 **FOR RECONSIDERATION, AND (2) MOTION FOR LEAVE OF COURT TO AMEND**
7 **COMPLAINT** as follows:

- 8 ☒ via electronic means by operation of the Court's electronic filing system, upon
9 each party in this case who is registered as an electronic case filing user with the
10 Clerk
- 11 ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed
12 envelope upon which first class postage was prepaid in Las Vegas, Nevada

13
14 By: 

15 An Employee of WILSON ELSE MOSKOWITZ
16 EDELMAN & DICKER LLP
17
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CLERK OF THE COURT

LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
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(702) 386-0536; Fax (702) 386-6812
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,
Plaintiff,

Case No. A-17-757722-C
Dept. No. IX

v.

FRANK J. DELEE, M.D., an individual;
FRANK J. DELEE MD, PC, a Domestic
Professional Corporation, SUNRISE HOSPITAL
AND MEDICAL CENTER, LLC, a Foreign
Limited-Liability Company.

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR
LEAVE TO AMEND COMPLAINT**

This matter having come on for hearing on November 17, 2020, on Plaintiff's Motion for Leave to Amend Complaint, which was filed on October 16, 2020; Plaintiff appearing by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks, via Blue Jeans; Defendant Frank J. Delee, M.D., appearing by and through its counsel Eric K. Stryker, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, via Blue Jeans; and Defendant Sunrise Hospital and Medical Center, LLC, appearing by and through its counsel Sherman B. Mayor, Esq., of Hall Prangle & Schoonveld, LLC, via Blue Jeans; the Court having reviewed the papers and pleadings on file, having heard the arguments of counsel, and good cause appearing:

THIS COURT FINDS that amended pleadings arising out of the same transaction or occurrence set forth in the original pleadings may relate back to the date of the original filing. *See* NRCP 15(c). The same remains true when an amended pleading adds a defendant that is filed after the statute of

1 limitations so long as the proper defendant (1) receives actual notice of the action; (2) knows that it is
2 the proper party; and (3) has not been misled to its prejudice by the amendment. *Echols v. Summa Corp.*,
3 95 Nev. 720, 722, 601 P.2d 716, 717 (1979).

4 THIS COURT FURTHER FINDS that NRCP 15(c) is liberally construed to allow relation back
5 of the amended pleading where the opposing party will be put to no disadvantage. *See E.W. French &*
6 *Sons, Inc. v. General Portland Inc.*, 885 F.2d 1392, 1396 (9th Cir.1989) (discussing Federal Rule of
7 Civil Procedure 15).

8 THIS COURT FURTHER FINDS that good cause to allow for the filing of an amended
9 complaint to add Dr. Ali Kia and Nevada Hospitalist Group, LLP, to the instant action. As the Nevada
10 Court of Appeals noted in *Nutton v. Sunset Station, Inc.*, the liberality reflected in NRCP 15(a)
11 recognizes that discovery is a fluid process through which unexpected and surprising evidence is
12 uncovered with regularity, and parties should have some ability to tailor their pleadings and reframe the
13 case around what they might have learned after the initial pleadings were filed. 131 Nev. 279, 284, 357
14 P.3d 966, 970 (Nev. App. 2015).

15 THIS COURT FURTHER FINDS that plaintiff has attached affidavits to her proposed amended
16 complaint in compliance with NRS 41A.071 to allow Dr. Ali Kia and Nevada Hospitalist Group, LLP, to
17 be added as defendants to this action.

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Leave to
19 Amend Complaint, which was filed on October 16, 2020, is GRANTED IN PART to the extent that
20 Plaintiff is granted leave to file an Amended Complaint adding Dr. Ali Kia and Nevada Hospitalist
21 Group, LLP, as defendants to the instant suit.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all other relief requested in
23 relation to the Motion for Leave to Amend Complaint, filed on October 16, 2020, and the Motion for
24 Leave to Amend Complaint, filed on June 3, 2020, which was before this Court on reconsideration, is

25 ////

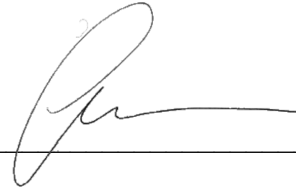
26 ////

27 ////

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DENIED, including Plaintiff's request to amend her complaint to add ostensible agency as a theory of liability against Defendant Sunrise Hospital and to add a claim of corporate negligence against Defendant Sunrise Hospital.

Dated this 15th day of December, 2020



EC

CAA CB5 8D32 4813
Cristina D. Silva
District Court Judge

Respectfully Submitted:

Approved as to Form and Content:

DATED this 10th day of December, 2020.
LAW OFFICE OF DANIEL MARKS

DATED this 10th day of December, 2020.
HALL PRANGLE & SCHOONVELD, LLC

/s/ Nicole M. Young

DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
NICOLE M. YOUNG, ESQ.
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610 South Ninth Street
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Attorney for Plaintiff

/s/ Charlotte Buys

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CHARLOTTE BUYS, ESQ.
Nevada State Bar No. 14845
1160 N. Town Center Drive Suite #200
Las Vegas, Nevada 89144
Attorney for Sunrise Hospital

Approved as to Form and Content:

DATED this 10th day of December, 2020.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

/s/ Eric K. Stryker

ERIC K. STRYKER, ESQ.
Nevada State Bar No. 005793
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Attorney for Frank DeLee, M.D. and
Frank DeLee, M.D., PC's

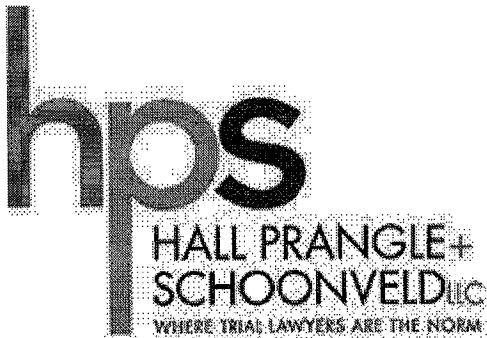
Associate Attorney
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From: Charlotte Buys [mailto:cbuys@HPSLAW.COM]
Sent: Thursday, December 10, 2020 2:51 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Nicole Young <NYoung@danielmarks.net>; Office <office@danielmarks.net>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Cc: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>
Subject: RE: Green v. Delee- Proposed Order re Motion to Amend

You can use my electronic signature on Plaintiff's proposed Order on the Motion for Leave.

Very truly yours,

Charlotte Buys



Charlotte Buys
Associate
O: 702.212.1478
Email: cbuys@HPSLAW.COM

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Suite 350
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DE LEE0057

From: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>
Sent: Thursday, December 10, 2020 1:40 PM
To: Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Office <office@danielmarks.net>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Cc: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>
Subject: RE: Green v. Delee- Proposed Order re Motion to Amend

[External Email] CAUTION!.

You can e-sign the revised order on my behalf – thank you.

Eric K. Stryker
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Sent: Thursday, December 10, 2020 10:14 AM
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Cc: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>
Subject: RE: Green v. Delee- Proposed Order re Motion to Amend

[EXTERNAL EMAIL]

Good morning:

Attached is the revised order. While the judge did not specifically find the affidavits comply with NRS 41A.071, her order granting the motion shows she believes those affidavits do comply. That was the reason she denied the motion over the summer. To resolve this issue, I took out the specific language regarding each element so it is more general.

Please provide your consent to affix your electronic signature to submit the order to the judge. I want to submit this order no later than tomorrow afternoon in light of the status check in chambers scheduled for December 15th.

Thank you!

Nicole

Nicole M. Young, Esq.

DE LEE0058

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 9

8 Frank Delee, M.D., Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/15/2020

15 E-File Admin

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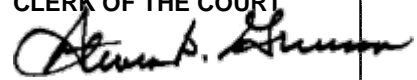
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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,

Case No. A-17-757722-C
Dept. No. IX

Plaintiff,

v.

FRANK J. DELEE, M.D., an individual;
FRANK J. DELEE MD, PC, a Domestic
Professional Corporation, SUNRISE HOSPITAL
AND MEDICAL CENTER, LLC, a Foreign
Limited-Liability Company.

Defendants.

**NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT**

PLEASE TAKE NOTICE that a Order Granting in Part and Denying in Part Plaintiff's Motion for
Leave to Amend Complaint was entered in the above-entitled action on the 15th day of December, 2020, a
copy of which is attached hereto.

DATED this 15 day of December, 2020.

LAW OFFICE OF DANIEL MARKS

/s/ Nicole Young
DANIEL MARKS, ESQ.
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NICOLE M. YOUNG, ESQ.
Nevada State Bar No. 12659
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiff

DE LEE0061

1
2 **CERTIFICATE OF SERVICE BY ELECTRONIC FILING**

3 I hereby certify that I am an employee of the Law Office of Daniel Marks and that on the 15
4 day of December, 2020, pursuant to NRCP 5(b) and Administrative Order 14-2, I electronically
5 transmitted a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER**
6 **GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR LEAVE TO**
7 **AMEND COMPLAINT** by way of Notice of Electronic Filing provided by the court mandated E-file &
8 Serve system, to the e-mail address on file for the following:

9 Erik K. Stryker, Esq.
10 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP
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12 Las Vegas, Nevada 89101
13 Attorneys for Frank J. Delee M.D. and Frank J. Delee P.C.

14 Sherman Mayor, Esq.
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18 Attorneys for Sunrise Hospital and Medical Center LLC.

19 Linda K. Rurangirwa, Esq.
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22 Las Vegas, Nevada 89119
23 Attorney for Ali Kia, M.D.

24 Erin Jordan, Esq.
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27 Las Vegas, Nevada 89118
28 Attorney for Nevada Hospitalist Group, LLP

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/s/ Jessica Flores
An employee of the
LAW OFFICE OF DANIEL MARKS

LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
NICOLE M. YOUNG, ESQ.
Nevada State Bar No. 12659
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536; Fax (702) 386-6812
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHOLOE GREEN, an individual,
Plaintiff,

Case No. A-17-757722-C
Dept. No. IX

v.

FRANK J. DELEE, M.D., an individual;
FRANK J. DELEE MD, PC, a Domestic
Professional Corporation, SUNRISE HOSPITAL
AND MEDICAL CENTER, LLC, a Foreign
Limited-Liability Company.

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR
LEAVE TO AMEND COMPLAINT**

This matter having come on for hearing on November 17, 2020, on Plaintiff's Motion for Leave to Amend Complaint, which was filed on October 16, 2020; Plaintiff appearing by and through her counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of Daniel Marks, via Blue Jeans; Defendant Frank J. Delee, M.D., appearing by and through its counsel Eric K. Stryker, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, via Blue Jeans; and Defendant Sunrise Hospital and Medical Center, LLC, appearing by and through its counsel Sherman B. Mayor, Esq., of Hall Prangle & Schoonveld, LLC, via Blue Jeans; the Court having reviewed the papers and pleadings on file, having heard the arguments of counsel, and good cause appearing:

THIS COURT FINDS that amended pleadings arising out of the same transaction or occurrence set forth in the original pleadings may relate back to the date of the original filing. *See* NRCP 15(c). The same remains true when an amended pleading adds a defendant that is filed after the statute of

1 limitations so long as the proper defendant (1) receives actual notice of the action; (2) knows that it is
2 the proper party; and (3) has not been misled to its prejudice by the amendment. *Echols v. Summa Corp.*,
3 95 Nev. 720, 722, 601 P.2d 716, 717 (1979).

4 THIS COURT FURTHER FINDS that NRCP 15(c) is liberally construed to allow relation back
5 of the amended pleading where the opposing party will be put to no disadvantage. *See E.W. French &*
6 *Sons, Inc. v. General Portland Inc.*, 885 F.2d 1392, 1396 (9th Cir.1989) (discussing Federal Rule of
7 Civil Procedure 15).

8 THIS COURT FURTHER FINDS that good cause to allow for the filing of an amended
9 complaint to add Dr. Ali Kia and Nevada Hospitalist Group, LLP, to the instant action. As the Nevada
10 Court of Appeals noted in *Nutton v. Sunset Station, Inc.*, the liberality reflected in NRCP 15(a)
11 recognizes that discovery is a fluid process through which unexpected and surprising evidence is
12 uncovered with regularity, and parties should have some ability to tailor their pleadings and reframe the
13 case around what they might have learned after the initial pleadings were filed. 131 Nev. 279, 284, 357
14 P.3d 966, 970 (Nev. App. 2015).

15 THIS COURT FURTHER FINDS that plaintiff has attached affidavits to her proposed amended
16 complaint in compliance with NRS 41A.071 to allow Dr. Ali Kia and Nevada Hospitalist Group, LLP, to
17 be added as defendants to this action.

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Leave to
19 Amend Complaint, which was filed on October 16, 2020, is GRANTED IN PART to the extent that
20 Plaintiff is granted leave to file an Amended Complaint adding Dr. Ali Kia and Nevada Hospitalist
21 Group, LLP, as defendants to the instant suit.

22 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all other relief requested in
23 relation to the Motion for Leave to Amend Complaint, filed on October 16, 2020, and the Motion for
24 Leave to Amend Complaint, filed on June 3, 2020, which was before this Court on reconsideration, is

25 ////

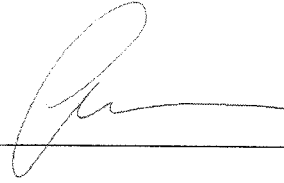
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1 DENIED, including Plaintiff's request to amend her complaint to add ostensible agency as a theory of
2 liability against Defendant Sunrise Hospital and to add a claim of corporate negligence against
3 Defendant Sunrise Hospital.
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6

Dated this 15th day of December, 2020



EC

CAA CB5 8D32 4813
Cristina D. Silva
District Court Judge

7
8 Respectfully Submitted:

Approved as to Form and Content:

9 DATED this 10th day of December, 2020.
10 LAW OFFICE OF DANIEL MARKS

DATED this 10th day of December, 2020.
HALL PRANGLE & SCHOONVELD, LLC

11 /s/ Nicole M. Young

12 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
13 NICOLE M. YOUNG, ESQ.
Nevada State Bar No. 12659
14 610 South Ninth Street
Las Vegas, Nevada 89101
15 Attorney for Plaintiff

/s/ Charlotte Buys

SHERMAN MAYOR, ESQ.
Nevada State Bar No. 001491
CHARLOTTE BUYS, ESQ.
Nevada State Bar No. 14845
1160 N. Town Center Drive Suite #200
Las Vegas, Nevada 89144
Attorney for Sunrise Hospital

16 Approved as to Form and Content:

17 DATED this 10th day of December, 2020.

18 WILSON, ELSER, MOSKOWITZ,
19 EDELMAN & DICKER LLP

20
21 /s/ Eric K. Stryker

ERIC K. STRYKER, ESQ.
22 Nevada State Bar No. 005793
300 South 4th Street, 11th floor
23 Las Vegas, Nevada 89101
Attorney for Frank DeLee, M.D. and
24 Frank DeLee, M.D., PC's

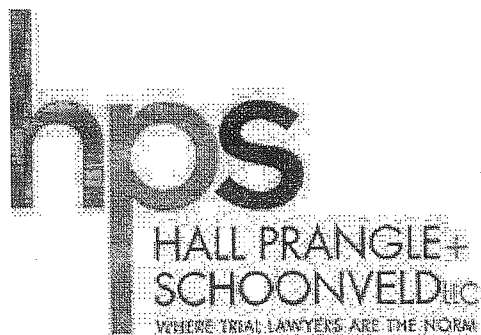
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From: Charlotte Buys [mailto:cbuys@HPSLAW.COM]
Sent: Thursday, December 10, 2020 2:51 PM
To: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Nicole Young <NYoung@danielmarks.net>; Office <office@danielmarks.net>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Cc: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>
Subject: RE: Green v. Delee- Proposed Order re Motion to Amend

You can use my electronic signature on Plaintiff's proposed Order on the Motion for Leave.

Very truly yours,

Charlotte Buys



Charlotte Buys
Associate
O: 702.212.1478
Email: cbuys@HPSLAW.COM

1140 North Town Center Dr.
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DE LEE0066

From: Stryker, Eric K. <Eric.Stryker@wilsonelser.com>
Sent: Thursday, December 10, 2020 1:40 PM
To: Nicole Young <NYoung@danielmarks.net>; Charlotte Buys <cbuys@HPSLAW.COM>; Office <office@danielmarks.net>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Cc: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>
Subject: RE: Green v. Delee- Proposed Order re Motion to Amend

[External Email] CAUTION!.

You can e-sign the revised order on my behalf – thank you.

Eric K. Stryker
Attorney at Law
Wilson Elser Moskowitz Edelman & Dicker LLP
6689 Las Vegas Blvd. South, Suite 200
Las Vegas, NV 89119
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From: Nicole Young [mailto:NYoung@danielmarks.net]
Sent: Thursday, December 10, 2020 10:14 AM
To: Charlotte Buys <cbuys@HPSLAW.COM>; Stryker, Eric K. <Eric.Stryker@wilsonelser.com>; Office <office@danielmarks.net>; Lord, Nicole N. <Nicole.Lord@wilsonelser.com>
Cc: Sherman Mayor <smayor@HPSLAW.COM>; Mike Prangle <mprangle@HPSLAW.COM>; Tyson Dobbs <tdobbs@HPSLAW.COM>; Casey Henley <CHenley@HPSLaw.com>
Subject: RE: Green v. Delee- Proposed Order re Motion to Amend

[EXTERNAL EMAIL]

Good morning:

Attached is the revised order. While the judge did not specifically find the affidavits comply with NRS 41A.071, her order granting the motion shows she believes those affidavits do comply. That was the reason she denied the motion over the summer. To resolve this issue, I took out the specific language regarding each element so it is more general.

Please provide your consent to affix your electronic signature to submit the order to the judge. I want to submit this order no later than tomorrow afternoon in light of the status check in chambers scheduled for December 15th.

Thank you!

Nicole

Nicole M. Young, Esq.

DE LEE0067

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Choloe Green, Plaintiff(s)

CASE NO: A-17-757722-C

7 vs.

DEPT. NO. Department 9

8 Frank Delee, M.D., Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/15/2020

15 E-File Admin

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