

NOAS  
IQBAL LAW PLLC  
Mohamed A. Iqbal, Jr. (NSB 10623)  
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[info@ilawlv.com](mailto:info@ilawlv.com); [mai@ilawlv.com](mailto:mai@ilawlv.com)

*Special Litigation Counsel for Mark J. Gardberg, Esq., in his capacity as Receiver for,  
and acting on behalf of, Flamingo-Pecos Surgery Center, LLC*

Electronically Filed  
Oct 04 2021 01:59 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

MARK J. GARDBERG, ESQ., in his capacity  
as Receiver for, and acting on behalf of,  
FLAMINGO-PECOS SURGERY CENTER,  
LLC a Nevada limited liability company;

Plaintiff,

vs.

William Smith MD et al.;

Defendants.

Case No.: A-17-750926-B  
[consolidated with A-18-769693-C]  
Dept. No.: XXII

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that MARK J. GARDBERG, ESQ., in his capacity as Receiver for, and acting on behalf of, FLAMINGO-PECOS SURGERY CENTER, LLC, by and through his attorneys of record, the law firm of IQBAL LAW PLLC, hereby appeals to the Supreme Court of Nevada from the following:

1. Notice of Entry of Order Granting Defendant William Smith, MD's Motion for Summary Judgment, entered on August 17, 2021, a copy of which is attached hereto as **Exhibit 1**.
2. Notice of Entry of Order Granting Defendant Sheldon Freedman, MD's Motion for Summary Judgment, entered on August 17, 2021, a copy of which is attached hereto as **Exhibit 2**.
3. Order Granting in Limited Part Plaintiff's Motion to Extend Discovery, filed on May 20, 2021, a copy of which is attached hereto as **Exhibit 3**.
4. Notice of Entry of Order Regarding Motion and Counter-Motion for Sanctions, entered on June 23, 2020, a copy of which is attached hereto as **Exhibit 4**.

////

NOTICE OF APPEAL

1 of 2

Docket 83556 Document 2021-28398

1 Dated September 15, 2021.

Respectfully submitted by:

2 IQBAL LAW PLLC

3 By: /s/ Mohamed A. Iqbal, Jr.

4 Mohamed A. Iqbal, Jr. (NSB 10623)

5 *Special Litigation Counsel for Mark J.*  
6 *Gardberg, Esq., in his capacity as Receiver*  
7 *for, and acting on behalf of, Flamingo-*  
8 *Pecos Surgery Center, LLC*

9 **CERTIFICATE OF SERVICE**

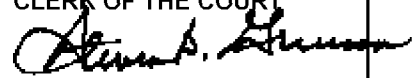
10 I certify that I served the foregoing **NOTICE OF APPEAL** on all counsel of record in this  
11 matter using the Court's e-file/e-service system on September 15, 2021.

12 By: /s/ Marie-Claire Alsanjakli

13 An employee of IQBAL LAW PLLC

# **EXHIBIT 1**

# **EXHIBIT 1**



1 **NEOJ**  
2 MARC P. COOK  
3 Nevada State Bar No. 004574  
4 GEORGE P. KELESIS  
5 Nevada State Bar No. 000069  
6 COOK & KELESIS, LTD.  
7 517 S. Ninth Street  
8 Las Vegas, Nevada 89101  
9 Telephone: 702-737-7702  
10 Facsimile: 702-737-7712  
11 Email: mcook@bckltd.com  
12 *Attorneys for Defendants Sheldon J. Freedman, M.D.*  
13 *And William D. Smith, M.D.*

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

11 MARK J. GARDBERG, ESQ., in his  
12 capacity as Receiver for, and acting on  
13 behalf of, FLAMINGO-PECOS SURGERY  
14 CENTER, LLC a Nevada limited liability  
15 company,

14 Plaintiff,  
15 vs.

16 WILLIAM SMITH MD, an individual;  
17 PANKAJ BHATANAGAR MD, an  
18 individual; MAJORIE BELSKY MD, an  
19 individual; SHELDON FREEDMAN MD,  
20 an individual; MATHEW NG MD, an  
21 individual; DANIEL BURKHEAD MD, an  
22 individual; and DOE MANAGERS,  
23 DIRECTORS, AND OFFICERS 1-25, ROE  
24 BUSINESS ENTITIES 1-25;

21 Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT WILLIAM  
SMITH, MD'S MOTION FOR  
SUMMARY JUDGMENT**

22 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

23 Please take notice that on the 16<sup>th</sup> day of August, 2021 an Order Granting Defendant William  
24 Smith, MD's Motion for Summary Judgment was entered in the above-captioned action.

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A copy of the Order is attached hereto.

DATED this 17<sup>th</sup> day of August, 2021.

COOK & KELESIS, LTD.

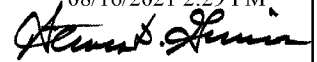
By :           /s/ Marc P. Cook            
MARC P. COOK  
Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
517 S. Ninth Street  
Las Vegas, Nevada 89101  
*Attorneys for Defendants Sheldon J. Freedman, M.D.  
And William D. Smith, M.D.*

1 **CERTIFICATE OF SERVICE**

2 The undersigned declares under penalty of perjury that on August 17, 2021, I caused to be  
3 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING**  
4 **DEFENDANT WILLIAM SMITH, MD'S MOTION FOR SUMMARY JUDGMENT** by the  
5 method indicated below:

- 6 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s)  
7 set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed  
8 transmission record is attached to the file copy of this document(s).
- 9 ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage  
10 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth  
11 below.
- 12 ☐ **BY HAND DELIVERY:** at Las Vegas, Nevada addressed as set forth below.
- 13 ☐ **BY EMAIL:** by emailing a PDF of the document(s) listed above to the email address(es) of  
14 the individual(s) listed below.
- 15 ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery  
16 service company for delivery to the addressee(s) on the next business day.
- 17 ☒ **BY ELECTRONIC SUBMISSION:** submitted to the Eighth Judicial District Court, for  
18 electronic filing in accordance with NRCP 5(b), NEFCR Administrative Order 14-2 and  
19 NEFCR 9(e) and service upon the Court's Service List for the above-referenced case.

20  
21 /s/ Shannon J. Fagin  
22 An employee of COOK & KELESIS, LTD.

  
CLERK OF THE COURT

1 **OGSJ**  
2 MARC P. COOK  
3 Nevada Bar No. 004574  
4 GEORGE P. KELESIS  
5 Nevada Bar No. 000069  
6 COOK & KELESIS, LTD.  
7 517 S. Ninth Street  
8 Las Vegas, Nevada 89101  
9 Telephone: 702-737-7702  
10 Facsimile: 702-737-7712  
11 Email: mcook@bckltd.com  
12 *Attorneys for Defendants Sheldon J. Freedman, M.D.*  
13 *And William D. Smith, M.D.*

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

11 MARK J. GARDBERG, ESQ., in his  
12 capacity as Receiver for, and acting on  
13 behalf of, FLAMINGO-PECOS SURGERY  
14 CENTER, LLC a Nevada limited liability  
15 company,

14 Plaintiff,  
15 vs.

16 WILLIAM SMITH MD, an individual;  
17 PANKAJ BHATANAGAR MD, an  
18 individual; MAJORIE BELSKY MD, an  
19 individual; SHELDON FREEDMAN MD,  
20 an individual; MATHEW NG MD, an  
21 individual; DANIEL BURKHEAD MD, an  
22 individual; and DOE MANAGERS,  
23 DIRECTORS, AND OFFICERS 1-25, ROE  
24 BUSINESS ENTITIES 1-25;

25 Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER GRANTING DEFENDANT  
WILLIAM SMITH, MD'S MOTION  
FOR SUMMARY JUDGMENT**

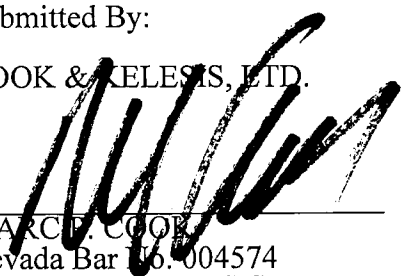
Hearing Date: July 19, 2021  
Hearing Time: CHAMBERS

22 This matter having come before the Court on Defendant, William Smith, MD's Motion for  
23 Summary Judgment ("Motion") on July 19, 2021; the Court having decided the matter pursuant to  
24 Eighth Judicial District Court Administrative Order 21-04 without the necessity of oral argument;  
25 the Court having read and considered all pleadings and having entered a Findings of Fact and  
26 Conclusions of Law on August 5, 2021, the Court hereby determines that, Defendant is entitled to  
27 Judgment in his favor of the remaining causes of action as a matter of law.  
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Therefore:  
IT IS ORDERED that Defendant's Motion for Summary Judgment is GRANTED.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.      Dated this 16th day of August, 2021

  
\_\_\_\_\_  
DISTRICT COURT JUDGE

Submitted By:  
COOK & KELESIS, LTD.  
  
\_\_\_\_\_  
MARCO COOK  
Nevada Bar No. 004574  
GEORGE P. KELESIS  
Nevada Bar No. 000069  
517 S. Ninth Street  
Las Vegas, Nevada 89101  
*Attorneys for Defendants Sheldon J.  
Freedman, M.D. and William D. Smith, M.D.*

**119 AD2 60E5 F993**  
**Elizabeth Gonzalez**  
**District Court Judge**



1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 Flamingo-Pecos Surgery Center  
7 LLC, Plaintiff(s)

CASE NO: A-17-750926-B

8 vs.

DEPT. NO. Department 11

9 William Smith, M.D.,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

17 Service Date: 8/16/2021

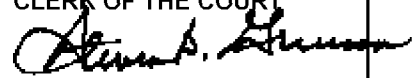
18 Chris Mathews .	cxm@ilawlv.com
19 Iqbal Law PLLC .	info@ilawlv.com
20 Mohamed Iqbal Jr. .	mai@ilawlv.com
21 Dylan Houston	dhouston@grsm.com
22 Andrea Montero	amontero@grsm.com
23 Robert Schumacher	rschumacher@grsm.com
24 Marc Cook	mcook@bckltd.com
25 Docketing Clerk	docketing@mullinerlaw.com
26 Jill House	jhouse@mullinerlaw.com
27 Tim Mulliner	tmulliner@mullinerlaw.com

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2	Todd Kennedy	tkennedy@kclawnv.com
3	Maximiliano Couvillier	mcouvillier@kclawnv.com
4	Cristina Pagaduan	cpagaduan@grsm.com
5	Sean Owens	sowens@grsm.com
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7	E-serve GRSM	WL_LVSupport@grsm.com
8	Shannon Fagin	sfagin@bckltd.com
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# **EXHIBIT 2**

# **EXHIBIT 2**



1 **NEOJ**  
2 MARC P. COOK  
3 Nevada State Bar No. 004574  
4 GEORGE P. KELESIS  
5 Nevada State Bar No. 000069  
6 COOK & KELESIS, LTD.  
7 517 S. Ninth Street  
8 Las Vegas, Nevada 89101  
9 Telephone: 702-737-7702  
10 Facsimile: 702-737-7712  
11 Email: mcook@bckltd.com  
12 *Attorneys for Defendants Sheldon J. Freedman, M.D.*  
13 *And William D. Smith, M.D.*

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

11 MARK J. GARDBERG, ESQ., in his  
12 capacity as Receiver for, and acting on  
13 behalf of, FLAMINGO-PECOS SURGERY  
14 CENTER, LLC a Nevada limited liability  
15 company,

14 Plaintiff,  
15 vs.

16 WILLIAM SMITH MD, an individual;  
17 PANKAJ BHATANAGAR MD, an  
18 individual; MAJORIE BELSKY MD, an  
19 individual; SHELDON FREEDMAN MD,  
20 an individual; MATHEW NG MD, an  
21 individual; DANIEL BURKHEAD MD, an  
22 individual; and DOE MANAGERS,  
23 DIRECTORS, AND OFFICERS 1-25, ROE  
24 BUSINESS ENTITIES 1-25;

21 Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT SHELDON  
FREEDMAN, MD'S MOTION FOR  
SUMMARY JUDGMENT**

22 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

23 Please take notice that on the 16<sup>th</sup> day of August, 2021 an Order Granting Defendant Sheldon  
24 Freedman, MD's Motion for Summary Judgment was entered in the above-captioned action.

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A copy of the Order is attached hereto.

DATED this 17<sup>th</sup> day of August, 2021.

COOK & KELESIS, LTD.

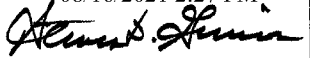
By : /s/ Marc P. Cook  
MARC P. COOK  
Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
517 S. 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
*Attorneys for Defendants Sheldon J. Freedman, M.D.  
And William D. Smith, M.D.*

1 **CERTIFICATE OF SERVICE**

2 The undersigned declares under penalty of perjury that on August 17, 2021, I caused to be  
3 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING**  
4 **DEFENDANT SHELDON FREEDMAN, MD'S MOTION FOR SUMMARY JUDGMENT**  
5 by the method indicated below:

- 6 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s)  
7 set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed  
8 transmission record is attached to the file copy of this document(s).
- 9 ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage  
10 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth  
11 below.
- 12 ☐ **BY HAND DELIVERY:** at Las Vegas, Nevada addressed as set forth below.
- 13 ☐ **BY EMAIL:** by emailing a PDF of the document(s) listed above to the email address(es) of  
14 the individual(s) listed below.
- 15 ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery  
16 service company for delivery to the addressee(s) on the next business day.
- 17 ☒ **BY ELECTRONIC SUBMISSION:** submitted to the Eighth Judicial District Court, for  
18 electronic filing in accordance with NRCP 5(b), NEFCR Administrative Order 14-2 and  
19 NEFCR 9(e) and service upon the Court's Service List for the above-referenced case.

20  
21 /s/ Shannon J. Fagin  
22 An employee of COOK & KELESIS, LTD.

  
CLERK OF THE COURT

**OGSJ**

MARC P. COOK

Nevada Bar No. 004574

GEORGE P. KELESIS

Nevada Bar No. 000069

COOK & KELESIS, LTD.

517 S. Ninth Street

Las Vegas, Nevada 89101

Telephone: 702-737-7702

Facsimile: 702-737-7712

Email: mcook@bckltd.com

*Attorneys for Defendants Sheldon J. Freedman, M.D.*

*And William D. Smith, M.D.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARK J. GARDBERG, ESQ., in his  
capacity as Receiver for, and acting on  
behalf of, FLAMINGO-PECOS SURGERY  
CENTER, LLC a Nevada limited liability  
company,

Plaintiff,

vs.

WILLIAM SMITH MD, an individual;  
PANKAJ BHATANAGAR MD, an  
individual; MAJORIE BELSKY MD, an  
individual; SHELDON FREEDMAN MD,  
an individual; MATHEW NG MD, an  
individual; DANIEL BURKHEAD MD, an  
individual; and DOE MANAGERS,  
DIRECTORS, AND OFFICERS 1-25, ROE  
BUSINESS ENTITIES 1-25;

Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER GRANTING DEFENDANT  
SHELDON FREEDMAN, MD'S  
MOTION FOR SUMMARY  
JUDGMENT**

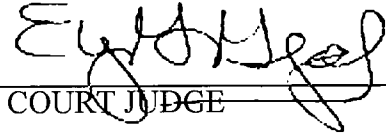
Hearing Date: July 19, 2021  
Hearing Time: CHAMBERS

This matter having come before the Court on Defendant, Sheldon Freedman, MD's Motion for Summary Judgment ("Motion") on July 19, 2021; the Court having decided the matter pursuant to Eighth Judicial District Court Administrative Order 21-04 without the necessity of oral argument; the Court having read and considered all pleadings and having entered a Findings of Fact and Conclusions of Law on August 5, 2021, the Court hereby determines that, Defendant is entitled to Judgment in his favor of the remaining causes of action as a matter of law.

1 Therefore:

2 IT IS ORDERED that Defendant's Motion for Summary Judgment is GRANTED.

3 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021. Dated this 16th day of August, 2021

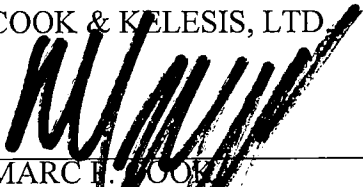
4 

5  
6 DISTRICT COURT JUDGE

7 Submitted By:

8 COOK & KELESIS, LTD.

58B 099 AFEF 38AC  
Elizabeth Gonzalez  
District Court Judge

9   
10 MARC E. COOK  
Nevada Bar No. 004574  
11 GEORGE P. KELESIS  
Nevada Bar No. 000069  
12 517 S. Ninth Street  
Las Vegas, Nevada 89101  
13 Attorneys for Defendants Sheldon J.  
Freedman, M.D. and William D. Smith, M.D.  
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1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 Flamingo-Pecos Surgery Center  
7 LLC, Plaintiff(s)

CASE NO: A-17-750926-B

8 vs.

DEPT. NO. Department 11

9 William Smith, M.D.,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

17 Service Date: 8/16/2021

18 Chris Mathews .	cxm@ilawlv.com
19 Iqbal Law PLLC .	info@ilawlv.com
20 Mohamed Iqbal Jr. .	mai@ilawlv.com
21 Dylan Houston	dhouston@grsm.com
22 Andrea Montero	amontero@grsm.com
23 Robert Schumacher	rschumacher@grsm.com
24 Marc Cook	mcook@bckltd.com
25 Docketing Clerk	docketing@mullinerlaw.com
26 Jill House	jhouse@mullinerlaw.com
27 Tim Mulliner	tmulliner@mullinerlaw.com

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3	Maximiliano Couvillier	mcouvillier@kclawnv.com
4	Cristina Pagaduan	cpagaduan@grsm.com
5	Sean Owens	sowens@grsm.com
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8	Shannon Fagin	sfagin@bckltd.com
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# **EXHIBIT 3**

# **EXHIBIT 3**

**ORDR**

IQBAL LAW PLLC

Mohamed A. Iqbal, Jr. (NSB 10623)

101 Convention Center Dr., Suite 1175

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1-(702) 750-2950 (Tel); 1-(702) 825-2841 (V-Fax)

[info@ilawlv.com](mailto:info@ilawlv.com); [mai@ilawlv.com](mailto:mai@ilawlv.com)

*Special Litigation Counsel for Mark J. Gardberg, Esq., in his capacity as Receiver for,  
and acting on behalf of, Flamingo-Pecos Surgery Center, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARK J. GARDBERG, ESQ., in his capacity  
as Receiver for, and acting on behalf of,  
FLAMINGO-PECOS SURGERY CENTER,  
LLC a Nevada limited liability company;

Plaintiff,

vs.

William Smith MD et al.;

Defendants.

Case No.: A-17-750926-B

[consolidated with A-18-769693-C]

Dept. No.: XI

**ORDER GRANTING IN LIMITED PART  
PLAINTIFF'S MOTION TO EXTEND  
DISCOVERY**

Plaintiff's Motion to Extend Discovery came on for hearing on April 26, 2021 (the "Motion"). Pursuant to Administrative Order 21-03, the Court decided the Motion without oral argument. Having reviewed the Motion and the related briefing and being fully informed, and good cause showing, the Court hereby:

**ORDERS** the Motion is **GRANTED IN LIMITED PART and DENIED IN PART**; and, further, **FINDS**:

(1) Given the timing of the Motion, excusable neglect must be shown. The excusable neglect factors enumerated by the Nevada Supreme Court in *Mosely v. Eighth Judicial Dist. Court*, 124 Nev. 654, are similar to the *Pioneer Investment Services Co. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 395 (1993) factors, and require that: (1) [the moving party] acted in good faith; (2) it exercised due diligence; (3) there is a reasonable basis for not complying within

**ORDER GRANTING IN LIMITED PART  
PLAINTIFF'S MOTION TO EXTEND DISCOVERY**

1 the specified time; and (4) the nonmoving party will not suffer prejudice.” *Mosely*, 124 Nev. at  
2 668.

3 Regarding Dr. Smith’s deposition, and good faith and diligence: the moving party acted in  
4 good faith, this case has been, outside of the five-month stretch at issue here (late October 2020 –  
5 late March 2021) and the delays from Dr. Smith’s unavailability (August 2019 – October 2020),  
6 diligently litigated by all of the parties, resulting in four of the original six defendants reaching  
7 monetary settlements with the Receiver. There was a reasonable basis for not complying within  
8 the specific time, and the nonmoving party, Dr. Smith, will not suffer prejudice;

9 (2) Plaintiff extended professional courtesy during Dr. Smith’s unavailability. Dr. Smith’s  
10 deposition testimony would serve the Court and all parties with the determination of the pending  
11 motions for summary judgment filed by Dr. Smith and Dr. Freedman, and thus advance judicial  
12 efficiency and the principle of determining matters on the merits; and

13 (3) The Court’s ruling is consistent with Administrative Order 21-03.

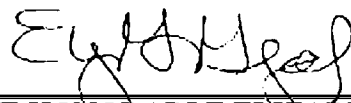
14 The Court hereby further **ORDERS** the deposition of Defendant Dr. Smith may be  
15 completed within 45 days of the date of the April 26, 2021 Hearing, unless counsel agree to a  
16 later completion date.

17 The Motion to Extend Discovery is **DENIED** as to their request to conduct additional  
18 written discovery, extend the expert disclosure deadline, and to extend the discovery cut-off date.  
19 As to those three requests, the Court finds that the four factors as set forth in *Mosely, supra*, have  
20 not been met and therefore, those requests are hereby **DENIED**.

21 **IT IS SO ORDERED.**

Dated this 20th day of May, 2021

22 May \_\_, 2021.

23 

24 THE HONORABLE ELIZABETH GONZALEZ  
DISTRICT COURT JUDGE

25 **DC8 E20 9795 490A**  
26 **Elizabeth Gonzalez**  
27 **District Court Judge**

28 **ORDER GRANTING IN LIMITED PART**  
**PLAINTIFF’S MOTION TO EXTEND DISCOVERY**

1 Respectfully Submitted By:

2 IQBAL LAW PLLC

3 By: \_\_\_\_\_

4 Mohamed A. Iqbal, Jr. (NSB 10623)

5 101 Convention Center Dr., Suite 1175

6 Las Vegas, Nevada 89109

7 *Special Litigation Counsel for Mark J. Gardberg, Esq.,*

8 *in his capacity as Receiver for, and acting on behalf of,*

9 *Flamingo-Pecos Surgery Center, LLC*

10 Approved as to Form and Content:

11 COOK & KELESIS, LTD.

12 /s/ Marc P. Cook

13 Marc P. Cook, Esq.

14 Nevada Bar No. 4574

15 517 S. Ninth Street

16 Las Vegas, Nevada 89101

17 *Attorneys for Defendants Sheldon J. Freedman, M.D.*

18 *and William D. Smith, M.D.*

1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 Flamingo-Pecos Surgery Center  
7 LLC, Plaintiff(s)

CASE NO: A-17-750926-B

8 vs.

DEPT. NO. Department 11

9 William Smith, M.D.,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 5/20/2021

16 Chris Mathews .	cxm@ilawlv.com
17 Iqbal Law PLLC .	info@ilawlv.com
18 Mohamed Iqbal Jr. .	mai@ilawlv.com
19 Dylan Houston	dhouston@grsm.com
20 Andrea Montero	amontero@grsm.com
21 Robert Schumacher	rschumacher@grsm.com
22 Marc Cook	mcook@bckltd.com
23 Docketing Clerk	docketing@mullinerlaw.com
24 Jill House	jhouse@mullinerlaw.com
25 Tim Mulliner	tmulliner@mullinerlaw.com
26	
27	
28	

Vincent Badalamenti	vbadalamenti@mullinerlaw.com
Todd Kennedy	tkennedy@kclawnv.com
Maximiliano Couvillier	mcouvillier@kclawnv.com
Cristina Pagaduan	cpagaduan@grsm.com
Sean Owens	sowens@grsm.com
Dione Wrenn	dwrenn@grsm.com
E-serve GRSM	WL_LVSupport@grsm.com
Shannon Fagin	sfagin@bckltd.com

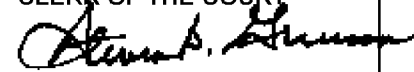
If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 5/21/2021

Mohamed Iqbal	IQBAL Law PLLC Attn: Mohamed A. Iqbal 101 Convention Center Drive - Suite 1175 Las Vegas, NV, 89109
---------------	--



# **EXHIBIT 4**

# **EXHIBIT 4**



1 MARC P. COOK  
Nevada State Bar No. 004574  
2 GEORGE P. KELESIS  
Nevada State Bar No. 000069  
3 COOK & KELESIS, LTD.  
517 S. 9<sup>th</sup> Street  
4 Las Vegas, Nevada 89101  
Telephone: 702-737-7702  
5 Facsimile: 702-737-7712  
Email: mcook@bckltd.com  
6 *Attorneys for Defendants Sheldon J. Freedman, M.D.*  
*And William D. Smith, M.D.*  
7

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 MARK J. GARDBERT, ESQ., in his  
11 capacity as Receiver for, and acting on  
behalf of, FLAMINGO-PECOS SURGERY  
12 CENTER, LLC a Nevada limited liability  
company,

13 Plaintiff,

14 vs.

15 WILLIAM SMITH MD, an individual;  
PANKAJ BHATANAGAR MD, an  
16 individual; MAJORIE BELSKY MD, an  
individual; SHELDON FREEDMAN MD,  
17 an individual; MATHEW NG MD, an  
individual; DANIEL BURKHEAD MD, an  
18 individual; and DOE MANAGERS,  
DIRECTORS, AND OFFICERS 1-25, ROE  
19 BUSINESS ENTITIES 1-25;

20 Defendants.  
21

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**NOTICE OF ENTRY OF ORDER  
REGARDING MOTION AND  
COUNTER-MOTION FOR  
SANCTIONS**

**Hearing Date: 06/12/2020  
Hearing Time: Chambers**

22 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

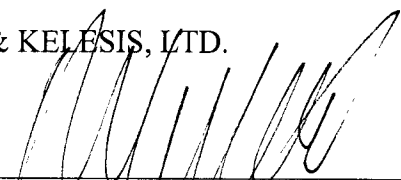
23 Please take notice that on the 23<sup>rd</sup> day of June, 2020 an Order Regarding Defendants' Motion  
24 for Sanctions against Plaintiff and Plaintiff's Counter-motion for Attorney's Fees was entered in the  
25 above-captioned action.  
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A copy of the Order is attached hereto.

Dated this 23 day of June, 2020.

COOK & KELESIS, LTD.

By : 

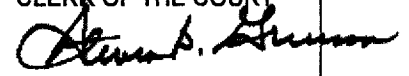
MARC P. COOK  
Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
517 S. 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
*Attorneys for Defendants Sheldon J. Freedman, M.D.  
And William D. Smith, M.D.*

1 **CERTIFICATE OF SERVICE**

2 The undersigned declares under penalty of perjury that on June 23, 2020, I caused to be  
3 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER REGARDING**  
4 **MOTION AND COUNTERMOTION FOR SANCTIONS** by the method indicated below:

- 5 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s)  
6 set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed  
7 transmission record is attached to the file copy of this document(s).
- 8 ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage  
9 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth  
10 below.
- 11 ☐ **BY HAND DELIVERY:** at Las Vegas, Nevada addressed as set forth below.
- 12 ☐ **BY EMAIL:** by emailing a PDF of the document(s) listed above to the email address(es) of  
13 the individual(s) listed below.
- 14 ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery  
15 service company for delivery to the addressee(s) on the next business day.
- 16 ☒ **BY ELECTRONIC SUBMISSION:** submitted to the Eighth Judicial District Court, for  
17 electronic filing in accordance with NRCP 5(b), NEFCR Administrative Order 14-2 and  
18 NEFCR 9(e) and service upon the Court's Service List for the above-referenced case.

19  
20   
21 An employee of COOK & KELESIS, LTD.  
22  
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28



1 ORDR

2  
3  
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6  
7  
8 MARK J. GARDBERT, ESQ., in his capacity  
9 as Receiver for, and acting on behalf of,  
10 FLAMINGO-PECOS SURGERY CENTER,  
11 LLC a Nevada limited liability company,

12 Plaintiff,

13 vs.

14 WILLIAM SMITH MD, an individual;  
15 PANKAJ BHATANAGAR MD, an individual;  
16 MAJORIE BELSKY MD, an individual;  
17 SHELDON FREEDMAN MD, an individual;  
18 MATHEW NG MD, an individual; DANIEL  
19 BURKHEAD MD, an individual; and DOE  
20 MANAGERS, DIRECTORS, AND OFFICERS  
21 1-25, ROE BUSINESS ENTITIES 1-25;

22 Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER REGARDING MOTION AND  
COUNTER MOTION FOR SANCTIONS**

Hearing Date: June 12, 2020  
Hearing Time: Chambers

23 Defendant William Smith's Motion for Sanctions filed August 14, 2019 and Plaintiff's  
24 Countermotion for Attorney's Fees filed on August 26, 2019 having come on for  
25 consideration on June 12, 2020 on the Court's chambers calendar; the Court having  
26 considered all papers and pleadings on file, hereby makes the following findings of fact and  
27 conclusions of law, and Orders as follows:

28 **FINDINGS OF FACT**

1. On May 9, 2019 Defendant William Smith filed a Motion for Summary  
Judgment based on responses to Requests for Admissions that were either admitted  
voluntarily or admitted through order of the court.

2. In opposing this motion, Plaintiff filed a Sur-reply on June 20, 2019 that, in  
form and substance, represented to the Court that the admissions should not be binding

1 because on April 24, 2019, subsequent to the admissions being admitted, Plaintiff received  
2 documents that contradicted the submissions.

3 3. In Plaintiff's Motion to Withdraw Admissions and the Reply to Defendants'  
4 Opposition to that motion, Plaintiff repeated the representation to the Court that new  
5 documents were provided to Plaintiff on April 24, 2019 which contradicted prior admissions.

6 4. In reading these arguments by Plaintiff, the Court understood Plaintiff to be  
7 arguing that April 24, 2019 was the first time these documents were produced and were  
8 reviewed for the first time by Plaintiff's counsel sometime thereafter.

9 5. The documents the Plaintiff represented to the Court were first received on  
10 April 24, 2019 were all produced significantly prior to that date. Certain documents were first  
11 produced to Plaintiff on June 27, 2017 by co-defendant Freedman and again produced by  
12 Defendant Smith on August 8, 2018. Both productions were in court filings that were  
13 contemporaneously served on Plaintiff's counsel.

14 6. The balance of the documents that Plaintiff represented to the Court as having  
15 been received on April 24, 2019 were emails that Plaintiff's counsel received on October 24,  
16 2018.

17 7. In its December 31, 2018 Omnibus Opposition to Defendants' Motion to  
18 Compel Plaintiff states, on page two, that its discovery responses were untimely because  
19 counsel was reviewing the emails received October 24, 2018. These were the same emails  
20 represented in Plaintiff's Sur-reply and Motion to Withdraw Admissions to have been first  
21 received on April 24, 2019.

22 8. During the December 31, 2018 hearing on Defendant's Motion to Compel,  
23 Plaintiff's counsel stated, "[w]e've gone through every single one of those 1,400 emails" – in  
24 referring to the same emails that Counsel subsequently represented had not been reviewed  
25 until after the April 24, 2019 production.

26 9. Further, Jack Juan's April 24, 2019 supplemental production itself identifies to  
27 Plaintiff's counsel that the parties in this case, "already have all of the emails in the prior  
28 thumb drive (b/c I previously gave you all the emails of this case)."

10 Accordingly, the Court finds that the misrepresentation in suggesting that  
documents were first received in April 2019, as a basis to oppose summary judgement and to  
withdraw admissions is a sanctionable misrepresentation.

11. The Court finds that Plaintiff misrepresented that a new production was provided on April 24, 2019 when those documents had all been previously been received and reviewed, and further, that Plaintiff had an opportunity to correct the error on the record of the court and failed to do so.

12. Therefore, the Court finds that this action warrants the correction of the September 30, 2019 Order to the extent that paragraph 4 of the Findings and Facts contained therein is to be deleted. The Court finds that the correction of the record is a sufficient sanction and denies Defendants' request for monetary sanctions and/or striking the Complaint.

13. The court further finds that based on the meritorious Motion for Sanctions, the Countermotion for Sanctions filed by Plaintiff is not supported by the facts and accordingly will be denied.

## CONCLUSIONS OF LAW

When granting sanctions the court shall consider the degree of willfulness of the offending party, the extent the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction awarded relative to the level of severity of abuse, the feasibility and fairness of an alternative, less severe sanction than dismissal of a case or striking pleading, whether the sanctions unfairly operate to penalize a party for the misconduct or his or her attorney and the need to determine both the party and future litigants from similar abuses. See, *Young v. Johnny Ribeiro*, 106 Nev. 88, 93, 787 P.2d. 777, 780 (1990) and *Foster v. Dingwall*, 126 Nev. 56, 63, 227 P.3d 1042, 1047 (2010).

The Court having considered these factors, declines to strike the Complaint or grant monetary sanctions but finds that the conduct warrants a correction of the record particularly in the September 30, 2019 Order to the extent that the paragraph in that order that was attributed to the misrepresentation to the Court, i.e., paragraph four, be deleted from the same.

The court further finds that no additional sanctions are appropriate at this time.

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**ORDER**

It is therefore ordered that Dr. Smith's Motion for Sanctions is granted in part and denied in part as outlined hereinabove, and that Plaintiff's Counter Motion for Sanctions is denied.

Dated this 23rd day of June, 2020

  
\_\_\_\_\_  
DISTRICT COURT JUDGE



**CASE SUMMARY****CASE NO. A-17-750926-B**

**Flamingo-Pecos Surgery Center LLC, Plaintiff(s)**  
**vs.**  
**William Smith, M.D., Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 22**  
 Judicial Officer: **Johnson, Susan**  
 Filed on: **02/10/2017**  
 Case Number History:  
 Cross-Reference Case Number: **A750926**

**CASE INFORMATION****Related Cases**

A-18-769693-C (Consolidated)

Case Type: **NRS Chapters 78-89****Statistical Closures**

08/16/2021 Summary Judgment  
 08/05/2021 Summary Judgment  
 08/05/2021 Summary Judgment

Case Status: **08/16/2021 Closed**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-17-750926-B  
 Court Department 22  
 Date Assigned 09/07/2021  
 Judicial Officer Johnson, Susan

**PARTY INFORMATION**










<b>Plaintiff</b>	<b>Flamingo-Pecos Surgery Center LLC</b>	<i>Lead Attorneys</i>
		<b>Iqbal, Mohamed A.</b> <i>Retained</i> 702-750-2950(W)
<b>Defendant</b>	<b>Belsky, Marjorie, M.D.</b> Removed: 12/24/2019 Dismissed	<b>Kunimoto, Bryce K.</b> <i>Retained</i> 702222500(W)
	<b>Bhatanagar, Pankaj, M.D.</b> Removed: 12/24/2019 Dismissed	<b>Kunimoto, Bryce K.</b> <i>Retained</i> 702222500(W)
	<b>Burkhead, Daniel, M.D.</b> Removed: 10/10/2019 Dismissed	<b>Schumacher, Robert E.</b> <i>Retained</i> 702-577-9300(W)
	<b>Freedman, Sheldon, M.D.</b>	<b>Cook, Marc P</b> <i>Retained</i> 702-385-3788(W)
	<b>Ng, Mathew, M.D.</b> Removed: 12/24/2019 Dismissed	<b>Kunimoto, Bryce K.</b> <i>Retained</i> 702222500(W)
	<b>Smith, William, M.D.</b>	<b>Cook, Marc P</b> <i>Retained</i> 702-385-3788(W)
<b>Receiver</b>	<b>Gardberg, Esq., Mark J</b>	<b>Iqbal, Mohamed A.</b> <i>Retained</i> 702-750-2950(W)

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

# CASE SUMMARY

CASE NO. A-17-750926-B

## EVENTS

02/10/2017	 Complaint (Business Court) Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[1] Complaint</i>
02/10/2017	Other Tort Case
06/06/2017	 Summons Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[2] Summons - Smith</i>
06/06/2017	 Summons Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[3] Summons Belsky</i>
06/06/2017	 Summons Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[4] Summons Bhatanagar</i>
06/06/2017	 Summons Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[5] Summons Ng</i>
06/06/2017	 Summons Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[6] Summons Freedman</i>
06/06/2017	 Summons Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[7] Summons Burkhead</i>
06/12/2017	 Affidavit of Service Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[8] Affidavit of Service Upon Sheldon Freedman, M.D.</i>
06/12/2017	 Affidavit of Service Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[9] Affidavit of Service Upon Daniel Burkhead, M.D.</i>
06/12/2017	 Affidavit of Service Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[10] Affidavit of Service Upon Matthew Ng, M.D.</i>
06/12/2017	 Affidavit of Service Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[11] Affidavit of Service Upon Pankaj Bhatanagar, M.D.</i>
06/13/2017	 Affidavit of Due Diligence Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[12] Affidavit of Due Diligence for William Smith M.D.</i>
06/13/2017	 Affidavit of Due Diligence Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

# CASE SUMMARY

CASE NO. A-17-750926-B

[13] Affidavit of Due Diligence for Marjorie Belsky M.D.

06/23/2017



Motion to Dismiss

Filed By: Defendant Ng, Mathew, M.D.

[14] Defendants Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss

06/23/2017



Initial Appearance Fee Disclosure

Filed By: Defendant Bhatanagar, Pankaj, M.D.

[15] Initial Appearance Fee Disclosure

06/26/2017



Motion to Dismiss

Filed By: Defendant Burkhead, Daniel, M.D.

[16] Defendant Daniel Burkhead M.D.'s Motion to Dismiss Complaint

06/27/2017



Initial Appearance Fee Disclosure

[18] Initial Appearance Fee Disclosure

06/27/2017



Motion to Dismiss

[19] Defendant Sheldon J. Freedman's Motion to Dismiss Pursuant to NRCP 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020

06/28/2017



Initial Appearance Fee Disclosure

Filed By: Defendant Burkhead, Daniel, M.D.

[17] Initial Appearance Fee Disclosure

06/28/2017



Joinder

Filed By: Defendant Burkhead, Daniel, M.D.

[20] Defendant Daniel Burkhead M.D.'s Joinder to Defendant Sheldon J. Freedman's Motion to Dismiss Pursuant to N.R.C.P. 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020

07/05/2017



Joinder

[21] Defendant Sheldon J. Freedman, MD's Joinder to Defendant Daniel L. Burkhead, M.D.'s Motion to Dismiss Complaint

07/05/2017



Joinder

[22] Defendant Sheldon J. Freedman, MD's Joinder to Defendant Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss

07/06/2017



Joinder To Motion

Filed By: Defendant Burkhead, Daniel, M.D.

[23] Defendant Daniel L. Burkhead, M.D.'s Joinder to Motion to Dismiss of Defendants Dr. Matthew NG and Dr. Pankaj Bhatnagar

07/13/2017



Opposition to Motion to Dismiss

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

[24] Flamingo-Pecos Surgery Center LLC's Opposition to Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss

07/14/2017



Opposition to Motion to Dismiss

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

[25] Flamingo-Pecos Surgery Center, LLC's Oppositin to Defendant Daniel Burkhead M.D.'s Motion to Dismiss Complaint

07/17/2017



Certificate of Service

# CASE SUMMARY

CASE NO. A-17-750926-B

Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC  
*[26] Flamingo-Pecos Surgery Center, LLC's Omnibus Certificate of Service for Oppositions to Motions to Dismiss Filed by Defendants NG and BHATNAGAR, BURKHEAD AND FREEDMAN*

07/17/2017



Opposition to Motion to Dismiss

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
*[27] Flamingo-Pecos Surgery Center, LLC's Opposition to Defendant Sheldon J. Freedman's Motion to Dismiss Pursuant to NRCP 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020*

07/20/2017



Reply to Opposition

Filed by: Defendant Burkhead, Daniel, M.D.  
*[28] Defendant Daniel Burkhead M.D.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint*

07/24/2017



Notice

Filed By: Defendant Burkhead, Daniel, M.D.  
*[29] Notice of Errata to Defendant Daniel Burkhead M.D.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint*

07/27/2017



Stipulation and Order

Filed by: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D.  
*[30] Stipulation and Order to Continue the Hearing Dates on the Defendants' Motions to Dismiss*

07/31/2017



Notice of Entry

Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D.  
*[31] Notice of Entry of Order to Continue the Hearing Dates on the Defendants' Motions to Dismiss*

08/01/2017



Stipulation and Order

*[32] Stipulation and Order to Continue Hearing Date*

08/01/2017



Notice of Entry of Stipulation and Order

*[33] Notice of Entry of Stipulation and Order Rescheduling Hearing Date for Defendant Sheldon Freedman's Motion to Dismiss*

08/16/2017



Reply to Opposition

*[34] Defendant Sheldon J. Freedman's Reply to Opposition to Motion to Dismiss Pursuant to N.R.C.P. 12(b)(5) and 12(b)(6) and Reply to Opposition for Attorneys Fees Pursuant to NRS 18.020*

08/25/2017



Reply in Support

Filed By: Defendant Ng, Mathew, M.D.  
*[35] Defendants Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Reply in Support of Motion to Dismiss*

08/28/2017



Joinder

Filed By: Defendant Burkhead, Daniel, M.D.  
*[36] Defendant Daniel Burkhead M.D.'s Joinder to Defendant Sheldon J. Freedman's Reply to Dismiss Pursuant to N.R.C.P. 12(b)(5) and 12(b)(6) and Reply to Opposition for Attorneys Fees Pursuant to NRS 18.020*

09/18/2017



First Amended Complaint

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

# CASE SUMMARY

CASE NO. A-17-750926-B

*[37] Flamingo - Pecos Surgery Center LLC's First Amended Complaint*

09/19/2017



Errata

*[38] Flamingo- Pecos Surgery Center LLC's Errata to First Amended Complaint*

09/28/2017



Motion to Extend Time to Serve

Party: Plaintiff Flamingo-Pecos Surgery Center LLC

*[39] Flamingo-Pecos Surgery Center LLC's Motion to Extend Time to Serve Certain Defendants*

10/10/2017



Order

*[40] Order Regarding Defendants Motions to Dismiss*

10/10/2017



Notice of Entry of Order

*[41] Notice of Entry of Order Regarding Defendants Motions to Dismiss*

10/10/2017



Second Amended Complaint

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

*[42] Second Amended Complaint*

10/23/2017



Motion to Dismiss

Filed By: Defendant Ng, Mathew, M.D.

*[43] Defendants Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss Second Amended Complaint*

10/24/2017



Supplement

*[44] Defendant Sheldon J. Freedman's Supplement to Motion to Dismiss Complaint, First Amended Complaint and Second Amended Complaint Pursuant to NRCP 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020*

10/25/2017



Motion to Dismiss

Filed By: Defendant Burkhead, Daniel, M.D.

*[45] Defendant Daniel Burkhead M.D.'s Motion to Dismiss Second Amended Complaint*

10/25/2017



Initial Appearance Fee Disclosure

Filed By: Defendant Belsky, Marjorie, M.D.

*[46] Initial Appearance Fee Disclosure*

10/25/2017



Opposition

Filed By: Defendant Belsky, Marjorie, M.D.

*[47] Marjorie Belsky MD's Opposition to Motion to Extend Time and Counter-Motion to Dismiss*

10/26/2017



Errata

Filed By: Defendant Belsky, Marjorie, M.D.

*[48] Errata to Marjorie Belsky MD's Opposition to Motion to Extend Time and Counter-Motion to Dismiss*

10/26/2017



Reply to Opposition

Filed by: Receiver Gardberg, Esq., Mark J

*[49] Reply in Support of Plaintiff's Motion For Extension of Time to Serve*

10/27/2017



Joinder

Filed By: Defendant Burkhead, Daniel, M.D.

# CASE SUMMARY

CASE NO. A-17-750926-B

	<i>[50] Defendant Daniel Burkhead M.D.'s Joinder to Defendant Sheldon J. Freedman's Supplement to Motion to Dismiss Complaint, First Amended Complaint and Second Amended Complaint Pursuant to N.R.C.P. 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020</i>
10/27/2017	 Joinder Filed By: Defendant Burkhead, Daniel, M.D. <i>[51] Defendant Daniel Burkhead M.D.'s Joinder to Defendants Dr. Matthew NG and Dr. Pankaj Bhatnagar's Motion to Dismiss Second Amended Complaint</i>
10/31/2017	 Joinder To Motion Filed By: Defendant Freedman, Sheldon, M.D. <i>[52] Defendant Sheldon J. Freedman, M.D.'s Joinder to Defendants Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss Second Amended Complaint and Dr. Majorie Belsky's Counter-Motion to Dismiss</i>
10/31/2017	 Joinder To Motion Filed By: Defendant Freedman, Sheldon, M.D. <i>[53] Defendant Sheldon J. Freedman, M.D.'s Joinder to Defendant Daniel Burkhead, M.D.'s Motion to Dismiss Second Amended Complaint</i>
11/01/2017	 Joinder Filed By: Defendant Ng, Mathew, M.D. <i>[54] Pankaj Bhatnagar MD and Matthew Ng MD's Joinder to Sheldon J. Freedman's Supplement to Motion to Dismiss Complaint, First Amended Complaint and Second Amended Complaint Pursuant to NRCP 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020</i>
11/01/2017	 Joinder Filed By: Defendant Ng, Mathew, M.D. <i>[55] Pankaj Bhatnagar MD and Matthew Ng MD's Joinder to Daniel Burkhead MD's Motion to Dismiss Second Amended Complaint</i>
11/07/2017	 Opposition Filed By: Receiver Gardberg, Esq., Mark J <i>[56] Plaintiff's Omnibus Supplemental Opposition to Defendants' Various Motions to Dismiss and Associated Joinders</i>
11/20/2017	 Reply to Opposition <i>[57] Defendant Sheldon J. freedman's Reply to Plaintiffs Omnibus Supplemental Opposition to Defendants Various Motions to Dismiss and Associated Joinders</i>
11/21/2017	 Reply in Support Filed By: Defendant Burkhead, Daniel, M.D. <i>[58] Defendant Daniel L. Burkhead M.D.'s Reply in Support of Motion to Dismiss Second Amended Complaint</i>
11/21/2017	 Reply in Support Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[59] Pankaj Bhatnagar, MD and Matthew Ng, MD's Reply in Support of Their Motion to Dismiss Second Amended Complaint</i>
11/22/2017	 Stipulation and Order Filed by: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[60] Stipulation and Order to Consolidate Hearings on Motions to Dismiss</i>
11/27/2017	

# CASE SUMMARY

CASE NO. A-17-750926-B

	 Notice of Entry of Stipulation and Order Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[61] Notice of Entry of Stipulation and Order to Consolidate Hearings on Motions to Dismiss</i>
11/28/2017	 Order Denying Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[62] Order Denying Plaintiff's Motion to Extend Time to Serve Certain Defendants</i>
11/28/2017	 Notice of Entry Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[63] Notice of Entry of Order Denying Plaintiff's Motion to Extend Time</i>
12/06/2017	 Answer to Amended Complaint Filed By: Defendant Burkhead, Daniel, M.D. <i>[64] Answer to Second Amended Complaint</i>
12/07/2017	 Order Filed By: Defendant Freedman, Sheldon, M.D. <i>[65] Order Regarding Consolidated Motions to Dismiss</i>
12/08/2017	 Notice of Entry of Order Filed By: Defendant Freedman, Sheldon, M.D. <i>[66] Notice of Entry of Order Regarding Consolidated Motions to Dismiss</i>
12/08/2017	 Errata Filed By: Defendant Burkhead, Daniel, M.D. <i>[67] Errata to Answer to Second Amended Complaint</i>
12/12/2017	 Answer Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[69] Pankaj Bhatnagar, MD and Matthew Ng, MD's Answer to Second Amended Complaint</i>
12/13/2017	 Business Court Order <i>[68] Business Court Order</i>
12/15/2017	 Motion to Stay Filed By: Defendant Freedman, Sheldon, M.D. <i>[70] Defendant Sheldon J. Freeman's Motion for Stay</i>
12/18/2017	 Joinder To Motion Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Ng, Mathew, M.D. <i>[71] Defendants Bhatnagar and Ng's Joinder to Defendant Freedman's Motion for Stay</i>
12/21/2017	 Joinder To Motion Filed By: Defendant Burkhead, Daniel, M.D. <i>[72] Defendant Daniel Burkhead M.D.'s Joinder to Defendant Sheldon J. Freedman's Motion for Stay</i>
01/05/2018	 Opposition to Motion Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J <i>[73] Plaintiff's Opposition to Defendant Sheldon J. Freedman's Motion to Stay and Related Joinders</i>
01/10/2018	 Reply to Opposition

# CASE SUMMARY

CASE NO. A-17-750926-B

[74] Defendant Sheldon J. Freedman's Reply to Plaintiffs Opposition to Defendant Sheldon Freedman's Motion to Stay and Related Joinders

01/26/2018



Arbitration File

[75] Arbitration File

02/13/2018



Order Granting Motion

[76] Order Regarding Defendant Sheldon Freedman M.D.'s Motion to Stay

02/13/2018



Notice of Entry of Order

[77] Notice of Entry of Order Regarding Defendant Sheldon Freedman M.D.'s Motion to Stay

04/04/2018



Stipulation and Order

Filed by: Receiver Gardberg, Esq., Mark J

[78] Stipulation and Order to Consolidate Case Nos. A-17-750926-B & A-18-769693-C

04/05/2018



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

[79] Notice of Entry of Stipulation & Order to Consolidate Case Nos A-17-750926-B & A-18-769693-C

04/25/2018



Notice of Change

Filed By: Receiver Gardberg, Esq., Mark J

[80] Notice of New Law Firm Association for Counsel of Record for Receiver

07/02/2018

Case Reassigned to Department 11

Reassigned From Judge Hardy - Dept 15

08/02/2018



Stipulation and Order

Filed by: Receiver Gardberg, Esq., Mark J

[81] Stipulation and Order To Lift Stay

08/06/2018



Motion to Dismiss

Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.

[82] Defendant Marjorie Belsky, MD's Motion to Dismiss

08/08/2018



Answer to Complaint

Filed by: Defendant Freedman, Sheldon, M.D.

[83] Defendant Sheldon J. Freedman, M.D.'s Answer to Plaintiffs' Second Amended Complaint

08/08/2018



Motion to Dismiss

Filed By: Defendant Smith, William, M.D.

[85] Defendant William Smith's Motion to Dismiss Pursuant to NRCP 12(b)(5)

08/09/2018



Initial Appearance Fee Disclosure

Filed By: Defendant Smith, William, M.D.

[84] Initial Appearance Fee Disclosure

08/13/2018



Joinder

Filed By: Defendant Burkhead, Daniel, M.D.

[86] Defendant Daniel Burkhead M.D.'s Joinder to Defendant William Smith's Motion to Dismiss Pursuant to N.R.C.P 12(b)(5)

08/20/2018



# CASE SUMMARY

CASE NO. A-17-750926-B

	 Joinder Filed By: Defendant Smith, William, M.D. <i>[87] Defendant William Smith, M.D.'s Joinder to Defendant Marjorie Belski, M.D.'s Motion to Dismiss Plaintiffs Claims for Breaches of Fiduciary Duty or Care, Breaches of Fiduciary Duty of Loyalty, and Waste</i>
08/20/2018	 Joinder Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[88] Pankaj Bhatnagar, MD, Matthew Ng, MD and Marjorie Belsky, MD's Limited Joinder to William Smith's Motion to Dismiss</i>
08/23/2018	 Opposition Filed By: Receiver Gardberg, Esq., Mark J <i>[89] Plaintiff's Opposition To Defendant Marjorie Belsky Md's Motion To Dismiss Plaintiff's Claim For Breachs Of Fiduciary Duty Of Care, Breaches Of Fiduciary Duty Of Loyalty, And Waste</i>
08/27/2018	 Opposition Filed By: Receiver Gardberg, Esq., Mark J <i>[90] Opposition to Defendant William Smith's Motion to Dismiss Pursuant to N.R.C.P.</i>
08/31/2018	 Reply in Support Filed By: Defendant Belsky, Marjorie, M.D. <i>[91] Defendant Marjorie Belsky, MD's Reply in Support of Motion to Dismiss Plaintiff's Claims for Breaches of Fiduciary Duty of Loyalty, and Waste</i>
09/04/2018	 Reply to Opposition Filed by: Defendant Smith, William, M.D. <i>[92] Defendant William Smith's Reply to Opposition to Motion to Dismiss Pursuant to N.R.C.P. 12(b)(5)</i>
09/11/2018	 Business Court Order <i>[93] Business Court Order</i>
10/02/2018	 Answer <i>[94] Marjorie Belsky, MD's Answer</i>
10/16/2018	 Transcript of Proceedings <i>[95] Transcript of Proceedings: Mandatory Rule 16 Conference</i>
10/17/2018	 Business Court Order <i>[96] Business Court Scheduling Order and Order Setting Civil Bench Trial and Calendar Call</i>
11/07/2018	 Affidavit of Due Diligence Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[97] Affidavit of Due Diligence of Subpoena Duces Tecum on Jack Chen Min Juan, Esq.</i>
11/07/2018	 Affidavit of Service Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[98] Affidavit of Service of Subpoena Duces Tecum on COR for Marquis Aurbach Coffing</i>
11/21/2018	 Substitution of Attorney

# CASE SUMMARY

CASE NO. A-17-750926-B

Filed by: Receiver Gardberg, Esq., Mark J  
[99] Substitution of Counsel

12/14/2018



Motion to Compel

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[100] Defendants Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Compel

12/17/2018



Notice of Hearing

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[101] Notice of Hearing Regarding Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Compel

12/19/2018



Motion to Compel

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
[102] Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion to Compel Plaintiff's Responses to Defendants' First Set of Requests for Production of Documents and Application for Order Shortening Time

12/19/2018



Appendix

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
[103] Appendix of Exhibits to Defendants' Motion to Compel

12/21/2018



Order Shortening Time

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[104] Order Shortening Time With Regard to Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Compel

12/21/2018



Notice of Hearing

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[105] Notice of Hearing Regarding Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Compel on Order Shortening Time

12/31/2018



Opposition

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
[106] Plaintiff's Limited Omnibus Opposition to Defendants' Motion to Compel

01/03/2019



Transcript of Proceedings

[107] Transcript of Proceedings: Hearing on Defendants' Motions to Compel

01/07/2019



Order

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
[108] Order Granting Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion to Compel Plaintiff's Responses to Defendants' First Set of Requests for Production of Documents

01/08/2019



Notice of Entry of Order

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
[109] Notice of Entry of Order

01/10/2019



Order Granting Motion

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

# CASE SUMMARY

CASE NO. A-17-750926-B

*[110] Order Granting Defendants Sheldon J. Freedman, M.D., And William D. Smith, M.D.'s Motion to Compel*

01/11/2019



Notice of Entry of Order

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[111] Notice of Entry of Order Granting Defendants' Sheldon J. Freedman, M.D., And William D. Smith, M.D.'s Motion to Compel*

02/01/2019



Stipulation and Order

Filed by: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.

*[112] Stipulation and Order to Extend Discovery Deadline Dates and Continue Trial (First Request)*

02/05/2019



Notice of Entry of Stipulation and Order

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.

*[113] Notice of Entry of Stipulation and Order*

02/05/2019



Business Court Order

*[114] 1st Amended Business Court Scheduling Order and Order Setting Civil Bench Trial and Calendar Call*

02/13/2019



Motion for Sanctions

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[115] Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion for Sanctions For Failure to Comply With Motion to Compel Order*

02/15/2019



Appendix

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.

*[116] Appendix of Exhibits to Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion to Compel Plaintiff's Compliance with the Court's January 8, 2019 Order, Sanctions and Attorneys' Fees*

02/15/2019



Motion

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[117] Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Have Non-Responses to Admissions Deemed Admitted*

02/15/2019



Notice of Hearing

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[118] Notice of Hearing Regarding Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion for Sanctions For Failure to Comply With Motion to Compel Order*

02/15/2019



Motion to Compel

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.

*[119] Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion to Compel Plaintiff's Compliance with the Court's January 8, 2019 Order, Sanctions and Attorneys' Fees*

02/20/2019



Notice of Hearing

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[120] Notice of Hearing Regarding Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s, Motion to Have Non-Responses to Admissions Deemed Admitted*

# CASE SUMMARY

CASE NO. A-17-750926-B

03/08/2019



## Opposition

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
 [121] (3/8/19 Withdrawn) PLAINTIFF S OMNIBUS OPPOSITION TO: DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D. S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER; DEFENDANT PANKAJ BHATNAGAR MD, MARJORIE BELSKY, MD, AND MATTHEW NG MD S MOTION TO COMPEL PLAINTIFF S COMPLIANCE WITH THE COURT S JANUARY 8, 2019 ORDER, SANCTIONS AND ATTORNEYS FEES; AND DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH S MOTION TO HAVE NON-RESPONSES TO ADMISSIONS DEEMED ADMITTED

03/09/2019



## Notice of Withdrawal

Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC  
 [122] NOTICE OF WITHDRAWAL OF: PLAINTIFF S OMNIBUS OPPOSITION TO: DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D. S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER; DEFENDANT PANKAJ BHATNAGAR MD, MARJORIE BELSKY, MD, AND MATTHEW NG MD S MOTION TO COMPEL PLAINTIFF S COMPLIANCE WITH THE COURT S JANUARY 8, 2019 ORDER, SANCTIONS AND ATTORNEYS FEES; AND DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH S MOTION TO HAVE NON-RESPONSES TO ADMISSIONS DEEMED ADMITTED

03/10/2019



## Opposition

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
 [123] PLAINTIFF S OMNIBUS OPPOSITION TO: DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D. S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER; AND DEFENDANT PANKAJ BHATNAGAR MD, MARJORIE BELSKY, MD, AND MATTHEW NG MD S MOTION TO COMPEL PLAINTIFF S COMPLIANCE WITH THE COURT S JANUARY 8, 2019 ORDER, SANCTIONS AND ATTORNEYS FEES

03/10/2019



## Amended Certificate of Service

Party: Plaintiff Flamingo-Pecos Surgery Center LLC  
 [124] AMENDED CERTIFICATE OF SERVICE OF: PLAINTIFF S OMNIBUS OPPOSITION TO: DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D. S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER; AND DEFENDANT PANKAJ BHATNAGAR MD, MARJORIE BELSKY, MD, AND MATTHEW NG MD S MOTION TO COMPEL PLAINTIFF S COMPLIANCE WITH THE COURT S JANUARY 8, 2019 ORDER, SANCTIONS AND ATTORNEYS FEES

03/11/2019



## Notice of Non Opposition

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
 [125] PLAINTIFF S NOTICE OF NON OPPOSITION TO: DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D. S MOTION TO HAVE NON-RESPONSES TO ADMISSIONS DEEMED ADMITTED

03/15/2019



## Reply to Opposition

Filed by: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
 [126] Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Reply to Opposition to Motion for Sanctions For Failure to Comply With Motion to Compel Order

03/19/2019



## Order

[127]

03/20/2019



## Reply in Support

Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
 [128] Defendants Pankaj Bhatnagar MD, Marjorie Belsky JD, and Matthew Ng MD's Reply in Support of Motion to Compel Plaintiff's Compliance with the Court's January 8, 2019 Order,

# CASE SUMMARY

CASE NO. A-17-750926-B

## Sanctions and Attorneys' Fees

03/26/2019	 Order Granting Motion Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[129] Order Granting Defendants' Sheldon J. Freedman, M.D., and William D. Smith's Motion to Have Non-Responses to Admissions Deemed Admitted</i>
03/26/2019	 Notice of Entry of Order Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[130] Notice of Entry of Order Granting Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Have Non-Responses to Admissions Deemed Admitted</i>
03/27/2019	 Notice Filed By: Receiver Gardberg, Esq., Mark J <i>[131] NOTICE TO ALL DEFENDANTS REGARDING JACK JUAN, ESQ. S EMAILS DURING HIS REPRESENTATION OF FLAMINGO-PECOS SURGERY CENTER</i>
04/01/2019	 Transcript of Proceedings <i>[132] Transcript of Proceedings: Hearing on Defendants' Motions to Compel Plaintiff's Compliance with Order of January 8, 2019</i>
04/03/2019	 Order Granting Motion Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[133] Order Granting In Part and Denying in Part Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion for Sanctions For Failure to Comply With Motion to Compel Order</i>
04/03/2019	 Notice of Entry of Order Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[134] Notice of Entry of Order Granting in Part and Denying in Part Defendants' Sheldon J. Freedman, M.C. and William D. Smith, M.D.'s Motion For Sanctions For Failure to Comply With Motion to Compel Order</i>
04/08/2019	 Order Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[135] Order Granting Defendants Pankaj Bhatnagar MD, Marjorie Belsky, MD and Matthew Ng, MD's Motion to Compel Plaintiff's Compliance with the Court's January 8, 2019 Order, Sanctions and Attorneys' Fees</i>
04/09/2019	 Stipulation and Order <i>[136] Stipulated Confidentiality Agreement and Protective Order</i>
04/09/2019	 Notice of Entry of Order Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[137] Notice of Entry of Order Granting Defendants Pankaj Bhatnagar MD, Marjorie Belsky, MD and Matthew Ng, MD's Motion to Compel Plaintiff's Compliance with the Court's January 8, 2019 Order, Sanctions and Attorneys' Fees</i>
04/09/2019	 Notice of Entry of Order Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[138] Notice of Entry of Stipulated Confidentiality Agreement and Protective Order</i>
04/23/2019	 Motion for Sanctions

# CASE SUMMARY

CASE No. A-17-750926-B

Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
*[139] Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion for Sanctions Against Plaintiff for Failing to Comply with the Court's Order Dated April 8, 2019 and Attorneys' Fees and Application for Order Shortening Time*

04/29/2019



## Opposition

Filed By: Receiver Gardberg, Esq., Mark J  
*[140] PLAINTIFF S OPPOSITION TO: DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY, MD, AND MATTHEW NG MD S MOTION TO SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURT S ORDER DATED APRIL 8, 2019 AND ATTORNEYS FEES AND APPLICATION FOR ORDER SHORTENING TIME*

05/07/2019



## Transcript of Proceedings

*[141] Transcript of Proceedings: Hearing on Defendants' Motion for Sanctions*

05/09/2019



## Motion for Summary Judgment

Filed By: Defendant Smith, William, M.D.  
*[142] Defendant William D. Smith's Motion for Summary Judgment*

05/09/2019



## Clerk's Notice of Hearing

*[143] Notice of Hearing*

05/22/2019



## Notice

Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
*[144] Notice of Filing of Receipt of Restitution Checks by Plaintiff's Counsel*

05/28/2019



## Reply

Filed by: Defendant Smith, William, M.D.  
*[145] Defendant William D. Smith's Reply to Plaintiffs' Non-Opposition to Motion for Summary Judgment*

05/28/2019



## Stipulation and Order

Filed by: Receiver Gardberg, Esq., Mark J  
*[146] Stipulation And Order To Extend Discovery Deadline Dates And Continue Trial*

05/28/2019



## Notice of Entry of Order

Filed By: Receiver Gardberg, Esq., Mark J  
*[147] NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINE DATES AND CONTINUE TRIAL*

05/28/2019



## Opposition

Filed By: Receiver Gardberg, Esq., Mark J  
*[148] PLAINTIFF S OPPOSITION TO DEFENDANT WILLIAM D. SMITH S MOTION FOR SUMMARY JUDGMENT*

05/29/2019



## Order Setting Civil Bench Trial

*[149] 2nd Amended Business Court Scheduling Order and Order Setting Civil Bench Trial and Calendar Call*

05/30/2019



## Response

Filed by: Receiver Gardberg, Esq., Mark J  
*[150] PLAINTIFF S RESPONSE TO DEFENDANT WILLIAM D. SMITH S REPLY TO PLAINTIFFS NON-OPPOSITION [sic] TO MOTION FOR SUMMARY JUDGMENT*

# CASE SUMMARY

CASE NO. A-17-750926-B

05/31/2019	 Stipulation and Order Filed by: Defendant Smith, William, M.D. <i>[151] Stipulation And Order to Continue Hearing Date Regarding Motion for Summary Judgment</i>
06/04/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[152] Notice of Entry of Stipulation and Order to Continue Hearing Date Regarding Motion for Summary Judgment</i>
06/04/2019	 Reply to Opposition Filed by: Defendant Smith, William, M.D. <i>[153] Defendant William D. Smith's Reply to Plaintiffs' Opposition to Motion for Summary Judgment</i>
06/20/2019	 Response Filed by: Receiver Gardberg, Esq., Mark J <i>[154] SURREPLY TO DEFENDANT WILLIAM D. SMITH S REPLY TO PLAINTIFFS [sic] OPPOSITION TO MOTION FOR SUMMARY JUDGMENT</i>
07/10/2019	 Motion Filed By: Receiver Gardberg, Esq., Mark J <i>[155] PLAINTIFF S MOTION FOR AN ORDER WITHDRAWING DEEMED ADMISSIONS AND ALLOWING AMENDED RESPONSES</i>
07/12/2019	 Notice Filed By: Receiver Gardberg, Esq., Mark J <i>[156] NOTICE OF MOTION OF PLAINTIFF S MOTION FOR AN ORDER WITHDRAWING DEEMED ADMISSIONS AND ALLOWING AMENDED RESPONSES</i>
07/15/2019	 Clerk's Notice of Hearing <i>[157] Notice of Hearing</i>
07/19/2019	 Opposition and Countermotion Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[158] Defendants' Opposition to Motion for an Order Withdrawing Deemed Admissions and Allowing Amended Responses &amp; Countermotion to Strike</i>
07/22/2019	 Errata Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[159] Defendants' Errata to Opposition to Motion For an Order Withdrawing Deemed Admissions And Allowing Amended Responses and Countermotion to Strike</i>
08/05/2019	 Reply Filed by: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[160] Defendant William D. Smith's Reply to Plaintiffs' Non-Opposition to Countermotion to Strike</i>
08/09/2019	 Reply Filed by: Receiver Gardberg, Esq., Mark J <i>[161] Reply In Support Of Plaintiff's Motion for an Order Withdrawing Deemed Admissions and Allowing Amended Responses</i>
08/13/2019	 Motion for Sanctions Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.



# CASE SUMMARY

CASE NO. A-17-750926-B

*[162] Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion for Sanctions Against Plaintiff for Failing to Comply with the Court's Orders Dated January 4, 2019 and April 8, 2019, and Attorneys' Fees and Application for Order Shortening Time*

08/13/2019



Reply to Opposition

Filed by: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[163] Defendant William D. Smith's Reply to Informal Opposition to Motion to Strike*

08/13/2019



Clerk's Notice of Hearing

*[164] Notice Of Hearing*

08/14/2019



Motion for Sanctions

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[165] Defendant William D. Smith's Motion for Sanctions*

08/14/2019



Joinder To Motion

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[166] Defendants' William Smith, M.D., and Sheldon J. Freedman, M.D.'s Joinder to Defendants' Pankaj Bhatnagar, M.D., Matthew Ng, M.D., and Majorie Belski, M.D.'s Motion for Sanctions Against Plaintiff for Failing to Comply With The Courts Orders /Dated January 4, 2019 and April 8, 2019 and Attorneys' Fees*

08/15/2019



Clerk's Notice of Hearing

*[167] Notice of Hearing*

08/15/2019



Notice of Change of Hearing

*[168] Notice of Change of Hearing*

08/15/2019



Notice of Change of Hearing

*[169] Amended Notice of Change of Hearing*

08/15/2019



Motion for Determination of Good Faith Settlement

Filed By: Defendant Burkhead, Daniel, M.D.

*[170] Joint Motion for Determination of Good Faith Settlement on Order Shortening Time*

08/16/2019



Response

Filed by: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.

*[171] (9/6/19 Withdrawn) Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Response to Joint Motion for Determination of Good Faith Settlement on Order Shortening Time*

08/16/2019



Opposition to Motion

Filed By: Defendant Bhatnagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.

*[172] Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Limited Opposition to Plaintiff and Dr. Burkhead's Joint Motion for Determination of Good Faith Settlement*

08/16/2019



Opposition and Countermotion

Filed By: Receiver Gardberg, Esq., Mark J

*[173] Plaintiff's Opposition To Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, And Matthew Ng MD s Motion For Sanctions [Against Plaintiff]; And Countermotion For Sanctions*

08/18/2019



Reply in Support



# CASE SUMMARY

CASE NO. A-17-750926-B

Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D.  
*[174] Ng Defendants' Reply in Support of Motion for Sanctions Against Plaintiff For Failing to Comply with the Court's Orders Dated January 4, 2019 and April 8, 2019, and Attorneys' Fees; and Opposition to Plaintiff's Countermotion for Sanctions*

08/21/2019



Transcript of Proceedings

*[175] Transcript of Proceedings: Hearing on Motions, Monday, August 19, 2019*

08/26/2019



Opposition and Countermotion

Filed By: Receiver Gardberg, Esq., Mark J  
*[176] Opposition to Motion for Sanctions and Countermotion for Expenses Including Attorney's Fees Pursuant to NRCP 11(c)(2)*

08/27/2019



Notice of Change of Hearing

*[177] Notice of Change of Hearing*

08/28/2019



Stipulation and Order

Filed by: Receiver Gardberg, Esq., Mark J  
*[178] Limited Stipulation For Extension Of Time To Complete Discovery (Third Request)*

08/28/2019



Notice of Entry of Order

Filed By: Receiver Gardberg, Esq., Mark J  
*[179] NOTICE OF ENTRY OF STIPULATION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY (THIRD REQUEST) AND ORDER*

09/06/2019



Notice of Withdrawal

Filed by: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
*[180] Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Notice of Withdrawal of Response to Joint Motion For Determination of Good Faith Settlement on Order Shortening Time*

09/06/2019



Opposition to Motion

Filed By: Defendant Smith, William, M.D.  
*[181] Defendant William D. Smith, M.D.'s Opposition to Plaintiff's Countermotion For Attorneys Fees Pursuant to NRCP 11(c)(2)*

09/09/2019



Supplemental

Filed by: Defendant Burkhead, Daniel, M.D.  
*[182] SUPPLEMENTAL DECLARATON OF DIONE C. WRENN, ESQ. IN SUPPORT OF JOINT MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT*

09/16/2019



Order

Filed By: Defendant Burkhead, Daniel, M.D.  
*[183] Order Granting Joint Motion for Determination of Good Faith Settlement*

09/16/2019



Notice of Entry

Filed By: Defendant Burkhead, Daniel, M.D.  
*[184] Notice of Entry of Order Granting Joint Motion for Determination of Good Faith Settlement*

09/20/2019



Reply

Filed by: Receiver Gardberg, Esq., Mark J  
*[185] Reply in Support of Plaintiff's Countermotion for Expenses Including Attorney's Fees Pursuant to NRCP 11(c)(2)*





# CASE SUMMARY

CASE NO. A-17-750926-B

09/23/2019	 Reply to Opposition Filed by: Defendant Smith, William, M.D. <i>[186] Defendant William D. Smith's Reply to Opposition to Motion for Sanctions</i>
09/30/2019	 Order Granting Motion Filed By: Receiver Gardberg, Esq., Mark J <i>[187] Order Granting Plaintiff's Motion for an Order Withdrawing Deemed Admissions and allowing Amended Responses and Denying Defendant William Smith's Countermotion to Strike</i>
10/01/2019	 Notice of Entry of Order Filed By: Receiver Gardberg, Esq., Mark J <i>[188] Notice of Entry of Order</i>
10/02/2019	 Order Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[189] Order Regarding Defendants Pankaj Bhatnagar, M.D., Marjorie Belsky, M.D., And Matthew Ng, M.D.'s Motion For Sanctions Against Plaintiff For Failing to Comply With the Court's Orders of January 4, 2019, And April 8, 2019, And Attorneys' Fees And Application For Order Shortening Time And Defendants Sheldon J. Freedman, M.D., And William D. Smith, M.D.'s Joinder to the Motion for Sanctions</i>
10/03/2019	 Notice of Entry of Order Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[190] Notice of Entry of Order Regarding Defendants Pankaj Bhatnagar, M.D., Marjorie Belsky, M.D., And Matthew Ng, M.D.'s Motion for Sanctions Against Plaintiff For Failing to Comply With The Court's Orders of January 4, 2019, And April 8, 2019, And Attorneys' Fees And Application For Order Shortening Time And Defendants Sheldon J. Freedman, M.D., And William D. Smith, M.D.'s Joinder to The Motion For Sanctions</i>
10/10/2019	 Stipulation and Order Filed by: Defendant Burkhead, Daniel, M.D. <i>[191] Stipulation and Order to Dismiss Defendant Daniel Burkhead, M.D. with Prejudice</i>
10/10/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Burkhead, Daniel, M.D. <i>[192] Notice of Entry of Stipulation and Order to Dismiss Defendant Daniel Burkhead, M.D. with Prejudice</i>
10/23/2019	 Notice of Non Opposition Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[193] Notice of Non-Opposition to Ng Defendants' Motion for Determination of Good Faith Settlement Ex Parte Application for Order Shortening Time and Order Thereon And Motion to Redact Ng Defendants' Motion for Determination of Good Faith Settlement And to Seal Exhibit A Thereto Ex Parte Application For Order Shortening Time and Order Thereon</i>
10/23/2019	 Motion to Seal/Redact Records Filed By: Defendant Ng, Mathew, M.D. <i>[194] Motion to Redact NG Defendants' Motion for Determination of Good Faith Settlement and to Seal Exhibit A Thereto Ex Parte Application for Order Shortening Time and Order Thereon</i>
10/23/2019	 Filed Under Seal Filed By: Defendant Ng, Mathew, M.D. <i>[195] NG Dfendants' Motion For Determination Of Good Gaith Settlement Ex Parte Application For Order Shortening Time And Order Thereon Per 10/23/19 Motion to Redact NG Defendants' Motion for Determination of Good Faith Settlement and to Seal Exhibit A Thereto Ex Parte Application for Order Shortening Time and Order Thereon</i>

# CASE SUMMARY

CASE NO. A-17-750926-B

10/24/2019	 Notice of Non Opposition Filed By: Receiver Gardberg, Esq., Mark J <i>[196] Notice of Non-Opposition to NG Defendants' Motion for Determination of Good Faith Settlement Ex Parte Application for Order Shortening Time and Order Thereon and Motion to Redact NG Defendants' Motion for Determination of Good Faith Settlement and to Seal Exhibit A Thereto Ex Parte Application for Order Shortening Time and Order Thereon</i>
11/06/2019	 Order Granting <i>[197] Order Granting NG Defendants' Motion For Determination of Good Faith Settlement</i>
11/06/2019	 Order Granting <i>[198] Order Granting Motion to Redact NG Defendants' Motion for Determination of Good Faith Settlement and to Seal Exhibit A Thereto</i>
11/07/2019	 Notice of Entry of Order Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[199] Notice of Entry of Order Granting Motion to Redact Ng Defendants' Motion for Determination of Good Faith Settlement and to Seal Exhibit A Thereto</i>
11/07/2019	 Notice of Entry of Order Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[200] Notice of Entry of Order Granting Ng Defendants' Motion for Determination of Good Faith Settlement</i>
12/09/2019	 Status Report Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[201] Defendants' Sheldon J. Freedman, M.D., And William D. Smith, M.D.'s Status Report</i>
12/24/2019	 Stipulation and Order Filed by: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[202] Stipulation and Order to Dismiss with Prejudice Marjorie Belsky, MD, Pankaj Bhatnagar, MD and Matthew Ng, MD</i>
12/24/2019	 Notice of Entry of Stipulation & Order for Dismissal Filed By: Defendant Bhatanagar, Pankaj, M.D.; Defendant Belsky, Marjorie, M.D.; Defendant Ng, Mathew, M.D. <i>[203] Notice of Entry of Stipulation and Order to Dismiss with Prejudice Marjorie Belsky, MD, Pankaj Bhatnagar, MD and Matthew Ng, MD</i>
03/10/2020	 Status Report Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[204] Defendants' Sheldon J. Freedan, MD., and William D. Smith, M.D.'S Status Report For March 13, 2020</i>
03/10/2020	 Status Report Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[205] Defendants' Sheldon J. Freedman, M.D., And William D. Smith, M.D.'s Status for Report March 13, 2020</i>
03/16/2020	 Response Filed by: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[206] Plaintiff's Response to Defendants' Sheldon J. Freedman, M.D., and William D. Smith,</i>

# CASE SUMMARY

CASE NO. A-17-750926-B

*M.D.'s Status Report and Plaintiff's Request*

05/13/2020



Status Report

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[207] *Defendants Sheldon J. Freedman, M.D. and William D Smith, MD's May 15, 2020 Status Report*

05/17/2020



Status Report

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
[208] *PLAINTIFF S STATUS REPORT*

05/29/2020



Stipulation and Order

[209] *Stipulation and Order to Extend the Stay and Setting In-chambers Ruling on Defendant's Motion for Sanctions and Plaintiff's Countermotion for Expenses*

06/23/2020



Amended Order

Filed By: Receiver Gardberg, Esq., Mark J  
[210] *Amended Order Granting Plaintiff's Motion for an Order Withdrawing Deemed Admissions and Allowing Amended Responses and Denying Defendant William D. Smith's Countermotion to Strike*

06/23/2020



Order

[211] *Order Regarding Motion and Countermotion for Sanctions*

06/23/2020



Notice of Entry

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[212] *Notice of Entry of Order Regarding Motion and Counter-motion for Sanctions*

07/03/2020



Notice of Entry of Order

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC  
[213] *Notice of Entry of [Amended Order]*

07/17/2020



Status Report

[214] *Defendants' Sheldon J. Freedman, M.D. and William D Smith, M.D.'s July 19, 2020 Status Report*

09/10/2020



Status Report

[215] *Joint Status Report*

10/23/2020



Scheduling and Trial Order

[216] *Business Court Scheduling Order and Order Setting Civil Bench Trial and Calendar Call*

11/02/2020



Order

[217] *Order Lifting Stay on Discovery*

11/02/2020



Notice of Entry of Order

Filed By: Receiver Gardberg, Esq., Mark J  
[218] *NOTICE OF ENTRY OF ORDER*

03/19/2021



Status Report

[219] *Defendants Freedman and Smith's March 18, 2021 Status Report*

03/22/2021



Status Report

# CASE SUMMARY

CASE NO. A-17-750926-B

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J  
[220] *PLAINTIFF'S STATUS REPORT AS OF MARCH 22, 2021*

03/22/2021



Motion to Extend Discovery

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J  
[221] *Plaintiff's Motion to Extend Discovery (Fourth Request)*

03/23/2021



Clerk's Notice of Hearing

[222] *Notice of Hearing*

03/23/2021



Declaration

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J  
[223] *Declaration of Mohamed A. Iqbal, Jr., Esq. in Support of Plaintiff's Motion to Extend Discovery*

03/26/2021



Motion for Summary Judgment

Filed By: Defendant Freedman, Sheldon, M.D.  
[224] *Defendant Sheldon J. Freedman, M.D.'s Motion for Summary Judgment*

03/26/2021



Exhibits

[225] *Defendant Sheldon J. Freedman, M.D.'s Motion for Summary Judgment - Exhibits A - C*

03/26/2021



Exhibits

[226] *Defendant Sheldon J. Freedman, M.D.'s Motion for Summary Judgment - Exhibits D - J*

03/29/2021



Clerk's Notice of Hearing

[227] *Notice of Hearing*

03/30/2021



Motion for Summary Judgment

Filed By: Defendant Smith, William, M.D.  
[228] *Defendant William Smith, M.D.'s Motion for Summary Judgment*

03/30/2021



Exhibits

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[229] *Defendant William Smith, M.D.'s Motion for Summary Judgment - Exhibits A - C*

03/30/2021



Exhibits

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[230] *Defendant William Smith, M.D.'s Motion for Summary Judgment - Exhibits D - J*

03/30/2021



Clerk's Notice of Hearing

[231] *Notice of Hearing*

04/05/2021



Opposition to Motion

Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  
[232] *Defendants Sheldon J. Freedman, M.D. and William D. Smith, M.D.'s Opposition to Plaintiff's Motion to Extend Discovery*

04/09/2021



Opposition to Motion For Summary Judgment

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J  
[233] *Opposition to Defendant Sheldon Freedman, M.D.'s Motion for Summary Judgment*

04/10/2021



Exhibits

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC














# CASE SUMMARY

CASE NO. A-17-750926-B

	<i>[234] EXHIBITS 1-2 OF OPPOSITION TO DEFENDANT SHELDON FREEDMAN, M.D. S MOTION FOR SUMMARY JUDGMENT</i>
04/10/2021	 Exhibits Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[235] EXHIBITS 3-12 OF OPPOSITION TO DEFENDANT SHELDON FREEDMAN, M.D. S MOTION FOR SUMMARY JUDGMENT</i>
04/10/2021	 Exhibits Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[236] EXHIBITS 13-22 OF OPPOSITION TO DEFENDANT SHELDON FREEDMAN, M.D. S MOTION FOR SUMMARY JUDGMENT</i>
04/13/2021	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[237] Opposition to Defendant William Smith, M.D.'s Motion for Summary Judgment</i>
04/13/2021	 Exhibits Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[238] EXHIBITS 1-7 OF OPPOSITION TO DEFENDANT WILLIAM SMITH, M.D. S MOTION FOR SUMMARY JUDGMENT</i>
04/13/2021	 Exhibits Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[239] EXHIBITS 8-20 OF OPPOSITION TO DEFENDANT WILLIAM SMITH, M.D. S MOTION FOR SUMMARY JUDGMENT</i>
04/13/2021	 Exhibits Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC <i>[240] EXHIBITS 21-30 OF OPPOSITION TO DEFENDANT WILLIAM SMITH, M.D. S MOTION FOR SUMMARY JUDGMENT</i>
04/19/2021	 Addendum Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[241] Addendum to Affidavit of Marc P. Cook, Esq. in Support of Defendants Freedman and Smith's Opposition to Plaintiff's Motion to Extend Discovery</i>
04/19/2021	 Reply in Support Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J <i>[242] Plaintiff's Reply in Support of Plaintiff's Motion to Extend Discovery</i>
04/26/2021	 Reply to Opposition Filed by: Defendant Freedman, Sheldon, M.D. <i>[243] Defendant Sheldon Freedman, M.D.'s Reply to Plaintiff's Opposition to Motion for Summary Judgment</i>
04/26/2021	 Reply to Opposition Filed by: Defendant Smith, William, M.D. <i>[244] Defendant William Smith, M.D.'s Reply to Plaintiff's Opposition to Motion for Summary Judgment</i>
05/20/2021	 Order Filed By: Receiver Gardberg, Esq., Mark J <i>[245] Order Granting in Limited Part Plaintiff's Motion to Extend Discovery</i>
06/11/2021	

# CASE SUMMARY

CASE NO. A-17-750926-B

	 Status Report Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J <i>[246] PLAINTIFF S STATUS REPORT RE WILLIAM SMITH MD DEPOSITION</i>
06/12/2021	 Response <i>[247] Defendants' Response to Fugitive Status Report</i>
06/21/2021	 Notice Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J <i>[248] NOTICE OF PLAINTIFF S JUNE 21, 2021 CORRESPONDENCE RE DEFENDANT WILLIAM SMITH, MD S DEPOSITION</i>
06/25/2021	 Supplement to Opposition <i>[249] Defendants' Supplement to Response to Fugitive Status Report and Response to Court Noticed Correspondence of June 21, 2021</i>
07/02/2021	 Order Shortening Time Filed By: Receiver Gardberg, Esq., Mark J <i>[250] Plaintiff's Motion for Order Setting Second Deposition of William Smith, MD Against Defendant on Order Shortening Time In-Person Hearing Requested</i>
07/06/2021	 Opposition <i>[251] Defendant William Smith's Opposition to Plaintiff's Motion for Order Setting Second Deposition of William Smith, MD Against Defendant on Order Shortening Time</i>
07/14/2021	 Order Denying Motion Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[252] Order Denying Plaintiff's Motion for order Setting Second Deposition of William Smith, MD Against Defendant on Order Shortening Time</i>
07/15/2021	 Notice of Entry of Order <i>[253] Notice of Entry of Order Denying Plaintiff's Motion for Order Setting Second Deposition of William Smith, MD Against Defendant on Order Shortening Time</i>
07/16/2021	 Supplement to Opposition Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J <i>[254] PLAINTIFF S OMNIBUS SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTIONS FOR SUMMARY JUDGMENT</i>
07/17/2021	 Response Filed by: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D. <i>[255] Defendants' Response to Late Filing Regarding Plaintiff's Omnibus Supplemental Brief in Opposition to Motions for Summary Judgment</i>
08/05/2021	 Finding of Fact and Conclusions of Law Filed By: Defendant Smith, William, M.D. <i>[256] Findings of Fact, Conclusions of Law Re: Defendant William Smith MD's Motion for Summary Judgment</i>
08/05/2021	 Finding of Fact and Conclusions of Law Filed By: Defendant Freedman, Sheldon, M.D. <i>[257] Findings of Fact, Conclusions of Law Re: Defendant Sheldon Freedman MD's Motion for Summary Judgment</i>
08/05/2021	 Notice of Entry of Findings of Fact, Conclusions of Law



# CASE SUMMARY

CASE NO. A-17-750926-B

	<p>Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  <i>[258] Notice of Entry of Findings of Facts and Conclusions of Law re: Defendant Sheldon Freedman MD's Motion for Summary Judgment</i></p>
08/05/2021	<p> Notice of Entry of Findings of Fact, Conclusions of Law  <i>[259] Notice of Entry of Findings of Facts and Conclusions of Law re: Defendant William Smith MD's Motion for Summary Judgment</i></p>
08/05/2021	<p> Notice of Entry of Findings of Fact, Conclusions of Law  <i>[260] Amended Notice of Entry of Findings of Facts and Conclusions of Law re: Defendant Sheldon Freedman MD's Motion for Summary Judgment</i></p>
08/05/2021	<p> Notice of Entry of Findings of Fact, Conclusions of Law  <p>Filed By: Defendant Smith, William, M.D.  <i>[261] Amended Notice of Entry of Findings of Facts and Conclusions of Law re: Defendant William Smith MD's Motion for Summary Judgment</i></p> </p>
08/16/2021	<p> Order Granting Summary Judgment  <p>Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  <i>[262] Order Granting Defendant Sheldon Freedman, MD's Motion for Summary Judgment</i></p> </p>
08/16/2021	<p> Order Granting Summary Judgment  <i>[263] Order Granting Defendant William Smith, MD's Motion for Summary Judgment</i></p>
08/17/2021	<p> Notice of Entry of Order  <i>[264] Notice of Entry of Order Granting Defendant William Smith, MD's Motion for Summary Judgment</i></p>
08/17/2021	<p> Notice of Entry of Order  <i>[265] Notice of Entry of Order Granting Defendant Sheldon Freedman, MD's Motion for Summary Judgment</i></p>
08/19/2021	<p> Motion for Attorney Fees and Costs  <p>Filed By: Defendant Smith, William, M.D.; Defendant Freedman, Sheldon, M.D.  <i>[266] Defendants William Smith, MD and Sheldon Freedman MD's Application for Attorney's Fees and Costs</i></p> </p>
08/19/2021	<p> Memorandum of Costs and Disbursements  <i>[267] Defendants William Smith, MD and Sheldon Freedman, MD's Memorandum of Costs and Disbursements</i></p>
08/19/2021	<p> Clerk's Notice of Hearing  <i>[268] Notice of Hearing</i></p>
09/01/2021	<p> Reply  <i>[269] Defendants' Reply to Plaintiffs' Non-Opposition to Defendants William Smith, MD and Sheldon Freedman, MD's Application for Attorney's Fees and Costs</i></p>
09/02/2021	<p> Notice  <p>Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC; Receiver Gardberg, Esq., Mark J  <i>[270] Notice of September 2, 2021 Deadline for Opposition to Defendants William Smith MD and Sheldon Freeman MD's Application for Attorney's Fees and Costs</i></p> </p>
09/03/2021	<p> Opposition  <p>Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC</p> </p>



# CASE SUMMARY

CASE NO. A-17-750926-B

[271] Plaintiff's Opposition to Defendants Application for Attorney's Fees and Costs

09/03/2021



Exhibits

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

[272] Exhibits 1-17 of Opposition to Defendants Application for Attorney's Fees and Costs

09/03/2021



Exhibits

Filed By: Plaintiff Flamingo-Pecos Surgery Center LLC

[273] Exhibits 1-17 of Opposition to Defendants Application for Attorney's Fees and Costs

09/07/2021

Case Reassigned to Department 22

From Judge Elizabeth Gonzalez to Judge Susan Johnson

09/15/2021



Reply to Opposition

[274] Defendants Freedman and Smith's Reply to Plaintiff's Opposition to Defendants' Application for Attorney's Fees and Costs

09/15/2021



Notice of Appeal

Filed By: Receiver Gardberg, Esq., Mark J

[275] NOTICE OF APPEAL

## DISPOSITIONS

12/07/2017

**Order of Dismissal Without Prejudice** (Judicial Officer: Hardy, Joe)

Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)

Creditors: Pankaj Bhatnagar, MD. (Defendant), Sheldon Freedman, MD. (Defendant), Mathew Ng, MD. (Defendant), Daniel Burkhead, MD. (Defendant)

Judgment: 12/07/2017, Docketed: 12/07/2017

Comment: Certain Causes

01/07/2019

**Order** (Judicial Officer: Gonzalez, Elizabeth)

Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)

Creditors: Pankaj Bhatnagar, MD. (Defendant), Marjorie Belsky, MD. (Defendant), Mathew Ng, MD. (Defendant)

Judgment: 01/07/2019, Docketed: 01/08/2019

Total Judgment: 500.00

04/08/2019

**Order** (Judicial Officer: Gonzalez, Elizabeth)

Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)

Creditors: Pankaj Bhatnagar, MD. (Defendant), Marjorie Belsky, MD. (Defendant), Mathew Ng, MD. (Defendant)

Judgment: 04/08/2019, Docketed: 04/15/2019

Total Judgment: 1,200.00

10/02/2019

**Sanctions** (Judicial Officer: Gonzalez, Elizabeth)

Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)

Creditors: William Smith, MD. (Defendant), Pankaj Bhatnagar, MD. (Defendant), Marjorie Belsky, MD. (Defendant), Sheldon Freedman, MD. (Defendant), Mathew Ng, MD. (Defendant)

Judgment: 10/02/2019, Docketed: 10/02/2019

10/10/2019

**Order of Dismissal With Prejudice** (Judicial Officer: Gonzalez, Elizabeth)

Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)

Creditors: Daniel Burkhead, MD. (Defendant)

Judgment: 10/10/2019, Docketed: 10/10/2019

12/24/2019

**Order of Dismissal With Prejudice** (Judicial Officer: Gonzalez, Elizabeth)

Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)

Creditors: Pankaj Bhatnagar, MD. (Defendant), Marjorie Belsky, MD. (Defendant), Mathew Ng, MD. (Defendant)

Judgment: 12/24/2019, Docketed: 12/26/2019


# CASE SUMMARY

CASE NO. A-17-750926-B

06/24/2020	<p><b>Sanctions</b> (Judicial Officer: Gonzalez, Elizabeth)  Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)  Creditors: William Smith, MD. (Defendant)  Judgment: 06/24/2020, Docketed: 06/24/2020  Comment: In Part</p>
08/16/2021	<p><b>Summary Judgment</b> (Judicial Officer: Gonzalez, Elizabeth)  Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)  Creditors: Sheldon Freedman, MD. (Defendant)  Judgment: 08/16/2021, Docketed: 08/17/2021</p>
08/16/2021	<p><b>Summary Judgment</b> (Judicial Officer: Gonzalez, Elizabeth)  Debtors: Flamingo-Pecos Surgery Center LLC (Plaintiff)  Creditors: William Smith, MD. (Defendant)  Judgment: 08/16/2021, Docketed: 08/17/2021</p>
	<p><b><u>HEARINGS</u></b></p>
07/27/2017	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe)  <b>07/27/2017, 09/26/2017, 11/29/2017</b>  <i>Defendants Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss</i>  Continued;  Continued;  Granted in Part;  Continued;  Continued;  Granted in Part;  Continued;  Continued;  Granted in Part;</p>
07/27/2017	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe)  <b>07/27/2017, 09/26/2017, 11/29/2017</b>  <i>Defendant Daniel Burkhead M.D.'s Motion to Dismiss Complaint</i>  Continued;  Continued;  Granted in Part;  Continued;  Continued;  Granted in Part;  Continued;  Continued;  Granted in Part;</p>
07/27/2017	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe)  <b>07/27/2017, 09/26/2017, 11/29/2017</b>  <i>Defendant Sheldon J Freedman MD's Joinder to Defendant Daniel L Burhead MD's Motion to Dismiss Complaint</i>  Continued;  Continued;  Granted in Part;  Continued;  Continued;  Granted in Part;  Continued;  Continued;  Granted in Part;</p>
07/27/2017	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe)  <b>07/27/2017, 09/26/2017, 11/29/2017</b>  <i>Defendant Sheldon J Freedman MD's Joinder to Defendants Dr Matthew NG and Dr Pankaj</i></p>

**CASE SUMMARY**

**CASE NO. A-17-750926-B**

	<p><i>Bhatnagar's Motion to Dismiss</i></p> <p>Continued;</p> <p>Continued;</p> <p>Granted in Part;</p> <p>Continued;</p> <p>Continued;</p> <p>Granted in Part;</p> <p>Continued;</p> <p>Continued;</p> <p>Granted in Part;</p>
07/27/2017	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe)</p> <p><b>07/27/2017, 09/26/2017, 11/29/2017</b></p> <p><i>Defendant Daniel L. Burkhead, M.D.'s Joinder to Motion to Dismiss of Defendants Dr. Matthew NG and Dr. Pankaj Bhatnagar</i></p> <p>Continued;</p> <p>Continued;</p> <p>Granted in Part;</p> <p>Continued;</p> <p>Continued;</p> <p>Granted in Part;</p> <p>Continued;</p> <p>Continued;</p> <p>Granted in Part;</p>
07/27/2017	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Hardy, Joe)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Parties present: Erica Smit, Esq. on behalf of Defendants Matthew Ng, M.D. and William Smith, M.D. DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN MD'S JOINDER TO DEFENDANT DANIEL L. BURKHEAD MD'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN MD'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL L. BURKHEAD, M.D.'S JOINDER TO MOTION TO DISMISS OF DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR The Court noted the parties had stipulated to continue the instant Motions and Joinders. Ms. Smit confirmed the Court's statements, noting that a Stipulation and Order had been submitted to chambers. The Court returned the signed Stipulation and Order to Ms. Smit for filing. Pursuant to the Stipulation and Order, COURT ORDERED the instant Motions and Joinders were hereby CONTINUED. CONTINUED TO: 9/26/17 9:00 AM ;</i></p>
09/26/2017	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe)</p> <p><b>09/26/2017, 11/29/2017</b></p> <p><i>Defendant Sheldon J. Freedman's Motion to Dismiss Pursuant to NRCP 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020</i></p> <p>Continued;</p> <p>Granted in Part;</p> <p>Continued;</p> <p>Granted in Part;</p>
09/26/2017	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe)</p> <p><b>09/26/2017, 11/29/2017</b></p> <p><i>Defendant Daniel Burkhead M.D.'s Joinder to Defendant Sheldon J. Freedman's Motion to Dismiss Pursuant to N.R.C.P. 12(b)(5) and 12(b)(6) and for Attorneys Fees Pursuant to NRS 18.020</i></p> <p>Continued;</p> <p>Granted in Part;</p> <p>Continued;</p> <p>Granted in Part;</p>

## CASE SUMMARY

CASE NO. A-17-750926-B

09/26/2017

 **All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)**MINUTES**

Matter Heard;

Journal Entry Details:

*DEFENDANTS DR. MATTHEW NG AND R. PANKAJ BHATANAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN M.D.'S JOINDER TO DEFENDANT DANIEL L. BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN M.D.'S JOINDER TO DEFENDANT DANIEL L. BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATANAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL L. BURKHEAD, M.D.'S JOINDER TO MOTION TO DISMISS OF DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATANAGAR...DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO NRCP 12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO N.R.C.P. 12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020* Also present: Brice Kunimoto, Esq. on behalf of Defendants Mathew Ng, M.D. and Pankaj Bhatanagar, M.D. Mr. Kennedy represented that a substantial Amended Complaint had been filed the week prior to the instant hearings. The Court disclosed that it was a partner at the law firm of Gordon & Rees approximately two years prior, and directed counsel to inform it if there were any issues they wished to raise in relation to the disclosure. The Court noted the absence of Robert E. Schumacher, counsel for Defendant Daniel Burkhead, M.D. The Court attempted to contact Mr. Schumacher via telephone, and received his voicemail; voicemail message left. The Court advised that it had reviewed the First Amended Complaint, noting the lack of attached exhibits. Mr. Kennedy stated that an errata was filed, which contained the exhibits that were originally meant to be attached. Upon Court's inquiry regarding whether the filing of the First Amended Complaint would affect the instant Motions, Mr. Kennedy represented that the Motions were focused on the Complaint's failure to adequately state certain things, which the First Amended Complaint had addressed and corrected. Mr. Kennedy suggested the parties review the First Amended Complaint, and file new Motions if necessary. Mr. Brice argued that the First Amended Complaint contained the same claims that the original Complaint contained, said claims being the subject of the instant Motions. COURT ORDERED the instant Motions were hereby CONTINUED, FINDING good cause for the submittal of Supplemental Briefing, for the following reasons: (1) the First Amended Complaint contained substantial modifications to the original Complaint, upon which the Motions to Dismiss had been filed; (2) there were arguments in the various Replies filed by the Defendants that could have been raised in the Motions, and there was now a substantially changed landscape; (3) the Plaintiff had the option of standing on the First Amended Complaint, or, if the Plaintiff believed that further amendment was necessary, they would have leave to do so; and (4) if Plaintiff chose to file a Second Amended Complaint, said Complaint would be due NO LATER THAN October 10, 2017. The Court informed counsel of the issues it wished to see addressed in the Supplemental Briefing, and SET a BRIEFING SCHEDULE as follows: (1) Defendants' Supplemental Briefs shall be DUE BY October 24, 2017; (2) Plaintiff's Supplemental Oppositions shall be DUE BY November 7, 2017; (3) Defendants' Supplemental Replies shall be DUE BY November 21, 2017 At the request of Mr. Kunimoto, and there being no opposition, COURT ORDERED the deadline to file an Answer to the First Amended Complaint, or the Second Amended Complaint, would be October 24, 2017. Mr. Cook to prepare the Order and forward it to all opposing counsel for approval as to form and content. CONTINUED TO: 11/29/17 9:00 AM;

10/30/2017

**Motion** (9:00 AM) (Judicial Officer: Hardy, Joe)

*Flamingo-Pecos Surgery Center LLC's Motion to Extend Time to Serve Certain Defendants Denied Without Prejudice;*

10/30/2017

**Opposition and Countermotion** (9:00 AM) (Judicial Officer: Hardy, Joe)

*Marjorie Belsky MD's Opposition to Motion to Extend Time and Counter-Motion to Dismiss Granted Without Prejudice;*

10/30/2017

 **All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)


Matter Heard;

Journal Entry Details:

# CASE SUMMARY

CASE No. A-17-750926-B


*FLAMINGO-PECOS SURGERY CENTER LLC'S MOTION TO EXTEND TIME TO SERVE CERTAIN DEFENDANTS...MARJORIE BELSKY MD'S OPPOSITION TO MOTION TO EXTEND TIME AND COUNTER-MOTION TO DISMISS* Mr. Kennedy argued in support of the Motion to Extend, stating that Dr. Belsky evaded service by refusing to meet the process server in the lobby of her practice. Additionally, Mr. Kennedy argued that Plaintiff was simply requesting an extension of time to serve, and was not requesting that the Court deem that Dr. Belsky was properly served. Ms. Schwartz argued in opposition, stating that Plaintiff waited until 114 days had elapsed before attempting to serve Dr. Belsky for the first time, and they failed to serve said Defendant in the time defined by NRCP 4(i). Mr. Cook also argued in opposition to the Motion, stating that Dr. Smith was not served, and there was no question that said Defendant was on vacation when the process server attempted service. Ms. Smith provided the Court with a courtesy copy of the Errata filed on October 26, 2017. Pursuant to the facts and circumstances of the case, as well as the Saavedra-Sandoval v. Wal-Mart Stores case, and the Scrimmer vs. Eighth Judicial District Court case, **COURT ORDERED** the Motion to Extend Time to Serve Certain Defendants was hereby **DENIED WITHOUT PREJUDICE**, **FINDING** the following: (1) regardless of whatever personal issues the former receiver may have been having, the former receiver waited until approximately one to two weeks prior to the service deadline to attempt service on certain Defendants; (2) the former receiver is an attorney, who had knew, or should have known, of the service deadlines; (3) the former receiver apparently submitted an application to extend time; however, said application was never actually filed, served, or calendared; and (3) the Court fully acknowledged that the denial without prejudice would likely lead to another lawsuit, followed by a Motion to Consolidate. Ms. Schwartz to prepare the Order and forward it to all opposing counsel for approval as to form and content. **CLERK'S NOTE:** Subsequent to the hearing, **COURT ORDERED** the Counter-Motion to Dismiss was hereby **GRANTED WITHOUT PREJUDICE** for all of the reasons stated during the hearing. A copy of this minute order was e-mailed to: Todd E. Kennedy, Esq. [tkennedy@blackbellolaw.com], Marc P. Cook, Esq. [mcook@bckltd.com], and Susan Schwartz, Esq. [smschwartz@hollandhart.com]. (KD 11/14/17);

11/29/2017	<b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendant Daniel Burkhead M.D.'s Motion to Dismiss Second Amended Complaint</i> Granted in Part;
11/29/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendant Daniel Burkhead M.D.'s Joinder to Defendants Dr. Matthew NG and Dr. Pankaj Bhatnagar's Motion to Dismiss Second Amended Complaint</i> Granted in Part;
11/29/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendant Sheldon J. Freedman, M.D.'s Joinder to Defendants Dr. Matthew Ng and Dr. Pankaj Bhatnagar's Motion to Dismiss Second Amended Complaint and Dr. Majorie Belsky's Counter-Motion to Dismiss</i> Granted in Part;
11/29/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Defendant Sheldon J. Freedman, M.D.'s Joinder to Defendant Daniel Burkhead, M.D.'s Motion to Dismiss Second Amended Complaint</i> Granted in Part;
11/29/2017	<b>Joinder</b> (9:00 AM) (Judicial Officer: Hardy, Joe) <i>Pankaj Bhatnagar MD and Matthew Ng MD's Joinder to Daniel Burkhead MD's Motion to Dismiss Second Amended Complaint</i> Granted in Part;
11/29/2017	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Hardy, Joe) Matter Heard; Journal Entry Details:  <i>DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO NRCP 12 (b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020...DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS SECOND</i>

# CASE SUMMARY

CASE No. A-17-750926-B

AMENDED COMPLAINT...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER OT  
DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO N.R.C.P.  
12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS  
18.020...DEFENDANT SHELDON J FREEDMAN M.D.'S JOINDER TO DEFENDANT  
DANIEL L BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT  
SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND  
DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL L.  
BURKHEAD, M.D.'S JOINDER TO MOTION TO DISMISS OF DEFENDANTS DR.  
MATTHEW NG AND DR. PANKAJ BHATNAGAR...DEFENDANT DANIEL BURKHEAD  
M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ  
BHATNAGAR'S MOTION TO DISMISS SECOND AMENDED COMPLAINT...DEFENDANT  
SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND  
DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS SECOND AMENDED COMPLAINT  
AND DR. MARJORIE BELSKY'S COUNTER-MOTION TO DISMISS...DEFENDANT  
SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANT DANIEL BURKHEAD,  
M.D.'S MOTION TO DISMISS SECOND AMENDED COMPLAINT...PANKAJ BHATNAGAR  
M.D. AND MATTHEW NG, M.D.'S JOINDER TO DANIEL BURKHEAD, M.D.'S MOTION  
TO DISMISS SECOND AMENDED COMPLAINT The Court requested the parties address  
whether the Plaintiff's status remained revoked. Mr. Kunimoto argued in support of Dr. Belsky  
and Dr. Bhatanagar's respective Motions and Joinders, stating that the negligence claims, as  
well as any claims for negligent hiring, training, and supervision, must be dismissed pursuant  
to the economic loss doctrine. Additionally, Mr. Kunimoto argued that claims for negligence  
could not be brought against officers or directors of a corporation; NRS 78.138 cited. Mr.  
Cook joined Mr. Kunimoto's arguments on behalf of Dr. Freedman, stating that the Gardner  
case found that negligence claims could not be brought against the members of an LLC, unless  
the party bringing the claims could show that those members were acting outside of their  
capacity as it related to the LLC. Mr. Houston joined the arguments of Mr. Kunimoto and Mr.  
Cook on behalf of Dr. Burkhead. In response to the Court's query at the start of the hearing,  
Mr. Kennedy represented that Plaintiff's status remained revoked, and would not be reinstated  
until the Court ordered the reinstatement. Mr. Kennedy argued in opposition to the Motions  
and Joinders, stating that the Gardner case did not apply to the instant case, and that the  
claims had been pled sufficiently to defeat the Motion to Dismiss stage. COURT ORDERED  
all Motions and Joinders were hereby GRANTED IN PART / DENIED IN PART, FINDING  
and ORDERING the following: (1) the FIRST, SECOND, THIRD, and SEVENTH causes of  
action were hereby DISMISSED WITHOUT PREJUDICE; (2) the Court agreed with  
Defendants' arguments regarding the first, second, and third causes of action, that Defendants  
were not employers; therefore, the necessary elements of those claims had not been met; (3)  
the economic loss doctrine applied to the first, second, and third causes of action; (4) there  
was nothing to indicate that there was a private cause of action for the seventh cause of  
action; (5) the seventh cause of action was encompassed in the other causes of action; (6) the  
remainder of the requested relief was hereby DENIED WITHOUT PREJUDICE; (7) as pled in  
the Second Amended Complaint, there were claims upon which relief could be granted; and  
(8) a close reading of the AA Primo Builders case indicated that NRS 86.27(5) and NRS  
86.505 permitted an LLC to sue and be sued, despite the revocation of their charter.  
Defendants' counsel to prepare the Order and forward it to opposing counsel for approval as  
to form and content.;

- 01/17/2018 **Motion For Stay** (9:00 AM) (Judicial Officer: Hardy, Joe)  
*Defendant Sheldon J. Freedman's Motion for Stay*  
Motion Granted;
- 01/17/2018 **Joinder** (9:00 AM) (Judicial Officer: Hardy, Joe)  
*Defendants Bhatnagar and Ng's Joinder to Defendant Freedman's Motion for Stay*  
Granted;
- 01/17/2018 **Joinder** (9:00 AM) (Judicial Officer: Hardy, Joe)  
*Defendant Daniel Burkhead M.D.'s Joinder to Defendant Sheldon J. Freedman's Motion for Stay*  
Granted;
- 01/17/2018  **All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)  
Matter Heard;  
Journal Entry Details:  
*DEFENDANT SHELDON J. FREEDMAN'S MOTION FOR STAY...DEFENDANTS  
BHATNAGAR AND NG'S JOINDER TO DEFENDANT FREEDMAN'S MOTION FOR*



# CASE SUMMARY

CASE NO. A-17-750926-B

STAY...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANT SHELDON J. FREEDMAN'S MOTION FOR STAY Mr. Cook argued in support of the Motion, stating that the screening had been completed on the Writ, and the parties would know shortly whether the Writ would be taken up; therefore, there was little to ne prejudice to the Plaintiff in staying the case. Joining counsel submitted on the pleadings. Mr. Kennedy argued in opposition, stating that the Supreme Court rarely granted, or even considered, Writs on Motions to Dismiss, since there was an adequate remedy in appealing. Additionally, Mr. Kennedy argued that discovery needed to be done, and there was no reason to impose a stay under Supreme Court case law. Having applied the factors in NRAP 8(c), COURT ORDERED the Motion and Joinders were hereby GRANTED, FINDING the following: (1) a stay was appropriate under the factors found in NRAP 8(c), and under the facts and circumstances of the case; (2) there was little, if any, harm or prejudice to the Plaintiff in granting the stay; (3) Nevada had a public policy and legislature incorporating public policy which protected business entities, which favored the stay; (4) there was a unique set of circumstances in the instant case, in that the entity was pursuing claims, there was an underlying default, and a receiver had been appointed to pursue the claims; (5) the object of the Writ, whether defeated or not, factored the granting of the stay; (6) factors two and three in rule NRAP 8(c) were neutral; (7) notwithstanding the Court's belief that its ruling was correct, factor number four in NRAP 8(c) slightly weighed in favor of granting the stay; and (8) factor number one in NRAP 8(c) weighed heavily in favor of granting the stay. COURT FURTHER ORDERED a status check regarding the stay was hereby SET, and the pending Mandatory Rule 16 Conference was hereby VACATED during the stay. Mr. Cook to prepare the Order and forward to opposing counsel for approval as to form and content. Mr. Kennedy noted that he was attempting to bring two unserved Defendants into the case, and inquired whether he would be permitted to submit a Motion to Consolidate to the Court during the stay. COURT ORDERED that Mr. Kennedy would be permitted to submit the Motion to Consolidate during the stay, and DIRECTED Mr. Cook to include the ruling in the Order. 4/18/18 9:00 AM STATUS CHECK: STAY;

01/29/2018 CANCELED Mandatory Rule 16 Conference (10:30 AM) (Judicial Officer: Hardy, Joe)  
Vacated

04/18/2018  Status Check (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

04/18/2018, 06/20/2018, 09/21/2018, 10/01/2018

Status Check: Stay

Continued;

Continued;

Hearing Set;

Matter Heard;

Continued;

Continued;

Hearing Set;

Matter Heard;

Journal Entry Details:

Court notes no status report filed. As it appears stay entered 2/13/18 has expired. COURT ORDERED, matter CONTINUED to 10/1/18 at 9 am. At the Rule 16 conference on 10/1/18, counsel should be prepared to advise the Court how many days the case was stayed pursuant to NRCP 41(e). 10/1/18 9:00 AM STATUS CHECK: STAY...MANDATORY RULE 16 CONFERENCE (Courtroom 3-E) CLERK'S NOTE: A copy of this minute order was distributed to the parties via the E-Service List. / dr;

Continued;

Continued;

Hearing Set;

Matter Heard;

Journal Entry Details:

The Court advised counsel that the instant case, being a business court case, would no longer be assigned to Department 15, as of July 2, 2018. Mr. Kennedy requested the stay remain in place, stating that the Supreme Court had not yet made a decision on the Petition for Reconsideration en banc. Additionally, Mr. Kennedy requested the status check date be continued approximately ninety (90) days. COURT ORDERED the STAY shall remain in place, and the instant matter was hereby CONTINUED. CONTINUED TO: 9/17/18 9:00 AM;

Continued;



Continued;

Hearing Set;

Matter Heard;

# CASE SUMMARY

CASE NO. A-17-750926-B

	<p>Journal Entry Details:</p> <p><i>Mr. Kunitomo stated that the Petition was making its way through the Supreme Court. Ms. Sanpei affirmed Mr. Kunitomo's representations, stating that they expected a decision from the Supreme Court within thirty to sixty days. COURT ORDERED the instant matter was hereby CONTINUED. CONTINUED TO: 6/20/18 9:00 AM;</i></p>
09/10/2018	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Defendant Marjorie Belsky MD's Motion to Dismiss Plaintiff's Claims for Breaches of Fidciary Duty of Care, Breaches of Fiduciary Duty of Loyalty and Waste</i></p> <p>Denied;</p>
09/10/2018	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Defendant William Smith's Motion to Dismiss Pursuant to NRCP 12(b)(5)</i></p> <p>Denied;</p>
09/10/2018	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Defendant Daniel Burkhead M.D.'s Joinder to Defendant William Smith's Motion to Dismiss Pursuant to N.R.C.P 12(b)(5)</i></p> <p>Matter Heard;</p>
09/10/2018	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Defendant William Smith, M.D.'s Joinder to Defendant Marjorie Belski, M.D.'s Motion to Dismiss Plaintiffs Claims for Breaches of Fiduciary Duty or Care, Breaches of Fiduciary Duty of Loyalty, and Waste</i></p> <p>Matter Heard;</p>
09/10/2018	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Pankaj Bhatnagar MD Matthew Ng Md and Marjorie Belsky MD's Limited Joinder to William Smith's Motion to Dismiss Pursuant to NRCP 12(b)(5)</i></p> <p>Matter Heard;</p>
09/10/2018	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>DEFENDANT MARJORIE BELSKY MD'S MOTION TO DISMISS PLAINTIFF'S CLAIMS FOR BREACHES OF FIDCIARY DUTY OF CARE, BREACHES OF FIDUCIARY DUTY OF LOYALTY AND WASTE...DEFENDANT WILLIAM SMITH, M.D.'S JOINDER TO DEFENDANT MARJORIE BELSKI, M.D.'S MOTION TO DISMISS PLAINTIFFS CLAIMS FOR BREACHES OF FIDUCIARY DUTY OR CARE, BREACHES OF FIDUCIARY DUTY OF LOYALTY, AND WASTE... ...DEFENDANT WILLIAM SMITH'S MOTION TO DISMISS PURSUANT TO NRCP 12(B)(5)... ...PANKAJ BHATNAGAR MD MATTHEW NG MD AND MARJORIE BELSKY MD'S LIMITED JOINDER TO WILLIAM SMITH'S MOTION TO DISMISS PURSUANT TO NRCP 12(B)(5)... ...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANT WILLIAM SMITH'S MOTION TO DISMISS PURSUANT TO N.R.C.P 12(B)(5) Following arguments by counsel, COURT ORDERED, the motions to dismiss are DENIED. The allegations as they have been made are ones that the Court has to take at face value even given some of the attachments. However, they can be renewed as motions for summary judgment when counsel deems it appropriate. COURT FURTHER ORDERED, matter TO BE SET for Rule 16 Conference. ;</i></p>
10/01/2018	<p><b>Mandatory Rule 16 Conference</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Trial Date Set;</p>
10/01/2018	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>STATUS CHECK: STAY...MANDATORY RULE 16 CONFERENCE Per agreement, COURT ORDERED, parties to exchange initial disclosures pursuant to Rule 16.1, including a statement of damages, from everyone, within two weeks. COURT FURTHER ORDERED, the filing of the Joint Case Conference Report (JCCR) is WAIVED. Upon Court's inquiry, Mr. Kunitomo believes his client would be amenable to a settlement conference; however, he would like to conduct limited discovery, specifically, take the deposition of counsel for</i></p>



# CASE SUMMARY

CASE NO. A-17-750926-B

*Flamingo-Pecos. COURT SO ORDERED, limited to seven hours. Counsel advised no protective or ESI issues in this case. Mr. Cooke stated depending on the discovery requested they might. Pursuant to stipulation, counsel agreed to redact private patient information in any of the records produced, that serves as a protective order at this point. Colloquy regarding scheduling a settlement conference. Counsel will discuss the dates and inform the Court. COURT ORDERED as follows: Initial expert disclosures where a party bears the burden of proof DUE March 1, 2019; Rebuttal expert disclosures where a party does not bear the burden of proof DUE April 26, 2019; Close of discovery SET for May 24, 2019; Motions TO BE FILED by June 14, 2019; Court will not sign an OST. Matter SET for trial on the stack that begins on August 5, 2019. Both sides requested a bench trial. Court advised a Trial Setting Order would ISSUE. 6/30/19 9:00 AM STATUS CHECK 7/30/19 9:30 AM CALENDAR CALL 8/5/19 1:30 PM BENCH TRIAL ;*

12/07/2018



**Settlement Conference (9:30 AM)** (Judicial Officer: Denton, Mark R.)

Not Settled;

Journal Entry Details:

*Following several caucuses with the parties, COURT FINDS there needs to be a bit of discovery before the Settlement Conference can resume. Court stated it will not terminate the Settlement Conference at this time and the matter will be in recess. In the meantime, Court advised there will be a deposition taken of Mr. Jack Wong; before the deposition is taken there are documents to be provided by Defendant's counsel to Plaintiff's counsel so preparation for the deposition can take place. Court further advised there will be no further depositions until the Settlement Conference resumes; however, written discovery is not stayed and can proceed. COURT ORDERED, matter SET for Status Check regarding resumption of the Settlement Conference. Colloquy regarding documents to be produced before Jack Wong's deposition and pending written discovery. Court added it hopes this will get everybody on the same page in terms of resolution by settlement. 2/14/19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE CLERK S NOTE: Minutes prepared upon a review of the JAVS recording. /mk 12/10/18;*

12/31/2018

**Motion to Compel (9:00 AM)** (Judicial Officer: Gonzalez, Elizabeth)

*Defendants Sheldon J. Freedman, M.D., and William D. Smith, M.D.'s Motion to Compel*  
Granted;

12/31/2018

**Motion to Compel (9:00 AM)** (Judicial Officer: Gonzalez, Elizabeth)

*Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion to Compel Plaintiff's Responses to Defendants' First Set of Requests for Production of Documents and Application for Order Shortening Time*  
Granted;

12/31/2018



**All Pending Motions (9:00 AM)** (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

*DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY MD, AND MATTHEW NG MD'S MOTION TO COMPEL PLAINTIFF'S RESPONSES TO DEFENDANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND APPLICATION FOR ORDER SHORTENING TIME...DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D.'S MOTION TO COMPEL Following arguments by counsel, COURT ORDERED, in addition to preservation of the native format of emails from Mr. Juan they will be alphanumerically designated and provided on an index. The specific reference to documents with the alphanumeric designations will be provided in each discovery response. Upon Court's inquiry, Mr. Iqbal stated he can supplement discovery responses with the alphanumeric responses in 14 days. Court so noted, and FURTHER ORDERED, request for fees GRANTED in the amount of \$500 each. Mr. Iqbal requested they brief the two motions which were lengthy and were made on OST before the Court grants fees. COURT DENIED this request. The Court has granted the motion to compel and under Rule 37 if it grants a motion to compel it is supposed to award fees. 2-14-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton) 6-3-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 7-30-19 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 8-5-19 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez) CLERK S NOTE: Minutes corrected as to the parties. /dr 1-3-19;*

02/14/2019



**Status Check (9:00 AM)** (Judicial Officer: Denton, Mark R.)

**CASE SUMMARY**

**CASE NO. A-17-750926-B**

02/14/2019, 04/18/2019, 06/20/2019, 08/22/2019, 10/24/2019, 12/19/2019

*Status Check: Resumption of Settlement Conference*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Terminated; Settlement Conference Terminated

Journal Entry Details:

*Mr. Cook advised the other Defendants have settled out and there is a stay in the case. Upon Court's inquiry, Mr. Cook requested the Court terminate the Settlement Conference. COURT ORDERED, Settlement Conference TERMINATED.;*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Terminated; Settlement Conference Terminated

Journal Entry Details:

*No appearance. Court noted given the stay in effect counsel could have deemed the status check to have also been stayed. COURT ORDERED, matter CONTINUED. CONTINUED TO: 12/19/19 9:00 AM CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 10/24/19;*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Terminated; Settlement Conference Terminated

Journal Entry Details:

*Mr. Iqbal advised Plaintiff has reached a settlement with Dr. Burkhead and he is having settlement discussions with three other Defendants. As such, Mr. Iqbal requested to continue the Status Check 60 days. COURT ORDERED, matter CONTINUED. CONTINUED TO: 10/24/19 9:00 AM;*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Terminated; Settlement Conference Terminated

Journal Entry Details:

*Dione Wrenn, Esq. also present for Defendant Daniel Burkhead, MD. Jaime Serrano, Esq. present for Receiver. Mr. Serrano advised all parties have agreed to continue the Status Check 60 days due to pending matters. Court noted there is a Motion for Summary Judgment upcoming. COURT ORDERED, matter CONTINUED. CONTINUED TO: 8/22/19 9:00 AM;*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Terminated; Settlement Conference Terminated

Journal Entry Details:

*Mr. Houston advised discovery issues have been worked out; however, a deposition hasn't taken place and it should be done within the next 30 days. Court advised it will trail the matter for the appearance of Plaintiff's counsel. MATTER TRAILED. MATTER RECALLED. Mr. Iqbal now present. All parties present as before. Court advised the matter is on for a Status Check regarding resumption of settlement conference and counsel had previously indicated a deposition still needs to take place. Upon Court's inquiry, Mr. Iqbal advised the deposition should be taken within 30-60 days. COURT ORDERED, matter CONTINUED 60 days. CONTINUED TO: 6/20/19 9:00 AM;*

Matter Continued;

Matter Continued;

Matter Continued;

# CASE SUMMARY


CASE NO. A-17-750926-B


Matter Continued;  
Matter Continued;  
Terminated; Settlement Conference Terminated  
Journal Entry Details:

*Mr. Iqbal advised parties conferred prior to the Status Check and requested another Status Check be set in 60 days as there are still some discovery issues and pending matters before other Judges. COURT ORDERED, matter CONTINUED. CONTINUED TO: 4/18/19 9:00 AM;*

03/18/2019 **Motion for Sanctions** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
*Defendants' Sheldon J. Freedman, M.D., and William D. Smith, M.D., 's Motion for Sanctions For Failure to Comply With Motion to Compel Order*  
Granted in Part;

03/18/2019 **Motion** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
*Defendants Sheldon J Freedman MD and William D Smith's Motion to Have Nonresponses to Admissions Deemed Admitted*  
Granted; advanced from 3/25/19; granted as unopposed.

03/18/2019  **All Pending Motions** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
Matter Heard;  
Journal Entry Details:  
*DEFENDANTS' SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D., 'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER...DEFENDANTS SHELDON J FREEDMAN MD AND WILLIAM D SMITH'S MOTION TO HAVE NONRESPONSES TO ADMISSIONS DEEMED ADMITTED*  
*DEFENDANTS' SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D., 'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER: Following arguments by Mr. Iqbal and Mr. Cook, COURT ORDERED, while it understands Defendants' concern the Court does NOT FIND there to be a document dump. However, the requests for admission and late responses to interrogatories are of significant concern to the Court. The Motion to have nonresponses to admission deemed admitted is GRANTED. With respect to the motion to compel on requests for production, the motion is DENIED; with respect to interrogatories it is GRANTED. Answers to interrogatories to BE PROVIDED in 15 days. DEFENDANTS SHELDON J FREEDMAN MD AND WILLIAM D SMITH'S MOTION TO HAVE NONRESPONSES TO ADMISSIONS DEEMED ADMITTED: COURT ORDERED, motion ADVANCED from March 25, 2019 and GRANTED as unopposed. 3-25-19 9:00 AM DEFENDANTS PANKAJ BHATNAGAR MD MARJORIE BELSKY MD AND MATTHEW NG MD'S MOTION TO COMPEL PLAINTIFF'S COMPLIANCE WITH THE COURT'S JANUARY 8, 2019 ORDER, SANCTIONS AND ATTORNEYS' FEES (DEPT XI - Gonzalez) 4-18-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton) 8-26-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 11-12-19 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 11-18-19 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez);*

03/25/2019  **Motion to Compel** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
*Defendants Pankaj Bhatnagar MD Marjorie Belsky MD and Matthew NG MD"s Motion to Compel Plaintiff's Compliance with the Court's January 8, 2019 Order, Sanctions and Attorneys' Fees*  
Granted; \$1200 attorney's fees  
Journal Entry Details:  
*Following arguments by counsel, COURT finds the privilege log in this case is woefully inadequate because it does not identify the capacity of the individuals who are receiving the communications; in addition, the failure to provide part 2 of the privilege log is violative of this Court's orders. COURT ORDERED, Plaintiff will MODIFY by identifying on the document index each separate email string; not individual emails, but email strings; the emails from Jack Juan will be produced, any additional emails, within 10 days. If an order is needed from the Court to make Mr. Juan or his firm do their computer search it must be done quickly. COURT FURTHER ORDERED, Defendants AWARDED \$1,200 in attorney's fees. 4-18-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE 8-26-19 9:00 AM STATUS CHECK 11-12-19 9:30 AM CALENDAR CALL 11-18-19 1:30 PM BENCH TRIAL;*

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CASE NO. A-17-750926-B

04/29/2019



**Motion** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion for Sanctions Against Plaintiff for Failing to Comply with the Court's Order Dated April 8, 2019 and Attorneys' Fees and Application for Order Shortening Time*  
Withdrawn;

Journal Entry Details:

*Matter TRAILED for Mr. Kunimoto to review the Opposition. Matter RECALLED. Mr. Kunimoto advised the issue has been resolved; there were different expectations as to whether compliance with the Court's prior order would be timely and there was miscommunication regarding Exhibit 1; on behalf of the Ng Defendants they are willing to withdraw the instant motion but would still review what was served this morning. COURT ORDERED, motion taken OFF CALENDAR. If counsel needs to refile it the Court will sign an OST. 6-20-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton) 8-26-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 11-12-19 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 11-18-19 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez);*

06/03/2019

**CANCELED Status Check** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - Superseding Order*

06/24/2019



**Motion for Summary Judgment** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Defendant William D. Smith's Motion for Summary Judgment*

Denied Without Prejudice;

Journal Entry Details:

*CONFERENCE AT BENCH. Argument by Mr. Cook, stating the causes of action are breach of duty of care, breach of fiduciary duty, breach of an operating agreement, waste, and constructive trust remedy. Colloquy regarding Mr. Cook's client's position on the board of directors. Argument by Mr. Iqbal the motion for summary judgment is inappropriate based on the evidence before the Court. Further argument by Mr. Cook. COURT ORDERED, motion DENIED without PREJUDICE; however, within 15 days Plaintiff MUST file the motion for relief from those admissions which they believe relate to false facts subsequently discovered after admissions were prepared or counsel was unaware of as they were prepared.;*

07/30/2019

**CANCELED Calendar Call** (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - Superseding Order*

08/05/2019

**CANCELED Bench Trial** (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - per Stipulation and Order*

08/16/2019

**Motion for Order** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Notice Of Motion Of Plaintiff S Motion For An Order Withdrawing Deemed Admissions And Allowing Amended Responses*

Granted;

08/16/2019

**Opposition and Countermotion** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Defendants' Opposition to Motion for an Order Withdrawing Deemed Admissions and Allowing Amended Responses & Countermotion to Strike*

Denied;

08/16/2019



**All Pending Motions** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order - No Hearing Held;



Journal Entry Details:

*PLAINTIFF'S MOTION FOR AN ORDER WITHDRAWING DEEMED ADMISSIONS AND ALLOWING AMENDED RESPONSES... ..DEFENDANTS' OPPOSITION TO MOTION FOR AN ORDER WITHDRAWING DEEMED ADMISSIONS AND ALLOWING AMENDED RESPONSES & COUNTERMOTION TO STRIKE The Court having reviewed motion and countermotion related to the previously admitted requests for admission and the related briefing and being fully informed, GRANTS the motion and DENIES the countermotion. Given the procedural issue and the policy of the State of Nevada to decided cases on their merits, the referenced previously admitted requests for admission are withdrawn. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a*

# CASE SUMMARY

CASE No. A-17-750926-B

*synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. 8-19-19 9:00 AM DEFENDANTS' WILLIAM SMITH, M.D., AND SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS' PANKAJ BHATNAGAR, M.D., MATTHEW NG, M.D., AND MARJORIE BELSKI, M.D.'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURTS ORDERS /DATED January 4, 2019 AND April 8, 2019 AND ATTORNEYS' FEES...DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY MD, AND MATTHEW NG MD'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURT'S ORDERS DATED January 4, 2019 AND April 8, 2019, AND ATTORNEYS' FEES AND APPLICATION FOR ORDER SHORTENING TIME (Dept XI - Gonzalez) 8-22-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (Dept XIII - Denton) 9-20-19 CHAMBERS DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTION (Dept XI - Gonzalez) 11-25-19 9:00 AM STATUS CHECK (Dept XI - Gonzalez) 2-4-20 9:30 AM CALENDAR CALL (Dept XI - Gonzalez) 2-10-20 1:30 PM BENCH TRIAL (Dept XI - Gonzalez) CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-19-19 ;*


- |            |  |
|------------|--|
| 08/19/2019 | <p><b>Motion for Sanctions</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Defendants Pankaj Bhatnagar MD, Marjorie Belsky MD, and Matthew Ng MD's Motion for Sanctions Against Plaintiff for Failing to Comply with the Court's Orders Dated January 4, 2019 and April 8, 2019, and Attorneys' Fees and Application for Order Shortening Time</i></p> <p>Granted; counter motion denied</p>   |
| 08/19/2019 | <p><b>Joinder</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Defendants' William Smith, M.D., and Sheldon J. Freedman, M.D.'s Joinder to Defendants' Pankaj Bhatnagar, M.D., Matthew Ng, M.D., and Majorie Belski, M.D.'s Motion for Sanctions Against Plaintiff for Failing to Comply With The Courts Orders /Dated January 4, 2019 and April 8, 2019 and Attorneys' Fees</i></p> <p>Matter Heard;</p>   |
| 08/19/2019 | <p> <b>Motion for Determination of Good Faith Settlement</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p><b>08/19/2019, 09/09/2019</b></p> <p><i>Joint Motion for Determination of Good Faith Settlement on Order Shortening Time</i></p> <p>Matter Continued;</p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>Court NOTED that following the deposition of Dr. Burkhead the opposition has been withdrawn. COURT ORDERED, joint motion for determination of good faith settlement APPROVED. Counsel to prepare and submit an order. 9-20-19 CHAMBERS DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS...OPPOSITION TO MOTION FOR SANCTIONS AND COUNTERMOTION FOR EXPENSES INCLUDING ATTORNEY'S FEES PURSUANT TO NRCP 11(C)(2) (DEPT XI - Gonzalez) 10-24-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton) 11-25-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 2-4-20 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 2-10-20 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez);</i></p> <p>Matter Continued;</p> <p>Granted;</p>     |
| 08/19/2019 | <p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>JOINT MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT ON ORDER SHORTENING TIME: Mr. Iqbal advised it will be a dismissal with prejudice with respect to the claims against Dr. Burkhead for a payment of \$25,000, settling all of Dr. Burkhead's claims, and it will be a joint release; the specific amount was determined between counsel after reviewing the facts; the settlement agreement is still in draft form but Ms. Wrenn has all the details and the parties are happy to share the terms. Ms. Wrenn provided copies of the settlement term sheet for the Court and Mr. Cook. COURT ORDERED its copy MARKED as Court's Exhibit 1. (See worksheet.) Counsel further advised there was discussion as to whether the money would be placed in Escrow in Department XI or in Department XXVIII; to the extent that the Court grants the motion today the receiver would file a report with Judge Allf asking</i></p> |



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for a distribution based on the receivership order; with respect to Dr. Smith and Dr. Friedman they argue potential indemnity but first of all there is no standing, there are no cross claims, and there are no counter claims; nothing in the settlement between Dr. Burkhead and the Receiver can interfere with the others' rights. Ms. Wrenn noted the other parties have been given the opportunity to get information. Mr. Cook argued the settlement has not yet been signed; on Friday afternoon in the other action, the Receiver's 5th status report was filed; he is not sure why the instant motion was filed on order shortening time, and he always gets nervous when everything is rushed; he does see the term sheet does not match what was filed Friday afternoon; there would be nothing wrong with setting this for a 30-day status check and to see what happens at the deposition. Mr. Iqbal advised the deposition is scheduled for the 21st. Mr. Cook advised he is unavailable on the 21st and there were other dates that the parties were talking about. COURT ORDERED, motion CONTINUED to September 9, 2019; if the deposition is completed at an earlier time and all parties agree to advance it, they are to notify the Court. DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY MD, AND MATTHEW NG MD'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURT'S ORDERS DATED JANUARY 4, 2019 AND APRIL 8, 2019, AND ATTORNEYS' FEES AND APPLICATION FOR ORDER SHORTENING TIME...DEFENDANTS' WILLIAM SMITH, M.D., AND SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS' PANKAJ BHATNAGAR, M.D., MATTHEW NG, M.D., AND MAJORIE BELSKI, M.D.'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURTS ORDERS /DATED JANUARY 4, 2019 AND APRIL 8, 2019 AND ATTORNEYS' FEES: Mr. Kunimoto argued as to the Plaintiff's / Receiver's failure to produce a full and complete privilege log in a timely manner. Mr. Iqbal responded that a lot of what opposing counsel has said is conflated and false; for instance, it is false that he represented the Receiver in the A733 case; he has represented Patriot Reading from the beginning, but initially the Receiver appointed by order filed September 12, 2016 was Tim Mulliner, and his attorney of record was Todd Kennedy; opposing counsel moved on this case without a 2.34, not even a phone call. COURT ORDERED, COUNTERMOTION DENIED. Privilege log to be SUPPLEMENTED. Plaintiff has a duty to SUPPLEMENT with additional information that becomes available after providing discovery responses. Plaintiff also has the duty to update the privilege log. Once it is updated, if an in camera review is needed, that issue will need to be raised by motion. The Defendants' motion is GRANTED. 8-22-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPTXI - Denton) 9-9-19 9:00 AM JOINT MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT ON ORDER SHORTENING TIME (DEPT XI - Gonzalez) 9-20-19 CHAMBERS DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS (DEPT XI - Gonzalez) 11-25-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 2-4-20 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 2-10-20 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez);

08/26/2019 CANCELED Status Check (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)  
Vacated - per Stipulation and Order

08/28/2019  **Telephonic Conference** (1:00 PM) (Judicial Officer: Gonzalez, Elizabeth)  
Telephonic Conference re: Stipulation for Extension of Time to Complete Discovery  
Granted in Part;  
Journal Entry Details:

Court asked counsel to explain their request for more time. Mr. Iqbal stated that scheduling the depositions of the doctors has been difficult given the number of attorneys and parties; there was a 5-week stretch of unavailability of various Defense counsel in June, and separately, he had a number of health issues not only related to himself but also to his father from January to April and May; the parties did multiple depositions in May, June was not available, and they resumed in July; they currently only have two Defendant doctors that need to be deposed; Dr. Burkhead's settlement is pending and subject to his appearance at the deposition. Court stated it does not understand the parties' recommendation of 90 more days. Mr. Iqbal responded that he does not think they need 90 days because very recently the Plaintiff has settled with the Ng Defendant doctors, so now they have 3 additional Defendants who have settled; that settlement is of course subject to the Court's approval, but that would leave only 2 Defendant doctors, Dr. Smith and Dr. Freedman, represented by Mr. Cook, and a narrowed action; potentially they would need only 30 days for the remaining parties; the Plaintiff intends to voluntarily dismiss claims that do not apply to the remaining doctors. Mr. Cook advised one of the two remaining depositions is Dr. Smith's, but it is his understanding that Dr. Smith resigned from the hospital and closed his practice; he is trying to contact Dr. Smith's provider because Dr. Smith has not been responding to his text messages; his understanding is that Dr. Smith is bedridden, but he does not have any more information than

# CASE SUMMARY

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that; his deposition was originally set for Friday this week, but they will have to move it pending his being able to speak with the provider. COURT ORDERED, some relief GRANTED as follows: Initial expert disclosures where a party bears the burden of proof DUE by October 4, 2019; Rebuttal expert disclosures where a party does not bear the burden of proof DUE by November 1, 2019; Discovery cut-off SET for December 6, 2019; Dispositive motions and motions in limine TO BE FILED by December 20, 2019; Trial date STANDS. If there are scheduling issues that come up related to the medical issue counsel to file a motion. Mr. Kunimoto noted for the record that there is one element that he and Mr. Iqbal need to finalize as they have not yet been able to find common ground on that element. Stipulation and order interlineated and signed, to be routed back to counsel for filing. COURT FURTHER ORDERED, status check after close of discovery RESET on December 9, 2019. 9-9-19 9:00 AM JOINT MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT ON ORDER SHORTENING TIME (DEPT XI - Gonzalez) 9-30-19 9:00 AM DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS... ..OPPOSITION TO MOTION FOR SANCTIONS AND COUNTERMOTION FOR EXPENSES INCLUDING ATTORNEY'S FEES PURSUANT TO NRCP 11(C)(2) (DEPT XI - Gonzalez) 10-24-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton) 12-9-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 2-4-20 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 2-10-20 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez);

09/27/2019



**Telephonic Conference** (11:45 AM) (Judicial Officer: Gonzalez, Elizabeth)

At Request of Counsel - Telephonic Conference

Stayed;

Journal Entry Details:

Judge Gonzalez, Mohamed A. Iqbal, Esq., and Marc P. Cook, Esq. all present via Court Call. Colloquy regarding Dr. Smith's unavailability for a couple of months due to medical difficulties. Mr. Cook stated he received a letter from Dr. Smith's treating physician indicating Dr. Smith would be unavailable for at least ninety days. Thereafter, the doctor would reevaluate. Furthermore, everyone else had been deposed and he would file a Motion for Summary Judgment as to Dr. Freedman. Further colloquy regarding extending discovery. COURT ORDERED, case STAYED in all respects pending further evaluation of Dr. Smith through Monday, December 16, 2019. COURT FURTHER ORDERED, Status Check SET. COURT FURTHER ORDERED, Motions scheduled for September 30, 2019 hearing RESET to December 13, 2019. 12/13/19 STATUS CHECK: STAY (CHAMBERS);

10/24/2019

**Motion to Seal/Redact Records** (10:33 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion to Redact NG Defendants' Motion for Determination of Good Faith Settlement and to Seal Exhibit A Thereto Ex Parte Application for Order Shortening Time and Order Thereon Granted;

10/24/2019

**Motion** (10:33 AM) (Judicial Officer: Gonzalez, Elizabeth)

NG Defendants' Motion For Determination Of Good Faith Settlement Ex Parte Application For Order Shortening Time And Order Thereon Granted;

10/24/2019



**All Pending Motions** (10:33 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order - No Hearing Held;



Journal Entry Details:

NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON...MOTION TO REDACT NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT AND TO SEAL EXHIBIT A THERETO EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON Matters ADVANCED from October 28, 2019. NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON: Pursuant to EDCR 2.23, the Court decides this matter without the necessity of oral argument. Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes a non-opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Ng Motion for Determination of Good faith Settlement is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. MOTION TO REDACT NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT AND TO SEAL EXHIBIT A THERETO EX PARTE APPLICATION FOR ORDER SHORTENING

# CASE SUMMARY

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*TIME AND ORDER THEREON: Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes a non-opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive confidential financial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter. 12-9-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez) 12-13-19 CHAMBERS STATUS CHECK: STAY... ..DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS... ..OPPOSITION TO MOTION FOR SANCTIONS AND COUNTERMOTION FOR EXPENSES INCLUDING ATTORNEY'S FEES PURSUANT TO NRCP 11(C)(2) (DEPT XI - Gonzalez) 2-4-20 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez) 2-10-20 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez) CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 10-24-19;*






11/12/2019	<b>CANCELED Calendar Call</b> (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Stipulation and Order</i>
11/18/2019	<b>CANCELED Bench Trial</b> (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Stipulation and Order</i>
12/05/2019	 <b>Minute Order</b> (12:20 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Minute Order Vacating Status Check</i> <i>Minute Order - No Hearing Held;</i> <i>Journal Entry Details:</i> <i>COURT ORDERED, given the stay, the status check on Monday, December 9, 2019 is VACATED. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 12-5-19;</i>
12/09/2019	<b>CANCELED Status Check</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
12/10/2019	 <b>Minute Order</b> (10:10 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Minute Order Regarding Stay</i> <i>Minute Order - No Hearing Held;</i> <i>Journal Entry Details:</i> <i>COURT ORDERED, given the status report filed December 9, 2019 and the information related to the Defendant's health, the STAY is CONTINUED an additional 90 days. All current dates VACATED. Status check on the stay RESET in 90 days. 12-19-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton) 3-13-20 CHAMBERS STATUS CHECK: STAY (DEPT XI - Gonzalez) CLERK'S NOTE: Per this minute order, the following matters were VACATED: - Defendant William D. Smith's Motion for Sanctions and Opposition to Motion for Sanctions and Countermotion for Expenses Including Attorney's Fees Pursuant to NRCP 11(c)(2), both on December 13, 2019 in chambers; - Calendar Call on February 4, 2020 at 9:30 am; - Bench Trial on February 10, 2020 at 1:30 pm. Per the Court the status check on the resumption of the parties' settlement conference with the Hon. Mark Denton will remain on calendar. Minute order distributed to the parties via Odyssey File and Serve. / dr 12-10-19;</i>
12/13/2019	<b>CANCELED Motion for Sanctions</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i> <i>Defendant William D. Smith's Motion for Sanctions</i>
12/13/2019	<b>CANCELED Opposition and Countermotion</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i> <i>Opposition to Motion for Sanctions and Countermotion for Expenses Including Attorney's Fees Pursuant to NRCP 11(c)(2)</i>
12/13/2019	<b>CANCELED Status Check</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i> <i>STATUS CHECK: STAY</i>



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-17-750926-B**

02/04/2020	<b>CANCELED Calendar Call</b> (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
02/10/2020	<b>CANCELED Bench Trial</b> (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
03/13/2020	 <b>Status Check</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Status Check: Stay</i> Set Status Check; Journal Entry Details: <i>Court reviewed status report filed March 10, 2020. Counsel to appear to discuss further proceedings. 4-13-20 9:00 AM STATUS CHECK: FURTHER PROCEEDINGS CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-16-20;</i>
04/07/2020	 <b>Minute Order</b> (8:29 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Minute Order re: Status Check on Further Proceedings</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT ORDERED, pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument. Court reviewed the status report and response. Status check on further proceedings CONTINUED from April 13, 2020 to May 18, 2020 at 9 am. Parties to PROVIDE a status report by May 14, 2020. 5-18-20 9:00 AM STATUS CHECK: FURTHER PROCEEDINGS CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 4-7-20;</i>
05/14/2020	 <b>Minute Order</b> (8:55 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Minute Order re: Status Check on Further Proceedings</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT ORDERED, parties are to FILE a status report prior to the status check on May 18, 2020, so pursuant to Administrative Order 20-01, the Court may review this matter without the necessity of oral argument. 5-18-20 9:00 AM STATUS CHECK: FURTHER PROCEEDINGS CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-14-20;</i>
05/18/2020	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Status Check: Further Proceedings</i> Minute Order - No Hearing Held; Journal Entry Details: <i>Court reviewed status reports filed May 13, 2020 and May 17, 2020. Based upon the condition of the Defendant and the current public health emergency, counsel to SUBMIT a stipulation related to the stay agreed upon. Counsel may also include a date for decision and if appropriate supplemental briefing on the pending motion for sanctions. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-18-20;</i>
06/12/2020	 <b>Motion for Sanctions</b> (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Defendant's Motion for Sanctions and Plaintiff's Countermotion for Expenses</i> Granted in Part; Journal Entry Details: <i>The Court, having reviewed Dr. Smith's Motion for Sanctions (filed August 13, 2019), the countermotion (filed August 26, 2019) and the related briefing and being fully informed, GRANTS the motion IN PART and DENIES the countermotion. The word "additional" in front of copies certainly did not convey the impression to the Court which Plaintiff's counsel now argues that it did. Par. 4 of the findings of fact contained in the order filed September 30, 2019 is TO BE DELETED. Counsel for Smith is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. Plaintiff's counsel to submit an amended order correcting the September 30, 2019 order within 10 days. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order or judgment. 7-20-20 9:00 AM STATUS CHECK CLERK'S</i>

# CASE SUMMARY

CASE NO. A-17-750926-B

NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 6-12-20;

07/15/2020



**Minute Order** (11:21 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order Directing the Filing of a Status Report

Minute Order - No Hearing Held;

Journal Entry Details:

As the Court began conducting a trial offsite on July 13, 2020, daily from 8:00 a.m. to 5:00 p.m., and the length of the trial will be approximately 2+ months, parties do not need to appear for the Status Check scheduled on July 20, 2020 in the instant case. However, the Court asks that a status report be filed one day before. 7-20-20 9:00 AM STATUS CHECK (No appearances required) CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-15-20 ;

07/20/2020



**Status Check** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order - No Hearing Held;

Journal Entry Details:

Court reviewed status report filed July 17, 2020. Matter SET for status check in 3 weeks on chambers. 8-14-20 CHAMBERS STATUS CHECK CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-20-20;

08/14/2020



**Status Check** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

08/14/2020, 09/11/2020

## MINUTES

Matter Continued;

Hearing Set;

Journal Entry Details:

Court reviewed status report filed September 10, 2020. COURT ORDERED, matter set for telephonic hearing to schedule remaining deadlines at 11:45 am on Thursday, October 22, 2019. Status check on stay SET in 90 days on the chambers calendar. Status report to be filed day before. 10-22-20 11:45 AM TELEPHONIC CONFERENCE TO SCHEDULE REMAINING DEADLINES 12-18-20 CHAMBERS STATUS CHECK: STAY CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 9-15-20;

Matter Continued;

Hearing Set;

Journal Entry Details:

COURT NOTED no status report filed, ORDERED, matter CONTINUED for 4 weeks. ...9-11-20 - CHAMBERS CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-17-20;

## SCHEDULED HEARINGS



**Telephonic Conference** (10/22/2020 at 11:45 AM) (Judicial Officer: Gonzalez, Elizabeth)

Telephonic Conference to Schedule Remaining Deadlines

10/22/2020



**Telephonic Conference** (11:45 AM) (Judicial Officer: Gonzalez, Elizabeth)

Telephonic Conference to Schedule Remaining Deadlines




Trial Date Set; STAY LIFTED

Journal Entry Details:

Mr. Cook advised he saw Dr. Smith about two weeks ago and he is 20 lbs heavier than he was, so he is doing pretty well; his treating doctor has okayed his deposition but wants to limit it to one hour or less; previously, about one hour in the doctor looked pretty weak; counsel has gone 5 to 7 hours; he is not trying to cut counsel's time, but that means they will have to hold the deposition in 5 to 7 days. Court stated this is not the first time it has heard this and asked what else the parties need to do. Mr. Iqbal advised that they need to update their privilege logs and send offers of judgment to the Defendant and try to narrow what would go to trial; they also need 3 to 4 days in between sections of the deposition in order for Dr. Smith to recover; they are in agreement with all restrictions and requirements given the doctor's health; if the Court is amenable, they are requesting the stay be lifted so they can finish remaining discovery and Dr. Smith's deposition can be concluded. COURT ORDERED, STAY LIFTED. COURT ORDERED, Mr. Iqbal's proposed dates are ADOPTED as follows: Initial expert disclosures where a party bears the burden of proof DUE by December 18, 2020; Rebuttal expert

# CASE SUMMARY

CASE NO. A-17-750926-B

	<p><i>disclosures where a party does not bear the burden of proof DUE by February 19, 2021; Discovery cut-off SET for March 19, 2021; Dispositive motions and motions in limine TO BE FILED by June 11, 2021; Matter RESET for trial on the stack beginning on August 2, 2021. New Trial Setting Order will ISSUE. Mr. Cook advised he represents a judge in a disciplinary hearing that if they keep their calendar a lot of things are supposed to happen between now and November; he has a motion for a stay ready to go, and he hopes to know by next week whether or not he will get one. COURT DIRECTED Mr. Cook to update the Court and opposing counsel if the judicial matters takes more time because his request for a stay is not granted. Mr. Cook further advised with regards to the June 11 motion due date he has a planned vacation. Court stated they can work with counsel.;</i></p>
12/18/2020	<p><b>CANCELED Status Check (3:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Vacated</i></p> <p><i>Status Check: Stay</i></p>
03/16/2021	<p> <b>Minute Order (3:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Minute Order Requesting Status Report</i></p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>At request of the Court, parties to FILE a status report in anticipation of the status check on Monday, March 22, 2021. 3-22-21 9:00 AM STATUS CHECK: TRIAL READINESS 7-27-21 9:30 AM CALENDAR CALL 8-2-21 1:30 PM BENCH TRIAL CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-16-21;</i></p>
03/22/2021	<p> <b>Status Check: Trial Readiness (9:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>Court reviewed Defendant's status report. Current dates STAND. 7-27-21 9:30 AM CALENDAR CALL 8-2-21 1:30 PM BENCH TRIAL CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-22-21;</i></p>
04/26/2021	<p> <b>Motion to Extend Discovery (9:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p><i>Plaintiff's Motion to Extend Discovery (Fourth Request)</i></p> <p>Granted in Part;</p> <p>Journal Entry Details:</p> <p><i>Pursuant to Administrative Order 21-03, the Court decides this matter without the necessity of oral argument. The Court having reviewed the Motion to Reopen and the related briefing and being fully informed, COURT ORDERED, motion is GRANTED IN LIMITED PART. The deposition of Dr. Smith may be completed within 45 days unless counsel agree to a later completion date. COURT FURTHER ORDERED, counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and argument. This Decision sets forth the Court's intended disposition on the subject, but anticipates further order of the Court to make such disposition effective as an order. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / js (4-27-21);</i></p>
05/03/2021	<p><b>Motion for Summary Judgment (9:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p><b>05/03/2021, 06/14/2021</b></p> <p><i>Defendant Sheldon J. Freedman, M.D.'s Motion for Summary Judgment</i></p> <p>Matter Continued;</p>
05/03/2021	<p><b>Motion for Summary Judgment (9:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p><b>05/03/2021, 06/14/2021</b></p> <p><i>Defendant William Smith, M.D.'s Motion for Summary Judgment</i></p> <p>Matter Continued;</p>
05/03/2021	<p> <b>All Pending Motions (9:00 AM)</b> (Judicial Officer: Gonzalez, Elizabeth)</p> <p>Matter Continued;</p> <p>Journal Entry Details:</p> <p><i>DEFENDANT WILLIAM SMITH, M.D.'s MOTION FOR SUMMARY JUDGEMENT . . .</i></p>

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-17-750926-B**

*DEFENDANT SHELDON J. FREEDMAN M.D.'s MOTION FOR SUMMARY JUDGEMENT*  
*Given the Court's 4/26/21 Order, MOTIONS CONTINUED for 6 weeks to 06/14/2021. CLERK*  
*S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. -*  
*vg/05/03/2021;*

07/07/2021



**Motion for Order** (8:30 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Plaintiff's Motion for Order Setting Second Deposition of William Smith, MD Against Defendant on Order Shortening Time In-Person Hearing Requested*

Matter Heard;

Journal Entry Details:

*Mr. Iqbal argued de deposition of Dr. Smith was unsuccessful due to abusive and time wasting objections. Additionally, Mr. Iqbal argue it was Dr. Smith's intent to purposefully run out the clock during his deposition. Mr. Iqbal state he was to requesting sanctions just additional time for the deposition of Dr. Smith. Mr. Cooked argued that Mr. Iqbal did not follow proper procedure when filing his motion. Furthermore, Mr. Cooked stated that opposing counsel wasted time because there was confusion on his behalf when it came to the LLC/partnership/corporation. Court ORDERED, the seven hour time limit would STAND. Furthermore, Court ORDERED the Summary Judgment on 07/19/21 without any oral argument; briefs must be complete. If counsel should require any additional time they should coordinate with Dept. Xi law Clerk Chricy Harris dept11lc@clarkcountycourts.us. SUMMARY JUDGEMENT: 07/19/2021;*

07/19/2021



**Motion for Summary Judgment** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion Granted;

Journal Entry Details:

*Pursuant to Adm. Order 21-04 the Court decides this matter without the necessity of oral argument. The Court having reviewed Sheldon Freedman s Motion for Summary Judgment and the related briefing and being fully informed, GRANTS the motion. After reviewing the newly filed supplement the court determines that there are no genuine issues of material fact related to Dr Freeman s exercise of his business judgment in this matter. Counsel for Defendant is directed to submit proposed FFCL approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court s intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order The Court having reviewed William Smith Motion for Summary Judgment and the related briefing and being fully informed. After reviewing the newly filed supplement the court determines that there are no genuine issues of material fact related to Dr. Smith s exercise of his business judgment in this matter. Counsel for Defendant is directed to submit proposed FFCL approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing This Decision sets forth the Court s intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order. CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. - vg/7/20/21;*

07/20/2021

**CANCELED Calendar Call** (9:30 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated*

08/02/2021

**CANCELED Bench Trial** (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated*

10/05/2021

**Motion for Attorney Fees and Costs** (8:30 AM) (Judicial Officer: Johnson, Susan)

*Defendants William Smith, MD and Sheldon Freedman MD's Application for Attorney's Fees and Costs*

**DATE**

**FINANCIAL INFORMATION**

**Defendant** Belsky, Marjorie, M.D.

Total Charges

1,500.50

Total Payments and Credits

1,500.50

**Balance Due as of 9/17/2021**

**0.00**

**Defendant** Bhatnagar, Pankaj, M.D.

**CASE SUMMARY****CASE NO. A-17-750926-B**

Total Charges	1,544.50
Total Payments and Credits	1,544.50
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>
<b>Defendant</b> Burkhead, Daniel, M.D.	
Total Charges	1,776.00
Total Payments and Credits	1,776.00
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>
<b>Defendant</b> Ng, Mathew, M.D.	
Total Charges	101.50
Total Payments and Credits	101.50
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>
<b>Attorney</b> Mulliner, Tim	
Total Charges	2.50
Total Payments and Credits	2.50
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>
<b>Defendant</b> Freedman, Sheldon, M.D.	
Total Charges	1,683.00
Total Payments and Credits	1,683.00
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>
<b>Defendant</b> Smith, William, M.D.	
Total Charges	1,883.00
Total Payments and Credits	1,883.00
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>
<b>Plaintiff</b> Flamingo-Pecos Surgery Center LLC	
Total Charges	1,558.00
Total Payments and Credits	1,558.00
<b>Balance Due as of 9/17/2021</b>	<b>0.00</b>

# BUSINESS COURT CIVIL COVER SHEET

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

A - 1 7 - 7 5 0 9 2 6 - B  
X V

## I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): <div style="text-align: center;">Flamingo-Pecos Surgery Center, LLC</div>	Defendant(s) (name/address/phone): William Smith MD; Pankaj Bhatnagar MD; Marjorie Belsky MD Sheldon Freedman MD; Mathew Ng MD; Daniel Burkhead MD DOE Managers, Directors, and Officers 1-25 ROE Business Entities 1-25
Attorney (name/address/phone): Timothy R. Mulliner 101 E Convention Center Dr., Suite 650 Las Vegas, NV 89109 (702) 857-7850	Attorney (name/address/phone):

## II. Nature of Controversy (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

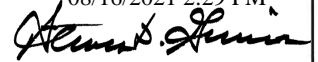
Civil Case Filing Types		Business Court Filing Types		
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Torts</b> <b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input checked="" type="checkbox"/> Other Tort	<b>CLARK COUNTY BUSINESS COURT</b> <input checked="" type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters		
<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Civil Writs</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>WASHOE COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art.8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters		
<b>Judicial Review/Appeal/Other Civil Filing</b> <table style="width: 100%;"> <tr> <td style="width: 50%;"> <b>Judicial Review</b>  <input type="checkbox"/> Foreclosure Mediation Case  <b>Appeal Other</b>  <input type="checkbox"/> Appeal from Lower Court                         </td> <td style="width: 50%;"> <b>Other Civil Filing</b>  <input type="checkbox"/> Foreign Judgment  <input type="checkbox"/> Other Civil Matters                         </td> </tr> </table>		<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	
<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters			

February 9, 2017

Date

Signature of initiating party or representative



  
CLERK OF THE COURT

1 **OGSJ**  
2 MARC P. COOK  
3 Nevada Bar No. 004574  
4 GEORGE P. KELESIS  
5 Nevada Bar No. 000069  
6 COOK & KELESIS, LTD.  
7 517 S. Ninth Street  
8 Las Vegas, Nevada 89101  
9 Telephone: 702-737-7702  
10 Facsimile: 702-737-7712  
11 Email: mcook@bckltd.com  
12 *Attorneys for Defendants Sheldon J. Freedman, M.D.*  
13 *And William D. Smith, M.D.*

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

11 MARK J. GARDBERG, ESQ., in his  
12 capacity as Receiver for, and acting on  
13 behalf of, FLAMINGO-PECOS SURGERY  
14 CENTER, LLC a Nevada limited liability  
15 company,

14 Plaintiff,  
15 vs.

16 WILLIAM SMITH MD, an individual;  
17 PANKAJ BHATANAGAR MD, an  
18 individual; MAJORIE BELSKY MD, an  
19 individual; SHELDON FREEDMAN MD,  
20 an individual; MATHEW NG MD, an  
21 individual; DANIEL BURKHEAD MD, an  
22 individual; and DOE MANAGERS,  
23 DIRECTORS, AND OFFICERS 1-25, ROE  
24 BUSINESS ENTITIES 1-25;

21 Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER GRANTING DEFENDANT  
WILLIAM SMITH, MD'S MOTION  
FOR SUMMARY JUDGMENT**

Hearing Date: July 19, 2021  
Hearing Time: CHAMBERS

22 This matter having come before the Court on Defendant, William Smith, MD's Motion for  
23 Summary Judgment ("Motion") on July 19, 2021; the Court having decided the matter pursuant to  
24 Eighth Judicial District Court Administrative Order 21-04 without the necessity of oral argument;  
25 the Court having read and considered all pleadings and having entered a Findings of Fact and  
26 Conclusions of Law on August 5, 2021, the Court hereby determines that, Defendant is entitled to  
27 Judgment in his favor of the remaining causes of action as a matter of law.  
28

1 Therefore:

2 IT IS ORDERED that Defendant's Motion for Summary Judgment is GRANTED.

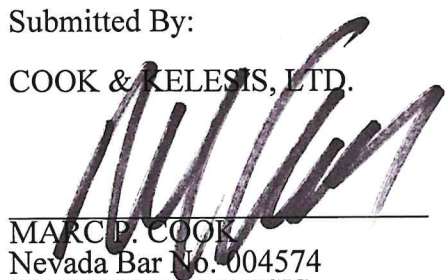
3 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021. Dated this 16th day of August, 2021

4  
5   
6 DISTRICT COURT JUDGE

7 Submitted By:

8 COOK & KELESIS, LTD.

119 AD2 60E5 F993  
Elizabeth Gonzalez  
District Court Judge

9  
10   
11 MARCI COOK  
Nevada Bar No. 004574  
12 GEORGE P. KELESIS  
Nevada Bar No. 000069  
13 517 S. Ninth Street  
Las Vegas, Nevada 89101  
14 Attorneys for Defendants Sheldon J.  
Freedman, M.D. and William D. Smith, M.D.



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Flamingo-Pecos Surgery Center  
LLC, Plaintiff(s)

CASE NO: A-17-750926-B

7 vs.

DEPT. NO. Department 11

8  
9 William Smith, M.D.,  
Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

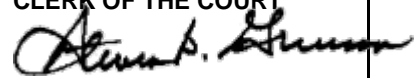
12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Granting Summary Judgment was served via the court's  
electronic eFile system to all recipients registered for e-Service on the above entitled case as  
listed below:

15 Service Date: 8/16/2021

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1 **NEOJ**  
2 **MARC P. COOK**  
3 Nevada State Bar No. 004574  
4 **GEORGE P. KELESIS**  
5 Nevada State Bar No. 000069  
6 **COOK & KELESIS, LTD.**  
7 517 S. Ninth Street  
8 Las Vegas, Nevada 89101  
9 Telephone: 702-737-7702  
10 Facsimile: 702-737-7712  
11 Email: mcook@bckltd.com  
12 *Attorneys for Defendants Sheldon J. Freedman, M.D.*  
13 *And William D. Smith, M.D.*

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

11 **MARK J. GARDBERG, ESQ.,** in his  
12 capacity as Receiver for, and acting on  
13 behalf of, **FLAMINGO-PECOS SURGERY**  
14 **CENTER, LLC** a Nevada limited liability  
15 company,

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Plaintiff,  
vs.

16 **WILLIAM SMITH MD,** an individual;  
17 **PANKAJ BHATANAGAR MD,** an  
18 individual; **MAJORIE BELSKY MD,** an  
19 individual; **SHELDON FREEDMAN MD,**  
20 an individual; **MATHEW NG MD,** an  
21 individual; **DANIEL BURKHEAD MD,** an  
22 individual; and **DOE MANAGERS,**  
23 **DIRECTORS, AND OFFICERS 1-25, ROE**  
24 **BUSINESS ENTITIES 1-25;**

Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT WILLIAM  
SMITH, MD'S MOTION FOR  
SUMMARY JUDGMENT**

22 **TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:**

23 Please take notice that on the 16<sup>th</sup> day of August, 2021 an Order Granting Defendant William  
24 Smith, MD's Motion for Summary Judgment was entered in the above-captioned action.

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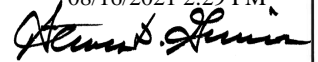
A copy of the Order is attached hereto.

DATED this 17<sup>th</sup> day of August, 2021.

COOK & KELESIS, LTD.

By :           /s/ Marc P. Cook            
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Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
517 S. Ninth Street  
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And William D. Smith, M.D.*



  
CLERK OF THE COURT

1 **OGSJ**  
2 **MARC P. COOK**  
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13 *And William D. Smith, M.D.*

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

11 **MARK J. GARDBERG, ESQ., in his**  
12 **capacity as Receiver for, and acting on**  
13 **behalf of, FLAMINGO-PECOS SURGERY**  
14 **CENTER, LLC a Nevada limited liability**  
15 **company,**

14 **Plaintiff,**  
15 **vs.**

16 **WILLIAM SMITH MD, an individual;**  
17 **PANKAJ BHATANAGAR MD, an**  
18 **individual; MAJORIE BELSKY MD, an**  
19 **individual; SHELDON FREEDMAN MD,**  
20 **an individual; MATHEW NG MD, an**  
21 **individual; DANIEL BURKHEAD MD, an**  
22 **individual; and DOE MANAGERS,**  
23 **DIRECTORS, AND OFFICERS 1-25, ROE**  
24 **BUSINESS ENTITIES 1-25;**

25 **Defendants.**

**CASE NO. A-17-750926-B**  
**CONSOLIDATED WITH CASE NO.:**  
**A-18-769693-C**

**DEPT. NO. XI**

**ORDER GRANTING DEFENDANT**  
**WILLIAM SMITH, MD'S MOTION**  
**FOR SUMMARY JUDGMENT**

**Hearing Date: July 19, 2021**  
**Hearing Time: CHAMBERS**

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This matter having come before the Court on Defendant, William Smith, MD's Motion for Summary Judgment ("Motion") on July 19, 2021; the Court having decided the matter pursuant to Eighth Judicial District Court Administrative Order 21-04 without the necessity of oral argument; the Court having read and considered all pleadings and having entered a Findings of Fact and Conclusions of Law on August 5, 2021, the Court hereby determines that, Defendant is entitled to Judgment in his favor of the remaining causes of action as a matter of law.

1 Therefore:

2 IT IS ORDERED that Defendant's Motion for Summary Judgment is GRANTED.

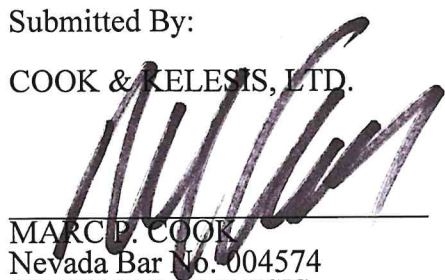
3 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021. Dated this 16th day of August, 2021

4  
5   
6 DISTRICT COURT JUDGE

7 Submitted By:

8 COOK & KELESIS, LTD.

119 AD2 60E5 F993  
Elizabeth Gonzalez  
District Court Judge

9  
10   
11 MARCI COOK  
Nevada Bar No. 004574  
12 GEORGE P. KELESIS  
Nevada Bar No. 000069  
13 517 S. Ninth Street  
Las Vegas, Nevada 89101  
14 Attorneys for Defendants Sheldon J.  
Freedman, M.D. and William D. Smith, M.D.

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Flamingo-Pecos Surgery Center  
LLC, Plaintiff(s)

CASE NO: A-17-750926-B

7 vs.

DEPT. NO. Department 11

8  
9 William Smith, M.D.,  
Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 8/16/2021

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*Heather S. Lumin*

CLERK OF THE COURT

**OGSJ**

MARC P. COOK

Nevada Bar No. 004574

GEORGE P. KELESIS

Nevada Bar No. 000069

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*Attorneys for Defendants Sheldon J. Freedman, M.D.*

*And William D. Smith, M.D.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARK J. GARDBERG, ESQ., in his  
capacity as Receiver for, and acting on  
behalf of, FLAMINGO-PECOS SURGERY  
CENTER, LLC a Nevada limited liability  
company,

Plaintiff,

vs.

WILLIAM SMITH MD, an individual;  
PANKAJ BHATANAGAR MD, an  
individual; MAJORIE BELSKY MD, an  
individual; SHELDON FREEDMAN MD,  
an individual; MATHEW NG MD, an  
individual; DANIEL BURKHEAD MD, an  
individual; and DOE MANAGERS,  
DIRECTORS, AND OFFICERS 1-25, ROE  
BUSINESS ENTITIES 1-25;

Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER GRANTING DEFENDANT  
SHELDON FREEDMAN, MD'S  
MOTION FOR SUMMARY  
JUDGMENT**

Hearing Date: July 19, 2021  
Hearing Time: CHAMBERS

This matter having come before the Court on Defendant, Sheldon Freedman, MD's Motion for Summary Judgment ("Motion") on July 19, 2021; the Court having decided the matter pursuant to Eighth Judicial District Court Administrative Order 21-04 without the necessity of oral argument; the Court having read and considered all pleadings and having entered a Findings of Fact and Conclusions of Law on August 5, 2021, the Court hereby determines that, Defendant is entitled to Judgment in his favor of the remaining causes of action as a matter of law.

1 Therefore:

2 IT IS ORDERED that Defendant's Motion for Summary Judgment is GRANTED.

3 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021. Dated this 16th day of August, 2021

4 

5 DISTRICT COURT JUDGE

6 Submitted By:

7 COOK & KELESIS, LTD.

8   
9  
10 **58B 099 AFEF 38AC**  
**Elizabeth Gonzalez**  
**District Court Judge**

11 MARC F. COOK  
12 Nevada Bar No. 004574  
13 GEORGE P. KELESIS  
14 Nevada Bar No. 000069  
15 517 S. Ninth Street  
16 Las Vegas, Nevada 89101  
17 *Attorneys for Defendants Sheldon J.*  
18 *Freedman, M.D. and William D. Smith, M.D.*  
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1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5  
6 Flamingo-Pecos Surgery Center  
LLC, Plaintiff(s)

CASE NO: A-17-750926-B

7 vs.

DEPT. NO. Department 11

8  
9 William Smith, M.D.,  
Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

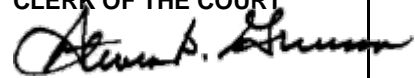
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13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Granting Summary Judgment was served via the court's  
electronic eFile system to all recipients registered for e-Service on the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

15 Service Date: 8/16/2021

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NEOJ  
MARC P. COOK  
Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
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Facsimile: 702-737-7712  
Email: mcook@bckltd.com  
*Attorneys for Defendants Sheldon J. Freedman, M.D.  
And William D. Smith, M.D.*

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

MARK J. GARDBERG, ESQ., in his  
capacity as Receiver for, and acting on  
behalf of, FLAMINGO-PECOS SURGERY  
CENTER, LLC a Nevada limited liability  
company,

Plaintiff,  
vs.

WILLIAM SMITH MD, an individual;  
PANKAJ BHATANAGAR MD, an  
individual; MAJORIE BELSKY MD, an  
individual; SHELDON FREEDMAN MD,  
an individual; MATHEW NG MD, an  
individual; DANIEL BURKHEAD MD, an  
individual; and DOE MANAGERS,  
DIRECTORS, AND OFFICERS 1-25, ROE  
BUSINESS ENTITIES 1-25;

Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT SHELDON  
FREEDMAN, MD'S MOTION FOR  
SUMMARY JUDGMENT**

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

Please take notice that on the 16<sup>th</sup> day of August, 2021 an Order Granting Defendant Sheldon  
Freedman, MD's Motion for Summary Judgment was entered in the above-captioned action.

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A copy of the Order is attached hereto.

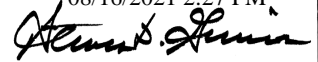
DATED this 17<sup>th</sup> day of August, 2021.

COOK & KELESIS, LTD.

By : /s/ Marc P. Cook  
MARC P. COOK  
Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
517 S. 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
*Attorneys for Defendants Sheldon J. Freedman, M.D.  
And William D. Smith, M.D.*





  
CLERK OF THE COURT

**OGSJ**

MARC P. COOK

Nevada Bar No. 004574

GEORGE P. KELESIS

Nevada Bar No. 000069

COOK & KELESIS, LTD.

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Email: mcook@bckltd.com

*Attorneys for Defendants Sheldon J. Freedman, M.D.*

*And William D. Smith, M.D.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARK J. GARDBERG, ESQ., in his  
capacity as Receiver for, and acting on  
behalf of, FLAMINGO-PECOS SURGERY  
CENTER, LLC a Nevada limited liability  
company,

Plaintiff,

vs.

WILLIAM SMITH MD, an individual;  
PANKAJ BHATANAGAR MD, an  
individual; MAJORIE BELSKY MD, an  
individual; SHELDON FREEDMAN MD,  
an individual; MATHEW NG MD, an  
individual; DANIEL BURKHEAD MD, an  
individual; and DOE MANAGERS,  
DIRECTORS, AND OFFICERS 1-25, ROE  
BUSINESS ENTITIES 1-25;

Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER GRANTING DEFENDANT  
SHELDON FREEDMAN, MD'S  
MOTION FOR SUMMARY  
JUDGMENT**

Hearing Date: July 19, 2021  
Hearing Time: CHAMBERS

This matter having come before the Court on Defendant, Sheldon Freedman, MD's Motion for Summary Judgment ("Motion") on July 19, 2021; the Court having decided the matter pursuant to Eighth Judicial District Court Administrative Order 21-04 without the necessity of oral argument; the Court having read and considered all pleadings and having entered a Findings of Fact and Conclusions of Law on August 5, 2021, the Court hereby determines that, Defendant is entitled to Judgment in his favor of the remaining causes of action as a matter of law.

1 Therefore:

2 IT IS ORDERED that Defendant's Motion for Summary Judgment is GRANTED.

3 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021. Dated this 16th day of August, 2021


4 

5  
6 DISTRICT COURT JUDGE

7 Submitted By:

8 COOK & KELESIS, LTD.

58B 099 AFEF 38AC  
Elizabeth Gonzalez  
District Court Judge

9   
10 MARC F. COOK  
Nevada Bar No. 004574  
11 GEORGE P. KELESIS  
Nevada Bar No. 000069  
12 517 S. Ninth Street  
Las Vegas, Nevada 89101  
13 Attorneys for Defendants Sheldon J.  
Freedman, M.D. and William D. Smith, M.D.  
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1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5  
6 Flamingo-Pecos Surgery Center  
LLC, Plaintiff(s)

CASE NO: A-17-750926-B

7 vs.

DEPT. NO. Department 11

8  
9 William Smith, M.D.,  
Defendant(s)

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14 Court. The foregoing Order Granting Summary Judgment was served via the court's  
electronic eFile system to all recipients registered for e-Service on the above entitled case as  
listed below:

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**ORDR**

**IQBAL LAW PLLC**

Mohamed A. Iqbal, Jr. (NSB 10623)

101 Convention Center Dr., Suite 1175

Las Vegas, Nevada 89109

1-(702) 750-2950 (Tel); 1-(702) 825-2841 (V-Fax)

[info@ilawlv.com](mailto:info@ilawlv.com); [mai@ilawlv.com](mailto:mai@ilawlv.com)

*Special Litigation Counsel for Mark J. Gardberg, Esq., in his capacity as Receiver for,  
and acting on behalf of, Flamingo-Pecos Surgery Center, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARK J. GARDBERG, ESQ., in his capacity  
as Receiver for, and acting on behalf of,  
FLAMINGO-PECOS SURGERY CENTER,  
LLC a Nevada limited liability company;

Plaintiff,

vs.

William Smith MD et al.;

Defendants.

Case No.: A-17-750926-B

[consolidated with A-18-769693-C]

Dept. No.: XI

**ORDER GRANTING IN LIMITED PART  
PLAINTIFF'S MOTION TO EXTEND  
DISCOVERY**

Plaintiff's Motion to Extend Discovery came on for hearing on April 26, 2021 (the "Motion"). Pursuant to Administrative Order 21-03, the Court decided the Motion without oral argument. Having reviewed the Motion and the related briefing and being fully informed, and good cause showing, the Court hereby:

**ORDERS** the Motion is **GRANTED IN LIMITED PART and DENIED IN PART**; and, further, **FINDS**:

(1) Given the timing of the Motion, excusable neglect must be shown. The excusable neglect factors enumerated by the Nevada Supreme Court in *Mosely v. Eighth Judicial Dist. Court*, 124 Nev. 654, are similar to the *Pioneer Investment Services Co. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 395 (1993) factors, and require that: (1) [the moving party] acted in good faith; (2) it exercised due diligence; (3) there is a reasonable basis for not complying within

**ORDER GRANTING IN LIMITED PART  
PLAINTIFF'S MOTION TO EXTEND DISCOVERY**

1 the specified time; and (4) the nonmoving party will not suffer prejudice.” *Mosely*, 124 Nev. at  
2 668.

3 Regarding Dr. Smith’s deposition, and good faith and diligence: the moving party acted in  
4 good faith, this case has been, outside of the five-month stretch at issue here (late October 2020 –  
5 late March 2021) and the delays from Dr. Smith’s unavailability (August 2019 – October 2020),  
6 diligently litigated by all of the parties, resulting in four of the original six defendants reaching  
7 monetary settlements with the Receiver. There was a reasonable basis for not complying within  
8 the specific time, and the nonmoving party, Dr. Smith, will not suffer prejudice;

9 (2) Plaintiff extended professional courtesy during Dr. Smith’s unavailability. Dr. Smith’s  
10 deposition testimony would serve the Court and all parties with the determination of the pending  
11 motions for summary judgment filed by Dr. Smith and Dr. Freedman, and thus advance judicial  
12 efficiency and the principle of determining matters on the merits; and

13 (3) The Court’s ruling is consistent with Administrative Order 21-03.

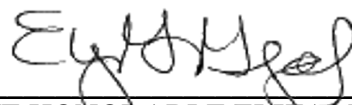
14 The Court hereby further **ORDERS** the deposition of Defendant Dr. Smith may be  
15 completed within 45 days of the date of the April 26, 2021 Hearing, unless counsel agree to a  
16 later completion date.

17 The Motion to Extend Discovery is **DENIED** as to their request to conduct additional  
18 written discovery, extend the expert disclosure deadline, and to extend the discovery cut-off date.  
19 As to those three requests, the Court finds that the four factors as set forth in *Mosely, supra*, have  
20 not been met and therefore, those requests are hereby **DENIED**.

21 **IT IS SO ORDERED.**

Dated this 20th day of May, 2021

22 May \_\_\_, 2021.

23 

24 THE HONORABLE ELIZABETH GONZALEZ  
DISTRICT COURT JUDGE

25 **DC8 E20 9795 490A**  
26 **Elizabeth Gonzalez**  
27 **District Court Judge**

28 **ORDER GRANTING IN LIMITED PART**  
**PLAINTIFF’S MOTION TO EXTEND DISCOVERY**

1 Respectfully Submitted By:

2 IQBAL LAW PLLC

3 By: \_\_\_\_\_

4 Mohamed A. Iqbal, Jr. (NSB 10623)

5 101 Convention Center Dr., Suite 1175

6 Las Vegas, Nevada 89109

7 *Special Litigation Counsel for Mark J. Gardberg, Esq.,*

8 *in his capacity as Receiver for, and acting on behalf of,*

9 *Flamingo-Pecos Surgery Center, LLC*

10 Approved as to Form and Content:

11 COOK & KELESIS, LTD.

12 /s/ Marc P. Cook

13 Marc P. Cook, Esq.

14 Nevada Bar No. 4574

15 517 S. Ninth Street

16 Las Vegas, Nevada 89101

17 *Attorneys for Defendants Sheldon J. Freedman, M.D.*

18 *and William D. Smith, M.D.*

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Flamingo-Pecos Surgery Center  
7 LLC, Plaintiff(s)

CASE NO: A-17-750926-B

8 vs.

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9 William Smith, M.D.,  
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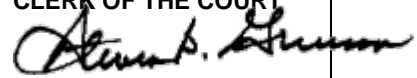
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E-serve GRSM	WL_LVSupport@grsm.com
Shannon Fagin	sfagin@bckltd.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 5/21/2021

Mohamed Iqbal	IQBAL Law PLLC Attn: Mohamed A. Iqbal 101 Convention Center Drive - Suite 1175 Las Vegas, NV, 89109
---------------	--



ORDR

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARK J. GARDBERT, ESQ., in his capacity  
as Receiver for, and acting on behalf of,  
FLAMINGO-PECOS SURGERY CENTER,  
LLC a Nevada limited liability company,

Plaintiff,

vs.

WILLIAM SMITH MD, an individual;  
PANKAJ BHATANAGAR MD, an individual;  
MAJORIE BELSKY MD, an individual;  
SHELDON FREEDMAN MD, an individual;  
MATHEW NG MD, an individual; DANIEL  
BURKHEAD MD, an individual; and DOE  
MANAGERS, DIRECTORS, AND OFFICERS  
1-25, ROE BUSINESS ENTITIES 1-25;

Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**ORDER REGARDING MOTION AND  
COUNTER MOTION FOR SANCTIONS**

Hearing Date: June 12, 2020  
Hearing Time: Chambers

Defendant William Smith's Motion for Sanctions filed August 14, 2019 and Plaintiff's Countermotion for Attorney's Fees filed on August 26, 2019 having come on for consideration on June 12, 2020 on the Court's chambers calendar; the Court having considered all papers and pleadings on file, hereby makes the following findings of fact and conclusions of law, and Orders as follows:

**FINDINGS OF FACT**

1. On May 9, 2019 Defendant William Smith filed a Motion for Summary Judgment based on responses to Requests for Admissions that were either admitted voluntarily or admitted through order of the court.

2. In opposing this motion, Plaintiff filed a Sur-reply on June 20, 2019 that, in form and substance, represented to the Court that the admissions should not be binding

1 because on April 24, 2019, subsequent to the admissions being admitted, Plaintiff received  
2 documents that contradicted the submissions.

3 3. In Plaintiff's Motion to Withdraw Admissions and the Reply to Defendants'  
4 Opposition to that motion, Plaintiff repeated the representation to the Court that new  
5 documents were provided to Plaintiff on April 24, 2019 which contradicted prior admissions.

6 4. In reading these arguments by Plaintiff, the Court understood Plaintiff to be  
7 arguing that April 24, 2019 was the first time these documents were produced and were  
8 reviewed for the first time by Plaintiff's counsel sometime thereafter.

9 5. The documents the Plaintiff represented to the Court were first received on  
10 April 24, 2019 were all produced significantly prior to that date. Certain documents were first  
11 produced to Plaintiff on June 27, 2017 by co-defendant Freedman and again produced by  
12 Defendant Smith on August 8, 2018. Both productions were in court filings that were  
13 contemporaneously served on Plaintiff's counsel.

14 6. The balance of the documents that Plaintiff represented to the Court as having  
15 been received on April 24, 2019 were emails that Plaintiff's counsel received on October 24,  
16 2018.

17 7. In its December 31, 2018 Omnibus Opposition to Defendants' Motion to  
18 Compel Plaintiff states, on page two, that its discovery responses were untimely because  
19 counsel was reviewing the emails received October 24, 2018. These were the same emails  
20 represented in Plaintiff's Sur-reply and Motion to Withdraw Admissions to have been first  
21 received on April 24, 2019.

22 8. During the December 31, 2018 hearing on Defendant's Motion to Compel,  
23 Plaintiff's counsel stated, "[w]e've gone through every single one of those 1,400 emails" – in  
24 referring to the same emails that Counsel subsequently represented had not been reviewed  
25 until after the April 24, 2019 production.

26 9. Further, Jack Juan's April 24, 2019 supplemental production itself identifies to  
27 Plaintiff's counsel that the parties in this case, "already have all of the emails in the prior  
28 thumb drive (b/c I previously gave you all the emails of this case)."

10 Accordingly, the Court finds that the misrepresentation in suggesting that  
11 documents were first received in April 2019, as a basis to oppose summary judgement and to  
12 withdraw admissions is a sanctionable misrepresentation.

11. The Court finds that Plaintiff misrepresented that a new production was provided on April 24, 2019 when those documents had all been previously been received and reviewed, and further, that Plaintiff had an opportunity to correct the error on the record of the court and failed to do so.

12. Therefore, the Court finds that this action warrants the correction of the September 30, 2019 Order to the extent that paragraph 4 of the Findings and Facts contained therein is to be deleted. The Court finds that the correction of the record is a sufficient sanction and denies Defendants' request for monetary sanctions and/or striking the Complaint.

13. The court further finds that based on the meritorious Motion for Sanctions, the Countermotion for Sanctions filed by Plaintiff is not supported by the facts and accordingly will be denied.

## CONCLUSIONS OF LAW

When granting sanctions the court shall consider the degree of willfulness of the offending party, the extent the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction awarded relative to the level of severity of abuse, the feasibility and fairness of an alternative, less severe sanction than dismissal of a case or striking pleading, whether the sanctions unfairly operate to penalize a party for the misconduct or his or her attorney and the need to determine both the party and future litigants from similar abuses. See, *Young v. Johnny Ribeiro*, 106 Nev. 88, 93, 787 P.2d. 777, 780 (1990) and *Foster v. Dingwall*, 126 Nev. 56, 63, 227 P.3d 1042, 1047 (2010).

The Court having considered these factors, declines to strike the Complaint or grant monetary sanctions but finds that the conduct warrants a correction of the record particularly in the September 30, 2019 Order to the extent that the paragraph in that order that was attributed to the misrepresentation to the Court, i.e., paragraph four, be deleted from the same.

The court further finds that no additional sanctions are appropriate at this time.

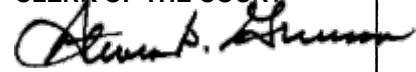
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**ORDER**

It is therefore ordered that Dr. Smith's Motion for Sanctions is granted in part and denied in part as outlined hereinabove, and that Plaintiff's Counter Motion for Sanctions is denied.

Dated this 23rd day of June, 2020

  
DISTRICT COURT JUDGE



MARC P. COOK  
Nevada State Bar No. 004574  
GEORGE P. KELESIS  
Nevada State Bar No. 000069  
COOK & KELESIS, LTD.  
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*Attorneys for Defendants Sheldon J. Freedman, M.D.  
And William D. Smith, M.D.*

DISTRICT COURT  
CLARK COUNTY, NEVADA

MARK J. GARDBERT, ESQ., in his  
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Defendants.

CASE NO. A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO. XI

**NOTICE OF ENTRY OF ORDER  
REGARDING MOTION AND  
COUNTER-MOTION FOR  
SANCTIONS**

**Hearing Date: 06/12/2020  
Hearing Time: Chambers**

TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

Please take notice that on the 23<sup>rd</sup> day of June, 2020 an Order Regarding Defendants' Motion for Sanctions against Plaintiff and Plaintiff's Counter-motion for Attorney's Fees was entered in the above-captioned action.

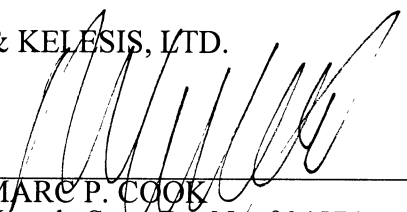
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A copy of the Order is attached hereto.

Dated this 23 day of June, 2020.

COOK & KELESIS, LTD.

By :

  
\_\_\_\_\_  
MARC P. COOK

Nevada State Bar No. 004574

GEORGE P. KELESIS

Nevada State Bar No. 000069

517 S. 9<sup>th</sup> Street

Las Vegas, Nevada 89101

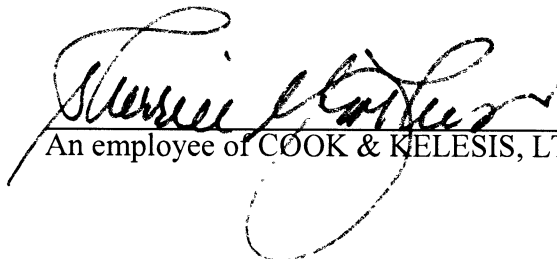
*Attorneys for Defendants Sheldon J. Freedman, M.D.*

*And William D. Smith, M.D.*

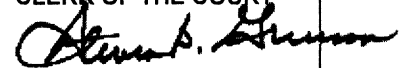
1 **CERTIFICATE OF SERVICE**

2 The undersigned declares under penalty of perjury that on June 23, 2020, I caused to be  
3 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER REGARDING**  
4 **MOTION AND COUNTERMOTION FOR SANCTIONS** by the method indicated below:

- 5 ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s)  
6 set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed  
7 transmission record is attached to the file copy of this document(s).
- 8 ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage  
9 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth  
10 below.
- 11 ☐ **BY HAND DELIVERY:** at Las Vegas, Nevada addressed as set forth below.
- 12 ☐ **BY EMAIL:** by emailing a PDF of the document(s) listed above to the email address(es) of  
13 the individual(s) listed below.
- 14 ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery  
15 service company for delivery to the addressee(s) on the next business day.
- 16 ☒ **BY ELECTRONIC SUBMISSION:** submitted to the Eighth Judicial District Court, for  
17 electronic filing in accordance with NRCP 5(b), NEFCR Administrative Order 14-2 and  
18 NEFCR 9(e) and service upon the Court's Service List for the above-referenced case.

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21 An employee of COOK & KELESIS, LTD.  
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1       ORDR

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4                   **DISTRICT COURT**

5                   **CLARK COUNTY, NEVADA**

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8       MARK J. GARDBERT, ESQ., in his capacity  
9       as Receiver for, and acting on behalf of,  
10       FLAMINGO-PECOS SURGERY CENTER,  
11       LLC a Nevada limited liability company,

12                               Plaintiff,

13       vs.

14       WILLIAM SMITH MD, an individual;  
15       PANKAJ BHATANAGAR MD, an individual;  
16       MAJORIE BELSKY MD, an individual;  
17       SHELDON FREEDMAN MD, an individual;  
18       MATHEW NG MD, an individual; DANIEL  
19       BURKHEAD MD, an individual; and DOE  
20       MANAGERS, DIRECTORS, AND OFFICERS  
21       1-25, ROE BUSINESS ENTITIES 1-25;

22                               Defendants.

CASE NO.   A-17-750926-B  
CONSOLIDATED WITH CASE NO.:  
A-18-769693-C

DEPT. NO.   XI

**ORDER REGARDING MOTION AND  
COUNTER MOTION FOR SANCTIONS**

Hearing Date: June 12, 2020  
Hearing Time: Chambers

23               Defendant William Smith's Motion for Sanctions filed August 14, 2019 and Plaintiff's  
24       Counter-motion for Attorney's Fees filed on August 26, 2019 having come on for  
25       consideration on June 12, 2020 on the Court's chambers calendar; the Court having  
26       considered all papers and pleadings on file, hereby makes the following findings of fact and  
27       conclusions of law, and Orders as follows:

28                   **FINDINGS OF FACT**

1       1.       On May 9, 2019 Defendant William Smith filed a Motion for Summary  
2       Judgment based on responses to Requests for Admissions that were either admitted  
3       voluntarily or admitted through order of the court.

4       2.       In opposing this motion, Plaintiff filed a Sur-reply on June 20, 2019 that, in  
5       form and substance, represented to the Court that the admissions should not be binding

1 because on April 24, 2019, subsequent to the admissions being admitted, Plaintiff received  
2 documents that contradicted the submissions.

3 3. In Plaintiff's Motion to Withdraw Admissions and the Reply to Defendants'  
4 Opposition to that motion, Plaintiff repeated the representation to the Court that new  
5 documents were provided to Plaintiff on April 24, 2019 which contradicted prior admissions.

6 4. In reading these arguments by Plaintiff, the Court understood Plaintiff to be  
7 arguing that April 24, 2019 was the first time these documents were produced and were  
8 reviewed for the first time by Plaintiff's counsel sometime thereafter.

9 5. The documents the Plaintiff represented to the Court were first received on  
10 April 24, 2019 were all produced significantly prior to that date. Certain documents were first  
11 produced to Plaintiff on June 27, 2017 by co-defendant Freedman and again produced by  
12 Defendant Smith on August 8, 2018. Both productions were in court filings that were  
13 contemporaneously served on Plaintiff's counsel.

14 6. The balance of the documents that Plaintiff represented to the Court as having  
15 been received on April 24, 2019 were emails that Plaintiff's counsel received on October 24,  
16 2018.

17 7. In its December 31, 2018 Omnibus Opposition to Defendants' Motion to  
18 Compel Plaintiff states, on page two, that its discovery responses were untimely because  
19 counsel was reviewing the emails received October 24, 2018. These were the same emails  
20 represented in Plaintiff's Sur-reply and Motion to Withdraw Admissions to have been first  
21 received on April 24, 2019.

22 8. During the December 31, 2018 hearing on Defendant's Motion to Compel,  
23 Plaintiff's counsel stated, "[w]e've gone through every single one of those 1,400 emails" – in  
24 referring to the same emails that Counsel subsequently represented had not been reviewed  
25 until after the April 24, 2019 production.

26 9. Further, Jack Juan's April 24, 2019 supplemental production itself identifies to  
27 Plaintiff's counsel that the parties in this case, "already have all of the emails in the prior  
28 thumb drive (b/c I previously gave you all the emails of this case)."

10 Accordingly, the Court finds that the misrepresentation in suggesting that  
11 documents were first received in April 2019, as a basis to oppose summary judgement and to  
12 withdraw admissions is a sanctionable misrepresentation.

11. The Court finds that Plaintiff misrepresented that a new production was provided on April 24, 2019 when those documents had all been previously been received and reviewed, and further, that Plaintiff had an opportunity to correct the error on the record of the court and failed to do so.

12. Therefore, the Court finds that this action warrants the correction of the September 30, 2019 Order to the extent that paragraph 4 of the Findings and Facts contained therein is to be deleted. The Court finds that the correction of the record is a sufficient sanction and denies Defendants' request for monetary sanctions and/or striking the Complaint.

13. The court further finds that based on the meritorious Motion for Sanctions, the Countermotion for Sanctions filed by Plaintiff is not supported by the facts and accordingly will be denied.

## CONCLUSIONS OF LAW

When granting sanctions the court shall consider the degree of willfulness of the offending party, the extent the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction awarded relative to the level of severity of abuse, the feasibility and fairness of an alternative, less severe sanction than dismissal of a case or striking pleading, whether the sanctions unfairly operate to penalize a party for the misconduct or his or her attorney and the need to determine both the party and future litigants from similar abuses. See, *Young v. Johnny Ribeiro*, 106 Nev. 88, 93, 787 P.2d. 777, 780 (1990) and *Foster v. Dingwall*, 126 Nev. 56, 63, 227 P.3d 1042, 1047 (2010).

The Court having considered these factors, declines to strike the Complaint or grant monetary sanctions but finds that the conduct warrants a correction of the record particularly in the September 30, 2019 Order to the extent that the paragraph in that order that was attributed to the misrepresentation to the Court, i.e., paragraph four, be deleted from the same.

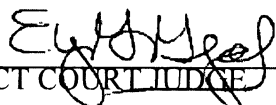
The court further finds that no additional sanctions are appropriate at this time.

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**ORDER**

It is therefore ordered that Dr. Smith's Motion for Sanctions is granted in part and denied in part as outlined hereinabove, and that Plaintiff's Counter Motion for Sanctions is denied.

Dated this 23rd day of June, 2020

  
DISTRICT COURT JUDGE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**July 27, 2017**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>July 27, 2017</b>	<b>9:00 AM</b>	<b>All Pending Motions</b>
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<b>HEARD BY:</b> Hardy, Joe	<b>COURTROOM:</b> RJC Courtroom 03H
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**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Parties present: Erica Smit, Esq. on behalf of Defendants Matthew Ng, M.D. and William Smith, M.D.

DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN MD'S JOINDER TO DEFENDANT DANIEL L. BURKHEAD MD'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN MD'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL L. BURKHEAD, M.D.'S JOINDER TO MOTION TO DISMISS OF DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR

The Court noted the parties had stipulated to continue the instant Motions and Joinders. Ms. Smit confirmed the Court's statements, noting that a Stipulation and Order had been submitted to chambers. The Court returned the signed Stipulation and Order to Ms. Smit for filing. Pursuant to the Stipulation and Order, COURT ORDERED the instant Motions and Joinders were hereby

**A-17-750926-B**

CONTINUED.

CONTINUED TO: 9/26/17 9:00 AM

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

## NRS Chapters 78-89

# COURT MINUTES

September 26, 2017

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**September 26, 2017      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Kennedy, Todd E.	Attorney
	Kunimoto, Bryce K.	Attorney

## JOURNAL ENTRIES

- DEFENDANTS DR. MATTHEW NG AND R. PANKAJ BHATANAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN M.D.'S JOINDER TO DEFENDANT DANIEL L. BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN M.D.'S JOINDER TO DEFENDANT DANIEL L. BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATANAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL L. BURKHEAD, M.D.'S JOINDER TO MOTION TO DISMISS OF DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATANAGAR...DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO NRCP 12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO N.R.C.P. 12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020

Also present: Brice Kunimoto, Esq. on behalf of Defendants Mathew Ng, M.D. and Pankaj Bhatanagar, M.D.

Mr. Kennedy represented that a substantial Amended Complaint had been filed the week prior to the instant hearings. The Court disclosed that it was a partner at the law firm of Gordon & Rees approximately two years prior, and directed counsel to inform it if there were any issues they wished to raise in relation to the disclosure. The Court noted the absence of Robert E. Schumacher, counsel for Defendant Daniel Burkhead, M.D. The Court attempted to contact Mr. Schumacher via telephone, and received his voicemail; voicemail message left.

The Court advised that it had reviewed the First Amended Complaint, noting the lack of attached exhibits. Mr. Kennedy stated that an errata was filed, which contained the exhibits that were originally meant to be attached. Upon Court's inquiry regarding whether the filing of the First Amended Complaint would affect the instant Motions, Mr. Kennedy represented that the Motions were focused on the Complaint's failure to adequately state certain things, which the First Amended Complaint had addressed and corrected. Mr. Kennedy suggested the parties review the First Amended Complaint, and file new Motions if necessary. Mr. Brice argued that the First Amended Complaint contained the same claims that the original Complaint contained, said claims being the subject of the instant Motions. COURT ORDERED the instant Motions were hereby CONTINUED, FINDING good cause for the submittal of Supplemental Briefing, for the following reasons: (1) the First Amended Complaint contained substantial modifications to the original Complaint, upon which the Motions to Dismiss had been filed; (2) there were arguments in the various Replies filed by the Defendants that could have been raised in the Motions, and there was now a substantially changed landscape; (3) the Plaintiff had the option of standing on the First Amended Complaint, or, if the Plaintiff believed that further amendment was necessary, they would have leave to do so; and (4) if Plaintiff chose to file a Second Amended Complaint, said Complaint would be due NO LATER THAN October 10, 2017.

The Court informed counsel of the issues it wished to see addressed in the Supplemental Briefing, and SET a BRIEFING SCHEDULE as follows: (1) Defendants' Supplemental Briefs shall be DUE BY October 24, 2017; (2) Plaintiff's Supplemental Oppositions shall be DUE BY November 7, 2017; (3) Defendants' Supplemental Replies shall be DUE BY November 21, 2017

At the request of Mr. Kunimoto, and there being no opposition, COURT ORDERED the deadline to file an Answer to the First Amended Complaint, or the Second Amended Complaint, would be October 24, 2017.

Mr. Cook to prepare the Order and forward it to all opposing counsel for approval as to form and content.

CONTINUED TO: 11/29/17 9:00 AM



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**October 30, 2017**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**October 30, 2017      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Gardberg, Esq., Mark J	Receiver
	Kennedy, Todd E.	Attorney
	Schwartz, Susan M.	Attorney

**JOURNAL ENTRIES**

- FLAMINGO-PECOS SURGERY CENTER LLC'S MOTION TO EXTEND TIME TO SERVE CERTAIN DEFENDANTS...MARJORIE BELSKY MD'S OPPOSITION TO MOTION TO EXTEND TIME AND COUNTER-MOTION TO DISMISS

Mr. Kennedy argued in support of the Motion to Extend, stating that Dr. Belsky evaded service by refusing to meet the process server in the lobby of her practice. Additionally, Mr. Kennedy argued that Plaintiff was simply requesting an extension of time to serve, and was not requesting that the Court deem that Dr. Belsky was properly served. Ms. Schwartz argued in opposition, stating that Plaintiff waited until 114 days had elapsed before attempting to serve Dr. Belsky for the first time, and they failed to serve said Defendant in the time defined by NRCP 4(i). Mr. Cook also argued in opposition to the Motion, stating that Dr. Smith was not served, and there was no question that said Defendant was on vacation when the process server attempted service. Ms. Smith provided the Court with a courtesy copy of the Errata filed on October 26, 2017. Pursuant to the facts and

circumstances of the case, as well as the Saavedra-Sandoval v. Wal-Mart Stores case, and the Scrimmer vs. Eighth Judicial District Court case, COURT ORDERED the Motion to Extend Time to Serve Certain Defendants was hereby DENIED WITHOUT PREJUDICE, FINDING the following: (1) regardless of whatever personal issues the former receiver may have been having, the former receiver waited until approximately one to two weeks prior to the service deadline to attempt service on certain Defendants; (2) the former receiver is an attorney, who had knew, or should have known, of the service deadlines; (3) the former receiver apparently submitted an application to extend time; however, said application was never actually filed, served, or calendared; and (3) the Court fully acknowledged that the denial without prejudice would likely lead to another lawsuit, followed by a Motion to Consolidate. Ms. Schwartz to prepare the Order and forward it to all opposing counsel for approval as to form and content.

CLERK'S NOTE: Subsequent to the hearing, COURT ORDERED the Counter-Motion to Dismiss was hereby GRANTED WITHOUT PREJUDICE for all of the reasons stated during the hearing. A copy of this minute order was e-mailed to: Todd E. Kennedy, Esq. [tkennedy@blacklobellolaw.com], Marc P. Cook, Esq. [mcook@bckltd.com], and Susan Schwartz, Esq. [smschwartz@hollandhart.com]. (KD 11/14/17)

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

## NRS Chapters 78-89

# COURT MINUTES

November 29, 2017

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**November 29, 2017      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Houston, Dylan E.	Attorney
	Kennedy, Todd E.	Attorney
	Kunimoto, Bryce K.	Attorney

## JOURNAL ENTRIES

- DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO NRCP 12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020...DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT DANIEL BURKHEAD M.D.'S MOTION TO DISMISS SECOND AMENDED COMPLAINT...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER OT DEFENDANT SHELDON J. FREEDMAN'S MOTION TO DISMISS PURSUANT TO N.R.C.P. 12(b)(5) AND 12(b)(6) AND FOR ATTORNEY'S FEES PURSUANT TO NRS 18.020...DEFENDANT SHELDON J FREEDMAN M.D.'S JOINDER TO DEFENDANT DANIEL L BURKHEAD M.D.'S MOTION TO DISMISS COMPLAINT...DEFENDANT SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS...DEFENDANT DANIEL L. BURKHEAD, M.D.'S JOINDER TO MOTION TO DISMISS OF DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANTS DR.

PRINT DATE: 09/17/2021

Page 7 of 68

Minutes Date: July 27, 2017

MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS SECOND AMENDED COMPLAINT...DEFENDANT SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS DR. MATTHEW NG AND DR. PANKAJ BHATNAGAR'S MOTION TO DISMISS SECOND AMENDED COMPLAINT AND DR. MARJORIE BELSKY'S COUNTER-MOTION TO DISMISS...DEFENDANT SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANT DANIEL BURKHEAD, M.D.'S MOTION TO DISMISS SECOND AMENDED COMPLAINT...PANKAJ BHATNAGAR M.D. AND MATTHEW NG, M.D.'S JOINDER TO DANIEL BURKHEAD, M.D.'S MOTION TO DISMISS SECOND AMENDED COMPLAINT

The Court requested the parties address whether the Plaintiff's status remained revoked. Mr. Kunimoto argued in support of Dr. Belsky and Dr. Bhatanagar's respective Motions and Joinders, stating that the negligence claims, as well as any claims for negligent hiring, training, and supervision, must be dismissed pursuant to the economic loss doctrine. Additionally, Mr. Kunimoto argued that claims for negligence could not be brought against officers or directors of a corporation; NRS 78.138 cited. Mr. Cook joined Mr. Kunimoto's arguments on behalf of Dr. Freedman, stating that the Gardner case found that negligence claims could not be brought against the members of an LLC, unless the party bringing the claims could show that those members were acting outside of their capacity as it related to the LLC. Mr. Houston joined the arguments of Mr. Kunimoto and Mr. Cook on behalf of Dr. Burkhead. In response to the Court's query at the start of the hearing, Mr. Kennedy represented that Plaintiff's status remained revoked, and would not be reinstated until the Court ordered the reinstatement. Mr. Kennedy argued in opposition to the Motions and Joinders, stating that the Gardner case did not apply to the instant case, and that the claims had been pled sufficiently to defeat the Motion to Dismiss stage. COURT ORDERED all Motions and Joinders were hereby GRANTED IN PART / DENIED IN PART, FINDING and ORDERING the following: (1) the FIRST, SECOND, THIRD, and SEVENTH causes of action were hereby DISMISSED WITHOUT PREJUDICE; (2) the Court agreed with Defendants' arguments regarding the first, second, and third causes of action, that Defendants were not employers; therefore, the necessary elements of those claims had not been met; (3) the economic loss doctrine applied to the first, second, and third causes of action; (4) there was nothing to indicate that there was a private cause of action for the seventh cause of action; (5) the seventh cause of action was encompassed in the other causes of action; (6) the remainder of the requested relief was hereby DENIED WITHOUT PREJUDICE; (7) as pled in the Second Amended Complaint, there were claims upon which relief could be granted; and (8) a close reading of the AA Primo Builders case indicated that NRS 86.27(5) and NRS 86.505 permitted an LLC to sue and be sued, despite the revocation of their charter.

Defendants' counsel to prepare the Order and forward it to opposing counsel for approval as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**January 17, 2018**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**January 17, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Hardy, Joe      **COURTROOM:** RJC Courtroom 11D

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Houston, Dylan E.	Attorney
	Kennedy, Todd E.	Attorney
	Schwartz, Susan M.	Attorney

**JOURNAL ENTRIES**

- DEFENDANT SHELDON J. FREEDMAN'S MOTION FOR STAY...DEFENDANTS BHATNAGAR AND NG'S JOINDER TO DEFENDANT FREEDMAN'S MOTION FOR STAY...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANT SHELDON J. FREEDMAN'S MOTION FOR STAY

Mr. Cook argued in support of the Motion, stating that the screening had been completed on the Writ, and the parties would know shortly whether the Writ would be taken up; therefore, there was little to ne prejudice to the Plaintiff in staying the case. Joining counsel submitted on the pleadings. Mr. Kennedy argued in opposition, stating that the Supreme Court rarely granted, or even considered, Writs on Motions to Dismiss, since there was an adequate remedy in appealing. Additionally, Mr. Kennedy argued that discovery needed to be done, and there was no reason to impose a stay under Supreme Court case law. Having applied the factors in NRAP 8(c), COURT ORDERED the Motion and Joinders were hereby GRANTED, FINDING the following: (1) a stay was

appropriate under the factors found in NRAP 8(c), and under the facts and circumstances of the case; (2) there was little, if any, harm or prejudice to the Plaintiff in granting the stay; (3) Nevada had a public policy and legislature incorporating public policy which protected business entities, which favored the stay; (4) there was a unique set of circumstances in the instant case, in that the entity was pursuing claims, there was an underlying default, and a receiver had been appointed to pursue the claims; (5) the object of the Writ, whether defeated or not, factored the granting of the stay; (6) factors two and three in rule NRAP 8(c) were neutral; (7) notwithstanding the Court's belief that its ruling was correct, factor number four in NRAP 8(c) slightly weighed in favor of granting the stay; and (8) factor number one in NRAP 8(c) weighed heavily in favor of granting the stay. COURT FURTHER ORDERED a status check regarding the stay was hereby SET, and the pending Mandatory Rule 16 Conference was hereby VACATED during the stay.

Mr. Cook to prepare the Order and forward to opposing counsel for approval as to form and content.

Mr. Kennedy noted that he was attempting to bring two unserved Defendants into the case, and inquired whether he would be permitted to submit a Motion to Consolidate to the Court during the stay. COURT ORDERED that Mr. Kennedy would be permitted to submit the Motion to Consolidate during the stay, and DIRECTED Mr. Cook to include the ruling in the Order.

4/18/18 9:00 AM STATUS CHECK: STAY

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

## NRS Chapters 78-89

# COURT MINUTES

April 18, 2018

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**April 18, 2018**      **9:00 AM**      **Status Check**

**HEARD BY:** Hardy, Joe                      **COURTROOM:** RJC Courtroom 11D

**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

## PARTIES

**PRESENT:** Houston, Dylan E. Attorney  
Kennedy, Todd E. Attorney  
Kunimoto, Bryce K. Attorney  
Sanpei, Julie L Attorney

## JOURNAL ENTRIES

- Mr. Kunimoto stated that the Petition was making its way through the Supreme Court. Ms. Sanpei affirmed Mr. Kunimoto's representations, stating that they expected a decision from the Supreme Court within thirty to sixty days. COURT ORDERED the instant matter was hereby CONTINUED.

CONTINUED TO: 6/20/18 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**June 20, 2018**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>June 20, 2018</b>	<b>9:00 AM</b>	<b>Status Check</b>
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<b>HEARD BY:</b> Hardy, Joe	<b>COURTROOM:</b> RJC Courtroom 03H
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**COURT CLERK:** Kristin Duncan

**RECORDER:** Matt Yarbrough

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Houston, Dylan E.	Attorney
	Kennedy, Todd E.	Attorney
	Sanpei, Julie L	Attorney
	Schwartz, Susan M.	Attorney

**JOURNAL ENTRIES**

- The Court advised counsel that the instant case, being a business court case, would no longer be assigned to Department 15, as of July 2, 2018. Mr. Kennedy requested the stay remain in place, stating that the Supreme Court had not yet made a decision on the Petition for Reconsideration en banc. Additionally, Mr. Kennedy requested the status check date be continued approximately ninety (90) days. COURT ORDERED the STAY shall remain in place, and the instant matter was hereby CONTINUED.

CONTINUED TO: 9/17/18 9:00 AM



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

## NRS Chapters 78-89

# COURT MINUTES

September 10, 2018

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**September 10, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Cassity, Robert J.	Attorney
	Cook, Marc P	Attorney
	Houston, Dylan E.	Attorney
	Kennedy, Todd E.	Attorney

## JOURNAL ENTRIES

- DEFENDANT MARJORIE BELSKY MD'S MOTION TO DISMISS PLAINTIFF'S CLAIMS FOR BREACHES OF FIDUCIARY DUTY OF CARE, BREACHES OF FIDUCIARY DUTY OF LOYALTY AND WASTE...DEFENDANT WILLIAM SMITH, M.D.'S JOINDER TO DEFENDANT MARJORIE BELSKI, M.D.'S MOTION TO DISMISS PLAINTIFFS CLAIMS FOR BREACHES OF FIDUCIARY DUTY OR CARE, BREACHES OF FIDUCIARY DUTY OF LOYALTY, AND WASTE...  
...DEFENDANT WILLIAM SMITH'S MOTION TO DISMISS PURSUANT TO NRCP 12(B)(5)...  
...PANKAJ BHATNAGAR MD MATTHEW NG MD AND MARJORIE BELSKY MD'S LIMITED JOINDER TO WILLIAM SMITH'S MOTION TO DISMISS PURSUANT TO NRCP 12(B)(5)...  
...DEFENDANT DANIEL BURKHEAD M.D.'S JOINDER TO DEFENDANT WILLIAM SMITH'S MOTION TO DISMISS PURSUANT TO N.R.C.P 12(B)(5)

Following arguments by counsel, COURT ORDERED, the motions to dismiss are DENIED. The allegations as they have been made are ones that the Court has to take at face value even given some

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of the attachments. However, they can be renewed as motions for summary judgment when counsel deems it appropriate.

COURT FURTHER ORDERED, matter TO BE SET for Rule 16 Conference.

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

## NRS Chapters 78-89

# COURT MINUTES

September 21, 2018

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**September 21, 2018      3:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

## PARTIES

**PRESENT:**

## JOURNAL ENTRIES

- Court notes no status report filed. As it appears stay entered 2/13/18 has expired. COURT ORDERED, matter CONTINUED to 10/1/18 at 9 am. At the Rule 16 conference on 10/1/18, counsel should be prepared to advise the Court how many days the case was stayed pursuant to NRCP 41(e).

10/1/18 9:00 AM STATUS CHECK: STAY...MANDATORY RULE 16  
CONFERENCE (Courtroom 3-E)

CLERK'S NOTE: A copy of this minute order was distributed to the parties via the E-Service List. / dr

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**October 01, 2018**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**October 01, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Louisa Garcia

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Belsky, Marjorie, M.D.	Defendant
	Cook, Marc P	Attorney
	Kennedy, Todd E.	Attorney
	Kunimoto, Bryce K.	Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: STAY....MANDATORY RULE 16 CONFERENCE

Per agreement, COURT ORDERED, parties to exchange initial disclosures pursuant to Rule 16.1, including a statement of damages, from everyone, within two weeks. COURT FURTHER ORDERED, the filing of the Joint Case Conference Report (JCCR) is WAIVED. Upon Court's inquiry, Mr. Kunimoto believes his client would be amenable to a settlement conference; however, he would like to conduct limited discovery, specifically, take the deposition of counsel for Flamingo-Pecos. COURT SO ORDERED, limited to seven hours. Counsel advised no protective or ESI issues in this case. Mr. Cooke stated depending on the discovery requested they might. Pursuant to stipulation, counsel agreed to redact private patient information in any of the records produced, that serves as a protective order at this point. Colloquy regarding scheduling a settlement conference. Counsel will discuss the dates and inform the Court.

COURT ORDERED as follows:

Initial expert disclosures where a party bears the burden of proof DUE March 1, 2019;

Rebuttal expert disclosures where a party does not bear the burden of proof DUE April 26, 2019;

Close of discovery SET for May 24, 2019;

Motions TO BE FILED by June 14, 2019; Court will not sign an OST.

Matter SET for trial on the stack that begins on August 5, 2019.

Both sides requested a bench trial. Court advised a Trial Setting Order would ISSUE.

6/30/19 9:00 AM STATUS CHECK

7/30/19 9:30 AM CALENDAR CALL

8/5/19 1:30 PM BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

December 07, 2018

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**December 07, 2018      9:30 AM      Settlement Conference**

**HEARD BY:** Denton, Mark R.      **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Belsky, Marjorie, M.D.	Defendant
	Bhatanagar, Pankaj, M.D.	Defendant
	Cook, Marc P	Attorney
	Freedman, Sheldon, M.D.	Defendant
	Gardberg, Esq., Mark J	Receiver
	Iqbal, Mohamed A.	Attorney
	Kunimoto, Bryce K.	Attorney
	Ng, Mathew, M.D.	Defendant
	Schumacher, Robert E.	Attorney
	Schwartz, Susan M.	Attorney

**JOURNAL ENTRIES**

- Following several caucuses with the parties, COURT FINDS there needs to be a bit of discovery before the Settlement Conference can resume. Court stated it will not terminate the Settlement Conference at this time and the matter will be in recess. In the meantime, Court advised there will be a deposition taken of Mr. Jack Wong; before the deposition is taken there are documents to be provided by Defendant's counsel to Plaintiff's counsel so preparation for the deposition can take place. Court further advised there will be no further depositions until the Settlement Conference resumes; however, written discovery is not stayed and can proceed. COURT ORDERED, matter SET

for Status Check regarding resumption of the Settlement Conference. Colloquy regarding documents to be produced before Jack Wong's deposition and pending written discovery. Court added it hopes this will get everybody on the same page in terms of resolution by settlement.

2/14/19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE

CLERK S NOTE: Minutes prepared upon a review of the JAVS recording. /mk 12/10/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**December 31, 2018**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**December 31, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Houston, Dylan E.	Attorney
	Iqbal, Mohamed A.	Attorney
	Kunimoto, Bryce K.	Attorney

**JOURNAL ENTRIES**

- DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY MD, AND MATTHEW NG MD'S MOTION TO COMPEL PLAINTIFF'S RESPONSES TO DEFENDANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND APPLICATION FOR ORDER SHORTENING TIME...DEFENDANTS SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D.'S MOTION TO COMPEL

Following arguments by counsel, COURT ORDERED, in addition to preservation of the native format of emails from Mr. Juan they will be alphanumerically designated and provided on an index. The specific reference to documents with the alphanumeric designations will be provided in each discovery response.

Upon Court's inquiry, Mr. Iqbal stated he can supplement discovery responses with the alphanumeric responses in 14 days. Court so noted, and FURTHER ORDERED, request for fees



GRANTED in the amount of \$500 each. Mr. Iqbal requested they brief the two motions which were lengthy and were made on OST before the Court grants fees. COURT DENIED this request. The Court has granted the motion to compel and under Rule 37 if it grants a motion to compel it is supposed to award fees.

2-14-19      9:00 AM      STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE  
(DEPT XIII - Denton)

6-3-19      9:00 AM      STATUS CHECK    (DEPT XI - Gonzalez)

7-30-19      9:30 AM      CALENDAR CALL    (DEPT XI - Gonzalez)

8-5-19      1:30 PM      BENCH TRIAL    (DEPT XI - Gonzalez)

CLERK S NOTE: Minutes corrected as to the parties. / dr 1-3-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**February 14, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**February 14, 2019      9:00 AM      Status Check**

**HEARD BY:** Denton, Mark R.      **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cassity, Robert J.      Attorney
	Cook, Marc P      Attorney
	Iqbal, Mohamed A.      Attorney

**JOURNAL ENTRIES**

- Mr. Iqbal advised parties conferred prior to the Status Check and requested another Status Check be set in 60 days as there are still some discovery issues and pending matters before other Judges.  
COURT ORDERED, matter CONTINUED.

CONTINUED TO: 4/18/19 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 18, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**March 18, 2019                      9:00 AM                      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth                      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cassity, Robert J.	Attorney
	Cook, Marc P	Attorney
	Iqbal, Mohamed A.	Attorney

**JOURNAL ENTRIES**

- DEFENDANTS' SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D., 'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER...DEFENDANTS SHELDON J FREEDMAN MD AND WILLIAM D SMITH'S MOTION TO HAVE NONRESPONSES TO ADMISSIONS DEEMED ADMITTED

DEFENDANTS' SHELDON J. FREEDMAN, M.D., AND WILLIAM D. SMITH, M.D., 'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH MOTION TO COMPEL ORDER: Following arguments by Mr. Iqbal and Mr. Cook, COURT ORDERED, while it understands Defendants' concern the Court does NOT FIND there to be a document dump. However, the requests for admission and late responses to interrogatories are of significant concern to the Court. The Motion to have nonresponses to admission deemed admitted is GRANTED. With respect to the motion to compel on requests for production, the motion is DENIED; with respect to interrogatories it is GRANTED. Answers to interrogatories to BE PROVIDED in 15 days.

DEFENDANTS SHELDON J FREEDMAN MD AND WILLIAM D SMITH'S MOTION TO HAVE NONRESPONSES TO ADMISSIONS DEEMED ADMITTED: COURT ORDERED, motion ADVANCED from March 25, 2019 and GRANTED as unopposed.

3-25-19 9:00 AM DEFENDANTS PANKAJ BHATNAGAR MD MARJORIE BELSKY MD AND MATTHEW NG MD'S MOTION TO COMPEL PLAINTIFF'S COMPLIANCE WITH THE COURT'S JANUARY 8, 2019 ORDER, SANCTIONS AND ATTORNEYS' FEES (DEPT XI - Gonzalez)

4-18-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (DEPT XIII - Denton)

8-26-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez)

11-12-19 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez)

11-18-19 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 25, 2019

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

March 25, 2019      9:00 AM      Motion to Compel      \$1200 attorney's fees

HEARD BY: Gonzalez, Elizabeth      COURTROOM: RJC Courtroom 03E

COURT CLERK: Dulce Romea

RECORDER: Jill Hawkins

REPORTER:

**PARTIES**

PRESENT:      Iqbal, Mohamed A.      Attorney  
Kunimoto, Bryce K.      Attorney

**JOURNAL ENTRIES**

- Following arguments by counsel, COURT finds the privilege log in this case is woefully inadequate because it does not identify the capacity of the individuals who are receiving the communications; in addition, the failure to provide part 2 of the privilege log is violative of this Court's orders. COURT ORDERED, Plaintiff will MODIFY by identifying on the document index each separate email string; not individual emails, but email strings; the emails from Jack Juan will be produced, any additional emails, within 10 days. If an order is needed from the Court to make Mr. Juan or his firm do their computer search it must be done quickly. COURT FURTHER ORDERED, Defendants AWARDED \$1,200 in attorney's fees.

4-18-19      9:00 AM      STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE

8-26-19      9:00 AM      STATUS CHECK

11-12-19      9:30 AM      CALENDAR CALL

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**A-17-750926-B**

11-18-19      1:30 PM      BENCH TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 18, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>April 18, 2019</b>	<b>9:00 AM</b>	<b>Status Check</b>
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<b>HEARD BY:</b> Denton, Mark R.	<b>COURTROOM:</b> RJC Courtroom 03D
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**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Houston, Dylan E.	Attorney
	Iqbal, Mohamed A.	Attorney

**JOURNAL ENTRIES**

- Mr. Houston advised discovery issues have been worked out; however, a deposition hasn't taken place and it should be done within the next 30 days. Court advised it will trail the matter for the appearance of Plaintiff's counsel. MATTER TRAILED.

MATTER RECALLED. Mr. Iqbal now present. All parties present as before. Court advised the matter is on for a Status Check regarding resumption of settlement conference and counsel had previously indicated a deposition still needs to take place. Upon Court's inquiry, Mr. Iqbal advised the deposition should be taken within 30-60 days. COURT ORDERED, matter CONTINUED 60 days.

CONTINUED TO: 6/20/19 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 29, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**April 29, 2019                      9:00 AM                      Motion**

**HEARD BY:** Gonzalez, Elizabeth                      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Iqbal, Mohamed A.	Attorney
	Kunimoto, Bryce K.	Attorney

**JOURNAL ENTRIES**

- Matter TRAILED for Mr. Kunimoto to review the Opposition.

Matter RECALLED. Mr. Kunimoto advised the issue has been resolved; there were different expectations as to whether compliance with the Court's prior order would be timely and there was miscommunication regarding Exhibit 1; on behalf of the Ng Defendants they are willing to withdraw the instant motion but would still review what was served this morning.

COURT ORDERED, motion taken OFF CALENDAR. If counsel needs to refile it the Court will sign an OST.

6-20-19                      9:00 AM                      STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE  
(DEPT XIII - Denton)

8-26-19                      9:00 AM                      STATUS CHECK                      (DEPT XI - Gonzalez)

PRINT DATE:    09/17/2021

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Minutes Date:    July 27, 2017



11-12-19	9:30 AM	CALENDAR CALL	(DEPT XI - Gonzalez)
11-18-19	1:30 PM	BENCH TRIAL	(DEPT XI - Gonzalez)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**June 20, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>June 20, 2019</b>	<b>9:00 AM</b>	<b>Status Check</b>
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**HEARD BY:** Denton, Mark R. **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Kunimoto, Bryce K.	Attorney
	Schumacher, Robert E.	Attorney

**JOURNAL ENTRIES**

- Dione Wrenn, Esq. also present for Defendant Daniel Burkhead, MD. Jaime Serrano, Esq. present for Receiver.

Mr. Serrano advised all parties have agreed to continue the Status Check 60 days due to pending matters. Court noted there is a Motion for Summary Judgment upcoming. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 8/22/19 9:00 AM

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

## NRS Chapters 78-89

## COURT MINUTES

**June 24, 2019**

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**June 24, 2019                      9:00 AM                      Motion for Summary Judgment**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Michaela Tapia

**RECORDER:** Patti Slattery

**REPORTER:**

## PARTIES

**PRESENT:** Cook, Marc P Attorney  
Iqbal, Mohamed A. Attorney  
Kunimoto, Bryce K. Attorney

## JOURNAL ENTRIES

- CONFERENCE AT BENCH.

Argument by Mr. Cook, stating the causes of action are breach of duty of care, breach of fiduciary duty, breach of an operating agreement, waste, and constructive trust remedy. Colloquy regarding Mr. Cook's client's position on the board of directors. Argument by Mr. Iqbal the motion for summary judgment is inappropriate based on the evidence before the Court. Further argument by Mr. Cook. COURT ORDERED, motion DENIED without PREJUDICE; however, within 15 days Plaintiff MUST file the motion for relief from those admissions which they believe relate to false facts subsequently discovered after admissions were prepared or counsel was unaware of as they were prepared.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**August 16, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**August 16, 2019      3:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- PLAINTIFF'S MOTION FOR AN ORDER WITHDRAWING DEEMED ADMISSIONS AND ALLOWING AMENDED RESPONSES...  
...DEFENDANTS' OPPOSITION TO MOTION FOR AN ORDER WITHDRAWING DEEMED ADMISSIONS AND ALLOWING AMENDED RESPONSES & COUNTERMOTION TO STRIKE

The Court having reviewed motion and countermotion related to the previously admitted requests for admission and the related briefing and being fully informed, GRANTS the motion and DENIES the countermotion. Given the procedural issue and the policy of the State of Nevada to decided cases on their merits, the referenced previously admitted requests for admission are withdrawn. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

8-19-19 9:00 AM DEFENDANTS' WILLIAM SMITH, M.D., AND SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS' PANKAJ BHATNAGAR, M.D., MATTHEW NG, M.D., AND MARJORIE BELSKI, M.D.'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURTS ORDERS /DATED January 4, 2019 AND April 8, 2019 AND ATTORNEYS' FEES...DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY MD, AND MATTHEW NG MD'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURT'S ORDERS DATED January 4, 2019 AND April 8, 2019, AND ATTORNEYS' FEES AND APPLICATION FOR ORDER SHORTENING TIME (Dept XI - Gonzalez)

8-22-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE (Dept XIII - Denton)

9-20-19 CHAMBERS DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTION (Dept XI - Gonzalez)

11-25-19 9:00 AM STATUS CHECK (Dept XI - Gonzalez)

2-4-20 9:30 AM CALENDAR CALL (Dept XI - Gonzalez)

2-10-20 1:30 PM BENCH TRIAL (Dept XI - Gonzalez)

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-19-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**August 19, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**August 19, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Iqbal, Mohamed A.	Attorney
	Kunimoto, Bryce K.	Attorney
	Wrenn, Dione C.	Attorney

**JOURNAL ENTRIES**

- JOINT MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT ON ORDER  
SHORTENING TIME: Mr. Iqbal advised it will be a dismissal with prejudice with respect to the claims against Dr. Burkhead for a payment of \$25,000, settling all of Dr. Burkhead's claims, and it will be a joint release; the specific amount was determined between counsel after reviewing the facts; the settlement agreement is still in draft form but Ms. Wrenn has all the details and the parties are happy to share the terms. Ms. Wrenn provided copies of the settlement term sheet for the Court and Mr. Cook. COURT ORDERED its copy MARKED as Court's Exhibit 1. (See worksheet.)

Counsel further advised there was discussion as to whether the money would be placed in Escrow in Department XI or in Department XXVIII; to the extent that the Court grants the motion today the receiver would file a report with Judge Allf asking for a distribution based on the receivership order; with respect to Dr. Smith and Dr. Friedman they argue potential indemnity but first of all there is no standing, there are no cross claims, and there are no counter claims; nothing in the settlement

between Dr. Burkhead and the Receiver can interfere with the others' rights. Ms. Wrenn noted the other parties have been given the opportunity to get information. Mr. Cook argued the settlement has not yet been signed; on Friday afternoon in the other action, the Receiver's 5th status report was filed; he is not sure why the instant motion was filed on order shortening time, and he always gets nervous when everything is rushed; he does see the term sheet does not match what was filed Friday afternoon; there would be nothing wrong with setting this for a 30-day status check and to see what happens at the deposition. Mr. Iqbal advised the deposition is scheduled for the 21st. Mr. Cook advised he is unavailable on the 21st and there were other dates that the parties were talking about. COURT ORDERED, motion CONTINUED to September 9, 2019; if the deposition is completed at an earlier time and all parties agree to advance it, they are to notify the Court.

DEFENDANTS PANKAJ BHATNAGAR MD, MARJORIE BELSKY MD, AND MATTHEW NG MD'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURT'S ORDERS DATED JANUARY 4, 2019 AND APRIL 8, 2019, AND ATTORNEYS' FEES AND APPLICATION FOR ORDER SHORTENING TIME...DEFENDANTS' WILLIAM SMITH, M.D., AND SHELDON J. FREEDMAN, M.D.'S JOINDER TO DEFENDANTS' PANKAJ BHATNAGAR, M.D., MATTHEW NG, M.D., AND MAJORIE BELSKI, M.D.'S MOTION FOR SANCTIONS AGAINST PLAINTIFF FOR FAILING TO COMPLY WITH THE COURTS ORDERS /DATED JANUARY 4, 2019 AND APRIL 8, 2019 AND ATTORNEYS' FEES: Mr. Kunimoto argued as to the Plaintiff's / Receiver's failure to produce a full and complete privilege log in a timely manner. Mr. Iqbal responded that a lot of what opposing counsel has said is conflated and false; for instance, it is false that he represented the Receiver in the A733 case; he has represented Patriot Reading from the beginning, but initially the Receiver appointed by order filed September 12, 2016 was Tim Mulliner, and his attorney of record was Todd Kennedy; opposing counsel moved on this case without a 2.34, not even a phone call.

COURT ORDERED, COUNTERMOTION DENIED. Privilege log to be SUPPLEMENTED. Plaintiff has a duty to SUPPLEMENT with additional information that becomes available after providing discovery responses. Plaintiff also has the duty to update the privilege log. Once it is updated, if an in camera review is needed, that issue will need to be raised by motion. The Defendants' motion is GRANTED.

8-22-19      9:00 AM      STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE  
(DEPTXI - Denton)

9-9-19      9:00 AM      JOINT MOTION FOR DETERMINATION OF GOOD FAITH  
SETTLEMENT ON ORDER SHORTENING TIME (DEPT XI - Gonzalez)

9-20-19      CHAMBERS      DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS  
(DEPT XI - Gonzalez)

11-25-19	9:00 AM	STATUS CHECK	(DEPT XI - Gonzalez)
2-4-20	9:30 AM	CALENDAR CALL	(DEPT XI - Gonzalez)
2-10-20	1:30 PM	BENCH TRIAL	(DEPT XI - Gonzalez)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**August 22, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**August 22, 2019      9:00 AM      Status Check**

**HEARD BY:** Denton, Mark R.      **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Iqbal, Mohamed A.	Attorney
	Wrenn, Dione C.	Attorney

**JOURNAL ENTRIES**

- Mr. Iqbal advised Plaintiff has reached a settlement with Dr. Burkhead and he is having settlement discussions with three other Defendants. As such, Mr. Iqbal requested to continue the Status Check 60 days. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 10/24/19 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**August 28, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**August 28, 2019      1:00 PM      Telephonic Conference**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Iqbal, Mohamed A.	Attorney
	Kunimoto, Bryce K.	Attorney
	Wrenn, Dione C.	Attorney

**JOURNAL ENTRIES**

- Court asked counsel to explain their request for more time. Mr. Iqbal stated that scheduling the depositions of the doctors has been difficult given the number of attorneys and parties; there was a 5-week stretch of unavailability of various Defense counsel in June, and separately, he had a number of health issues not only related to himself but also to his father from January to April and May; the parties did multiple depositions in May, June was not available, and they resumed in July; they currently only have two Defendant doctors that need to be deposed; Dr. Burkhead's settlement is pending and subject to his appearance at the deposition.

Court stated it does not understand the parties' recommendation of 90 more days. Mr. Iqbal responded that he does not think they need 90 days because very recently the Plaintiff has settled with the Ng Defendant doctors, so now they have 3 additional Defendants who have settled; that settlement is of course subject to the Court's approval, but that would leave only 2 Defendant doctors, Dr. Smith and Dr. Freedman, represented by Mr. Cook, and a narrowed action; potentially they

would need only 30 days for the remaining parties; the Plaintiff intends to voluntarily dismiss claims that do not apply to the remaining doctors.

Mr. Cook advised one of the two remaining depositions is Dr. Smith's, but it is his understanding that Dr. Smith resigned from the hospital and closed his practice; he is trying to contact Dr. Smith's provider because Dr. Smith has not been responding to his text messages; his understanding is that Dr. Smith is bedridden, but he does not have any more information than that; his deposition was originally set for Friday this week, but they will have to move it pending his being able to speak with the provider.

COURT ORDERED, some relief GRANTED as follows:

Initial expert disclosures where a party bears the burden of proof DUE by October 4, 2019;

Rebuttal expert disclosures where a party does not bear the burden of proof DUE by November 1, 2019;

Discovery cut-off SET for December 6, 2019;

Dispositive motions and motions in limine TO BE FILED by December 20, 2019;

Trial date STANDS. If there are scheduling issues that come up related to the medical issue counsel to file a motion.

Mr. Kunimoto noted for the record that there is one element that he and Mr. Iqbal need to finalize as they have not yet been able to find common ground on that element.

Stipulation and order interlineated and signed, to be routed back to counsel for filing.

COURT FURTHER ORDERED, status check after close of discovery RESET on December 9, 2019.

9-9-19 9:00 AM JOINT MOTION FOR DETERMINATION OF GOOD FAITH  
SETTLEMENT ON ORDER SHORTENING TIME (DEPT XI - Gonzalez)

9-30-19 9:00 AM DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS...  
...OPPOSITION TO MOTION FOR SANCTIONS AND COUNTERMOTION FOR EXPENSES  
INCLUDING ATTORNEY'S FEES PURSUANT TO NRCP 11(C)(2) (DEPT XI - Gonzalez)

10-24-19 9:00 AM STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE  
(DEPT XIII - Denton)

**A-17-750926-B**

12-9-19	9:00 AM	STATUS CHECK	(DEPT XI - Gonzalez)
2-4-20	9:30 AM	CALENDAR CALL	(DEPT XI - Gonzalez)
2-10-20	1:30 PM	BENCH TRIAL	(DEPT XI - Gonzalez)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**September 09, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>September 09, 2019</b>	<b>9:00 AM</b>	<b>Motion for Determination of Good Faith Settlement</b>
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<b>HEARD BY:</b> Gonzalez, Elizabeth	<b>COURTROOM:</b> RJC Courtroom 03E
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**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
	Iqbal, Mohamed A.	Attorney
	Kunimoto, Bryce K.	Attorney
	Wrenn, Dione C.	Attorney

**JOURNAL ENTRIES**

- Court NOTED that following the deposition of Dr. Burkhead the opposition has been withdrawn. COURT ORDERED, joint motion for determination of good faith settlement APPROVED. Counsel to prepare and submit an order.

9-20-19      CHAMBERS      DEFENDANT WILLIAM D. SMITH'S MOTION FOR  
SANCTIONS...OPPOSITION TO MOTION FOR SANCTIONS AND COUNTERMOTION FOR  
EXPENSES INCLUDING ATTORNEY'S FEES PURSUANT TO NRCP 11(C)(2)      (DEPT XI -  
Gonzalez)

10-24-19      9:00 AM      STATUS CHECK: RESUMPTION OF SETTLEMENT CONFERENCE  
(DEPT XIII - Denton)

**A-17-750926-B**

11-25-19	9:00 AM	STATUS CHECK	(DEPT XI - Gonzalez)
2-4-20	9:30 AM	CALENDAR CALL	(DEPT XI - Gonzalez)
2-10-20	1:30 PM	BENCH TRIAL	(DEPT XI - Gonzalez)

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

## NRS Chapters 78-89

## COURT MINUTES

September 27, 2019

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**September 27, 2019      11:45 AM      Telephonic Conference**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Natalie Ortega

**RECORDER:** Jill Hawkins

**REPORTER:**

## PARTIES

**PRESENT:** Cook, Marc P Attorney  
Iqbal, Mohamed A. Attorney

## JOURNAL ENTRIES

- Judge Gonzalez, Mohamed A. Igbal, Esq., and Marc P. Cook, Esq. all present via Court Call.

Colloquy regarding Dr. Smith's unavailability for a couple of months due to medical difficulties. Mr. Cook stated he received a letter from Dr. Smith's treating physician indicating Dr. Smith would be unavailable for at least ninety days. Thereafter, the doctor would reevaluate. Furthermore, everyone else had been deposed and he would file a Motion for Summary Judgment as to Dr. Freedman. Further colloquy regarding extending discovery. COURT ORDERED, case STAYED in all respects pending further evaluation of Dr. Smith through Monday, December 16, 2019. COURT FURTHER ORDERED, Status Check SET. COURT FURTHER ORDERED, Motions scheduled for September 30, 2019 hearing RESET to December 13, 2019.

12/13/19 STATUS CHECK: STAY (CHAMBERS)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**October 24, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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October 24, 2019	9:00 AM	Status Check
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**HEARD BY:** Denton, Mark R. **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- No appearance. Court noted given the stay in effect counsel could have deemed the status check to have also been stayed. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/19/19 9:00 AM

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Madalyn Kearney, to all registered parties for Odyssey File & Serve. /mk 10/24/19



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**October 24, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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**October 24, 2019      10:33 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON...MOTION TO REDACT NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT AND TO SEAL EXHIBIT A THERETO EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON

Matters ADVANCED from October 28, 2019.

NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON: Pursuant to EDCR 2.23, the Court decides this matter without the necessity of oral argument. Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes a non-opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the Ng Motion for Determination of Good faith Settlement is deemed unopposed. Therefore, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

MOTION TO REDACT NG DEFENDANTS' MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT AND TO SEAL EXHIBIT A THERETO EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND ORDER THEREON: Upon review of the papers and pleadings on file in this Matter, as proper service has been provided, this Court notes a non-opposition has been filed. Accordingly, pursuant to EDCR 2.20(e) the motion to seal is deemed unopposed. As the proposed sealing and redaction is narrowly tailored to protect sensitive confidential financial information, good cause appearing, COURT ORDERED, motion is GRANTED. Moving Counsel is to prepare and submit an order within ten (10) days and distribute a filed copy to all parties involved in this matter.

12-9-19 9:00 AM STATUS CHECK (DEPT XI - Gonzalez)

12-13-19 CHAMBERS STATUS CHECK: STAY...  
...DEFENDANT WILLIAM D. SMITH'S MOTION FOR SANCTIONS...  
...OPPOSITION TO MOTION FOR SANCTIONS AND COUNTERMOTION FOR EXPENSES  
INCLUDING ATTORNEY'S FEES PURSUANT TO NRCP 11(C)(2) (DEPT XI - Gonzalez)

2-4-20 9:30 AM CALENDAR CALL (DEPT XI - Gonzalez)

2-10-20 1:30 PM BENCH TRIAL (DEPT XI - Gonzalez)

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 10-24-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**December 05, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**December 05, 2019      12:20 AM      Minute Order**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, given the stay, the status check on Monday, December 9, 2019 is VACATED.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 12-5-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**December 10, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**December 10, 2019      10:10 AM      Minute Order**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, given the status report filed December 9, 2019 and the information related to the Defendant's health, the STAY is CONTINUED an additional 90 days. All current dates VACATED. Status check on the stay RESET in 90 days.

12-19-19      9:00 AM      STATUS CHECK: RESUMPTION OF SETTLEMENT  
CONFERENCE      (DEPT XIII - Denton)

3-13-20      CHAMBERS      STATUS CHECK: STAY      (DEPT XI - Gonzalez)

CLERK'S NOTE: Per this minute order, the following matters were VACATED:

- Defendant William D. Smith's Motion for Sanctions and Opposition to Motion for Sanctions and Countermotion for Expenses Including Attorney's Fees Pursuant to NRCP 11(c)(2), both on December 13, 2019 in chambers;
- Calendar Call on February 4, 2020 at 9:30 am;
- Bench Trial on February 10, 2020 at 1:30 pm.

Per the Court the status check on the resumption of the parties' settlement conference with the Hon. Mark Denton will remain on calendar.

Minute order distributed to the parties via Odyssey File and Serve. / dr 12-10-19

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**December 19, 2019**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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December 19, 2019	9:00 AM	Status Check	Settlement Conference Terminated
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**HEARD BY:** Denton, Mark R.

**COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Lisa Lizotte

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cook, Marc P	Attorney
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**JOURNAL ENTRIES**

- Mr. Cook advised the other Defendants have settled out and there is a stay in the case. Upon Court's inquiry, Mr. Cook requested the Court terminate the Settlement Conference. COURT ORDERED, Settlement Conference TERMINATED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 13, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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March 13, 2020	3:00 AM	Status Check
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HEARD BY: Gonzalez, Elizabeth	COURTROOM: Chambers
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COURT CLERK:

Dulce Romea

RECORDER:

REPORTER:

PARTIES  
PRESENT:

**JOURNAL ENTRIES**

- Court reviewed status report filed March 10, 2020. Counsel to appear to discuss further proceedings.

4-13-20	9:00 AM	STATUS CHECK: FURTHER PROCEEDINGS
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CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-16-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 07, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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April 07, 2020	8:29 AM	Minute Order
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HEARD BY: Gonzalez, Elizabeth	COURTROOM: Chambers
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COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, pursuant to Administrative Order 20-01, the Court decides this matter without the necessity of oral argument. Court reviewed the status report and response. Status check on further proceedings CONTINUED from April 13, 2020 to May 18, 2020 at 9 am. Parties to PROVIDE a status report by May 14, 2020.

5-18-20	9:00 AM	STATUS CHECK: FURTHER PROCEEDINGS
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CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 4-7-20



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**May 14, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>May 14, 2020</b>	<b>8:55 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Gonzalez, Elizabeth	<b>COURTROOM:</b> Chambers
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**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, parties are to FILE a status report prior to the status check on May 18, 2020, so pursuant to Administrative Order 20-01, the Court may review this matter without the necessity of oral argument.

5-18-20	9:00 AM	STATUS CHECK: FURTHER PROCEEDINGS
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CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-14-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**May 18, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>May 18, 2020</b>	<b>9:00 AM</b>	<b>Status Check</b>
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<b>HEARD BY:</b> Gonzalez, Elizabeth	<b>COURTROOM:</b> RJC Courtroom 03E
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**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Court reviewed status reports filed May 13, 2020 and May 17, 2020. Based upon the condition of the Defendant and the current public health emergency, counsel to SUBMIT a stipulation related to the stay agreed upon. Counsel may also include a date for decision and if appropriate supplemental briefing on the pending motion for sanctions.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 5-18-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89****COURT MINUTES****June 12, 2020**

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**June 12, 2020      3:00 AM      Motion for Sanctions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** Chambers

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Court, having reviewed Dr. Smith's Motion for Sanctions (filed August 13, 2019), the countermotion (filed August 26, 2019) and the related briefing and being fully informed, GRANTS the motion IN PART and DENIES the countermotion. The word "additional" in front of copies certainly did not convey the impression to the Court which Plaintiff's counsel now argues that it did. Par. 4 of the findings of fact contained in the order filed September 30, 2019 is TO BE DELETED. Counsel for Smith is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. Plaintiff's counsel to submit an amended order correcting the September 30, 2019 order within 10 days. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order or judgment.

7-20-20      9:00 AM      STATUS CHECK

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 6-12-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**July 15, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>July 15, 2020</b>	<b>11:21 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Gonzalez, Elizabeth	<b>COURTROOM:</b> Chambers
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**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- As the Court began conducting a trial offsite on July 13, 2020, daily from 8:00 a.m. to 5:00 p.m., and the length of the trial will be approximately 2+ months, parties do not need to appear for the Status Check scheduled on July 20, 2020 in the instant case. However, the Court asks that a status report be filed one day before.

7-20-20	9:00 AM	STATUS CHECK	(No appearances required)
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CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-15-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**July 20, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>July 20, 2020</b>	<b>9:00 AM</b>	<b>Status Check</b>
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<b>HEARD BY:</b> Gonzalez, Elizabeth	<b>COURTROOM:</b> RJC Courtroom 03E
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**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Court reviewed status report filed July 17, 2020. Matter SET for status check in 3 weeks on chambers.

8-14-20	CHAMBERS	STATUS CHECK
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CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 7-20-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**August 14, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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August 14, 2020	3:00 AM	Status Check
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HEARD BY: Gonzalez, Elizabeth	COURTROOM: Chambers
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COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

PARTIES  
PRESENT:

**JOURNAL ENTRIES**

- COURT NOTED no status report filed, ORDERED, matter CONTINUED for 4 weeks.

...9-11-20 - CHAMBERS

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 8-17-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**September 11, 2020**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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**September 11, 2020     3:00 AM                      Status Check**

**HEARD BY:**    Gonzalez, Elizabeth    **COURTROOM:**    Chambers

**COURT CLERK:**    Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Court reviewed status report filed September 10, 2020. COURT ORDERED, matter set for telephonic hearing to schedule remaining deadlines at 11:45 am on Thursday, October 22, 2019. Status check on stay SET in 90 days on the chambers calendar. Status report to be filed day before.

10-22-20            11:45 AM            TELEPHONIC CONFERENCE TO SCHEDULE REMAINING  
DEADLINES

12-18-20            CHAMBERS            STATUS CHECK: STAY

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 9-15-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**October 22, 2020**

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A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

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**October 22, 2020      11:45 AM      Telephonic Conference      STAY LIFTED**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

**PRESENT:**      Cook, Marc P      Attorney  
                         Iqbal, Mohamed A.      Attorney

**JOURNAL ENTRIES**

- Mr. Cook advised he saw Dr. Smith about two weeks ago and he is 20 lbs heavier than he was, so he is doing pretty well; his treating doctor has okayed his deposition but wants to limit it to one hour or less; previously, about one hour in the doctor looked pretty weak; counsel has gone 5 to 7 hours; he is not trying to cut counsel's time, but that means they will have to hold the deposition in 5 to 7 days. Court stated this is not the first time it has heard this and asked what else the parties need to do. Mr. Iqbal advised that they need to update their privilege logs and send offers of judgment to the Defendant and try to narrow what would go to trial; they also need 3 to 4 days in between sections of the deposition in order for Dr. Smith to recover; they are in agreement with all restrictions and requirements given the doctor's health; if the Court is amenable, they are requesting the stay be lifted so they can finish remaining discovery and Dr. Smith's deposition can be concluded. COURT ORDERED, STAY LIFTED.

COURT ORDERED, Mr. Iqbal's proposed dates are ADOPTED as follows:

Initial expert disclosures where a party bears the burden of proof DUE by December 18, 2020;

PRINT DATE:    09/17/2021

Page 60 of 68

Minutes Date:    July 27, 2017



Rebuttal expert disclosures where a party does not bear the burden of proof DUE by February 19, 2021;

Discovery cut-off SET for March 19, 2021;

Dispositive motions and motions in limine TO BE FILED by June 11, 2021;

Matter RESET for trial on the stack beginning on August 2, 2021. New Trial Setting Order will ISSUE.

Mr. Cook advised he represents a judge in a disciplinary hearing that if they keep their calendar a lot of things are supposed to happen between now and November; he has a motion for a stay ready to go, and he hopes to know by next week whether or not he will get one. COURT DIRECTED Mr. Cook to update the Court and opposing counsel if the judicial matters takes more time because his request for a stay is not granted. Mr. Cook further advised with regards to the June 11 motion due date he has a planned vacation. Court stated they can work with counsel.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 16, 2021**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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March 16, 2021	3:00 AM	Minute Order
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HEARD BY: Gonzalez, Elizabeth	COURTROOM: Chambers
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COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- At request of the Court, parties to FILE a status report in anticipation of the status check on Monday, March 22, 2021.

3-22-21	9:00 AM	STATUS CHECK: TRIAL READINESS
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7-27-21	9:30 AM	CALENDAR CALL
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8-2-21	1:30 PM	BENCH TRIAL
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CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-16-21

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 22, 2021**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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March 22, 2021	9:00 AM	Status Check: Trial Readiness
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**HEARD BY:** Gonzalez, Elizabeth                      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court reviewed Defendant's status report. Current dates STAND.

7-27-21      9:30 AM              CALENDAR CALL

8-2-21      1:30 PM              BENCH TRIAL

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 3-22-21

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

## NRS Chapters 78-89

# COURT MINUTES

**April 26, 2021**

A-17-750926-B      Flamingo-Pecos Surgery Center LLC, Plaintiff(s)  
vs.  
William Smith, M.D., Defendant(s)

**April 26, 2021                      9:00 AM                      Motion to Extend  
Discovery**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Jacqueline Smith

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- Pursuant to Administrative Order 21-03, the Court decides this matter without the necessity of oral argument.

The Court having reviewed the Motion to Reopen and the related briefing and being fully informed, COURT ORDERED, motion is GRANTED IN LIMITED PART. The deposition of Dr. Smith may be completed within 45 days unless counsel agree to a later completion date. COURT FURTHER ORDERED, counsel for Plaintiff is directed to submit a proposed order approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and argument. This Decision sets forth the Court's intended disposition on the subject, but anticipates further order of the Court to make such disposition effective as an order.

CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / js (4-27-21)

PRINT DATE: 09/17/2021

Page 64 of 68

Minutes Date: July 27, 2017

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**May 03, 2021**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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<b>May 03, 2021</b>	<b>9:00 AM</b>	<b>All Pending Motions</b>
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<b>HEARD BY:</b> Gonzalez, Elizabeth	<b>COURTROOM:</b> RJC Courtroom 03E
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**COURT CLERK:** Valeria Guerra

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- DEFENDANT WILLIAM SMITH, M.D.'s MOTION FOR SUMMARY JUDGEMENT . . .  
DEFENDANT SHELDON J. FREEDMAN M.D.'s MOTION FOR SUMMARY JUDGEMENT

Given the Court's 4/26/21 Order, MOTIONS CONTINUED for 6 weeks to 06/14/2021.

CLERK S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. -  
vg//05/03/2021

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**July 07, 2021**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s)
	vs.
	William Smith, M.D., Defendant(s)

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July 07, 2021	8:30 AM	Motion for Order
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HEARD BY: Gonzalez, Elizabeth	COURTROOM: RJC Courtroom 03E
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COURT CLERK: Valeria Guerra

RECORDER: Jill Hawkins

REPORTER:

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Mr. Iqbal argued de deposition of Dr. Smith was unsuccessful due to abusive and time wasting objections. Additionally, Mr. Iqbal argue it was Dr. Smith's intent to purposefully run out the clock during his deposition. Mr. Iqbal state he was to requesting sanctions just additional time for the deposition of Dr. Smith. Mr. Cooked argued that Mr. Iqbal did not follow proper procedure when filing his motion. Furthermore, Mr. Cooked stated that opposing counsel wasted time because there was confusion on his behalf when it came to the LLC/partnership/corporation. Court ORDERED, the seven hour time limit would STAND. Furthermore, Court ORDERED the Summary Judgment on 07/19/21 without any oral argument; briefs must be complete. If counsel should require any additional time they should coordinate with Dept. Xi law Clerk Chricy Harris  
dept11lc@clarkcountycourts.us.

SUMMARY JUDGEMENT: 07/19/2021

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**July 19, 2021**

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A-17-750926-B	Flamingo-Pecos Surgery Center LLC, Plaintiff(s) vs. William Smith, M.D., Defendant(s)
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July 19, 2021	9:00 AM	Motion for Summary Judgment
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**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** Chambers

**COURT CLERK:** Valeria Guerra

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Pursuant to Adm. Order 21-04 the Court decides this matter without the necessity of oral argument.

The Court having reviewed Sheldon Freedman s Motion for Summary Judgment and the related briefing and being fully informed, GRANTS the motion. After reviewing the newly filed supplement the court determines that there are no genuine issues of material fact related to Dr Freeman s exercise of his business judgment in this matter. Counsel for Defendant is directed to submit proposed FFCL approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court s intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order

The Court having reviewed William Smith Motion for Summary Judgment and the related briefing and being fully informed. After reviewing the newly filed supplement the court determines that there are no genuine issues of material fact related to Dr. Smith s exercise of his business judgment in this

matter. Counsel for Defendant is directed to submit proposed FFCL approved by opposing counsel consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. -  
vg//7/20/21



## EXHIBIT(S) LIST

Case No.: **A-17-750926-B**

Hearing Date: **AUGUST 19, 2019**

Dept. No.: **XI**

Judge: **HON. ELIZABETH GONZALEZ**

Plaintiff: **FLAMINGO-PECOS SURGERY  
CENTER, LLC**

Court Clerk: **DULCE ROMEA**

Recorder: **JILL HAWKINS**

Counsel for Plaintiff: MOHAMED IQBAL, ESQ.

vs.

Defendant: **WILLIAM SMITH, M.D.**

Counsel for  
Defendants Matthew  
Ng, MD, Pankaj  
Bhatnagar MD, and  
Marjorie Belsky MD BRYCE KUNIMOTO, ESQ.

Counsel for Defendant Daniel  
Burkhead, MD DIONE WRENN, ESQ.  
Counsel for Defendants Sheldon  
Freedman MD and William Smith,  
MD MARC COOK, ESQ.

### HEARING BEFORE THE COURT

#### COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
<u>1</u>	<u>SETTLEMENT TERM SHEET</u>	<u>                    </u>	<u>                    </u>	<u>Marked</u> <u>8-19-19</u>



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

**MOHAMED A. IQBAL, JR., ESQ.**  
**101 CONVENTION CENTER DR., STE 1175**  
**LAS VEGAS, NV 89109**

**DATE: September 17, 2021**  
**CASE: A-17-750926-B**  
**C/W A-18-769693-C**

**RE CASE:** MARK J. GARDBERG, ESQ., in his capacity as Receiver for, and acting on behalf of FLAMINGO-PECOS SURGERY CENTER, LLC, a Nevada Limited liability Company vs. WILLIAM SMITH, M.D.; SHELDON FREEDMAN, M.D.

NOTICE OF APPEAL FILED: September 15, 2021

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

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

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☒ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order *for Order filed 05/20/2021*

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

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

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

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANT WILLIAM SMITH, MD'S MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT WILLIAM SMITH, MD'S MOTION FOR SUMMARY JUDGMENT; ORDER GRANTING DEFENDANT SHELDON FREEDMAN, MD'S MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT SHELDON FREEDMAN, MD'S MOTION FOR SUMMARY JUDGMENT; ORDER GRANTING IN LIMITED PART PLAINTIFF'S MOTION TO EXTEND DISCOVERY; ORDER REGARDING MOTION AND COUNTER MOTION FOR SANCTIONS; NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR COUNTER-MOTION FOR SANCTIONS; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

MARK J. GARDBERG, ESQ., in his capacity as  
Receiver for, and acting on behalf of  
FLAMINGO-PECOS SURGERY CENTER,  
LLC, a Nevada Limited liability Company,

Plaintiff(s),

vs.

WILLIAM SMITH, M.D.; SHELDON  
FREEDMAN, M.D.,

Defendant(s),

Case No: A-17-750926-B

*Consolidated with A-18-769693-C*

Dept No: XXII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 17 day of September 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk