

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DARELL L. MOORE; AND CHARLENE )  
A. MOORE, INDIVIDUALLY AND AS )  
HUSBAND AND WIFE, )  
Appellants, )  
vs. )  
JASON LASRY, M.D. INDIVIDUAL; )  
AND TERRY BARTIMUS, RN, APRN, )  
Respondents. )

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Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court No. 81659

**APPEAL**

From the Eighth Judicial District Court, Clark County  
The Honorable Kathleen E. Delaney, District Judge  
District Court Case No.: A-17-766426-C

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**APPELLANT'S APPENDIX VOLUME I**

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*Attorney for Appellant Darrell Moore and Charlene Moore*

**INDEX TO APPELLANT'S APPENDIX**

VOLUME	DOCUMENT	BATES NUMBER
I	Complaint dated December 18, 2017	AA00001- AA00024
I	Amended Complaint dated December 20, 2017	AA00025- AA00048
I	Proof of Service upon Fremont Emergency Services dated January 5, 2018	AA00049
I	Dignity Health's Answer to Complaint dated January 17, 2018	AA00050- AA00059
I	Proof of Service of Amended Complaint upon Dignity Health dated January 17, 2018	AA00060
I	Proof of Service of Amended Complaint upon Jason Lasry dated January 31, 2018	AA00061
I	Proof of Service of Amended Complaint upon Terry Bartmus dated January 31, 2018	AA00062
I	Fremont Emergency Services and Terry Bartmus's Answer to Complaint dated February 9, 2018	AA00063- AA00072
I	Jason Lasry's Answer to Complaint dated February 12, 2018	AA00073- AA00081
I	Scheduling Order dated May 4, 2018	AA00082- AA00084
I	Stipulation and Order to Dismiss Dignity Health dated May 4, 2018	AA00085- AA00089
I	Notice of Entry of Order re Stipulation and Order to Dismiss Dignity Health dated June 28, 2018	AA00090- AA00098
I	Proof of Service of Deposition Subpoena Duces Tecum, Notice of Taking Deposition and Notice of Service of Subpoena Duces Tecum dated March 22, 2019	AA00099
I	Order Setting Civil Jury Trial dated May 7, 2019	AA00100- AA00101
I	Stipulation and Order re Expert Disclosures dated October 7, 2019	AA00102- AA00106
I	Notice of Entry of Stipulation and Order re Expert Disclosures dated October 7, 2019	AA00107- AA00114

I	Fremont Emergency Services and Terry Bartmus's Order Affirming the Discovery Commissioner's Report dated October 14, 2019	AA00115- AA00116
I	Fremont Emergency Services and Terry Bartmus's Notice of Entry of Order Affirming the Discovery Commissioner's Report dated October 14, 2019	AA00117- AA00121
I	Plaintiffs' Order Affirming the Discovery Commissioner's Report dated October 16, 2019	AA00122- AA00123
I	Order Allowing Plaintiff to amend their Complaint to remove Dignity Health dated October 16, 2019	AA00124- AA00125
I	Plaintiffs' Notice of Entry of Order Affirming the Discovery Commissioner's Report dated October 16, 2019	AA00126- AA00129
I	Notice of Entry of Order removing Dignity Health dated October 21, 2019	AA00130- AA00133
I	Second Amended Complaint dated October 29, 2019	AA00134- AA00157
II	Fremont Emergency Services and Terry Bartmus's Answer to Second Amended Complaint dated November 12, 2019	AA00158- AA00166
II	Jason Lasry's Answer to Second Amended Complaint dated November 12, 2019	AA00167- AA00175
II	Joint Pre-Trial Memorandum dated December 16, 2019	AA00176- AA00208
II	Stipulation and Order to Dismiss Fremont Emergency Service dated December 18, 2019	AA00209- AA00214
II	Notice of Entry of Stipulation and Order to Dismiss Fremont Emergency Service dated December 18, 2019	AA00215- AA00223
II	Jason Lasry's Pretrial Disclosures dated December 27, 2019	AA00224- AA00238
II	Plaintiffs' Pretrial Disclosures dated December 27, 2019	AA00239- AA00249
II	Terry Bartmus's Pretrial Disclosures dated December 27, 2019	AA00250- AA00267
II	Jason Lasry's First Supplement to Pretrial Disclosures dated January 2, 2020	AA00268- AA00285

II	Jason Lasry's Second Supplement to Pretrial Disclosures dated January 9, 2020	AA00286-AA00303
III	Terry Bartmus's First Supplement to Pretrial Disclosures dated January 10, 2020	AA00304-AA00322
III	Jason Lasry's Third Supplement to Pretrial Disclosures dated January 15, 2020	AA00323-AA00340
III	Plaintiffs' Proposed Jury Instructions dated January 24, 2020	AA00341-AA00378
III	Jason Lasry's Proposed Special Verdict dated February 9, 2020	AA00379-AA00382
III	Jury Instructions dated February 13, 2020	AA00383-AA00425
III	Special Verdict dated February 13, 2020	AA00426-AA00428
III	Judgment on Jury Verdict dated March 10, 2020	AA00429-AA00430
III	Notice of Entry of Judgment on Jury Verdict dated March 10, 2020	AA00431-AA00435
IV	Plaintiffs' Motion for New Trial dated April 7, 2020	AA00436-AA00543
V	Terry Bartmus's Opposition to Plaintiffs' Motion for New Trial dated April 21, 2020	AA00544-AA00711
V	Jason Lasry's Joinder to Terry Bartmus's Opposition to Plaintiffs' Motion for New Trial dated April 21, 2020	AA00712-AA00714
VI	Plaintiffs' Reply in Support of Motion for New Trial dated May 4, 2020	AA00715-AA00817
VI	Terry Bartmus's Supplemental Opposition to Plaintiffs' Motion for New Trial dated June 4, 2020	AA00818-AA00828
VI	Order on Plaintiffs' Motion for New Trial dated July 15, 2020	AA00829-AA00831
VI	Notice of Entry of Order on Plaintiffs' Motion for New Trial dated July 16, 2020	AA00832-AA00837
VI	Notice of Appeal dated August 14, 2020	AA00838-AA00840
VII	Trial Transcript for January 27, 2020	AA00841-AA01029

VIII	Trial Transcript for January 28, 2020	AA01030- AA01221
IX	Trial Transcript for January 29, 2020	AA01222- AA01378
X	Trial Transcript for January 30, 2020	AA01379- AA01558
XI	Trial Transcript for January 31, 2020	AA01559- AA01708
XII	Trial Transcript for February 3, 2020	AA01709- AA01878
XIII	Trial Transcript for February 4, 2020	AA01879- AA02060
XIV	Trial Transcript for February 5, 2020	AA02061- AA02218
XV	Trial Transcript for February 6, 2020	AA02219- AA02400
XVI	Trial Transcript for February 7, 2020	AA02401- AA02608
XVII	Trial Transcript for February 10, 2020	AA02609- AA02764
XVIII	Trial Transcript for February 11, 2020	AA02765- AA02985
XIX	Trial Transcripts for February 12, 2020, February 13, 2020 and June 11, 2020	AA02986- AA03225

**ALPHABETICAL INDEX TO APPELLANT APPENDIX**

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III	Jason Lasry's Third Supplement to Pretrial Disclosures dated January 15, 2020	AA00323- AA00340

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## CERTIFICATE OF SERVICE

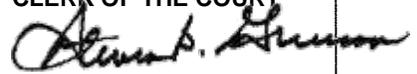
Pursuant to NRAP 25(b), I certify that I am an employee of the law firm and that on this 21<sup>st</sup> day of July, 2021, I served a true and correct copy of the foregoing **APPELLANT'S APPENDIX VOLUME I** as follows:

- by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- to be sent via facsimile (as a courtesy only); and/or
- to be hand-delivered to the attorneys at the address listed below:
- to be submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

Robert McBride, Esq  
McBride Hall  
8329 W. Sunset Rd., Ste. 260  
Las Vegas, NV 89113

Keith A. Weaver, Esq.  
Lewis Brisbois Bisgaard & Smith, LLP  
6385 S. Rainbow Blvd., Ste. 6000  
Las Vegas, NV 89118

By: /s/ E. Breen Arntz  
An employee of E. Breen Arntz, Chtd.



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**COMP**  
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*Attorneys for Plaintiffs*

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

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

Plaintiffs,

v.

DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS; JASON LASRY, M.D., individually; FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.; TERRY BARTMUS, RN, APRN; and DOES I through X, inclusive; and ROE CORPORATIONS I through V, inclusive;

Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Department 26

**COMPLAINT**  
**MEDICAL MALPRACTICE**  
**EXEMPT FROM ARBITRATION**

COME NOW, Plaintiffs, DARELL L. MOORE and CHARLENE A. MOORE, individually and as husband and wife, by and through their attorneys of record, MATTHEW W. HOFFMANN, ESQ., of the law firm of ATKINSON WATKINS & HOFFMANN, LLP, and for their complaint on file herein allege as follows:

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I.

GENERAL ALLEGATIONS

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2  
3 1. Plaintiff, DARELL L. MOORE, individually (hereinafter referred to as  
4 “DARELL”), is, and at all times mentioned herein was a resident of the County of Clark, State of  
5 Nevada.

6 2. Plaintiff, CHARLENE A. MOORE, individually (hereinafter referred to as  
7 “CHARLENE”), is, and at all times mentioned herein was a resident of the County of Clark, State  
8 of Nevada.

9 3. Defendant, DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL -  
10 SAN MARTIN CAMPUS (hereinafter referred to as “Defendant ST. ROSE - SAN MARTIN”), is  
11 and was at all times hereto a non-profit Corporation duly authorized to conduct business in the State  
12 of Nevada and at all times relevant hereto, licensed to do business in the State of Nevada as a  
13 medical care provider pursuant to NRS Chapter 449 and is vicariously liable for its employees,  
14 agents and/or servants, and their actions.

15 4. Defendant, JASON LASRY, M.D. (hereinafter referred to as “Defendant LASRY”),  
16 individually, is and was at all times relevant hereto, a physician licensed to practice medicine in the  
17 State of Nevada pursuant to NRS Chapters 630 and 449.

18 5. Defendant, FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.  
19 (hereinafter referred to as “Defendant FREMONT”), is and was at all times hereto, a Nevada  
20 Corporation duly authorized to conduct business in the State of Nevada and was responsible for the  
21 actions of their employees and/or agents, including but not limited to Defendant LASRY, and was  
22 further responsible for the hiring, training, and supervision of said employees and/or agents,  
23 including but not limited to Defendant LASRY, at all times relevant hereto.

24 6. Defendant, TERRY BARTMUS, RN, APRN (hereinafter referred to as “Defendant  
25 BARTMUS”), individually, is and was at all times relevant hereto, a Registered Nurse and Advance  
26 Practice Registered Nurse employed by Defendants ST. ROSE – SAN MARTIN and/or a presently  
27 unknown nursing company, and licensed to practice nursing pursuant to NRS Chapter 449.

28 . . .

1           7.       At all relevant times the Defendants, DOES I through X, inclusive, were and are  
2 now physicians, surgeons, registered nurses, licensed occasional nurses, practical nurses, registered  
3 technicians, psychologists, aides, technicians, attendants, physician assistants, pharmacists,  
4 pharmacy technicians, or paramedical personnel holding themselves out as duly licensed to practice  
5 their professions under and by virtue of laws of the State of Nevada and are now engaged in the  
6 practice of their professions in the State of Nevada; the true names and capacities, whether  
7 individual, corporate, associate, or otherwise of Defendants DOES I through X, inclusive, and ROE  
8 CORPORATIONS I through X, inclusive, are presently unknown to the Plaintiffs, who therefore  
9 sue those Defendants by such fictitious names; the Plaintiffs are informed and do believe, and  
10 thereupon allege that each of the Defendants sued herein as DOES I through X are responsible in  
11 some manner for the events and happenings herein referred to, which thereby proximately caused  
12 the injuries and damages to the Plaintiffs as alleged herein; that when the true names and capacities  
13 of such Defendants become known, Plaintiffs will ask leave to amend this Complaint to insert the  
14 true names, identities and capacities, together with proper charges and allegations.

15           8.       At all relevant times, Defendants, ROE CORPORATIONS, I through X, were and  
16 now are corporations, firms, partnerships, associations, or other legal entities, involved with the  
17 employment of the Defendant doctors and nurses named herein, including but not limited to the  
18 employment of Defendant BARTMUS, and were further involved with the care, treatment,  
19 diagnosis, surgery and/or other provision of medical care to the Plaintiffs herein; that the true  
20 names, identities or capacities whether individual, corporate, associate or otherwise of the  
21 Defendants, ROE CORPORATIONS I through X, inclusive are presently unknown to Plaintiffs,  
22 who therefore sue said Defendants by such fictitious names; that the Plaintiffs are informed and do  
23 believe and thereupon allege that each of the Defendants sued herein as ROE CORPORATIONS I  
24 through X are responsible in some manner for the events and happenings herein referred to, which  
25 thereby proximately caused the injuries and damages to the Plaintiffs alleged herein; that when  
26 their true names and capacities of such Defendants become known, Plaintiffs will ask leave of this  
27 Court to amend this Complaint to insert the true names, identities and capacities, together with  
28 proper charges and allegations.

1           9.       At all relevant times, Defendants, and each of them, were the agents, ostensible  
2 agents, servants, employees, employers, partners, co-owners and/or joint venturers of each other  
3 and of their co-defendants, and were acting within the color, purpose and scope of their  
4 employment, agency, ownership and/or joint ventures.

5           10.       Plaintiffs' claims arise out of errors and omissions by Defendant LASRY, while in  
6 the course and scope of his employment with Defendant FREMONT; Defendant BARTMUS, while  
7 in the course and scope of his or her employment with Defendant ST. ROSE – SAN MARTIN  
8 and/or a presently unknown nursing company; Defendant FREMONT and/or its employees, agents  
9 and/or servants, and their failure to appropriately monitor, inform, document, and/or implement  
10 appropriate medical treatment; and Defendant ST. ROSE - SAN MARTIN and/or its employees,  
11 agents and/or servants, and their failure to appropriately monitor, inform, document, and/or  
12 implement appropriate medical treatment to Plaintiff DARELL MOORE.

13           11.       The combined failures of the Defendants proximately led to Plaintiff DARELL  
14 MOORE requiring an above-the-knee amputation of the left lower extremity.

15           12.       On or about December 25, 2016, DARELL presented to ST. ROSE - SAN MARTIN  
16 with a one day history of pain in the calf area of his left leg. He was noted to have a prior history  
17 of deep vein thrombosis and a prior femoral and/or popliteal artery bypass surgery on December  
18 11, 2014.

19           13.       The evaluation at the emergency department consisted of routine laboratory studies  
20 and a venous duplex ultrasound of the left leg.

21           14.       The ultrasound showed occlusion of the left femoral-popliteal arterial bypass graft.

22           15.       No further treatment was recommended in response to the left arterial occlusion and  
23 the differential diagnosis did not include arterial occlusion despite DARELL's history of a prior  
24 femoral-popliteal bypass and despite the fact DARELL reported pain increased with walking.

25           16.       DARELL was discharged with aftercare instructions for musculoskeletal pain as  
26 well as hypertension.

27           17.       On December 28, 2016, DARELL returned to the Emergency Department at ST.  
28 ROSE – SAN MARTIN.

1           18.     At that time, DARELL reported persistent and increasing left leg pain. An arterial  
2 duplex ultrasound of the left leg was performed and once again showed occlusion of the left leg  
3 graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedis  
4 arteries.

5           19.     DARELL was noted to have an ischemic lower extremity and started on  
6 anticoagulants including heparin and tissue plasminogen activator.

7           20.     DARELL was eventually admitted to the Intensive Care Unit in critical condition.

8           21.     On January 2, 2017, DARELL underwent an above-the-knee amputation of his left  
9 lower extremity under the care of Holman Chan, M.D. He was discharged on January 5, 2017.

10          22.     DARELL's injuries and medical treatment were preventable. The venous  
11 ultrasound performed at the emergency department at ST. ROSE - SAN MARTIN Hospital on  
12 December 25, 2016 showed an occlusion of the left femoral-popliteal arterial bypass graft, despite  
13 being the incorrect ultrasound to order. Defendants LASRY, ST. ROSE - SAN MARTIN and  
14 BARTMUS failed to recognize the obvious occlusion recognized by the Radiologist and failed to  
15 properly address DARELL'S condition, thus leading to above-the-knee amputation of his left lower  
16 extremity.

17          23.     Furthermore, Defendants ST. ROSE- SAN MARTIN and FREMONT  
18 EMERGENCY SERVICES (MANDAVIA), LTD. failed to properly hire, train, and supervise their  
19 employees and/or agents and failed to provide adequate, sufficient and reasonable staffing protocols  
20 and procedures.

21          24.     As a direct and proximate result of Defendants' combined negligence, DARELL  
22 experienced pain, suffering, and medical treatment, with said suffering and medical treatment  
23 continuing at the present time.

24          25.     In support of Plaintiffs' allegations of medical malpractice, Plaintiffs submit the  
25 merit affidavit of R. Scott Jacobs, M.D. and report, attached hereto as **Exhibit 1**.

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1 **SPECIFIC ALLEGATIONS OF NEGLIGENCE**

2 **1<sup>ST</sup> CAUSE OF ACTION**

3 **NEGLIGENT HIRING, TRAINING AND SUPERVISION**

4 **(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN MARTIN CAMPUS)**

5 26. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 25 of this  
6 complaint, and make them a part of the instant cause of action as though fully set forth herein.

7 27. Defendant ST. ROSE - SAN MARTIN's employees, agents and/or servants were  
8 acting in the scope of their employment, under Defendant's control, and in furtherance of  
9 Defendant's interest, at all times their actions caused DARELL's injuries.

10 28. Defendant ST. ROSE - SAN MARTIN is vicariously liable for damages resulting  
11 from its agents' and/or employees' and/or servants' negligent actions and omissions regarding  
12 DARELL. Defendant's conduct in negligently hiring, failing to train, supervise and/or correct the  
13 negligence of its employees demonstrated disregard for the safety of its patients.

14 29. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants,  
15 fell below the standard of health care providers who possess the degree of professional learning,  
16 skill and ability of other similarly situated health care providers in their respective care and  
17 treatment of DARELL.

18 30. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants,  
19 fell below the standard of health care providers who possess the degree of professional learning,  
20 skill and ability of other similarly situated health care providers who possess the degree of  
21 professional learning, skill and ability of other similarly situated health care providers in hiring and  
22 supervision of employees, agents and/or servants resulting in the acts for negligence alleged herein.  
23 The ST. ROSE - SAN MARTIN staff failed to properly evaluate, communicate, and treat  
24 DARELL's condition.

25 31. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants,  
26 fell below the standard of health care providers by failing to observe and report the patient's true  
27 condition and status.

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1           76. Defendant, TERRY BARTMUS, RN, APRN, fell below the standard of care by  
2 falling below his or her respective professional degree of learning, skill and exercise of good  
3 judgment.

4           77. At all times mentioned herein, Defendant knew, or in the exercise of reasonable care  
5 should have known, that the providing of medical care, treatment and advice was of such a nature  
6 that, if it was not properly given, it was likely to injure the person to whom it was given.

7           78. As a proximate result of the negligence of the Defendant, by failing to appropriately  
8 evaluate, diagnose, care, treat, report, monitor, and respond to DARELL's condition, it was allowed  
9 to proceed and progress to such a stage as to place him at risk and caused him to suffer.

10          79. As a proximate result of the negligence of the Defendant, by failing to appropriately  
11 care and treat DARELL, he had to endure extreme pain and suffering.

12          80. As a proximate result of the negligence of the Defendant, DARELL incurred  
13 medical and hospital expenses, the full extent of said expenses are not known to Plaintiffs, and  
14 leave is requested of this Court to amend this complaint to conform to proof at time of trial.

15          81. As a further proximate result of the negligence of the Defendant, Plaintiffs, as  
16 husband and wife, have and will experience a loss of consortium, and Plaintiffs seek compensatory  
17 damages therefor.

18          82. That as a further proximate result of Defendant's negligent acts and/or omissions,  
19 Plaintiffs were forced to retain the services of attorneys in this matter and therefore seek  
20 reimbursement for attorneys' fees and costs.

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# EXHIBIT 1

**R. SCOTT JACOBS, M.D. FAAEM**  
**1669 TORRANCE STREET**  
**SAN DIEGO, CALIFORNIA 92103**  
**DECEMBER 8, 2017**

Matthew Hoffman  
Atkinson & Watkins, LLP  
10789 W. Twain Avenue, Suite 100  
Las Vegas, NV 89135

Dear Mr. Hoffman:

I have reviewed the records, reports and other materials that your office supplied to me regarding Darell Moore. This letter is a summary of my qualifications, opinions, and conclusions.

I am a physician and have been licensed to practice medicine in California since 1975. I am board certified in Emergency Medicine and have been since 1983. I have practiced Emergency Medicine for over thirty years and since 1984 have been at Sharp Memorial Hospital in San Diego, California. I am very familiar with the pathophysiology involved in this case and am qualified to render an expert opinion. My current curriculum vitae is attached hereto.

The cases in which I have given testimony during the past four years are:

2013	Charles Thiede v. Stephen Johnson, et al.	Huron County, MI
2013	Ford Cutler v. Ronald A. Sparschu et al.	Genesee County, MI
2013	Lydell Burt v. Sheriff Paul Bailey et al.	U.S. Southern MI
2013	Rachel Hegler v. Port Huron Hospital et al.	St. Clair County, MI
2014	Nancy Warner v. Henry Ford Health System et al.	Wayne County, MI
2014	Jeffrey Frampton v. Northland Pain Consultants et al.	Clay County, MO
2015	Julie Szatkowski v. Metropolitan Hospital et al.	Kent County, MI
2015	Sharon Geisler v. Specialized Assistance Services	Cook County, IL
2015	Joseph Cartwright v. Dr. Sinem Sherifali	Wayne County, MI
2015	Kimberly Shaver v. Dignity Health et al.	Clark County, NV
2016	Taylor-Laryea v. Genesis Regional Medical Center et al.	Genesis County, MI
2016	Terrance McClellan v. William Backus Hospital et al.	New London, CT

My fees for consulting services are as follows:

Review of materials	\$400.00 per hour
Deposition testimony	\$600.00 per hour
Trial testimony	\$600.00 per hour

There is a two hour minimum charge for deposition or trial testimony

As basis for forming my opinions, I have reviewed the following materials:

Records of Darell Moore from St. Rose Dominican Dec. 25, 2016

Records of Darell Moore from St. Rose Dominican Dec. 28, 2016 to Jan. 5, 2017

Records of Darell Moore from Advanced Orthotics and Prosthetics

My review of the records indicates that Mr. Moore presented to the Emergency Department at St. Rose Dominican Hospital on Dec. 25, 2016. He was seen by Dr. Jason Lasry and/or Terry Bartmus and was found to have a one day history of pain in the calf area of his left leg. He was noted also to have been walking more than usual in the prior two days and to have a past history of deep vein thrombosis and to be taking the anticoagulant Xarelto. Additionally, Anee Kuchinsky R.N. documented that Mr. Moore had a history of femoral and/or popliteal artery bypass on Dec. 11, 2014 and to have a history of an abdominal aortic aneurysm.

Mr. Moore's evaluation in the Emergency Department that day consisted of routine laboratory studies and a venous duplex ultrasound of the left leg. The laboratory studies were non-diagnostic and the venous ultrasound demonstrated no venous occlusion, but did show occlusion of the left femoral-popliteal arterial bypass graft. Nonetheless, Dr. Lasry and/or Terry Bartmus apparently felt comfortable that this study did not merit further immediate treatment and discharged Mr. Moore with aftercare instructions on musculoskeletal pain as well as hypertension. Of note, the differential diagnosis included deep vein thrombosis, arthritis, sprain, and strain, but did not include arterial occlusion despite Mr. Moore's history of a prior femoral-popliteal bypass and despite the fact that Mr. Moore reported pain increased with walking.

Mr. Moore returned to the Emergency Department at St. Rose Dominican on Dec. 28, 2016 at which time he was seen by Dr. Stan Liu. He complained of persistent and increasing left leg pain and was evaluated with studies that included an arterial duplex ultrasound of the left leg which again showed occlusion of the left leg graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedis arteries. He was noted to have an ischemic lower extremity and started on anticoagulants including heparin and tissue plasminogen activator (TPA). He was seen by interventional radiology for placement of an arterial catheter above the occlusion. This was done so that the TPA could be administered directly to the occluded area. Mr. Moore was subsequently admitted to the ICU in critical condition. Despite these measures, his leg was too ischemic to be salvaged and he eventually required an above the knee (AK) amputation of the lower extremity. He had some post-operative complications, and was eventually discharged January 5, 2017.

It is my professional opinion that Dr. Jason Lasry and/or Terry Bartmus were negligent in the care of Darell Moore in several respects. The history as documented does not convincingly

demonstrate that they were aware that Mr. Moore had undergone a previous femoral popliteal arterial bypass. Although they did document Mr. Moore's history of prior deep venous thrombosis and history of taking Xarelto, they made no comment about his past bypass. In addition, Dr. Lasry and/or Terry Bartmus documented a differential diagnosis that included deep vein thrombosis, arthritis, sprain and strain, but importantly, did not include the possibility of arterial insufficiency. Mr. Moore described pain with increased walking and this is often from muscle ischemia or claudication which is a classic symptom of arterial vascular insufficiency.

This erroneous thought process was further compounded by ordering a venous ultrasound and excluding an arterial study. Both arterial and venous studies can be performed ultrasonically and can be very easily combined when the patient is having an ultrasound. An arterial ultrasound was, in fact, the study that diagnosed Mr. Moore when he returned with an ischemic limb on December 28. Had an arterial ultrasound been performed on Dec. 25, 2016, certainly the diagnosis of acute arterial occlusion should have been made and hospitalization and appropriate therapy undertaken.

Even more perplexing, however, is Dr. Lasry's and/or Terry Bartmus' failure to act upon the findings that were present on the venous ultrasound performed Dec. 25. Although the study does demonstrate no evidence of venous occlusion or DVT, the radiologist comments specifically that the left femoral-popliteal graft appears occluded. This finding should have been alarming enough to cause Dr. Lasry and/or Terry Bartmus to either order further diagnostic studies such as an arterial ultrasound or arteriogram or to admit Mr. Moore for attempts at revascularization. Dr. Lasry in his medical teaching addendum commented that the ultrasound showed arterial occlusion with good distal perfusion. However, it should be noted, that the radiologist did not comment on distal perfusion and it would be unlikely that a venous ultrasound would demonstrate distal perfusion. If "good distal perfusion" was meant as a clinical assessment, the standard of care requires the physician to document the clinical assessment including, at least, extremity warmth and pulses.

Dr. Lasry's and/or Terry Bartmus' incomplete assessment and lack of understanding of Mr. Moore's disease process led to Mr. Moore being discharged on Dec. 25 with limited and inadequate follow-up. He was diagnosed with "musculoskeletal leg pain" and given instructions to make a routine follow-up appointment with his primary care provider.

Mr. Moore was clearly suffering from an ischemic lower extremity at the time he presented to the Emergency Department at St. Rose on December 25, 2016. He had a history of a femoral-popliteal bypass and it should have been apparent to any reasonable and prudent physician that re-occlusion was a real possibility. In fact, the radiologist's reading on the ultrasound performed that day literally spells out the diagnosis. Despite that, Mr. Moore was discharged on Dec. 25, and never advised that he had a condition that required emergent or urgent treatment.

Finally, it is also my opinion that the delay in the treatment of Mr. Moore caused by his being discharged on Dec. 25, led directly to the progressive ischemia of his left leg and ultimately to his subsequent need for an above the knee amputation of his leg. It is well known that an acutely ischemic limb needs to have its blood supply restored within six hours in order to preserve an intact limb. Although this time frame is somewhat looser in the circumstance of subacute arterial occlusion or partial occlusion one principle remains constant. The sooner that revascularization is preformed the better the results and the less disability ensues.

The fact that there was a three day delay in diagnosing and treating Mr. Moore meant that his leg was significantly more ischemic and that there was substantially more devitalized and necrotic tissue. Areas that would have been amenable to restored blood flow on Dec. 25 were no longer viable on Dec. 28, because the tissue had died in the intervening three days. Had the treatment including heparin and TPA that was administered on Dec. 28 been initiated on Dec. 25, it is my opinion that Mr. Moore's leg could have been salvaged and that certainly he would not have required an above the knee amputation.

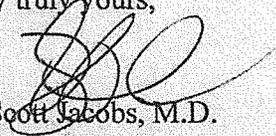
In summary, it is my opinion that Dr. Lasry, Terry Bartmus, and the staff at St. Rose Dominican Hospital were negligent in the treatment of Mr. Moore in several respects. Dr. Lasry's and/or Terry Bartmus' initial error was in fixating on venous vascular problem as the cause of Mr. Moore's symptoms. They appear to have excluded the fact that he had had a previous femoral-popliteal bypass as increasing the possibility that he had an arterial occlusion. Their differential diagnosis included deep vein thrombosis, but excluded arterial occlusion. This error was then compounded by ordering only a venous ultrasound study and not an arterial study. Even with these errors, however, they should have realized the diagnosis was arterial occlusion, because the venous ultrasound demonstrated complete occlusion of the popliteal artery graft. The fact that this significant finding was ignored again demonstrates Dr. Lasry's and/or Terry Bartmus tunnel vision in only considering venous problems as the etiology of Mr. Moore's symptoms.

Finally, it is my opinion that had Mr. Moore been diagnosed with arterial occlusion and started on treatment December 25, 2016 that his outcome would have been significantly improved. It is likely that his leg could have been successfully revascularized and that he would not have required an amputation of the leg. It is also certain that had appropriate treatment been initiated on December 25, that any procedure required in treating Mr. Moore would not have been as invasive nor as drastic.

I reserve the right to amend and supplement my findings and opinions in this report based on any additional, testing, or information which may provided to me hereafter. All of the opinions expressed herein are stated to a reasonable degree of medical certainty. Further, I base these conclusions not only on the aforementioned documentation, but also on my education, training and over thirty years of experience in the active practice of Emergency Medicine in an

acute care setting. During that time, I have cared for perhaps 100,000 patients including thousands with ischemia and hundreds with ischemic limbs.

Very truly yours,

  
R. Scott Jacobs, M.D.



**R. Scott Jacobs, M.D. FAAEM**  
1669 Torrance Street  
San Diego, California 92103

**Curriculum Vitae**

**EDUCATION**

**Premedical Education**

University of Michigan Ann Arbor, Michigan	A.B. Degree	1970
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**Medical Education**

University of Michigan Ann Arbor, Michigan	M.D. Degree	1974
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**Postgraduate Education**

Rotating Internship Mercy Hospital and Medical Center San Diego, California		1974 - 1975
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General Surgery Residency Mercy Hospital and Medical Center San Diego, California		1975 - 1976
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**MEDICAL LICENSURE**

State of California		1975 - current
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**CERTIFICATION**

American Board of Emergency Medicine		1983 - current
Pediatric Advanced Life Support		1992
Advanced Trauma Life Support		1982
Advanced Cardiac Life Support		1976
ACEP Base Station Physician Symposium		1985
National Board of Medical Examiners		1975

**PROFESSIONAL PRACTICE**

Emergency Physician	Sharp Memorial Hospital San Diego, California	1984 - present
Emergency Department Director of Risk Management		2002 - 2012
Emergency Department Supervisory Committee		2012 - present
Medical Director	Care Medical Transportation San Diego, California	1996 - present
Medical Director	Care Medical Transportation National City, California	1992 - 1993
Emergency Physician	Grossmont Hospital La Mesa, California	1983 - 1984
Emergency Physician	Valley Medical Center El Cajon, California	1980 - 1983
Emergency Physician	Pomerado Hospital Poway, California	1979 - 1980
Industrial Medicine	Kearny Mesa Industrial Medical Center San Diego, California	1978 - 1979
Emergency Physician	Clairemont Community Hospital San Diego, California	1976 - 1979
Emergency Physician	San Clemente General Hospital San Clemente, California	1976 - 1978

**EMERGENCY MEDICAL SERVICES ADMINISTRATION**

Base Hospital Medical Director	Sharp Memorial Hospital	1986 - 1989
San Diego County Base Station Physicians Committee		1986 - 1989
San Diego County Trauma System Medical Audit Committee		1986 - 1989
San Diego County Shared Helicopter Services Committee		1986 - 1989
San Diego County Pre-hospital Audit Committee		1987 - 1989
Chairman	1989	

**CONFERENCE PARTICIPATION**

Trauma Management 1989  
San Diego, California  
Topic: Pre-hospital Quality Assurance

R. Scott Jacobs, MD

**PUBLICATIONS**

Chernof, D., Pion, R., et al. Self-Care Advisor. Time Health Inc. 1996. Advisor to author of Emergency and First Aid section pp13-48.

Kaufman I.A., Stonecipher J., Kitchen L., Haubner L.M., Jacobs, R.S.  
Children's Trauma Tool. As published in Guidelines for the Triage of Pediatric Trauma Patients. Journal of Emergency Nursing, 1989. Vol 15, No.5 pp414-415.

**PROFESSIONAL AFFILIATIONS**

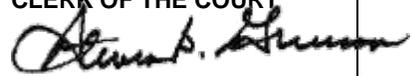
American Academy of Emergency Physicians  
American College of Emergency Physicians  
National Association of EMS Physicians

R. Scott Jacobs, M.D. FAAEM  
1669 Torrance Street  
San Diego, California 92103  
Cell: 619-750-7651  
E-Mail: [rsjacobsmd@gmail.com](mailto:rsjacobsmd@gmail.com)  
2017

## FEE SCHEDULE

My hourly fees for consulting services are as follows:

Review of materials	\$400.00
Deposition testimony Two hour minimum	\$600.00
Trial testimony Two hour minimum	\$600.00



1 **COMP**  
2 MATTHEW W. HOFFMANN, ESQ.  
3 Nevada Bar No. 009061  
4 ATKINSON WATKINS & HOFFMANN, LLP  
5 10789 W. Twain Avenue, Suite 100  
6 Las Vegas, NV 89135  
7 Email: [mhoffmann@awhlawyers.com](mailto:mhoffmann@awhlawyers.com)  
8 Telephone: 702-562-6000  
9 Facsimile: 702-562-6066  
10 *Attorneys for Plaintiffs*

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

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

12 Plaintiffs,

13 v.

14 DIGNITY HEALTH d/b/a ST. ROSE  
15 DOMINICAN HOSPITAL – SAN MARTIN  
16 CAMPUS; JASON LASRY, M.D.,  
17 individually; FREMONT EMERGENCY  
18 SERVICES (MANDAVIA), LTD.; TERRY  
19 BARTMUS, RN, APRN; and DOES I through  
20 X, inclusive; and ROE CORPORATIONS I  
21 through V, inclusive;

22 Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 26

**FIRST AMENDED COMPLAINT**  
**MEDICAL MALPRACTICE**

**EXEMPT FROM ARBITRATION**

23 COME NOW, Plaintiffs, DARELL L. MOORE and CHARLENE A. MOORE, individually  
24 and as husband and wife, by and through their attorneys of record, MATTHEW W. HOFFMANN,  
25 ESQ., of the law firm of ATKINSON WATKINS & HOFFMANN, LLP, and for their complaint  
26 on file herein allege as follows:  
27  
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...

1 I.

2 **GENERAL ALLEGATIONS**

3 1. Plaintiff, DARELL L. MOORE, individually (hereinafter referred to as  
4 “DARELL”), is, and at all times mentioned herein was a resident of the County of Clark, State of  
5 Nevada.

6 2. Plaintiff, CHARLENE A. MOORE, individually (hereinafter referred to as  
7 “CHARLENE”), is, and at all times mentioned herein was a resident of the County of Clark, State  
8 of Nevada.

9 3. Defendant, DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL -  
10 SAN MARTIN CAMPUS (hereinafter referred to as “Defendant ST. ROSE - SAN MARTIN”), is  
11 and was at all times hereto a non-profit Corporation duly authorized to conduct business in the State  
12 of Nevada and at all times relevant hereto, licensed to do business in the State of Nevada as a  
13 medical care provider pursuant to NRS Chapter 449 and is vicariously liable for its employees,  
14 agents and/or servants, and their actions.

15 4. Defendant, JASON LASRY, M.D. (hereinafter referred to as “Defendant LASRY”),  
16 individually, is and was at all times relevant hereto, a physician licensed to practice medicine in the  
17 State of Nevada pursuant to NRS Chapters 630 and 449.

18 5. Defendant, FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.  
19 (hereinafter referred to as “Defendant FREMONT”), is and was at all times hereto, a Nevada  
20 Corporation duly authorized to conduct business in the State of Nevada and was responsible for the  
21 actions of their employees and/or agents, including but not limited to Defendant LASRY, and was  
22 further responsible for the hiring, training, and supervision of said employees and/or agents,  
23 including but not limited to Defendant LASRY, at all times relevant hereto.

24 6. Defendant, TERRY BARTMUS, RN, APRN (hereinafter referred to as “Defendant  
25 BARTMUS”), individually, is and was at all times relevant hereto, a Registered Nurse and Advance  
26 Practice Registered Nurse employed by Defendants FREMONT and/or a presently unknown  
27 nursing company, and licensed to practice nursing pursuant to NRS Chapter 449.

28 . . .

1           7.       At all relevant times the Defendants, DOES I through X, inclusive, were and are  
2 now physicians, surgeons, registered nurses, licensed occasional nurses, practical nurses, registered  
3 technicians, psychologists, aides, technicians, attendants, physician assistants, pharmacists,  
4 pharmacy technicians, or paramedical personnel holding themselves out as duly licensed to practice  
5 their professions under and by virtue of laws of the State of Nevada and are now engaged in the  
6 practice of their professions in the State of Nevada; the true names and capacities, whether  
7 individual, corporate, associate, or otherwise of Defendants DOES I through X, inclusive, and ROE  
8 CORPORATIONS I through X, inclusive, are presently unknown to the Plaintiffs, who therefore  
9 sue those Defendants by such fictitious names; the Plaintiffs are informed and do believe, and  
10 thereupon allege that each of the Defendants sued herein as DOES I through X are responsible in  
11 some manner for the events and happenings herein referred to, which thereby proximately caused  
12 the injuries and damages to the Plaintiffs as alleged herein; that when the true names and capacities  
13 of such Defendants become known, Plaintiffs will ask leave to amend this Complaint to insert the  
14 true names, identities and capacities, together with proper charges and allegations.

15           8.       At all relevant times, Defendants, ROE CORPORATIONS, I through X, were and  
16 now are corporations, firms, partnerships, associations, or other legal entities, involved with the  
17 employment of the Defendant doctors and nurses named herein, including but not limited to the  
18 employment of Defendant BARTMUS, and were further involved with the care, treatment,  
19 diagnosis, surgery and/or other provision of medical care to the Plaintiffs herein; that the true  
20 names, identities or capacities whether individual, corporate, associate or otherwise of the  
21 Defendants, ROE CORPORATIONS I through X, inclusive are presently unknown to Plaintiffs,  
22 who therefore sue said Defendants by such fictitious names; that the Plaintiffs are informed and do  
23 believe and thereupon allege that each of the Defendants sued herein as ROE CORPORATIONS I  
24 through X are responsible in some manner for the events and happenings herein referred to, which  
25 thereby proximately caused the injuries and damages to the Plaintiffs alleged herein; that when  
26 their true names and capacities of such Defendants become known, Plaintiffs will ask leave of this  
27 Court to amend this Complaint to insert the true names, identities and capacities, together with  
28 proper charges and allegations.

1           9.       At all relevant times, Defendants, and each of them, were the agents, ostensible  
2 agents, servants, employees, employers, partners, co-owners and/or joint venturers of each other  
3 and of their co-defendants, and were acting within the color, purpose and scope of their  
4 employment, agency, ownership and/or joint ventures.

5           10.       Plaintiffs' claims arise out of errors and omissions by Defendant LASRY, while in  
6 the course and scope of his employment with Defendant FREMONT; Defendant BARTMUS, while  
7 in the course and scope of his or her employment with Defendant FREMONT and/or a presently  
8 unknown nursing company; Defendant FREMONT and/or its employees, agents and/or servants,  
9 and their failure to appropriately monitor, inform, document, and/or implement appropriate medical  
10 treatment; and Defendant ST. ROSE - SAN MARTIN and/or its employees, agents and/or servants,  
11 and their failure to appropriately monitor, inform, document, and/or implement appropriate medical  
12 treatment to Plaintiff DARELL MOORE.

13           11.       The combined failures of the Defendants proximately led to Plaintiff DARELL  
14 MOORE requiring an above-the-knee amputation of the left lower extremity.

15           12.       On or about December 25, 2016, DARELL presented to ST. ROSE - SAN MARTIN  
16 with a one day history of pain in the calf area of his left leg. He was noted to have a prior history  
17 of deep vein thrombosis and a prior femoral and/or popliteal artery bypass surgery on December  
18 11, 2014.

19           13.       The evaluation at the emergency department consisted of routine laboratory studies  
20 and a venous duplex ultrasound of the left leg.

21           14.       The ultrasound showed occlusion of the left femoral-popliteal arterial bypass graft.

22           15.       No further treatment was recommended in response to the left arterial occlusion and  
23 the differential diagnosis did not include arterial occlusion despite DARELL's history of a prior  
24 femoral-popliteal bypass and despite the fact DARELL reported pain increased with walking.

25           16.       DARELL was discharged with aftercare instructions for musculoskeletal pain as  
26 well as hypertension.

27           17.       On December 28, 2016, DARELL returned to the Emergency Department at ST.  
28 ROSE – SAN MARTIN.

1           18.     At that time, DARELL reported persistent and increasing left leg pain. An arterial  
2 duplex ultrasound of the left leg was performed and once again showed occlusion of the left leg  
3 graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedis  
4 arteries.

5           19.     DARELL was noted to have an ischemic lower extremity and started on  
6 anticoagulants including heparin and tissue plasminogen activator.

7           20.     DARELL was eventually admitted to the Intensive Care Unit in critical condition.

8           21.     On January 2, 2017, DARELL underwent an above-the-knee amputation of his left  
9 lower extremity under the care of Holman Chan, M.D. He was discharged on January 5, 2017.

10          22.     DARELL's injuries and medical treatment were preventable. The venous  
11 ultrasound performed at the emergency department at ST. ROSE - SAN MARTIN Hospital on  
12 December 25, 2016 showed an occlusion of the left femoral-popliteal arterial bypass graft, despite  
13 being the incorrect ultrasound to order. Defendants LASRY, ST. ROSE - SAN MARTIN and  
14 BARTMUS failed to recognize the obvious occlusion recognized by the Radiologist and failed to  
15 properly address DARELL'S condition, thus leading to above-the-knee amputation of his left lower  
16 extremity.

17          23.     Furthermore, Defendants ST. ROSE- SAN MARTIN and FREMONT  
18 EMERGENCY SERVICES (MANDAVIA), LTD. failed to properly hire, train, and supervise their  
19 employees and/or agents and failed to provide adequate, sufficient and reasonable staffing protocols  
20 and procedures.

21          24.     As a direct and proximate result of Defendants' combined negligence, DARELL  
22 experienced pain, suffering, and medical treatment, with said suffering and medical treatment  
23 continuing at the present time.

24          25.     In support of Plaintiffs' allegations of medical malpractice, Plaintiffs submit the  
25 merit affidavit/report of R. Scott Jacobs, M.D., attached hereto as **Exhibit 1**.

26     ...

27     ...

28     ...













1           76. Defendant, TERRY BARTMUS, RN, APRN, fell below the standard of care by  
2 falling below his or her respective professional degree of learning, skill and exercise of good  
3 judgment.

4           77. At all times mentioned herein, Defendant knew, or in the exercise of reasonable care  
5 should have known, that the providing of medical care, treatment and advice was of such a nature  
6 that, if it was not properly given, it was likely to injure the person to whom it was given.

7           78. As a proximate result of the negligence of the Defendant, by failing to appropriately  
8 evaluate, diagnose, care, treat, report, monitor, and respond to DARELL's condition, it was allowed  
9 to proceed and progress to such a stage as to place him at risk and caused him to suffer.

10          79. As a proximate result of the negligence of the Defendant, by failing to appropriately  
11 care and treat DARELL, he had to endure extreme pain and suffering.

12          80. As a proximate result of the negligence of the Defendant, DARELL incurred  
13 medical and hospital expenses, the full extent of said expenses are not known to Plaintiffs, and  
14 leave is requested of this Court to amend this complaint to conform to proof at time of trial.

15          81. As a further proximate result of the negligence of the Defendant, Plaintiffs, as  
16 husband and wife, have and will experience a loss of consortium, and Plaintiffs seek compensatory  
17 damages therefor.

18          82. That as a further proximate result of Defendant's negligent acts and/or omissions,  
19 Plaintiffs were forced to retain the services of attorneys in this matter and therefore seek  
20 reimbursement for attorneys' fees and costs.

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# EXHIBIT 1

**R. SCOTT JACOBS, M.D. FAAEM**  
**1669 TORRANCE STREET**  
**SAN DIEGO, CALIFORNIA 92103**  
**DECEMBER 8, 2017**

Matthew Hoffman  
Atkinson & Watkins, LLP  
10789 W. Twain Avenue, Suite 100  
Las Vegas, NV 89135

Dear Mr. Hoffman:

I have reviewed the records, reports and other materials that your office supplied to me regarding Darell Moore. This letter is a summary of my qualifications, opinions, and conclusions.

I am a physician and have been licensed to practice medicine in California since 1975. I am board certified in Emergency Medicine and have been since 1983. I have practiced Emergency Medicine for over thirty years and since 1984 have been at Sharp Memorial Hospital in San Diego, California. I am very familiar with the pathophysiology involved in this case and am qualified to render an expert opinion. My current curriculum vitae is attached hereto.

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2013	Lydell Burt v. Sheriff Paul Bailey et al.	U.S. Southern MI
2013	Rachel Hegler v. Port Huron Hospital et al.	St. Clair County, MI
2014	Nancy Warner v. Henry Ford Health System et al.	Wayne County, MI
2014	Jeffrey Frampton v. Northland Pain Consultants et al.	Clay County, MO
2015	Julie Szatkowski v. Metropolitan Hospital et al.	Kent County, MI
2015	Sharon Geisler v. Specialized Assistance Services	Cook County, IL
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Mr. Moore's evaluation in the Emergency Department that day consisted of routine laboratory studies and a venous duplex ultrasound of the left leg. The laboratory studies were non-diagnostic and the venous ultrasound demonstrated no venous occlusion, but did show occlusion of the left femoral-popliteal arterial bypass graft. Nonetheless, Dr. Lasry and/or Terry Bartmus apparently felt comfortable that this study did not merit further immediate treatment and discharged Mr. Moore with aftercare instructions on musculoskeletal pain as well as hypertension. Of note, the differential diagnosis included deep vein thrombosis, arthritis, sprain, and strain, but did not include arterial occlusion despite Mr. Moore's history of a prior femoral-popliteal bypass and despite the fact that Mr. Moore reported pain increased with walking.

Mr. Moore returned to the Emergency Department at St. Rose Dominican on Dec. 28, 2016 at which time he was seen by Dr. Stan Liu. He complained of persistent and increasing left leg pain and was evaluated with studies that included an arterial duplex ultrasound of the left leg which again showed occlusion of the left leg graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedis arteries. He was noted to have an ischemic lower extremity and started on anticoagulants including heparin and tissue plasminogen activator (TPA). He was seen by interventional radiology for placement of an arterial catheter above the occlusion. This was done so that the TPA could be administered directly to the occluded area. Mr. Moore was subsequently admitted to the ICU in critical condition. Despite these measures, his leg was too ischemic to be salvaged and he eventually required an above the knee (AK) amputation of the lower extremity. He had some post-operative complications, and was eventually discharged January 5, 2017.

It is my professional opinion that Dr. Jason Lasry and/or Terry Bartmus were negligent in the care of Darell Moore in several respects. The history as documented does not convincingly

demonstrate that they were aware that Mr. Moore had undergone a previous femoral popliteal arterial bypass. Although they did document Mr. Moore's history of prior deep venous thrombosis and history of taking Xarelto, they made no comment about his past bypass. In addition, Dr. Lasry and/or Terry Bartmus documented a differential diagnosis that included deep vein thrombosis, arthritis, sprain and strain, but importantly, did not include the possibility of arterial insufficiency. Mr. Moore described pain with increased walking and this is often from muscle ischemia or claudication which is a classic symptom of arterial vascular insufficiency.

This erroneous thought process was further compounded by ordering a venous ultrasound and excluding an arterial study. Both arterial and venous studies can be performed ultrasonically and can be very easily combined when the patient is having an ultrasound. An arterial ultrasound was, in fact, the study that diagnosed Mr. Moore when he returned with an ischemic limb on December 28. Had an arterial ultrasound been performed on Dec. 25, 2016, certainly the diagnosis of acute arterial occlusion should have been made and hospitalization and appropriate therapy undertaken.

Even more perplexing, however, is Dr. Lasry's and/or Terry Bartmus' failure to act upon the findings that were present on the venous ultrasound performed Dec. 25. Although the study does demonstrate no evidence of venous occlusion or DVT, the radiologist comments specifically that the left femoral-popliteal graft appears occluded. This finding should have been alarming enough to cause Dr. Lasry and/or Terry Bartmus to either order further diagnostic studies such as an arterial ultrasound or arteriogram or to admit Mr. Moore for attempts at revascularization. Dr. Lasry in his medical teaching addendum commented that the ultrasound showed arterial occlusion with good distal perfusion. However, it should be noted, that the radiologist did not comment on distal perfusion and it would be unlikely that a venous ultrasound would demonstrate distal perfusion. If "good distal perfusion" was meant as a clinical assessment, the standard of care requires the physician to document the clinical assessment including, at least, extremity warmth and pulses.

Dr. Lasry's and/or Terry Bartmus' incomplete assessment and lack of understanding of Mr. Moore's disease process led to Mr. Moore being discharged on Dec. 25 with limited and inadequate follow-up. He was diagnosed with "musculoskeletal leg pain" and given instructions to make a routine follow-up appointment with his primary care provider.

Mr. Moore was clearly suffering from an ischemic lower extremity at the time he presented to the Emergency Department at St. Rose on December 25, 2016. He had a history of a femoral-popliteal bypass and it should have been apparent to any reasonable and prudent physician that re-occlusion was a real possibility. In fact, the radiologist's reading on the ultrasound performed that day literally spells out the diagnosis. Despite that, Mr. Moore was discharged on Dec. 25, and never advised that he had a condition that required emergent or urgent treatment.

Finally, it is also my opinion that the delay in the treatment of Mr. Moore caused by his being discharged on Dec. 25, led directly to the progressive ischemia of his left leg and ultimately to his subsequent need for an above the knee amputation of his leg. It is well known that an acutely ischemic limb needs to have its blood supply restored within six hours in order to preserve an intact limb. Although this time frame is somewhat looser in the circumstance of subacute arterial occlusion or partial occlusion one principle remains constant. The sooner that revascularization is preformed the better the results and the less disability ensues.

The fact that there was a three day delay in diagnosing and treating Mr. Moore meant that his leg was significantly more ischemic and that there was substantially more devitalized and necrotic tissue. Areas that would have been amenable to restored blood flow on Dec. 25 were no longer viable on Dec. 28, because the tissue had died in the intervening three days. Had the treatment including heparin and TPA that was administered on Dec. 28 been initiated on Dec. 25, it is my opinion that Mr. Moore's leg could have been salvaged and that certainly he would not have required an above the knee amputation.

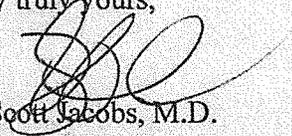
In summary, it is my opinion that Dr. Lasry, Terry Bartmus, and the staff at St. Rose Dominican Hospital were negligent in the treatment of Mr. Moore in several respects. Dr. Lasry's and/or Terry Bartmus' initial error was in fixating on venous vascular problem as the cause of Mr. Moore's symptoms. They appear to have excluded the fact that he had had a previous femoral-popliteal bypass as increasing the possibility that he had an arterial occlusion. Their differential diagnosis included deep vein thrombosis, but excluded arterial occlusion. This error was then compounded by ordering only a venous ultrasound study and not an arterial study. Even with these errors, however, they should have realized the diagnosis was arterial occlusion, because the venous ultrasound demonstrated complete occlusion of the popliteal artery graft. The fact that this significant finding was ignored again demonstrates Dr. Lasry's and/or Terry Bartmus tunnel vision in only considering venous problems as the etiology of Mr. Moore's symptoms.

Finally, it is my opinion that had Mr. Moore been diagnosed with arterial occlusion and started on treatment December 25, 2016 that his outcome would have been significantly improved. It is likely that his leg could have been successfully revascularized and that he would not have required an amputation of the leg. It is also certain that had appropriate treatment been initiated on December 25, that any procedure required in treating Mr. Moore would not have been as invasive nor as drastic.

I reserve the right to amend and supplement my findings and opinions in this report based on any additional, testing, or information which may provided to me hereafter. All of the opinions expressed herein are stated to a reasonable degree of medical certainty. Further, I base these conclusions not only on the aforementioned documentation, but also on my education, training and over thirty years of experience in the active practice of Emergency Medicine in an

acute care setting. During that time, I have cared for perhaps 100,000 patients including thousands with ischemia and hundreds with ischemic limbs.

Very truly yours,

  
R. Scott Jacobs, M.D.



**R. Scott Jacobs, M.D. FAAEM**  
1669 Torrance Street  
San Diego, California 92103

**Curriculum Vitae**

**EDUCATION**

**Premedical Education**

University of Michigan Ann Arbor, Michigan	A.B. Degree	1970
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**Medical Education**

University of Michigan Ann Arbor, Michigan	M.D. Degree	1974
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**Postgraduate Education**

Rotating Internship Mercy Hospital and Medical Center San Diego, California		1974 - 1975
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General Surgery Residency Mercy Hospital and Medical Center San Diego, California		1975 - 1976
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**MEDICAL LICENSURE**

State of California		1975 - current
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**CERTIFICATION**

American Board of Emergency Medicine		1983 - current
Pediatric Advanced Life Support		1992
Advanced Trauma Life Support		1982
Advanced Cardiac Life Support		1976
ACEP Base Station Physician Symposium		1985
National Board of Medical Examiners		1975

**PROFESSIONAL PRACTICE**

Emergency Physician	Sharp Memorial Hospital San Diego, California	1984 - present
Emergency Department Director of Risk Management		2002 - 2012
Emergency Department Supervisory Committee		2012 - present
Medical Director	Care Medical Transportation San Diego, California	1996 - present
Medical Director	Care Medical Transportation National City, California	1992 - 1993
Emergency Physician	Grossmont Hospital La Mesa, California	1983 - 1984
Emergency Physician	Valley Medical Center El Cajon, California	1980 - 1983
Emergency Physician	Pomerado Hospital Poway, California	1979 - 1980
Industrial Medicine	Kearny Mesa Industrial Medical Center San Diego, California	1978 - 1979
Emergency Physician	Clairemont Community Hospital San Diego, California	1976 - 1979
Emergency Physician	San Clemente General Hospital San Clemente, California	1976 - 1978

**EMERGENCY MEDICAL SERVICES ADMINISTRATION**

Base Hospital Medical Director	Sharp Memorial Hospital	1986 - 1989
San Diego County Base Station Physicians Committee		1986 - 1989
San Diego County Trauma System Medical Audit Committee		1986 - 1989
San Diego County Shared Helicopter Services Committee		1986 - 1989
San Diego County Pre-hospital Audit Committee		1987 - 1989
Chairman	1989	

**CONFERENCE PARTICIPATION**

Trauma Management	1989
San Diego, California	
Topic:	Pre-hospital Quality Assurance

R. Scott Jacobs, MD

**PUBLICATIONS**

Chernof, D., Pion, R., et al. Self-Care Advisor. Time Health Inc. 1996. Advisor to author of Emergency and First Aid section pp13-48.

Kaufman I.A., Stonecipher J., Kitchen L., Haubner L.M., Jacobs, R.S.  
Children's Trauma Tool. As published in Guidelines for the Triage of Pediatric Trauma Patients. Journal of Emergency Nursing, 1989. Vol 15, No.5 pp414-415.

**PROFESSIONAL AFFILIATIONS**

American Academy of Emergency Physicians  
American College of Emergency Physicians  
National Association of EMS Physicians

R. Scott Jacobs, M.D. FAAEM  
1669 Torrance Street  
San Diego, California 92103  
Cell: 619-750-7651  
E-Mail: [rsjacobsmd@gmail.com](mailto:rsjacobsmd@gmail.com)  
2017

## FEE SCHEDULE

My hourly fees for consulting services are as follows:

Review of materials	\$400.00
Deposition testimony Two hour minimum	\$600.00
Trial testimony Two hour minimum	\$600.00



*Steven D. Grieson*

PSER  
ATKINSON, WATKINS & HOFFMANN, LLP  
10789 W. TWAIN Ave. \* Ste. #100  
LAS VEGAS, NV 89135  
702-562-6000  
Attorney for: Plaintiff

DISTRICT COURT  
CLARK COUNTY NEVADA

DARELL L. MOORE, ET AL.

*Plaintiff*

DIGNITY HEALTH D/B/A ST. ROSE DOMINCAN HOSPITAL - SAN MARTIN  
CAMPUS, ET AL.

*Defendant*

Case Number: **A-17-766426-C**

Dept/Div: **XXVI**

**PROOF OF SERVICE**

BRENT ALLEN REID, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Wednesday December 27 2017; 1 copy(ies) of the:

**SUMMONS; FIRST AMENDED COMPLAINT MEDICAL MALPRACTICE**

I served the same on Thursday December 28 2017 at 10:47AM by:

**Serving Defendant FREMONT EMERGENCY SERVICES (MANDAVIA), LTD., BY SERVING  
CSC SERVICES OF NEVADA, INC., REGISTERED AGENT**

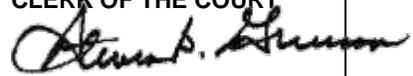
by serving: TAYLOR LEE, SERVICE LIAISON ON BEHALF OF CSC SERVICES OF NEVADA, INC., REGISTERED AGENT PURSUANT TO NRS 14.020 at the Defendant's Business located at 2215-B RENAISSANCE DR, Las Vegas, NV 89119.

Pursuant to NRS 53.045, I declare under the penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

Executed: Friday December 29 2017

*Brent Allen Reid*

Affiant: BRENT ALLEN REID #R-061962  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
(702) 384-0305, FAX (702) 384-8638



1 ANS  
2 KENNETH M. WEBSTER, ESQ.  
3 Nevada Bar No. 7205  
4 JOHN F. BEMIS, ESQ.  
5 Nevada Bar No. 9509  
6 SARAH S. SILVERMAN, ESQ.  
7 Nevada Bar No. 13624  
8 HALL PRANGLE & SCHOONVELD, LLC  
9 1160 North Town Center Drive, Ste. 200  
10 Las Vegas, Nevada 89144  
11 Phone: 702-889-6400  
12 Facsimile: 702-384-6025  
13 [efile@hpslaw.com](mailto:efile@hpslaw.com)  
14 Attorneys for Defendant  
15 Dignity Health dba  
16 St. Rose Dominican Hospital – San Martin Campus

DISTRICT COURT  
CLARK COUNTY, NEVADA

13 DARELL L. MOORE and CHARLENE A.  
14 MOORE, individually and has husband and  
15 wife,

15 Plaintiff,

16 vs.

18 DIGNITY HEALTH d/b/a ST. ROSE  
19 DOMINICAN HOSPITAL – SAN MARTIN  
20 CAMPUS; JASON LASRY, M.D.,  
21 individually; FREMONT EMERGENCY  
22 SERVICES (MANDAVIA), LTD.; TERRY  
23 BARTUMS, RN, APRN; and DOES I  
through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive;

23 Defendants.

CASE NO. A-17-766426-C  
DEPT NO. XXVI

**DIGNITY HEALTH dba**  
**ST. ROSE DOMINICAN HOSPITAL –**  
**SAN MARTIN CAMPUS’ ANSWER TO**  
**PLAINTIFFS’ COMPLAINT**

24 COMES NOW, Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN  
25 HOSPITAL – SAN MARTIN CAMPUS (hereinafter “St. Rose”) by and through its attorneys of  
26 record, the law firm of Hall Prangle & Schoonveld, LLC, and hereby provides the following  
27 Answer to Plaintiffs’ Complaint:

28 ///

HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE, STE. 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

1           1.       In answering paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20 and  
2 21 of Plaintiffs' Complaint, this answering Defendant states that it is without sufficient  
3 information to form a belief as to the truth of the allegations contained therein and therefore  
4 denies the same.

5           2.       In answering paragraph 3 of Plaintiffs' Complaint, this answering Defendant  
6 admits that it is a Foreign Non-Profit Corporation doing business as St. Rose Dominican  
7 Hospital – San Martin, located at 8580 West Warm Springs Road, Las Vegas, Nevada 89113,  
8 and is a Nevada Business Entity authorized to do business as a Medical Provider pursuant to  
9 NRS 449 and is a Medical Facility pursuant to NRS 449.0151 providing health care to the public.  
10 As to the remaining allegations contained in said paragraph, this answering Defendant denies.

11           3.       In answering paragraphs 10 and 25 of Plaintiffs' Complaint, this answering  
12 Defendant states that no allegations are contained in said paragraphs; therefore, to the extent any  
13 allegation may be inferred, this answering Defendant denies any and all allegations as to this  
14 answering Defendant.

15           4.       In answering paragraphs 11, 23 and 24, this answering Defendant denies each and  
16 every allegation as pertaining to this answering Defendant; as to the remaining allegations  
17 contained therein, this answering Defendant states that it is without sufficient information to  
18 form a belief as to the truth of the allegations contained therein and therefore denies the same.

19           5.       In answering paragraph 22 of Plaintiffs' Complaint, this answering Defendant  
20 denies that St. Rose-San Martin failed to recognize the obvious occlusion recognized by the  
21 Radiologist, and also denies that this answering Defendant failed to properly address DARELL's  
22 condition, thus leading to above-the-knee amputation of his left lower extremity. As to the  
23 remaining allegations contained in said paragraphs, this answering Defendant states that said  
24 allegations call for legal conclusion and that this answering Defendant is without sufficient  
25 information to form a belief as to the truth of the allegations contained therein and therefore deny  
26 the same.

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**2<sup>ND</sup> CAUSE OF ACTION**

**CORPORATE NEGLIGENCE/VICARIOUS LIABILITY**

**(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL – SAN  
MARTIN CAMPUS)**

11. In answering paragraph 40 of Plaintiffs’ Complaint, this answering Defendant hereby incorporates its answers to paragraphs 1 through 39 as though fully set forth herein.

12. In answering paragraph 41 of Plaintiffs’ Complaint, this answering Defendant denies that their actions caused DARELL’s above-the-knee amputation. As to the remaining allegations contained in said paragraph, this answering Defendant states that it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

13. In answering paragraph 42 of Plaintiffs’ Complaint, this answering Defendant denies that this answering Defendant failed to supervise and/or to correct any alleged negligence of its employees or that its employees demonstrated disregard for the safety of its patients. As to the remaining allegations contained in said paragraph, this answering Defendant states that it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

14. In answering paragraphs 43, 44, 45, 46, 47 and 48 of Plaintiffs’ Complaint, this answering Defendant denies each and every allegation contained therein as pertaining to this answering Defendant. As to the remaining allegations contained in said paragraphs, this answering Defendant states that it is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

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**3<sup>RD</sup> CAUSE OF ACTION**

**PROFESSIONAL NEGLIGENCE**

**(As Against JASON LASRY, M.D.)**

15. In answering paragraph 49 of Plaintiffs' Complaint, this answering Defendant hereby incorporates its answers to paragraphs 1 through 48 as though fully set forth herein.

16. In answering paragraphs 50, 51, 52, 53, 54, 55, 56 and 57 of Plaintiffs' Complaint, this answering Defendant states that it is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

**4<sup>TH</sup> CAUSE OF ACTION**

**NEGLIGENT HIRING, TRAINING AND SUPERVISION**

**(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)**

17. In answering paragraph 58 of Plaintiffs' Complaint, this answering Defendant hereby incorporates its answers to paragraphs 1 through 57 as though fully set forth herein.

18. In answering paragraphs 59, 60, 61, 62, 63, 64, 65 and 66 of Plaintiffs' Complaint, this answering Defendant states that it is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

**5<sup>th</sup> CAUSE OF ACTION**

**CORPORATE NEGLIGENCE/VICARIOUS LIABILITY**

**(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)**

19. In answering paragraph 67 of Plaintiffs' Complaint, this answering Defendant hereby incorporates its answers to paragraphs 1 through 66 as though fully set forth herein.

20. In answering paragraphs 68, 69, 70, 71, 72 and 73 of Plaintiffs' Complaint, this answering Defendant states that it is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 The damages, if any, alleged by Plaintiffs were not the result of any acts of omission, or  
3 commission, or negligence, but were the results of known risks which were consented to by the  
4 Plaintiffs, such risks being inherent in the nature of the care rendered and such risks were  
5 assumed by the Plaintiffs when they consented to treatment.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 In all medical attention rendered by this Defendant to Plaintiffs, this Defendant possessed  
8 and exercised that degree of skill and learning ordinarily possessed and exercised by the  
9 members of its profession in good standing, practicing in similar localities, and that at all times  
10 this Defendant used reasonable care and diligence in the exercise of its skills and the application  
11 of its learning, and at all times acted according to their best judgment; that the medical treatment  
12 administered by this Defendant was the usual and customary treatment for the physical condition  
13 and symptoms exhibited by Plaintiffs, and that at no time was this Defendant guilty of  
14 negligence or improper treatment; that, on the contrary, this Defendant did perform each and  
15 every act of such treatment in a proper and efficient manner and in a manner most thoroughly  
16 approved and followed by the medical profession generally and under the circumstances and  
17 conditions as they existed when such medical attention was rendered.

18 **SEVENTH AFFIRMATIVE DEFENSE**

19 The injuries complained of in the Complaint, if any, were not the result of willful,  
20 malicious or deliberate conduct on the part of this answering Defendant.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 That it has been necessary for the Defendant to employ the services of an attorney to  
23 defend this action and a reasonable sum should be allowed Defendant for attorneys' fees,  
24 together with costs of suit incurred herein.

25 **NINTH AFFIRMATIVE DEFENSE**

26 Defendant is liable for only that portion of the Plaintiffs' claims that represents the  
27 percentage of negligence, if any, attributed to it.

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**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to plead any acts or omissions of this answering Defendant sufficient to constitute punitive damages.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs failed to file their Complaint before the running of the applicable statute of limitation, thereby barring their claims for relief.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint, and each claim asserted therein and the relief sought, is barred by the statute of frauds

**THIRTEENTH AFFIRMATIVE DEFENSE**

Pursuant to N.R.C.P. 11, as amended, all possible Affirmative Defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend its Answer to allege additional Affirmative Defenses if subsequent investigation warrants.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave of Court to amend its Answer to specifically assert the same. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant asserts that the Complaint should be dismissed on the basis that Plaintiffs have not complied with NRS 41A.071.

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WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff take nothing by virtue of their Complaint;
2. For reasonable attorney's fees and costs of suit incurred herein; and
3. For such other and further relief as the Court deems just and proper.

Dated this 17<sup>th</sup> day of January, 2018.

HALL PRANGLE & SCHOONVELD, LLC

By: /s/ Sarah S. Silverman, Esq.

KENNETH M. WEBSTER, ESQ.

Nevada Bar No. 7205

JOHN F. BEMIS, ESQ.

Nevada Bar No. 9509

SARAH S. SILVERMAN, ESQ.

Nevada Bar No. 13624

1160 North Town Center Drive, Ste. 200

Las Vegas, Nevada 89144

Attorneys for Defendant

Dignity Health dba

St. Rose Dominican Hospital – San Martin Campus

///

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///

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 17<sup>th</sup> day of January, 2018, I served a true and correct copy of the foregoing **DIGNITY HEALTH dba ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS’ ANSWER TO PLAINTIFFS’ COMPLAINT** as follows:

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

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

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

Matthew W. Hoffmann, Esq.  
Atkinson Watkins & Hoffmann, LLP  
10789 W. Twain Avenue, Ste. 100  
Las Vegas, Nevada 89135  
[mhoffmann@awhlawyers.com](mailto:mhoffmann@awhlawyers.com)  
*Attorneys for Plaintiffs*

\_\_\_\_\_  
/s/: Audrey Ann Stephanski  
An employee of HALL PRANGLE & SCHOONVELD, LLC

4828-9528-9946, v. 1



*Steven D. Grierson*

PSEER  
ATKINSON, WATKINS & HOFFMANN, LLP  
10789 W. TWAIN Ave. \* Ste. #100  
LAS VEGAS, NV 89135  
702-562-6000  
Attorney for: Plaintiff

DISTRICT COURT  
CLARK COUNTY NEVADA

DARELL L. MOORE, ET AL.

*Plaintiff*

DIGNITY HEALTH D/B/A ST. ROSE DOMINCAN HOSPITAL - SAN MARTIN  
CAMPUS, ET AL.

*Defendant*

Case Number: **A-17-766426-C**

Dept/Div: **XXVI**

**PROOF OF SERVICE**

JOHN GODWIN, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Wednesday December 27 2017; 1 copy(ies) of the:

**SUMMONS; FIRST AMENDED COMPLAINT MEDICAL MALPRACTICE**

I served the same on Thursday December 28 2017 at 10:10AM by:

**Serving Defendant DIGNITY HEALTH D/B/A ST. ROSE DOMINCAN HOSPITAL - SAN MARTIN CAMPUS, BY SERVING BRIAN BRANNMAN, REGISTERED AGENT**

by serving: BARBARA KALINEY, EMPLOYEE ON BEHALF OF BRIAN BRANNMAN, REGISTERED AGENT PURSUANT TO NRS 14.020 at the Defendant's Business located at 3001 ST ROSE PKWY, Henderson, NV 89052.

Pursuant to NRS 53.045, I declare under the penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

Executed: Wednesday January 03 2018

*John Godwin*

Affiant: JOHN GODWIN #R-087033

LEGAL WINGS, INC. - NV LIC #389

1118 FREMONT STREET

Las Vegas, NV 89101

(702) 384-0305, FAX (702) 384-8638



PSER  
ATKINSON, WATKINS & HOFFMANN, LLP  
10789 W. TWAIN Ave. \* Ste. #100  
LAS VEGAS, NV 89135  
702-562-6000  
Attorney for: Plaintiff

DISTRICT COURT  
CLARK COUNTY NEVADA

DARELL L. MOORE, ET AL.

*Plaintiff*

DIGNITY HEALTH D/B/A ST. ROSE DOMINCAN HOSPITAL - SAN MARTIN  
CAMPUS, ET AL.

*Defendant*

Case Number: A-17-766426-C

Dept/Div: XXVI

PROOF OF SERVICE

TINA J. SANCHEZ, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Wednesday December 27 2017; 1 copy(ies) of the:

**SUMMONS; FIRST AMENDED COMPLAINT MEDICAL MALPRACTICE**

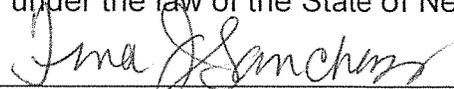
I served the same on Sunday January 21 2018 at 02:48PM by:

**Serving Defendant JASON LASRY, M.D., INDIVIDUALLY**

Substituted Service, by leaving the copies with or in the presence of: OLGA REZNIK, CO-RESIDENT, WIFE pursuant to NRCP 4(d)(6), as a person of suitable age and discretion residing therein. at the Defendant's Home located at 216 PIAZZA DEL VERANO ST, LAS VEGAS, NV 89138.

Pursuant to NRS 53.045, I declare under the penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

Executed: Monday January 22 2018



Affiant: TINA J. SANCHEZ #R-038221  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
(702) 384-0305, FAX (702) 384-8638



*Steven D. Griesed*

PSEER  
ATKINSON, WATKINS & HOFFMANN, LLP  
10789 W. TWAIN Ave. \* Ste. #100  
LAS VEGAS, NV 89135  
702-562-6000  
*Attorney for: Plaintiff*

DISTRICT COURT  
CLARK COUNTY NEVADA

DARELL L. MOORE, ET AL.

*Plaintiff*

DIGNITY HEALTH D/B/A ST. ROSE DOMINCAN HOSPITAL - SAN MARTIN  
CAMPUS, ET AL.

*Defendant*

Case Number: **A-17-766426-C**

Dept/Div: **XXVI**

**PROOF OF SERVICE**

BRENT ALLEN REID, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Wednesday December 27 2017; 1 copy(ies) of the:

**SUMMONS; FIRST AMENDED COMPLAINT MEDICAL MALPRACTICE**

I served the same on Monday January 22 2018 at 12:54PM by:

**Serving Defendant TERRY BARTMUS, RN, APRN BY SERVING KEITH A. WEAVER,  
ATTORNEY OF RECORD**

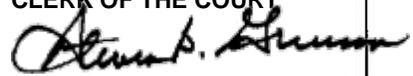
Substituted Service, by leaving the copies with or in the presence of: JOHANA WHITEBECK, LEGAL SECRETARY Authorized Agent. at the Defendant's Business located at 6385 S RAINBOW BLVD STE 600, LAS VEGAS, NV 89118.

Pursuant to NRS 53.045, I declare under the penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

Executed: Tuesday January 23 2018

*Brent Allen Reid*

Affiant: BRENT ALLEN REID #R-061962  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
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1 KEITH A. WEAVER  
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5 Las Vegas, Nevada 89118  
TEL: 702.893.3383  
6 FAX: 702.893.3789

7 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia), Ltd. and  
8 Terry Bartmus, A.P.R.N.*

9  
10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 DARELL L. MOORE and CHARLENE A.  
13 MOORE, individually and as husband and  
14 wife,

15 Plaintiffs,

16 vs.

17 DIGNITY HEALTH d/b/a ST. ROSE  
DOMINICAN HOSPITAL - SAN MARTIN  
18 CAMPUS; JASON LASRY, M.D.,  
individually; FREMONT EMERGENCY  
19 SERVICES (MANDAVIA), LTD.; TERRY  
BARTMUS, A.P.R.N.; and DOES I through  
20 X, inclusive; and ROE CORPORATIONS I  
through V, inclusive; ,

21 Defendants.

CASE NO. A-17-766426-C  
Dept. No.: XXVI

DEFENDANTS FREMONT EMERGENCY  
SERVICES (MANDAVIA), LTD. AND  
TERRY BARTMUS, A.P.R.N.'S ANSWER  
TO PLAINTIFFS' FIRST AMENDED  
COMPLAINT

22  
23 Defendants FREMONT EMERGENCY SERVICES (MANDAVIA), LTD. and  
24 TERRY BARTMUS, A.P.R.N. (hereinafter referred to as "Defendants" or "Answering  
25 Defendants"), by and through their counsel of record, LEWIS BRISBOIS BISGAARD &  
26 SMITH LLP, answer Plaintiffs' First Amended Complaint as follows:

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28 I.

GENERAL ALLEGATIONS

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1. These Answering Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraphs 1 through 4, and therefore deny those allegations.

2. Answering Paragraph 5, these Answering Defendants admit Defendant Fremont Emergency Medical Services (Mandavia), Ltd. ("Fremont Emergency Services") is a Nevada Corporation authorized to conduct business in the State of Nevada. The remaining allegations are legal conclusions that do not call for a response from these Answering Defendants. However, to the extent the remaining allegations in Paragraph 5 call for a response from these Answering Defendants, these Answering Defendants are without sufficient facts or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 5, and therefore deny those allegations.

3. Answering Paragraph 6, these Answering Defendants admit Defendant Terry Bartmus, A.P.R.N. ("NP Bartmus") is an Advanced Practice Registered Nurse employed by Fremont Emergency Services. As to the remaining allegations, Defendants are without sufficient facts or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 6, and therefore deny those allegations.

4. Paragraphs 7 through 10 contain legal conclusions that do not call for a response from these Answering Defendants. To the extent that Paragraphs 7 through 10 require a response from these Answering Defendants, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraphs 7 through 10, and therefore deny those allegations.

5. These Answering Defendants deny the allegations in Paragraph 11.

6. These Answering Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraphs 12 through 22, and therefore deny those allegations.

7. These Answering Defendants deny the allegations in Paragraphs 23 through 24.

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**SPECIFIC ALLEGATIONS OF NEGLIGENCE**

**1<sup>ST</sup> CAUSE OF ACTION**

**NEGLIGENT HIRING, TRAINING AND SUPERVISION**

**(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN MARTIN CAMPUS)**

8. Answering Paragraph 26, these Answering Defendants repeat and reallege its responses to Paragraphs 1 through 25 and incorporate the same by reference as though fully set forth herein.

9. Paragraphs 27 through 39 do not call for a response from these Answering Defendants as they relate to co-Defendant Dignity Health d/b/a St. Rose Dominican Hospital - San Martin Campus only. To the extent that Paragraphs 27 through 39 require a response from these Answering Defendants, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraphs 27 through 39, and therefore deny those allegations.

**2<sup>ND</sup> CAUSE OF ACTION**

**CORPORATE NEGLIGENCE/VICARIOUS LIABILITY**

**(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN MARTIN CAMPUS)**

10. Answering Paragraph 40, these Answering Defendants repeat and reallege its responses to Paragraphs 1 through 39 and incorporate the same by reference as though fully set forth herein.

11. Paragraphs 41 through 48 do not call for a response from these Answering Defendants as they relate to co-Defendant Dignity Health d/b/a St. Rose Dominican Hospital - San Martin Campus only. To the extent that Paragraphs 41 through 48 require a response from these Answering Defendants, these Answering Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraphs 41 through 48, and therefore deny those allegations.

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1 18. Answering Paragraph 68, these Answering Defendants admit that Fremont  
2 Emergency Services had a duty of care. These Answering Defendants deny any  
3 allegations contained in Paragraph 68 that said duty of care was breach by Fremont  
4 Emergency Services.

5 19. These Answering Defendants deny the allegations contained in Paragraphs  
6 68 through 73.

7 6<sup>TH</sup> CAUSE OF ACTION  
8 PROFESSIONAL NEGLIGENCE  
9 (As Against TERRY BARTMUS, RN, APRN (sic))

10 20. Answering Paragraph 74, these Answering Defendants repeat and reallege  
11 its responses to Paragraphs 1 through 73 and incorporate the same by reference as  
12 though fully set forth herein.

13 21. These Answering Defendants deny the allegations contained in Paragraphs  
14 75 through 76.

15 22. These Answering Defendants deny the allegations contained in Paragraph  
16 77, as phrased.

17 23. These Answering Defendants deny the allegations contained in Paragraphs  
18 78 through 82.

19 AFFIRMATIVE DEFENSES

20 FIRST AFFIRMATIVE DEFENSE

21 Plaintiffs' First Amended Complaint fails to state a claim on which relief may be  
22 granted.

23 SECOND AFFIRMATIVE DEFENSE

24 Plaintiffs' damages, if any, were not proximately caused by these Answering  
25 Defendants' conduct.

26 THIRD AFFIRMATIVE DEFENSE

27 Plaintiffs are comparatively at fault; Plaintiffs' recovery, if any, should be reduced  
28 in proportion to Plaintiffs' fault, or in the event their fault exceeds that of these Answering  
29 Defendants, Plaintiffs are not entitled to any recovery.

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**FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs' injuries and damages, if any, are the result of forces of nature over which these Answering Defendants had no control or responsibility.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs are barred from asserting any claims against these Answering Defendants because the alleged damages were the result of one or more unforeseeable intervening and superseding causes.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs are barred from bringing this action for failure to comply with applicable contractual remedies and requirements, including arbitration, if applicable. Plaintiffs' failure to comply with the contractual remedies and requirements notwithstanding, these Answering Defendants reserve their right to enforce any applicable arbitration provision.

**SEVENTH AFFIRMATIVE DEFENSE**

The damages, if any, incurred by Plaintiffs were not attributable to any act, conduct, or omission on the part of these Answering Defendants. These Answering Defendants deny that they were culpable in any matter or in any degree with respect to the matters set forth in Plaintiffs' Complaint.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred due to the applicable statute of limitations applicable to each cause of action, and/or the doctrines of estoppel, waiver, laches and/or unclean hands.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiffs' damages, if any, were caused in whole or part by the negligence of third parties over which these Answering Defendants had no control.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs failed to take reasonable efforts to mitigate their damages, if any, and are therefore barred from recovering any damages from these Answering Defendants.

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**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' maladies and injuries, if any, were caused by inevitable disease processes and not by any act of these Answering Defendants.

**TWELFTH AFFIRMATIVE DEFENSE**

These Answering Defendants are entitled to all limitations, protections and other provisions contained within NRS Chapter 41A and/or NRS 42.021.

**THIRTEENTH AFFIRMATIVE DEFENSE**

These Answering Defendants deny each and every allegation of Plaintiffs' Complaint not specifically admitted or otherwise pled herein.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to comply with NRS 41A.071.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' non-economic damages, if any, may not exceed \$350,000, pursuant to NRS 41A.035.

**SIXTEENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiffs are entitled to recover any damages from these Answering Defendants, these Answering Defendants may be held severally liable only for that portion of any judgment which represents the percentage of negligence attributable these Answering Defendants, pursuant to NRS 41A.045 and NRS 41.141.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Pursuant to NRS 41A.110, these Answering Defendants are entitled to a conclusive presumption of informed consent.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

The damages, if any, alleged by Plaintiffs are not the result of any acts of omission, commission, or negligence, but were the result of a known risk(s), which were consented to by Plaintiffs.

**NINETEENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiffs are entitled to recover any future damages from these

1 Answering Defendants, these Answering Defendants may satisfy that amount through  
2 periodic payments pursuant to NRS 42.021.

3 TWENTIETH AFFIRMATIVE DEFENSE

4 Plaintiffs have failed to name an indispensable party whose presence is  
5 indispensable to full relief.

6 TWENTY-FIRST AFFIRMATIVE DEFENSE

7 Pursuant to N.R.C.P. 11, as amended, all affirmative defenses that have not been  
8 alleged herein insofar as sufficient facts are not available after reasonable inquiry upon  
9 the filing of these Answering Defendants' Answer. These Answering Defendants reserve  
10 the right to allege additional affirmative defenses subsequently, if investigation so  
11 warrants.

12 TWENTY-SECOND AFFIRMATIVE DEFENSE

13 These Answering Defendants hereby incorporate by reference those affirmative  
14 defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth  
15 herein, for the specific purpose of not waiving any such defenses. In the event further  
16 investigation or discovery reveals the applicability of any such defenses, or any other  
17 affirmative defenses, these Answering Defendants reserve the right to seek leave of court  
18 to amend this Answer to specifically assert any such defense.

19 JURY DEMAND

20 Pursuant Nev. R. Civ. P. 38, Defendants demand a trial by jury on all issues  
21 appropriate for the jury to consider.

22 WHEREFORE, these Answering Defendants prays for judgment as follows:

- 23 1. That Plaintiffs take nothing by reason of their Amended Complaint on file  
24 herein;
- 25 2. For all attorneys' fees incurred in the defense of this action;
- 26 3. For costs and disbursements incurred herein; and

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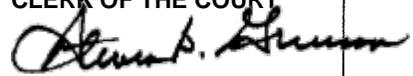
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CERTIFICATE OF SERVICE

I hereby certify that on this 9<sup>th</sup> day of February, 2018, a true and correct copy of DEFENDANTS FREMONT EMERGENCY SERVICES (MANDAVIA), LTD. AND TERRY BARTMUS, A.P.R.N.'S ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT was served electronically with the Clerk of the Court using the Wiznet Electronic Service system and serving all parties with an email-address on record, who have agreed to receive Electronic Service in this action.

Matthew W. Hoffmann, Esq.  
ATKINSON WATKINS & HOFFMANN, LLP  
10789 W. Twain Ave., Suite 100  
Las Vegas, NV 89135  
Tel: 702.562.6000  
Fax: 702.562.6066  
Email: [mhoffmann@awhlawyers.com](mailto:mhoffmann@awhlawyers.com)  
*Attorneys for Plaintiffs*

By   
An Employee of  
LEWIS BRISBOIS BISGAARD & SMITH LLP



1 **ANS**  
2 ROBERT C. MCBRIDE, ESQ.  
3 Nevada Bar No. 7082  
4 CHELSEA R. HUETH, ESQ.  
5 Nevada Bar No. 10904  
6 CARROLL, KELLY, TROTTER,  
7 FRANZEN, McBRIDE & PEABODY  
8 8329 W. Sunset Road, Suite 260  
9 Las Vegas, Nevada 89113  
10 Telephone No. (702) 792-5855  
11 Facsimile No. (702) 796-5855  
12 E-mail: [remcbride@cktfmlaw.com](mailto:remcbride@cktfmlaw.com)  
13 E-mail: [crhueth@cktfmlaw.com](mailto:crhueth@cktfmlaw.com)  
14 Attorneys for Defendant,  
15 *Jason Lasry, M.D.*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

15 DIGNITY HEALTH d/b/a ST. ROSE  
16 DOMINICAN HOSPITAL – SAN MARTIN  
17 CAMPUS; JASON LASRY, M.D.,  
18 individually; FREMONT EMERGENCY  
19 SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I through  
21 X, inclusive; and ROE CORPORATIONS I  
22 through V, inclusive;

Defendants.

**CASE NO.: A-17-766426-C**  
**DEPT: XXVI**

**DEFENDANT, JASON LASRY, M.D.'S ANSWER TO PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

24 COMES NOW, Defendant, JASON LASRY, M.D. by and through his counsel of record,  
25 ROBERT C. McBRIDE, ESQ. and CHELSEA R. HUETH, ESQ. of the law firm of CARROLL,  
26 KELLY, TROTTER, FRANZEN, McBRIDE & PEABODY, and hereby Answers Plaintiffs'  
27 First Amended Complaint as follows:  
28

I.

**GENERAL ALLEGATIONS**

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3 1. Answering Paragraphs 1, 2, 3, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21  
4 and 23 of Plaintiffs' First Amended Complaint on file herein, this answering Defendant is  
5 without sufficient knowledge to form a belief as to the truth of the allegations contained in said  
6 paragraphs and therefore denies the same.

7  
8 2. Answering Paragraph 4 of Plaintiffs' First Amended Complaint on file herein, this  
9 answering Defendant admits the allegations contained herein.

10 3. Answering Paragraphs 9, 11, 22, and 24 of Plaintiffs' First Amended Complaint,  
11 this answering Defendant denies the allegations as to Jason Lasry, M.D. and as to all remaining  
12 allegations, this answering Defendant is without sufficient knowledge and information to  
13 formulate a belief as to the truth of the allegations contained therein and, based upon such lack of  
14 information and belief, the same are hereby denied.

15  
16 4. Answering Paragraph 25 of Plaintiffs' First Amended Complaint, this answering  
17 Defendant admits the affidavit of Scott Jacobs, M.D. is attached to Plaintiffs' Complaint.

18 **SPECIFIC ALLEGATIONS OF NEGLIGENCE**

19 **1ST CAUSE OF ACTION**

20 **NEGLIGENT HIRING, TRAINING AND SUPERVISION**

21 **(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN  
22 MARTIN CAMPUS)**

23 5. Answering Paragraph 26 of Plaintiffs' First Amended Complaint on file herein,  
24 this answering Defendant repeats each and every response to Paragraphs 1 through 25, inclusive,  
25 and incorporate the same by reference as though set forth fully herein.

26 6. Answering Paragraphs 27 through 39 of Plaintiffs' First Amended Complaint on  
27 file herein, this answering Defendant is without sufficient knowledge to form a belief as to the  
28 truth of the allegations contained in said paragraphs and therefore denies the same.





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**GENERAL DENIAL**

This Answering Defendant denies each and every allegation contained in Plaintiffs' First Amended Complaint that is not specifically admitted to be true.

**FIRST AFFIRMATIVE DEFENSE**

Defendant alleges that Plaintiffs' First Amended Complaint on file herein fails to state claims upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Defendant alleges that the damages, if any, were caused in whole or in part, or were contributed to by reason of the negligence or wrongful conduct of Plaintiffs.

**THIRD AFFIRMATIVE DEFENSE**

All risks and dangers involved in the factual situation described in the First Amended Complaint were open, obvious, and known to Plaintiffs and said Plaintiffs voluntarily assumed said risks and dangers.

**FOURTH AFFIRMATIVE DEFENSE**

The incident alleged in the First Amended Complaint and the resulting damages, if any, to Plaintiffs were proximately caused or contributed to by Plaintiffs' own negligence, and such negligence was greater than the alleged negligence of Defendants.

**FIFTH AFFIRMATIVE DEFENSE**

Defendant alleges that the occurrence referred to in the First Amended Complaint, and all injuries and damages, if any, resulting therefrom were caused by the acts or omissions of a third party over whom Defendant had no control.

**SIXTH AFFIRMATIVE DEFENSE**

Defendant has fully performed and discharged all obligations owed to Plaintiffs, including meeting the requisite standard of care to which Plaintiffs were entitled.

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**SEVENTH AFFIRMATIVE DEFENSE**

Defendant alleges that at all times mentioned in Plaintiffs' First Amended Complaint, Plaintiffs were suffering from a medical condition(s) which Defendant did not cause, nor was Defendant responsible for said medical condition(s).

**EIGHTH AFFIRMATIVE DEFENSE**

If Plaintiffs have sustained any injuries or damages, such were the result of intervening and/or superseding events, factors, occurrences, or conditions, which were in no way caused by Defendant, and for which Defendant is not liable.

**NINTH AFFIRMATIVE DEFENSE**

Defendant alleges that pursuant to Nevada law, he would not be jointly liable and that if liability is imposed, such liability would be several for that portion of Plaintiffs' damages, if any, that represents the percentage attributable to Defendant.

**TENTH AFFIRMATIVE DEFENSE**

The risks and consequences, if any, attendant to the recommendations and treatment proposed by this Defendant were fully explained to Plaintiffs who freely consented to such treatment and thereby assumed risks involved in such matter.

**ELEVENTH AFFIRMATIVE DEFENSE**

Defendant alleges that Plaintiffs have a duty to mitigate their damages and have failed to do so.

**TWELFTH AFFIRMATIVE DEFENSE**

To the extent Plaintiffs have been reimbursed from any source for any special damages claimed to have been sustained as a result of the incidents alleged in Plaintiffs' First Amended Complaint, Defendant may elect to offer those amounts into evidence and, if Defendant so elect, Plaintiffs' special damages shall be reduced by those amounts pursuant to NRS 42.021.

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**THIRTEENTH AFFIRMATIVE DEFENSE**

All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer and, therefore, Defendant reserves the right to amend his Answer to allege additional Affirmative Defenses if subsequent investigation so warrants.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Defendant did not violate any statute, ordinance, or regulation referenced in Plaintiffs' First Amended Complaint herein.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Defendant alleges it has been necessary for this Defendant to employ the services of an attorney to defend this action and a reasonable sum should be allowed to Defendant for attorney's fees, together with costs of suit incurred herein.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right to seek leave of Court to amend their Answer to specifically assert the same. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' non-economic damages, if any, may not exceed \$350,000.00 pursuant to NRS 41A.035; Defendant is otherwise entitled to all protections, benefits, and set offs available to Defendant in medical malpractice actions under NRS Chapters 41, 41A and 42.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiffs have been reimbursed from any source for any special damages

1 claimed to have been sustained as a result of the incidents alleged in Plaintiffs' First Amended  
2 Complaint, Defendants may elect to offer those amounts into evidence and, if Defendant so  
3 elects, Plaintiffs special damages shall be reduced by those amounts pursuant to NRS 42.021.

4 **NINETEENTH AFFIRMATIVE DEFENSE**

5 To the extent Plaintiffs are entitled to recover any future damages from Defendant,  
6 Defendant may satisfy that amount through periodic payments pursuant to NRS 42.021(3).

7 WHEREFORE, Defendant prays for relief as follows:

- 8
- 9 1. That Plaintiffs take nothing by way of the First Amended Complaint on file  
10 herein.
  - 11 2. For reasonable attorney's fees and costs incurred in defending this litigation.
  - 12 3. For such other and further relief as this Court deems just and proper in the  
13 premises.  
14

15  
16 DATED this 12<sup>th</sup> day of February 2018.

CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY



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19 \_\_\_\_\_  
ROBERT C. McBRIDE, ESQ.  
Nevada Bar No.: 7082  
CHELSEA R. HUETH, ESQ.  
Nevada Bar No.: 10904  
8329 W. Sunset Road, Suite 260  
Las Vegas, Nevada 89113  
Attorneys For Defendant,  
*Jason Lasry, M.D.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 12<sup>th</sup> day of February 2018, I served a true and correct copy of the foregoing **DEFENDANT, JASON LASRY, M.D.'S ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT** addressed to the following counsel of record at the following address(es):

- VIA ELECTRONIC SERVICE:** *by mandatory electronic service (e-service), proof of e-service attached to any copy filed with the Court; or*
- VIA U.S. MAIL:** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on the service list below in the United States mail at Las Vegas, Nevada
- VIA FACSIMILE:** By causing a true copy thereof to be telecopied to the number indicated on the service list below.

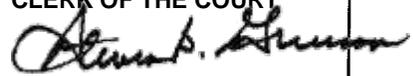
Matthew W. Hoffmann, Esq.  
ATKINSON WATKINS, & HOFFMANN, LLP  
10789 W. Twain Avenue, Suite 100  
Las Vegas, NV 89135  
*Attorneys for Plaintiffs*

Kenneth M. Webster, Esq.  
John F. Bemis, Esq.  
Sarah S. Silverman, Esq.  
HALL PRANGLE & SCHOONVELD, LLC  
1160 North Town Center Drive, Ste. 200  
Las Vegas, Nevada 89144  
Attorneys for Defendant,  
*Dignity Health dba St. Rose Dominican  
Hospital – San Martin Campus*

Keith A. Weaver, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
Attorney for Defendant,  
*Terry Bartmus, RN, APRN*



An Employee of **CARROLL, KELLY, TROTTER,  
FRANZEN, McBRIDE & PEABODY**



1 DSO

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DISTRICT COURT

4

CLARK COUNTY, NEVADA

5

6

DARELL L. MOORE, et al.,

7

Plaintiff(s),

8

v.

CASE NO. A-17-766426-C

9

DEPT NO. XXVI

10

DIGNITY HEALTH, et al.,

11

Defendant(s).

12

13

**SCHEDULING ORDER**

(Discovery/Dispositive Motions/Motions to Amend or Add Parties)

14

NATURE OF ACTION: **Medical malpractice**

15

16

DATE OF FILING JOINT CASE CONFERENCE REPORT(S): **4/2/18**

17

TIME REQUIRED FOR TRIAL: **8-10 days**

18

DATES FOR SETTLEMENT CONFERENCE: **None requested**

19

Counsel for Plaintiff(s):

20

**Matthew W. Hoffmann, Esq., Atkinson Watkins & Hoffmann**

21

Counsel for Defendant(s) DIGNITY HEALTH:

22

**Sarah S. Silverman, Esq., Hall Prangle & Schoonveld**

23

Counsel for Defendant(s) FREMONT EMERGENCY SERVICES (MANDAVIA),  
LTD./TERRY BARTMUS, A.P.R.N.:

24

**Michael J. Lin, Esq., Lewis Brisbois Bisgaard & Smith**

25

Counsel for Defendant(s) JASON LASRY, M.D.:

26

**Anna H. Karabachev, Esq., Carroll, Kelly, Trotter, Franzen,  
McKenna & Peabody**

27

Counsel representing all parties have been heard and after

28

consideration by the Discovery Commissioner,

**DISCOVERY  
COMMISSIONER**  
EIGHTH JUDICIAL  
DISTRICT COURT

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IT IS HEREBY ORDERED:

- 1. all parties shall complete discovery on or before 9/3/19.
- 2. all parties shall file motions to amend pleadings or add parties on or before 6/4/19.
- 3. all parties shall make initial expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or before 6/4/19.
- 4. all parties shall make rebuttal expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or before 7/5/19.
- 5. all parties shall file dispositive motions on or before 10/2/19.

Certain dates from your case conference report(s) may have been changed to bring them into compliance with N.R.C.P. 16.1.

Within 60 days from the date of this Scheduling Order, the Court shall notify counsel for the parties as to the date of trial, as well as any further pretrial requirements in addition to those set forth above.

Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P. 16.1(a)(3) must be made at least 30 days before trial.

. . .  
. . .  
. . .

**DISCOVERY**  
**COMMISSIONER**  
EIGHTH JUDICIAL  
DISTRICT COURT

1 Motions for extensions of discovery shall be made to the  
2 Discovery Commissioner in strict accordance with E.D.C.R. 2.35.  
3 Discovery is completed on the day responses are due or the day a  
4 deposition begins.  
5

6 Unless otherwise ordered, all discovery disputes (except  
7 disputes presented at a pre-trial conference or at trial) must  
8 first be heard by the Discovery Commissioner.  
9

10 Date: May 3, 2018

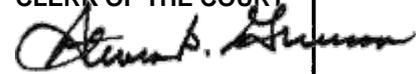
11   
12 \_\_\_\_\_  
13 DISCOVERY COMMISSIONER

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on the date filed, I placed a copy of  
16 the foregoing SCHEDULING ORDER in the attorney folder(s), mailed  
or e-served as follows:

17 Matthew W. Hoffmann, Esq.  
18 Sarah S. Silverman, Esq.  
19 Michael J. Lin, Esq.  
Anna H. Karabachev, Esq.

20   
21 \_\_\_\_\_  
22 COMMISSIONER DESIGNEE  
23  
24  
25  
26  
27  
28



1 SAO  
2 KENNETH M. WEBSTER, ESQ.  
3 Nevada Bar No. 7205  
4 SARAH S. SILVERMAN, ESQ.  
5 Nevada Bar No. 13624  
6 HALL PRANGLE & SCHOONVELD, LLC  
7 1160 North Town Center Drive, Ste. 200  
8 Las Vegas, Nevada 89144  
9 Phone: 702-889-6400  
10 Facsimile: 702-384-6025  
11 efile@hpslaw.com  
12 Attorneys for Defendant  
13 Dignity Health dba  
14 St. Rose Dominican Hospital – San Martin Campus

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 DARELL L. MOORE and CHARLENE A.  
13 MOORE, individually and has husband and  
14 wife,

14 Plaintiff,

15 vs.

16 DIGNITY HEALTH d/b/a ST. ROSE  
17 DOMINICAN HOSPITAL – SAN MARTIN  
18 CAMPUS; JASON LASRY, M.D.,  
19 individually; FREMONT EMERGENCY  
20 SERVICES (MANDAVIA), LTD.; TERRY  
21 BARTUMS, RN, APRN; and DOES I  
22 through X, inclusive; and ROE  
23 CORPORATIONS I through V, inclusive;

22 Defendants.

CASE NO. A-17-766426-C  
DEPT NO. XXVI

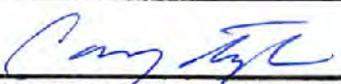
15 STIPULATION AND ORDER TO *Only*  
16 DISMISS DEFENDANT DIGNITY  
17 HEALTH dba ST. ROSE DOMINICAN  
18 HOSPITAL – SAN MARTIN CAMPUS  
19 WITH PREJUDICE  
20 U

23 COMES NOW, Plaintiffs, DARELL L. MOORE and CHARLENE A. MOORE,  
24 individually and as husband and wife, by and through their counsel of record, MATTHEW W.  
25 HOFFMANN, ESQ., of the law firm of ATKINSON WATKINS & HOFFMANN, LLP,  
26 Defendant, DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN  
27 CAMPUS, by and through its counsel of record, HALL, PRANGLE & SCHOONVELD, LLC,  
28

HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE, STE. 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

1 Defendants FREMONT EMERGENCY SERVICES (MANDAVIA) and TERRY BARTMUS,  
2 APRN, by and through their counsel of record, LEWIS BRISBOIS BISGAARD & SMITH,  
3 LLP, and Defendant, JASON LASRY, M.D., by and through his counsel of record, CARROLL,  
4 KELLY, TROTTER, FRANZEN, MCBRIDE & PEABODY, hereby stipulate and agree as  
5 follows:

- 6
- 7 1. That Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL  
8 – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant  
9 litigation in case A-17-766426-C;
  - 10 2. With each party to bear their own attorneys' fees and costs.
- 11

12 Dated: 6/14/18  
13   
14 KENNETH M. WEBSTER, ESQ.  
15 Nevada Bar No. 7205  
16 1160 North Town Center Drive, Suite 200  
17 Las Vegas, NV 89144  
18 *Attorneys for Defendant*  
*Dignity Health d/b/a St. Rose Dominican*  
*Hospital – San Martin Campus*

12 Dated: 6/6/18  
13   
14 MATTHEW W. HOFFMANN, ESQ.  
15 Nevada Bar No. 9061  
16 10789 W. Twain Ave., Suite 100  
17 Las Vegas, NV 89135  
18 *Attorney for Plaintiffs*

19 Dated: \_\_\_\_\_  
20  
21 KEITH A. WEAVER, ESQ.  
22 Nevada Bar No. 10271  
23 BIANCA V. GONZALEZ, ESQ.  
24 Nevada Bar No. 14529  
25 6385 S. Rainbow Boulevard, Suite 600  
26 Las Vegas, NV 89118  
27 *Attorney for Defendants Fremont Emergency*  
28 *Services and Terry Bartmus, APRN*

19 Dated: \_\_\_\_\_  
20  
21 ROBERT C. MCBRIDE, ESQ.  
22 Nevada Bar No. 7082  
23 CHELSEA R. HUETH, ESQ.  
24 Nevada Bar No. 10904  
25 9328 W. Sunset Road, Suite 260  
26 Las Vegas, NV 89113  
27 *Attorney for Defendant Jason Lasry, MD*

HALL FRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE, STE. 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

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2 APRN, by and through their counsel of record, LEWIS BRISBOIS BISGAARD & SMITH,  
3 LLP, and Defendant, JASON LASRY, M.D., by and through his counsel of record, CARROLL,  
4 KELLY, TROTTER, FRANZEN, MCBRIDE & PEABODY, hereby stipulate and agree as  
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8 litigation in case A-17-766426-C;
- 9 2. With each party to bear their own attorneys' fees and costs.

12 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

14 KENNETH M. WEBSTER, ESQ.  
15 Nevada Bar No. 7205  
16 1160 North Town Center Drive, Suite 200  
17 Las Vegas, NV 89144  
18 *Attorneys for Defendant  
Dignity Health d/b/a St. Rose Dominican  
Hospital – San Martin Campus*

MATTHEW W. HOFFMANN, ESQ.  
Nevada Bar No. 9061  
10789 W. Twain Ave., Suite 100  
Las Vegas, NV 89135  
*Attorney for Plaintiffs*

19 Dated: 6/6/18

Dated: \_\_\_\_\_

21 KEITH A. WEAVER, ESQ.  
22 Nevada Bar No. 10271  
23 BIANCA V. GONZALEZ, ESQ.  
24 Nevada Bar No. 14529  
25 6385 S. Rainbow Boulevard, Suite 600  
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*Attorney for Defendants Fremont Emergency  
Services and Terry Bartmus, APRN*

ROBERT C. MCBRIDE, ESQ.  
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CHELSEA R. HUETH, ESQ.  
Nevada Bar No. 10904  
9328 W. Sunset Road, Suite 260  
Las Vegas, NV 89113  
*Attorney for Defendant Jason Lasry, MD*

HALL PRANGLE & SCHOONVELD, LLC  
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28

Defendants FREMONT EMERGENCY SERVICES (MANDAVIA) and TERRY BARTMUS, APRN, by and through their counsel of record, LEWIS BRISBOIS BISGAARD & SMITH, LLP, and Defendant, JASON LASRY, M.D., by and through his counsel of record, CARROLL, KELLY, TROTTER, FRANZEN, MCBRIDE & PEABODY, hereby stipulate and agree as follows:

1. That Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant litigation in case A-17-766426-C;
2. With each party to bear their own attorneys’ fees and costs.

Dated: \_\_\_\_\_  

---

KENNETH M. WEBSTER, ESQ.  
Nevada Bar No. 7205  
1160 North Town Center Drive, Suite 200  
Las Vegas, NV 89144  
*Attorneys for Defendant  
Dignity Health d/b/a St. Rose Dominican  
Hospital – San Martin Campus*

Dated: \_\_\_\_\_  

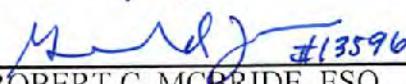
---

MATTHEW W. HOFFMANN, ESQ.  
Nevada Bar No. 9061  
10789 W. Twain Ave., Suite 100  
Las Vegas, NV 89135  
*Attorney for Plaintiffs*

Dated: \_\_\_\_\_  

---

KEITH A. WEAVER, ESQ.  
Nevada Bar No. 10271  
BIANCA V. GONZALEZ, ESQ.  
Nevada Bar No. 14529  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
*Attorney for Defendants Fremont Emergency  
Services and Terry Bartmus, APRN*

Dated: 2/13/18  
 #13596  

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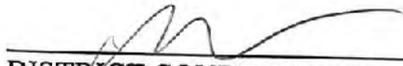
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CHELSEA R. HUETH, ESQ.  
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Las Vegas, NV 89113  
*Attorney for Defendant Jason Lasry, MD*

**ORDER**

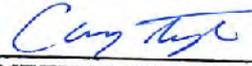
IT IS HEREBY ORDERED, ADJUGED AND DECREED that Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant litigation in case A-17-766426-C;

IT IS FURTHER ORDERED, ADJUGED AND DECREED that each party to bear their own attorneys' fees and costs.

DATED this 15<sup>th</sup> day of June, 2018.

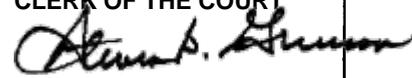
  
DISTRICT COURT JUDGE

Respectfully Submitted by:

  
KENNETH M. WEBSTER, ESQ.  
Nevada Bar No. 7205  
SARAH S. SILVERMAN, ESQ.  
Nevada Bar No. 13624  
1160 North Town Center Drive, Ste. 200  
Las Vegas, Nevada 89144  
*Attorneys for Defendant  
Dignity Health dba  
St. Rose Dominican Hospital – San Martin Campu*

4818-6765-3223, v. 1

HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE, STE. 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025



1 NEO  
2 KENNETH M. WEBSTER, ESQ.  
3 Nevada Bar No. 7205  
4 SARAH S. SILVERMAN, ESQ.  
5 Nevada Bar No. 13624  
6 HALL PRANGLE & SCHOONVELD, LLC  
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8 Las Vegas, Nevada 89144  
9 Phone: 702-889-6400  
10 Facsimile: 702-384-6025  
11 [efile@hpslaw.com](mailto:efile@hpslaw.com)  
12 Attorneys for Defendant  
13 Dignity Health dba  
14 St. Rose Dominican Hospital – San Martin Campus

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 DARELL L. MOORE and CHARLENE A.  
12 MOORE, individually and has husband and  
13 wife,

14 Plaintiff,

15 vs.

16 DIGNITY HEALTH d/b/a ST. ROSE  
17 DOMINICAN HOSPITAL – SAN MARTIN  
18 CAMPUS; JASON LASRY, M.D.,  
19 individually; FREMONT EMERGENCY  
20 SERVICES (MANDAVIA), LTD.; TERRY  
21 BARTUMS, RN, APRN; and DOES I  
22 through X, inclusive; and ROE  
23 CORPORATIONS I through V, inclusive;

24 Defendants.

CASE NO. A-17-766426-C  
DEPT NO. XXVI

**NOTICE OF ENTRY OF ORDER**

25 PLEASE TAKE NOTICE that a Stipulation and Order to Dismiss Defendant Dignity  
26 Health dba St. Rose Dominican Hospital – San Martin Campus With Prejudice was entered in  
27 the above entitled matter on the 20th day of June, 2018, a copy of which is attached hereto.  
28

HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE, STE. 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

1 Dated this 28th day of June, 2018.

2 HALL PRANGLE & SCHOONVELD, LLC

3 By: /s/ Kenneth M. Webster

4 KENNETH M. WEBSTER, ESQ.

5 Nevada Bar No. 7205

6 SARAH S. SILVERMAN, ESQ.

7 Nevada Bar No. 13624

8 1160 North Town Center Drive, Ste. 200

9 Las Vegas, Nevada 89144

10 Attorneys for Defendant

11 Dignity Health dba

12 St. Rose Dominican Hospital – San Martin Campus

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD,  
15 LLC; that on the 28th day of June, 2018, I served a true and correct copy of the foregoing  
16 **NOTICE OF ENTRY OF ORDER** as follows:

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

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

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

22 Matthew W. Hoffmann, Esq.  
23 Atkinson Watkins & Hoffmann, LLP  
24 10789 W. Twain Avenue, Ste. 100  
25 Las Vegas, Nevada 89135  
26 mhoffmann@awhlawyers.com  
27 *Attorneys for Plaintiffs*

28 Robert C. McBride, Esq.  
Chelsea R. Hueth, Esq.  
Carroll, Kelly, Trotter, Franzen,  
McBride & Peabody  
8329 W. Sunset Road, Ste. 260  
Las Vegas, Nevada 89113  
rcmcbride@cktfmlaw.com  
crhueth@cktfmlaw.com  
*Attorneys for Jason Lasry, M.D.*

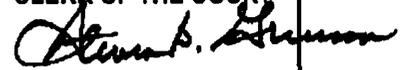
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1 Keith A. Weaver, Esq.  
2 Michael J. Lin, Esq.  
3 Lewis Brisbois Bisgaard & Smith, LLP  
4 6385 S. Rainbow Blvd., Ste. 600  
5 Las Vegas, Nevada 89118  
6 Keith.Weaver@lewisbrisbois.com  
7 Michael.Lin@lewisbrisbois.com  
8 *Attorneys for Fremont Emergency Services*  
9 *and Terry Bartmus, APRN*

10  
11 */s/ Tamie Phillips*  
12 An employee of HALL PRANGLE & SCHOONVELD, LLC  
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1 **SAO**  
2 **KENNETH M. WEBSTER, ESQ.**  
3 **Nevada Bar No. 7205**  
4 **SARAH S. SILVERMAN, ESQ.**  
5 **Nevada Bar No. 13624**  
6 **HALL PRANGLE & SCHOONVELD, LLC**  
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9 **Phone: 702-889-6400**  
10 **Facsimile: 702-384-6025**  
11 **efile@hpslaw.com**  
12 **Attorneys for Defendant**  
13 **Dignity Health dba**  
14 **St. Rose Dominican Hospital – San Martin Campus**

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

12 **DARELL L. MOORE and CHARLENE A.**  
13 **MOORE, individually and has husband and**  
14 **wife,**

14 **Plaintiff,**

15 **vs.**

16 **DIGNITY HEALTH d/b/a ST. ROSE**  
17 **DOMINICAN HOSPITAL – SAN MARTIN**  
18 **CAMPUS; JASON LASRY, M.D.,**  
19 **individually; FREMONT EMERGENCY**  
20 **SERVICES (MANDAVIA), LTD.; TERRY**  
21 **BARTUMS, RN, APRN; and DOES I**  
22 **through X, inclusive; and ROE**  
23 **CORPORATIONS I through V, inclusive;**

22 **Defendants.**

**CASE NO. A-17-766426-C**  
**DEPT NO. XXVI**

**STIPULATION AND ORDER TO** *Only*  
**DISMISS DEFENDANT DIGNITY**  
**HEALTH dba ST. ROSE DOMINICAN**  
**HOSPITAL – SAN MARTIN CAMPUS**  
**WITH PREJUDICE**

23 **COMES NOW, Plaintiffs, DARELL L. MOORE and CHARLENE A. MOORE,**  
24 **individually and as husband and wife, by and through their counsel of record, MATTHEW W.**  
25 **HOFFMANN, ESQ., of the law firm of ATKINSON WATKINS & HOFFMANN, LLP,**  
26 **Defendant, DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN**  
27 **CAMPUS, by and through its counsel of record, HALL, PRANGLE & SCHOONVELD, LLC,**  
28

**HALL PRANGLE & SCHOONVELD, LLC**  
**1160 NORTH TOWN CENTER DRIVE, STE. 200**  
**LAS VEGAS, NEVADA 89144**  
**TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025**

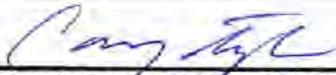
1 Defendants FREMONT EMERGENCY SERVICES (MANDAVIA) and TERRY BARTMUS,  
2 APRN, by and through their counsel of record, LEWIS BRISBOIS BISGAARD & SMITH,  
3 LLP, and Defendant, JASON LASRY, M.D., by and through his counsel of record, CARROLL,  
4 KELLY, TROTTER, FRANZEN, MCBRIDE & PEABODY, hereby stipulate and agree as  
5 follows:

- 6
- 7 1. That Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL  
8 – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant  
9 litigation in case A-17-766426-C;
- 10 2. With each party to bear their own attorneys' fees and costs.

11

12 Dated: 6/14/18

Dated: 6/6/18

13   
14 KENNETH M. WEBSTER, ESQ.  
15 Nevada Bar No. 7205  
16 1160 North Town Center Drive, Suite 200  
17 Las Vegas, NV 89144  
18 *Attorneys for Defendant*  
*Dignity Health d/b/a St. Rose Dominican*  
*Hospital – San Martin Campus*

13   
14 MATTHEW W. HOFFMANN, ESQ.  
15 Nevada Bar No. 9061  
16 10789 W. Twain Ave., Suite 100  
17 Las Vegas, NV 89135  
18 *Attorney for Plaintiffs*

19

20 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

21 KEITH A. WEAVER, ESQ.  
22 Nevada Bar No. 10271  
23 BIANCA V. GONZALEZ, ESQ.  
24 Nevada Bar No. 14529  
25 6385 S. Rainbow Boulevard, Suite 600  
26 Las Vegas, NV 89118  
27 *Attorney for Defendants Fremont Emergency*  
28 *Services and Terry Bartmus, APRN*

21 ROBERT C. MCBRIDE, ESQ.  
22 Nevada Bar No. 7082  
23 CHELSEA R. HUETH, ESQ.  
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27 *Attorney for Defendant Jason Lasry, MD*

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15 Nevada Bar No. 7205  
16 1160 North Town Center Drive, Suite 200  
17 Las Vegas, NV 89144  
18 *Attorneys for Defendant  
Dignity Health d/b/a St. Rose Dominican  
Hospital – San Martin Campus*

Dated: \_\_\_\_\_  
MATTHEW W. HOFFMANN, ESQ.  
Nevada Bar No. 9061  
10789 W. Twain Ave., Suite 100  
Las Vegas, NV 89135  
*Attorney for Plaintiffs*

19 Dated: 6/6/18  
20 *Bianca V. Gonzalez*  
21 KEITH A. WEAVER, ESQ.  
22 Nevada Bar No. 10271  
23 BIANCA V. GONZALEZ, ESQ.  
24 Nevada Bar No. 14529  
25 6385 S. Rainbow Boulevard, Suite 600  
26 Las Vegas, NV 89118  
27 *Attorney for Defendants Fremont Emergency  
Services and Terry Bartmus, APRN*

Dated: \_\_\_\_\_  
ROBERT C. MCBRIDE, ESQ.  
Nevada Bar No. 7082  
CHELSEA R. HUETH, ESQ.  
Nevada Bar No. 10904  
9328 W. Sunset Road, Suite 260  
Las Vegas, NV 89113  
*Attorney for Defendant Jason Lasry, MD*

HALL PRANGLE & SCHOONVELD, LLC  
1160 NORTH TOWN CENTER DRIVE, STE. 200  
LAS VEGAS, NEVADA 89144  
TELEPHONE: 702-889-6400 FACSIMILE: 702-384-6025

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Defendants FREMONT EMERGENCY SERVICES (MANDAVIA) and TERRY BARTMUS, APRN, by and through their counsel of record, LEWIS BRISBOIS BISGAARD & SMITH, LLP, and Defendant, JASON LASRY, M.D., by and through his counsel of record, CARROLL, KELLY, TROTTER, FRANZEN, MCBRIDE & PEABODY, hereby stipulate and agree as follows:

1. That Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant litigation in case A-17-766426-C;
2. With each party to bear their own attorneys' fees and costs.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

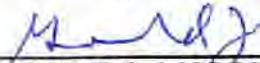
KENNETH M. WEBSTER, ESQ.  
Nevada Bar No. 7205  
1160 North Town Center Drive, Suite 200  
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*Attorneys for Defendant  
Dignity Health d/b/a St. Rose Dominican  
Hospital – San Martin Campus*

MATTHEW W. HOFFMANN, ESQ.  
Nevada Bar No. 9061  
10789 W. Twain Ave., Suite 100  
Las Vegas, NV 89135  
*Attorney for Plaintiffs*

Dated: \_\_\_\_\_

Dated: 6/13/18

KEITH A. WEAVER, ESQ.  
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BIANCA V. GONZALEZ, ESQ.  
Nevada Bar No. 14529  
6385 S. Rainbow Boulevard, Suite 600  
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*Attorney for Defendants Fremont Emergency  
Services and Terry Bartmus, APRN*

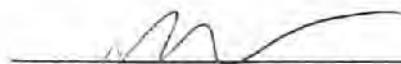
 #13596  
ROBERT C. MCBRIDE, ESQ.  
Nevada Bar No. 7082  
CHELSEA R. HUETH, ESQ.  
Nevada Bar No. 10904  
9328 W. Sunset Road, Suite 260  
Las Vegas, NV 89113  
*Attorney for Defendant Jason Lasry, MD*

**ORDER**

IT IS HEREBY ORDERED, ADJUGED AND DECREED that Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant litigation in case A-17-766426-C;

IT IS FURTHER ORDERED, ADJUGED AND DECREED that each party to bear their own attorneys' fees and costs.

DATED this 15<sup>th</sup> day of June, 2018.

  
DISTRICT COURT JUDGE 

Respectfully Submitted by:

  
KENNETH M. WEBSTER, ESQ.  
Nevada Bar No. 7205  
SARAH S. SILVERMAN, ESQ.  
Nevada Bar No. 13624  
1160 North Town Center Drive, Ste. 200  
Las Vegas, Nevada 89144  
*Attorneys for Defendant*  
*Dignity Health dba*  
*St. Rose Dominican Hospital – San Martin Campu*

4818-6765-3223, v. 1

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PSER  
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LAS VEGAS, NV 89135  
702-562-6000  
Attorney for: Plaintiff

DISTRICT COURT  
CLARK COUNTY NEVADA

DARELL L. MOORE, ET AL.

*Plaintiff*

DIGNITY HEALTH, ET AL.

*Defendant*

Case Number: **A-17-766426-C**

Dept/Div: **26**

**PROOF OF SERVICE**

BRENT ALLEN REID, being duly sworn deposes and says: that at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the state of Nevada under license #389, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received on Friday March 15 2019; 1 copy(ies) of the:

**DEPOSITION SUBPOENA DUCES TECUM; NEVADA RULES OF CIVIL PROCEDURE;  
NOTICE OF TAKING DEPOSITION; NOTICE OF SERVICE OF SUBPOENA DUCES TECUM**

I served the same on Wednesday March 20 2019 at 11:51AM by:

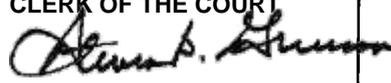
**Serving Witness DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN  
MARTIN CAMPUS, PERSON MOST KNOWLEDGEABLE, C/O TYSON DOBBS, ESQ.**

Substituted Service, by leaving the copies with or in the presence of: REBECCA MECHAN, LEGAL ASSISTANT FOR TYSON DOBBS, ESQ. authorized agent at the Witness's Business located at 1160 N TOWN CENTER DR, STE 200, Las Vegas, NV 89144.

Pursuant to NRS 53.045, I declare under the penalty of perjury under the law of the State of Nevada that the forgoing is true and correct.

Executed: Thursday March 21 2019

  
Affiant: BRENT ALLEN REID #R-061962  
LEGAL WINGS, INC. - NV LIC #389  
1118 FREMONT STREET  
Las Vegas, NV 89101  
(702) 384-0305, FAX (702) 384-8638



1 OSCJ

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 DARELL L. MOORE and CHARLENE A. )  
5 MOORE, individually and as husband and )  
6 wife; )

7 Plaintiffs, )

8 vs. )

9 DIGNITY HEALTH d/b/a ST. ROSE )  
10 DOMINICAN HOSPITAL-SAN MARTIN )  
11 CAMPUS; JASON LASRY, M.D., )  
12 individually; FREMONT EMERGENCY )  
13 SERVICES (MANDAVIA), LTD; TERRY )  
14 BARTMUS, RN, APRN; and DOES I through )  
15 X, inclusive; and ROE CORPORATIONS I )  
16 through V, inclusive; )

17 Defendants. )

Case No.: A-17-766426-C  
Dept. No.: XXV

18 ORDER SETTING CIVIL JURY TRIAL AND PRETRIAL/CALENDAR CALL

19 IT IS HEREBY ORDERED THAT:

20 A. The above-entitled case is set to be tried to a jury on **Monday, January 27,**  
21 **2020 at 1:30 p.m.**

22 B. A Pretrial/Calendar Call will be held on **Tuesday, December 17, 2019 at**  
23 **10:30 a.m.** Trial Counsel (and any party in proper person) must appear.

24 C. The Pretrial Memorandum must be filed prior to the Pretrial/Calendar Call, with  
25 a courtesy copy delivered to Department XXV. EDCR 2.67 must be complied with.

26 D. All discovery deadlines, deadlines for filing dispositive motions and motions to  
27 amend the pleadings or add parties are controlled by the previously issued Scheduling  
28 Order.

F. Orders shortening time will not be signed except in extreme emergencies.

KATHLEEN E. DELANEY  
DISTRICT JUDGE  
DEPARTMENT XXV

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***AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY***

Failure of the designated trial attorney or any party appearing in proper person to appear for any court appearances or to comply with this Order shall result in any of the following: (1) dismissal of the action (2) default judgment; (3) monetary sanctions; (4) vacation of trial date; and/or any other appropriate remedy or sanction.

Counsel must advise the Court immediately when the case settles or is otherwise resolved prior to trial. A stipulation which terminates a case by dismissal shall indicate whether a Scheduling Order has been filed and, if a trial date has been set, the date of that trial.

Dated this 6<sup>th</sup> day of May, 2019.

  
KATHLEEN E. DELANEY  
District Court Judge

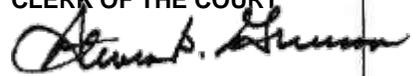
**CERTIFICATE OF SERVICE**

I hereby certify that on or about the date filed, this Order was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

- Matthew W. Hoffmann, Esq. (Atkinson Watkins & Hoffmann)
- Keith A. Weaver, Esq. (Lewis Brisbois Bisgaard & Smith)
- John F. Bemis, Esq. (Hall Prangle & Schoonveid)
- Robert C. McBride, Esq. (Carroll, Kelly, Trotter, Franzen, McBride & Peabody)

/s/ Marwanda Knight  
Marwanda Knight  
Judicial Executive Assistant

KATHLEEN E. DELANEY  
DISTRICT JUDGE  
DEPARTMENT XXV



1 KEITH A. WEAVER  
Nevada Bar No. 10271  
2 E-Mail: Keith.Weaver@lewisbrisbois.com  
DANIELLE WOODRUM  
3 Nevada Bar No. 12902  
E-Mail: Danielle.Woodrum@lewisbrisbois.com  
4 ALISSA BESTICK  
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Las Vegas, Nevada 89118  
7 702.893.3383  
FAX: 702.893.3789  
8 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and Terry  
9 Bartmus, A.P.R.N.*

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

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

16 Plaintiffs,

17 vs.

18 DIGNITY HEALTH d/b/a ST. ROSE  
DOMINICAN HOSPITAL-SAN MARTIN  
19 CAMPUS; JASON LASRY, M.D.,  
individually; FREMONT EMERGENCY  
20 SERVICES (MANDAVIA), LTD.; TERRY  
BARTMUS, RN, APRN; and DOES I  
21 through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive;

22 Defendants.

CASE NO. A-17-766426-C  
Dept. No.: XXV

STIPULATION AND ORDER  
REGARDING EXPERT DISCLOSURES

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24 ///

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1 IT IS HEREBY STIPULATED by and between the parties through undersigned  
2 counsel of record that:

3 1. By informal agreement of the parties, the Initial Expert Disclosure deadline  
4 was extended to September 3, 2019. The original date stipulated to in the Second  
5 Request to Extend Discovery Deadlines filed on August 16, 2019 was September 2,  
6 2019, which was Labor Day.

7 2. The parties originally stipulated in the Second Request to Extend Discovery  
8 Deadlines to disclose rebuttal reports on or before September 30, 2019, which mistakenly  
9 did not provide 30 days between initial and rebuttal expert disclosures pursuant to NRCP  
10 16.1(a)(2)(B)(C)(D).

11 3. Pursuant to NRCP 16.1(a)(2)(B)(C)(D), the deadline for serving Rebuttal  
12 Reports is 30 days after Initial Expert Disclosures. Therefore, the parties agree the  
13 deadline to file Rebuttal Reports is October 3, 2019.

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IT IS SO STIPULATED.

Dated: September 30, 2019

ATKINSON WATKINS & HOFFMAN,  
LLP



MATTHEW W. HOFFMAN, ESQ.  
Nevada Bar No.: 9601  
RACHEAL A. ROSS, ESQ.  
Nevada Bar No: 14943  
10789 W. Twain Avenue, Ste. 100  
Las Vegas, NV 89135

And

BREEN ARNTZ, ESQ.  
Nevada Bar No.:3853  
5545 Mountain Vista, Suite E  
Las Vegas, NV 89120  
Tel: 702-384-8000  
Fax: 702-446-8164  
Email: breen@breen.com  
*Attorneys for Plaintiffs*

Dated September \_\_\_\_, 2019

KEITH A. WEAVER  
Nevada Bar No. 10271  
DANIELLE WOODRUM  
Nevada Bar No.12902  
ALISSA BESTICK  
Nevada Bar No. 14979C  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
*Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and  
Terry Bartmus, A.P.R.N*

Dated: September \_\_\_\_, 2019

CARROLL, KELLY, TROTTER,  
FRANZEN, MCBRIDE & PEABODY

ROBERT MCBRIDE, ESQ.  
Nevada Bar No.: 7082  
CHELSEA R. HUETH, ESQ.  
Nevada Bar No.: 10904  
8329 W. Sunset Road, Ste. 260  
Las Vegas, NV 89113  
*Attorneys for Defendant, Jason Lasry,  
M.D.*

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IT IS SO STIPULATED.

Dated: September \_\_\_\_, 2019

ATKINSON WATKINS & HOFFMAN,  
LLP

---

MATTHEW W. HOFFMAN, ESQ.  
Nevada Bar No.: 9601  
RACHEAL A. ROSS, ESQ.  
Nevada Bar No: 14943  
10789 W. Twain Avenue, Ste. 100  
Las Vegas, NV 89135

And

BREEN ARNTZ, ESQ.  
Nevada Bar No.:3853  
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Las Vegas, NV 89120  
Tel: 702-384-8000  
Fax: 702-446-8164  
Email: breen@breen.com  
*Attorneys for Plaintiffs*

Dated September <sup>30th</sup> \_\_\_\_, 2019

---

KEITH A. WEAVER  
Nevada Bar No. 10271  
DANIELLE WOODRUM  
Nevada Bar No.12902  
ALISSA BESTICK  
Nevada Bar No. 14979C  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
*Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and  
Terry Bartmus, A.P.R.N*

Dated: September <sup>30</sup> \_\_\_\_, 2019

CARROLL, KELLY, TROTTER,  
FRANZEN, MCBRIDE & PEABODY

---

ROBERT MCBRIDE, ESQ.  
Nevada Bar No.: 7082  
CHELSEA R. HUETH, ESQ.  
Nevada Bar No.: 10904  
8329 W. Sunset Road, Ste. 260  
Las Vegas, NV 89113  
*Attorneys for Defendant, Jason Lasry,  
M.D.*

ORDER

Based on the foregoing stipulation and good cause appearing:

IT IS HEREBY ORDERED that the deadline for Initial Expert Disclosures was  
September 3, 2019;

IT IS FURTHER ORDERED that the deadline for Rebuttal Expert Disclosures  
shall be October 3, 2019.

DATED this 2<sup>nd</sup> day of OCTOBER, 2019.

  
DISTRICT COURT JUDGE

Respectfully submitted by:

LEWIS BRISBOIS BISGAARD & SMITH LLP



KEITH A. WEAVER

Nevada Bar No. 10271

DANIELLE WOODRUM

Nevada Bar No. 12902

ALISSA BESTICK

Nevada Bar No. 14979C

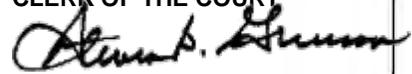
6385 S. Rainbow Boulevard, Suite 600

Las Vegas, NV 89118

*Attorneys for Defendants Fremont Emergency*

*Services (Mandavia) and Terry Bartmus,*

*A.P.R.N*



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7 702.893.3383  
FAX: 702.893.3789  
8 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and Terry  
9 Bartmus, A.P.R.N.*

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

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

15 Plaintiffs,

16 vs.

17 DIGNITY HEALTH d/b/a ST. ROSE  
18 DOMINICAN HOSPITAL-SAN MARTIN  
CAMPUS; JASON LASRY, M.D.,  
19 individually; FREMONT EMERGENCY  
SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I  
through X, inclusive; and ROE  
21 CORPORATIONS I through V, inclusive;

22 Defendants.

CASE NO. A-17-766426-C  
Dept. No.: XXV

NOTICE OF ENTRY OF STIPULATION  
AND ORDER REGARDING EXPERT  
DISCLOSURES

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1 PLEASE TAKE NOTICE that the Stipulation and Order Regarding Expert  
2 Disclosures was entered on October 7, 2017, a true and correct copy of which is attached  
3 hereto.

4 DATED this 7<sup>th</sup> day of October, 2019

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6  
7  
8 By 

9 KEITH A. WEAVER  
10 Nevada Bar No. 10271  
11 DANIELLE WOODRUM  
12 Nevada Bar No. 12902  
13 ALISSA N. BESTICK  
14 Nevada Bar No. 14979C  
15 6385 S. Rainbow Boulevard, Suite 600  
16 Las Vegas, Nevada 89118  
17 *Attorneys for Defendants Fremont Emergency*  
18 *Services (Mandavia) and Terry Bartmus,*  
19 *A.P.R.N.*  
20  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 7<sup>th</sup> day of October, 2019, a true and correct copy  
3 of NOTICE OF ENTRY OF STIPULATION AND ORDER REGARDING EXPERT  
4 DISCLOSURES was served electronically with the Clerk of the Court using the Wiznet  
5 Electronic Service system and serving all parties with an email-address on record, who  
6 have agreed to receive Electronic Service in this action.

7 Matthew W. Hoffman, Esq.  
8 ATKINSON WATKINS & HOFFMAN, LLP  
9 10789 W. Twain Avenue, Ste. 100  
10 Las Vegas, NV 89135  
11 Tel: 702-562-6000  
12 Fax: 702-562-6066  
13 Email: mhoffmann@awhlawyers.com  
14 *Attorneys for Plaintiffs*

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Chelsea R. Hueth, Esq.  
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Email: rcmbride@cktfmlaw.com  
Email: crhueth@cktfmlaw.com  
*Attorneys for Defendant, Jason Lasry, M.D.*

13 Breen Arntz, Esq.  
14 5545 Mountain Vista, Suite E  
15 Las Vegas, NV 89120  
16 Tel: 702-384-8000  
17 Fax: 702-446-8164  
18 Email: breen@breen.com  
19 *Attorneys for Plaintiffs*

20 By /s/ Emma L. Gonzales  
21 An Employee of  
22 LEWIS BRISBOIS BISGAARD & SMITH LLP  
23  
24  
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8 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and Terry  
9 Bartmus, A.P.R.N.*

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA  
12

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

16 Plaintiffs,

17 vs.

18 DIGNITY HEALTH d/b/a ST. ROSE  
DOMINICAN HOSPITAL-SAN MARTIN  
19 CAMPUS; JASON LASRY, M.D.,  
individually; FREMONT EMERGENCY  
20 SERVICES (MANDAVIA), LTD.; TERRY  
BARTMUS, RN, APRN; and DOES I  
21 through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive;

22 Defendants.  
23

CASE NO. A-17-766426-C  
Dept. No.: XXV

STIPULATION AND ORDER  
REGARDING EXPERT DISCLOSURES

24 ///

25 ///

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28 ///

LEWIS  
S  
BRISBOIS  
S

4839-5960-5160.1

1 IT IS HEREBY STIPULATED by and between the parties through undersigned  
2 counsel of record that:

3 1. By informal agreement of the parties, the Initial Expert Disclosure deadline  
4 was extended to September 3, 2019. The original date stipulated to in the Second  
5 Request to Extend Discovery Deadlines filed on August 16, 2019 was September 2,  
6 2019, which was Labor Day.

7 2. The parties originally stipulated in the Second Request to Extend Discovery  
8 Deadlines to disclose rebuttal reports on or before September 30, 2019, which mistakenly  
9 did not provide 30 days between initial and rebuttal expert disclosures pursuant to NRCP  
10 16.1(a)(2)(B)(C)(D).

11 3. Pursuant to NRCP 16.1(a)(2)(B)(C)(D), the deadline for serving Rebuttal  
12 Reports is 30 days after Initial Expert Disclosures. Therefore, the parties agree the  
13 deadline to file Rebuttal Reports is October 3, 2019.

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IT IS SO STIPULATED.

Dated: September 30, 2019

ATKINSON WATKINS & HOFFMAN,  
LLP



MATTHEW W. HOFFMAN, ESQ.  
Nevada Bar No.: 9601  
RACHEAL A. ROSS, ESQ.  
Nevada Bar No: 14943  
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Las Vegas, NV 89135

And

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Las Vegas, NV 89120  
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Fax: 702-446-8164  
Email: breen@breen.com  
*Attorneys for Plaintiffs*

Dated September \_\_\_\_, 2019

KEITH A. WEAVER  
Nevada Bar No. 10271  
DANIELLE WOODRUM  
Nevada Bar No.12902  
ALISSA BESTICK  
Nevada Bar No. 14979C  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
*Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and  
Terry Bartmus, A.P.R.N*

Dated: September \_\_\_\_, 2019

CARROLL, KELLY, TROTTER,  
FRANZEN, MCBRIDE & PEABODY

ROBERT MCBRIDE, ESQ.  
Nevada Bar No.: 7082  
CHELSEA R. HUETH, ESQ.  
Nevada Bar No.: 10904  
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Las Vegas, NV 89113  
*Attorneys for Defendant, Jason Lasry,  
M.D.*

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IT IS SO STIPULATED.

Dated: September \_\_\_\_, 2019

ATKINSON WATKINS & HOFFMAN,  
LLP

Dated: September 20, 2019

CARROLL, KELLY, TROTTER,  
FRANZEN, MCBRIDE & PEABODY



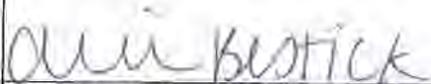
MATTHEW W. HOFFMAN, ESQ.  
Nevada Bar No.: 9601  
RACHEAL A. ROSS, ESQ.  
Nevada Bar No: 14943  
10789 W. Twain Avenue, Ste. 100  
Las Vegas, NV 89135

ROBERT MCBRIDE, ESQ.  
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CHELSEA R. HUETH, ESQ.  
Nevada Bar No.: 10904  
8329 W. Sunset Road, Ste. 260  
Las Vegas, NV 89113  
*Attorneys for Defendant, Jason Lasry,  
M.D.*

And

BREEN ARNTZ, ESQ.  
Nevada Bar No.: 3853  
5545 Mountain Vista, Suite E  
Las Vegas, NV 89120  
Tel: 702-384-8000  
Fax: 702-446-8164  
Email: breen@breen.com  
*Attorneys for Plaintiffs*

Dated September 30<sup>th</sup>, 2019



KEITH A. WEAVER  
Nevada Bar No. 10271  
DANIELLE WOODRUM  
Nevada Bar No. 12902  
ALISSA BESTICK  
Nevada Bar No. 14979C  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
*Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and  
Terry Bartmus, A.P.R.N*

ORDER

Based on the foregoing stipulation and good cause appearing:

IT IS HEREBY ORDERED that the deadline for Initial Expert Disclosures was September 3, 2019;

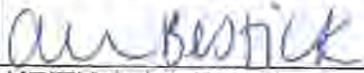
IT IS FURTHER ORDERED that the deadline for Rebuttal Expert Disclosures shall be October 3, 2019.

DATED this 2<sup>nd</sup> day of October, 2019.

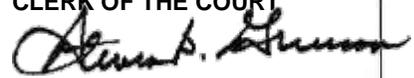
  
DISTRICT COURT JUDGE

Respectfully submitted by:

LEWIS BRISBOIS BISGAARD & SMITH LLP



KEITH A. WEAVER  
Nevada Bar No. 10271  
DANIELLE WOODRUM  
Nevada Bar No. 12902  
ALISSA BESTICK  
Nevada Bar No. 14979C  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, NV 89118  
*Attorneys for Defendants Fremont Emergency  
Services (Mandavia) and Terry Bartmus,  
A.P.R.N*



1 KEITH A. WEAVER  
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2 E-Mail: Keith.Weaver@lewisbrisbois.com  
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E-Mail: Danielle.Woodrum@lewisbrisbois.com  
4 ALISSA BESTICK  
Nevada Bar No. 14979C  
5 E-Mail: Alissa.Bestick@lewisbrisbois.com  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
6 6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
7 702.893.3383  
FAX: 702.893.3789  
8 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and Terry  
9 Bartmus, A.P.R.N.*

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA  
12

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

15 Plaintiffs,

16 vs.

17 DIGNITY HEALTH d/b/a ST. ROSE  
18 DOMINICAN HOSPITAL-SAN MARTIN  
CAMPUS; JASON LASRY, M.D.,  
19 individually; FREMONT EMERGENCY  
SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I  
through X, inclusive; and ROE  
21 CORPORATIONS I through V, inclusive;

22 Defendants.  
23  
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CASE NO. A-17-766426-C  
Dept. No.: XXV

ORDER

HEARING DATE: 7/17/19

HEARING TIME: 9:00am

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The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

✓mk No timely objection having been filed,

\_\_\_\_\_ After reviewing the objections to the Report and Recommendations and good cause appearing,

AND

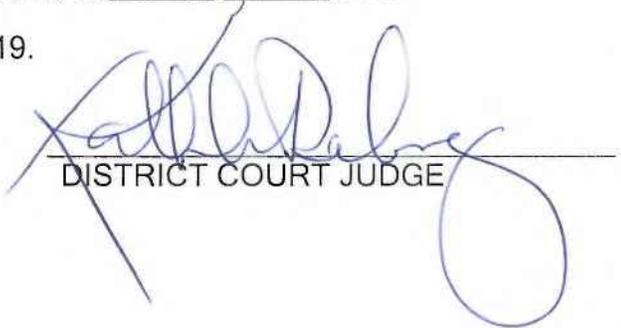
✓(u) IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

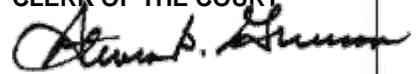
\_\_\_\_\_ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

\_\_\_\_\_ IT IS HEREBY ORDERED this matter is remanded to the Discovery Commissioner for reconsideration or further action.

\_\_\_\_\_ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is set for \_\_\_\_\_, 2019, at \_\_\_\_\_: \_\_\_\_\_ a.m.

DATED this the 7<sup>th</sup> day of October, 2019.

  
DISTRICT COURT JUDGE



1 KEITH A. WEAVER  
Nevada Bar No. 10271  
2 E-Mail: Keith.Weaver@lewisbrisbois.com  
DANIELLE WOODRUM  
3 Nevada Bar No. 12902  
E-Mail: Danielle.Woodrum@lewisbrisbois.com  
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6 6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
7 702.893.3383  
FAX: 702.893.3789  
8 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and Terry  
9 Bartmus, A.P.R.N.*

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

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

16 Plaintiffs,

17 vs.

18 DIGNITY HEALTH d/b/a ST. ROSE  
DOMINICAN HOSPITAL-SAN MARTIN  
19 CAMPUS; JASON LASRY, M.D.,  
individually; FREMONT EMERGENCY  
20 SERVICES (MANDAVIA), LTD.; TERRY  
BARTMUS, RN, APRN; and DOES I  
21 through X, inclusive; and ROE  
CORPORATIONS I through V, inclusive;

22 Defendants.

CASE NO. A-17-766426-C  
Dept. No.: XXV

NOTICE OF ENTRY OF ORDER

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PLEASE TAKE NOTICE that the Order was entered into this matter on October 14,  
2019, a true and correct copy of which is attached hereto.

DATED this 14<sup>th</sup> day of October, 2019

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Ann N. Bestick  
KEITH A. WEAVER  
Nevada Bar No. 10271  
DANIELLE WOODRUM  
Nevada Bar No. 12902  
ALISSA N. BESTICK  
Nevada Bar No. 14979C  
6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
*Attorneys for Defendants Fremont Emergency  
Services (Mandavia) and Terry Bartmus,  
A.P.R.N.*

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 14<sup>th</sup> day of October, 2019, a true and correct copy of  
3 NOTICE OF ENTRY OF ORDER was served electronically with the Clerk of the Court  
4 using the Wiznet Electronic Service system and serving all parties with an email-address  
5 on record, who have agreed to receive Electronic Service in this action.

6 Matthew W. Hoffman, Esq.  
7 ATKINSON WATKINS & HOFFMAN, LLP  
8 10789 W. Twain Avenue, Ste. 100  
9 Las Vegas, NV 89135  
10 Tel: 702-562-6000  
11 Fax: 702-562-6066  
12 Email: mhoffmann@awhlawyers.com  
13 *Attorneys for Plaintiffs*

Robert McBride, Esq.  
Chelsea R. Hueth, Esq.  
CARROLL, KELLY, TROTTER,  
FRANZEN, MCBRIDE & PEABODY  
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Tel: 702-792-5855  
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Email: rcmcbride@cktfmlaw.com  
Email: crhueth@cktfmlaw.com  
*Attorneys for Defendant, Jason Lasry, M.D.*

12 Breen Arntz, Esq.  
13 5545 Mountain Vista, Suite E  
14 Las Vegas, NV 89120  
15 Tel: 702-384-8000  
16 Fax: 702-446-8164  
17 Email: breen@breen.com  
18 *Attorneys for Plaintiffs*

17 By Is/ Emma L. Gonzales  
18 An Employee of  
19 LEWIS BRISBOIS BISGAARD & SMITH LLP



1 KEITH A. WEAVER  
Nevada Bar No. 10271  
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DANIELLE WOODRUM  
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E-Mail: Danielle.Woodrum@lewisbrisbois.com  
4 ALISSA BESTICK  
Nevada Bar No. 14979C  
5 E-Mail: Alissa.Bestick@lewisbrisbois.com  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
6 6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118  
7 702.893.3383  
FAX: 702.893.3789  
8 *Attorneys for Defendants Fremont  
Emergency Services (Mandavia) and Terry  
9 Bartmus, A.P.R.N.*

10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA  
12

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

CASE NO. A-17-766426-C  
Dept. No.: XXV

15 Plaintiffs,

ORDER

16 vs.

17 DIGNITY HEALTH d/b/a ST. ROSE  
18 DOMINICAN HOSPITAL-SAN MARTIN  
CAMPUS; JASON LASRY, M.D.,  
19 individually; FREMONT EMERGENCY  
SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I  
through X, inclusive; and ROE  
21 CORPORATIONS I through V, inclusive;

HEARING DATE: 7/17/19

HEARING TIME: 9:00am

22 Defendants.

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LEWIS  
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BRISBOIS  
S

4815-9677-0975.1

SEP 25 2019

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The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

✓mk No timely objection having been filed,

\_\_\_\_\_ After reviewing the objections to the Report and Recommendations and good cause appearing,

AND

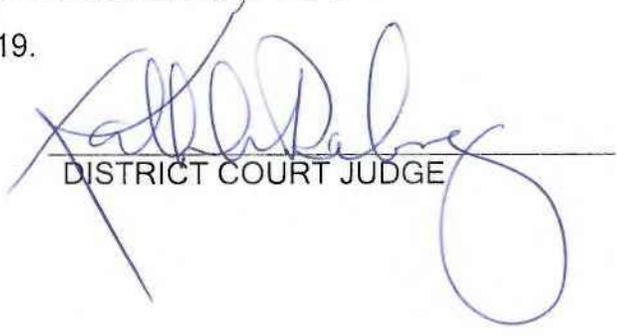
✓(60) IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

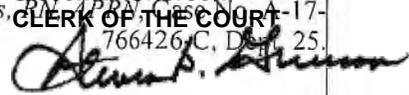
\_\_\_\_\_ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

\_\_\_\_\_ IT IS HEREBY ORDERED this matter is remanded to the Discovery Commissioner for reconsideration or further action.

\_\_\_\_\_ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is set for \_\_\_\_\_, 2019, at \_\_\_\_\_:\_\_\_\_\_ a.m.

DATED this the 7<sup>th</sup> day of October, 2019.

  
DISTRICT COURT JUDGE



**ORD**

1 MATTHEW W. HOFFMANN, ESQ.  
Nevada Bar No. 009061  
2 RACHEAL A. ROSS, ESQ.  
Nevada Bar No. 014943  
3 ATKINSON WATKINS & HOFFMANN LLP  
10789 W. Twain Ave., Suite 100  
4 Las Vegas, NV 89135  
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5 Facsimile: 702-562-6066  
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6 Email: [ross@awhlawyers.com](mailto:ross@awhlawyers.com)  
*Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

12 Plaintiffs,

13 v.

14 DIGNITY HEALTH d/b/a ST. ROSE  
DOMINICAN HOSPITAL – SAN MARTIN  
15 CAMPUS; JASON LASRY, M.D., individually;  
FREMONT EMERGENCY SERVICES  
16 (MANDAVIA), LTD.; TERRY BARTMUS, RN,  
APRN; and DOES I through X, inclusive; and  
17 ROE CORPORATIONS I through V, inclusive;  
Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 25

HEARING DATE: July 17, 2019  
HEARING TIME: 9:00 a.m.

20 ORDER

21 The Court, having reviewed the above report and recommendations prepared by the Discovery  
22 Commissioner and,

23 ✓mk No timely objection having been filed,

24 \_\_\_\_\_ After reviewing the objections to the Report and Recommendations and good cause  
25 appearing,

26 \* \* \*

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AND

✓ (RED) IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

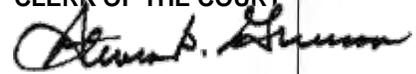
IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

IT IS HEREBY ORDERED this matter is remanded to the Discovery Commissioner for reconsideration or further action.

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is set for \_\_\_\_\_, 2019, at \_\_\_\_\_:\_\_\_\_\_ a.m.

DATED this 7<sup>th</sup> day of October, 2019.

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



1 **OGM**  
2 MATTHEW W. HOFFMANN, ESQ.  
3 Nevada Bar No. 009061  
4 RACHEAL A. ROSS, ESQ.  
5 Nevada Bar No. 014943  
6 ATKINSON WATKINS & HOFFMANN LLP  
7 10789 W. Twain Ave., Suite 100  
8 Las Vegas, NV 89135  
9 Telephone: 702-562-6000  
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11 Email: [mhoffmann@awhlawyers.com](mailto:mhoffmann@awhlawyers.com)  
12 Email: [ross@awhlawyers.com](mailto:ross@awhlawyers.com)  
13 *Attorneys for Plaintiffs*

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

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

13 Plaintiffs,

14 v.

15 DIGNITY HEALTH d/b/a ST. ROSE  
16 DOMINICAN HOSPITAL – SAN MARTIN  
17 CAMPUS; JASON LASRY, M.D.,  
18 individually; FREMONT EMERGENCY  
19 SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I through  
21 X, inclusive; and ROE CORPORATIONS I  
22 through V, inclusive;

20 Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 25

21 **ORDER**

22 Upon Motion by Plaintiffs, DARELL MOORE and CHARLENE MOORE (hereafter,  
23 “Plaintiffs”), no Opposition having been filed by any Defendant, the Court being fully informed in  
24 the premises and good cause appearing therefor:

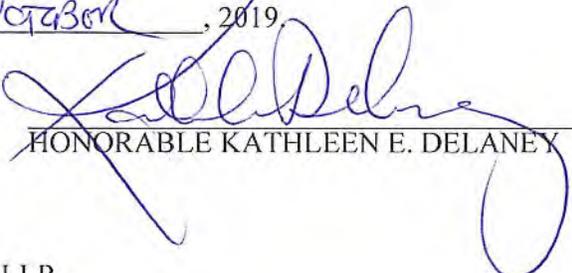
25 IT IS HEREBY ORDERED that Plaintiffs may amend their Complaint to remove  
26 DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS  
27 from the case caption.  
28

OCT 07 2019

1 IT IS FURTHER ORDERED that Plaintiffs may amend their Complaint to delete  
2 allegations against and references to DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN  
3 HOSPITAL – SAN MARTIN CAMPUS consistent with Plaintiffs’ proposed Second Amended  
4 Complaint.

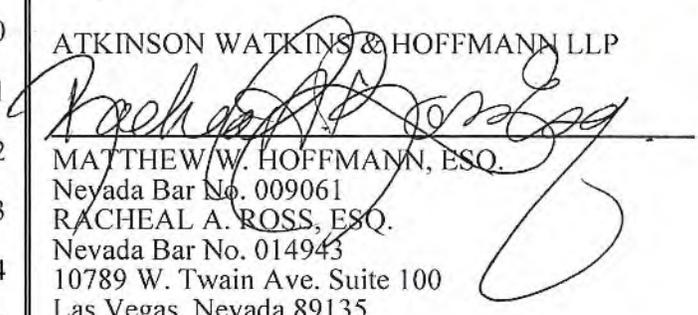
5 It is so ORDERED.

6 DATED this 7<sup>th</sup> day of October, 2019.

7  
8   
HONORABLE KATHLEEN E. DELANEY *TD*

9 Respectfully submitted by:

10 ATKINSON WATKINS & HOFFMANN LLP

11   
12 MATTHEW W. HOFFMANN, ESQ.

13 Nevada Bar No. 009061

14 RACHEAL A. ROSS, ESQ.

15 Nevada Bar No. 014943

16 10789 W. Twain Ave. Suite 100

17 Las Vegas, Nevada 89135

18 *Attorneys for Plaintiffs*

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DARELL L. MOORE; AND CHARLENE )  
A. MOORE, INDIVIDUALLY AND AS )  
HUSBAND AND WIFE, )  
Appellants, )  
vs. )  
JASON LASRY, M.D. INDIVIDUAL; )  
AND TERRY BARTIMUS, RN, APRN, ) Supreme Court No. 81659  
Respondents. )  
\_\_\_\_\_ )

**APPEAL**

From the Eighth Judicial District Court, Clark County  
The Honorable Kathleen E. Delaney, District Judge  
District Court Case No.: A-17-766426-C

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**APPELLANT'S APPENDIX VOLUME I**

---

E. Breen Arntz, Esq.  
Nevada Bar No. 3853  
[Breen@breen.com](mailto:Breen@breen.com)  
Phone: 702-494-4800  
Fax: 702-446-8164  
*Attorney for Appellant Darrell Moore and Charlene Moore*

**INDEX TO APPELLANT'S APPENDIX**

VOLUME	DOCUMENT	BATES NUMBER
I	Complaint dated December 18, 2017	AA00001- AA00024
I	Amended Complaint dated December 20, 2017	AA00025- AA00048
I	Proof of Service upon Fremont Emergency Services dated January 5, 2018	AA00049
I	Dignity Health's Answer to Complaint dated January 17, 2018	AA00050- AA00059
I	Proof of Service of Amended Complaint upon Dignity Health dated January 17, 2018	AA00060
I	Proof of Service of Amended Complaint upon Jason Lasry dated January 31, 2018	AA00061
I	Proof of Service of Amended Complaint upon Terry Bartmus dated January 31, 2018	AA00062
I	Fremont Emergency Services and Terry Bartmus's Answer to Complaint dated February 9, 2018	AA00063- AA00072
I	Jason Lasry's Answer to Complaint dated February 12, 2018	AA00073- AA00081
I	Scheduling Order dated May 4, 2018	AA00082- AA00084
I	Stipulation and Order to Dismiss Dignity Health dated May 4, 2018	AA00085- AA00089
I	Notice of Entry of Order re Stipulation and Order to Dismiss Dignity Health dated June 28, 2018	AA00090- AA00098
I	Proof of Service of Deposition Subpoena Duces Tecum, Notice of Taking Deposition and Notice of Service of Subpoena Duces Tecum dated March 22, 2019	AA00099
I	Order Setting Civil Jury Trial dated May 7, 2019	AA00100- AA00101
I	Stipulation and Order re Expert Disclosures dated October 7, 2019	AA00102- AA00106
I	Notice of Entry of Stipulation and Order re Expert Disclosures dated October 7, 2019	AA00107- AA00114

I	Fremont Emergency Services and Terry Bartmus's Order Affirming the Discovery Commissioner's Report dated October 14, 2019	AA00115- AA00116
I	Fremont Emergency Services and Terry Bartmus's Notice of Entry of Order Affirming the Discovery Commissioner's Report dated October 14, 2019	AA00117- AA00121
I	Plaintiffs' Order Affirming the Discovery Commissioner's Report dated October 16, 2019	AA00122- AA00123
I	Order Allowing Plaintiff to amend their Complaint to remove Dignity Health dated October 16, 2019	AA00124- AA00125
I	Plaintiffs' Notice of Entry of Order Affirming the Discovery Commissioner's Report dated October 16, 2019	AA00126- AA00129
I	Notice of Entry of Order removing Dignity Health dated October 21, 2019	AA00130- AA00133
I	Second Amended Complaint dated October 29, 2019	AA00134- AA00157
II	Fremont Emergency Services and Terry Bartmus's Answer to Second Amended Complaint dated November 12, 2019	AA00158- AA00166
II	Jason Lasry's Answer to Second Amended Complaint dated November 12, 2019	AA00167- AA00175
II	Joint Pre-Trial Memorandum dated December 16, 2019	AA00176- AA00208
II	Stipulation and Order to Dismiss Fremont Emergency Service dated December 18, 2019	AA00209- AA00214
II	Notice of Entry of Stipulation and Order to Dismiss Fremont Emergency Service dated December 18, 2019	AA00215- AA00223
II	Jason Lasry's Pretrial Disclosures dated December 27, 2019	AA00224- AA00238
II	Plaintiffs' Pretrial Disclosures dated December 27, 2019	AA00239- AA00249
II	Terry Bartmus's Pretrial Disclosures dated December 27, 2019	AA00250- AA00267
II	Jason Lasry's First Supplement to Pretrial Disclosures dated January 2, 2020	AA00268- AA00285

II	Jason Lasry's Second Supplement to Pretrial Disclosures dated January 9, 2020	AA00286-AA00303
III	Terry Bartmus's First Supplement to Pretrial Disclosures dated January 10, 2020	AA00304-AA00322
III	Jason Lasry's Third Supplement to Pretrial Disclosures dated January 15, 2020	AA00323-AA00340
III	Plaintiffs' Proposed Jury Instructions dated January 24, 2020	AA00341-AA00378
III	Jason Lasry's Proposed Special Verdict dated February 9, 2020	AA00379-AA00382
III	Jury Instructions dated February 13, 2020	AA00383-AA00425
III	Special Verdict dated February 13, 2020	AA00426-AA00428
III	Judgment on Jury Verdict dated March 10, 2020	AA00429-AA00430
III	Notice of Entry of Judgment on Jury Verdict dated March 10, 2020	AA00431-AA00435
IV	Plaintiffs' Motion for New Trial dated April 7, 2020	AA00436-AA00543
V	Terry Bartmus's Opposition to Plaintiffs' Motion for New Trial dated April 21, 2020	AA00544-AA00711
V	Jason Lasry's Joinder to Terry Bartmus's Opposition to Plaintiffs' Motion for New Trial dated April 21, 2020	AA00712-AA00714
VI	Plaintiffs' Reply in Support of Motion for New Trial dated May 4, 2020	AA00715-AA00817
VI	Terry Bartmus's Supplemental Opposition to Plaintiffs' Motion for New Trial dated June 4, 2020	AA00818-AA00828
VI	Order on Plaintiffs' Motion for New Trial dated July 15, 2020	AA00829-AA00831
VI	Notice of Entry of Order on Plaintiffs' Motion for New Trial dated July 16, 2020	AA00832-AA00837
VI	Notice of Appeal dated August 14, 2020	AA00838-AA00840
VII	Trial Transcript for January 27, 2020	AA00841-AA01029

VIII	Trial Transcript for January 28, 2020	AA01030- AA01221
IX	Trial Transcript for January 29, 2020	AA01222- AA01378
X	Trial Transcript for January 30, 2020	AA01379- AA01558
XI	Trial Transcript for January 31, 2020	AA01559- AA01708
XII	Trial Transcript for February 3, 2020	AA01709- AA01878
XIII	Trial Transcript for February 4, 2020	AA01879- AA02060
XIV	Trial Transcript for February 5, 2020	AA02061- AA02218
XV	Trial Transcript for February 6, 2020	AA02219- AA02400
XVI	Trial Transcript for February 7, 2020	AA02401- AA02608
XVII	Trial Transcript for February 10, 2020	AA02609- AA02764
XVIII	Trial Transcript for February 11, 2020	AA02765- AA02985
XIX	Trial Transcripts for February 12, 2020, February 13, 2020 and June 11, 2020	AA02986- AA03225

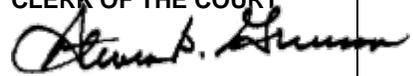
**ALPHABETICAL INDEX TO APPELLANT APPENDIX**

VOLUME	DOCUMENT	BATES NUMBER
I	Amended Complaint dated December 20, 2017	AA00025- AA00048
I	Complaint dated December 18, 2017	AA00001- AA00024
I	Dignity Health's Answer to Complaint dated January 17, 2018	AA00050- AA00059
I	Fremont Emergency Services and Terry Bartmus's Answer to Complaint dated February 9, 2018	AA00063- AA00072
II	Fremont Emergency Services and Terry Bartmus's Answer to Second Amended Complaint dated November 12, 2019	AA00158- AA00166
I	Fremont Emergency Services and Terry Bartmus's Notice of Entry of Order Affirming the Discovery Commissioner's Report dated October 14, 2019	AA00117- AA00121
I	Fremont Emergency Services and Terry Bartmus's Order Affirming the Discovery Commissioner's Report dated October 14, 2019	AA00115- AA00116
I	Jason Lasry's Answer to Complaint dated February 12, 2018	AA00073- AA00081
II	Jason Lasry's Answer to Second Amended Complaint dated November 12, 2019	AA00167- AA00175
II	Jason Lasry's First Supplement to Pretrial Disclosures dated January 2, 2020	AA00268- AA00285
V	Jason Lasry's Joinder to Terry Bartmus's Opposition to Plaintiffs' Motion for New Trial dated April 21, 2020	AA00712- AA00714
II	Jason Lasry's Pretrial Disclosures dated December 27, 2019	AA00224- AA00238
III	Jason Lasry's Proposed Special Verdict dated February 9, 2020	AA00379- AA00382
II	Jason Lasry's Second Supplement to Pretrial Disclosures dated January 9, 2020	AA00286- AA00303
III	Jason Lasry's Third Supplement to Pretrial Disclosures dated January 15, 2020	AA00323- AA00340

II	Joint Pre-Trial Memorandum dated December 16, 2019	AA00176- AA00208
III	Judgment on Jury Verdict dated March 10, 2020	AA00429- AA00430
III	Jury Instructions dated February 13, 2020	AA00383- AA00425
VI	Notice of Appeal dated August 14, 2020	AA00838- AA00840
III	Notice of Entry of Judgment on Jury Verdict dated March 10, 2020	AA00431- AA00435
VI	Notice of Entry of Order on Plaintiffs' Motion for New Trial dated July 16, 2020	AA00832- AA00837
I	Notice of Entry of Order re Stipulation and Order to Dismiss Dignity Health dated June 28, 2018	AA00090- AA00098
I	Notice of Entry of Order removing Dignity Health dated October 21, 2019	AA00130- AA00133
I	Notice of Entry of Stipulation and Order re Expert Disclosures dated October 7, 2019	AA00107- AA00114
II	Notice of Entry of Stipulation and Order to Dismiss Fremont Emergency Service dated December 18, 2019	AA00215- AA00223
I	Order Allowing Plaintiff to amend their Complaint to remove Dignity Health dated October 16, 2019	AA00124- AA00125
VI	Order on Plaintiffs' Motion for New Trial dated July 15, 2020	AA00829- AA00831
I	Order Setting Civil Jury Trial dated May 7, 2019	AA00100- AA00101
IV	Plaintiffs' Motion for New Trial dated April 7, 2020	AA00436- AA00543
I	Plaintiffs' Notice of Entry of Order Affirming the Discovery Commissioner's Report dated October 16, 2019	AA00126- AA00129
I	Plaintiffs' Order Affirming the Discovery Commissioner's Report dated October 16, 2019	AA00122- AA00123
II	Plaintiffs' Pretrial Disclosures dated December 27, 2019	AA00239- AA00249
III	Plaintiffs' Proposed Jury Instructions dated January 24, 2020	AA00341- AA00378

VI	Plaintiffs' Reply in Support of Motion for New Trial dated May 4, 2020	AA00715- AA00817
I	Proof of Service of Amended Complaint upon Dignity Health dated January 17, 2018	AA00060
I	Proof of Service of Amended Complaint upon Jason Lasry dated January 31, 2018	AA00061
I	Proof of Service of Amended Complaint upon Terry Bartmus dated January 31, 2018	AA00062
I	Proof of Service of Deposition Subpoena Duces Tecum, Notice of Taking Deposition and Notice of Service of Subpoena Duces Tecum dated March 22, 2019	AA00099
I	Proof of Service upon Fremont Emergency Services dated January 5, 2018	AA00049
I	Scheduling Order dated May 4, 2018	AA00082- AA00084
I	Second Amended Complaint dated October 29, 2019	AA00134- AA00157
III	Special Verdict dated February 13, 2020	AA00426- AA00428
I	Stipulation and Order re Expert Disclosures dated October 7, 2019	AA00102- AA00106
I	Stipulation and Order to Dismiss Dignity Health dated May 4, 2018	AA00085- AA00089
II	Stipulation and Order to Dismiss Fremont Emergency Service dated December 18, 2019	AA00209- AA00214
III	Terry Bartmus's First Supplement to Pretrial Disclosures dated January 10, 2020	AA00304- AA00322
V	Terry Bartmus's Opposition to Plaintiffs' Motion for New Trial dated April 21, 2020	AA00544- AA00711
II	Terry Bartmus's Pretrial Disclosures dated December 27, 2019	AA00250- AA00267
VI	Terry Bartmus's Supplemental Opposition to Plaintiffs' Motion for New Trial dated June 4, 2020	AA00818- AA00828
XVII	Trial Transcript for February 10, 2020	AA02609- AA02764
XVIII	Trial Transcript for February 11, 2020	AA02765- AA02985

XII	Trial Transcript for February 3, 2020	AA01709- AA01878
XIII	Trial Transcript for February 4, 2020	AA01879- AA02060
XIV	Trial Transcript for February 5, 2020	AA02061- AA02218
XV	Trial Transcript for February 6, 2020	AA02219- AA02400
XVI	Trial Transcript for February 7, 2020	AA02401- AA02608
VII	Trial Transcript for January 27, 2020	AA00841- AA01029
VIII	Trial Transcript for January 28, 2020	AA01030- AA01221
IX	Trial Transcript for January 29, 2020	AA01222- AA01378
X	Trial Transcript for January 30, 2020	AA01379- AA01558
XI	Trial Transcript for January 31, 2020	AA01559- AA01708
XIX	Trial Transcripts for February 12, 2020, February 13, 2020 and June 11, 2020	AA02986- AA03225



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

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

13 Plaintiffs,

14 v.

15 DIGNITY HEALTH d/b/a ST. ROSE  
16 DOMINICAN HOSPITAL – SAN MARTIN  
17 CAMPUS; JASON LASRY, M.D.,  
18 individually; FREMONT EMERGENCY  
19 SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I through  
21 X, inclusive; and ROE CORPORATIONS I  
22 through V, inclusive;

23 Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 25

**NOTICE OF ENTRY OF ORDER**

24 PLEASE TAKE NOTICE that the Court entered an Order in the above-entitled matter on  
25 October 16, 2019. A copy of said Order is attached hereto.

26 DATED this 21<sup>st</sup> day of October, 2019.

27 ATKINSON WATKINS & HOFFMANN, LLP

28 /s/ Racheal A. Ross, Esq.

MATTHEW W. HOFFMANN, ESQ.  
Nevada Bar No. 009061  
RACHEAL A. ROSS, ESQ.  
Nevada Bar No. 014943  
10789 W. Twain Ave. Suite 100  
Las Vegas, Nevada 89135  
*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

1 I hereby certify that I am an employee of ATKINSON WATKINS & HOFFMANN, LLP  
2 and that on the 21<sup>st</sup> day of October, 2019, I caused to be served via Odyssey, the Court's  
3 mandatory efilng/eservice system, a true and correct copy of the document described herein.  
4

5 **Document Served: NOTICE OF ENTRY OF ORDER**

6  
7 Chelsea Hueth, Esq.  
8 Nevada Bar No. 10904  
9 Anna Karabachev, Esq.  
10 Nevada Bar No. 14387  
11 CARROLL, KELLY, TROTTER, FRANZEN,  
12 MCBRIDE & PEABODY  
13 8329 W. Sunset Road, Suite 260  
14 Las Vegas, NV 89113  
15 *Attorneys for Defendant Jason Lasry, M.D.*

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17 Keith A. Weaver, Esq.  
18 Nevada Bar No. 10271  
19 Bianca Gonzalez, Esq.  
20 Nevada Bar No. 14529  
21 LEWIS BRISBOIS BISGAARD & SMITH LLP  
22 6385 S. Rainbow Blvd., Suite 600  
23 Las Vegas, NV 89118  
24 *Attorneys for Defendants Fremont Emergency Services (Mandavia), Ltd.*  
25 *and Terry Bartmus, A.P.R.N.*

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27 Breen Arntz, Esq.  
28 Nevada Bar No. 3853  
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Fax: 702-446-8164  
*Co-Counsel for Plaintiffs*

24 /s/ Erika Jimenez  
25 An Employee of ATKINSON WATKINS & HOFFMANN, LLP

Moore v. Dignity Health D/B/A St. Rose Dominican Hospital – San Martin  
Individually; Fremont Emergency Services (Mandavia), Ltd.; Terry Bartmus,

**ORD**

1 MATTHEW W. HOFFMANN, ESQ.  
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2 RACHEAL A. ROSS, ESQ.  
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*Attorneys for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

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

Plaintiffs,

v.

DIGNITY HEALTH d/b/a ST. ROSE  
DOMINICAN HOSPITAL – SAN MARTIN  
CAMPUS; JASON LASRY, M.D., individually;  
FREMONT EMERGENCY SERVICES  
(MANDAVIA), LTD.; TERRY BARTMUS, RN,  
APRN; and DOES I through X, inclusive; and  
ROE CORPORATIONS I through V, inclusive;  
Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 25

HEARING DATE: July 17, 2019  
HEARING TIME: 9:00 a.m.

ORDER

The Court, having reviewed the above report and recommendations prepared by the Discovery  
Commissioner and,

mmk No timely objection having been filed,

\_\_\_\_\_ After reviewing the objections to the Report and Recommendations and good cause  
appearing,

\* \* \*

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AND

✓ (RED) IT IS HEREBY ORDERED the Discovery Commissioner's Report and  
Recommendations are affirmed and adopted.

IT IS HEREBY ORDERED the Discovery Commissioner's Report and  
Recommendations are affirmed and adopted as modified in the following manner.  
(attached hereto)

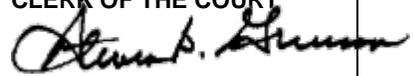
IT IS HEREBY ORDERED this matter is remanded to the Discovery Commissioner for  
reconsideration or further action.

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report is  
set for \_\_\_\_\_, 2019, at \_\_\_\_\_ : \_\_\_\_\_ a.m.

DATED this 7<sup>th</sup> day of October, 2019.



DISTRICT COURT JUDGE



1 **NEOJ**  
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13 *Attorneys for Plaintiff*

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

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

13 Plaintiffs,

14 v.

15 DIGNITY HEALTH d/b/a ST. ROSE  
16 DOMINICAN HOSPITAL – SAN MARTIN  
17 CAMPUS; JASON LASRY, M.D.,  
18 individually; FREMONT EMERGENCY  
19 SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I through  
21 X, inclusive; and ROE CORPORATIONS I  
22 through V, inclusive;

23 Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 25

**NOTICE OF ENTRY OF ORDER**

24 PLEASE TAKE NOTICE that the Court entered an Order in the above-entitled matter on  
25 October 16, 2019. A copy of said Order is attached hereto.

26 DATED this 21<sup>st</sup> day of October, 2019.

27 ATKINSON WATKINS & HOFFMANN, LLP

28 /s/ Racheal A. Ross, Esq.

MATTHEW W. HOFFMANN, ESQ.  
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RACHEAL A. ROSS, ESQ.  
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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of ATKINSON WATKINS & HOFFMANN, LLP and that on the 21<sup>st</sup> day of October, 2019, I caused to be served via Odyssey, the Court's mandatory efile/efiling system, a true and correct copy of the document described herein.

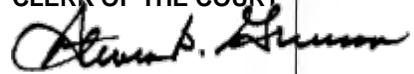
**Document Served: NOTICE OF ENTRY OF ORDER**

Chelsea Hueth, Esq.  
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/s/ Erika Jimenez  
An Employee of ATKINSON WATKINS & HOFFMANN, LLP



1 **OGM**  
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8 **DISTRICT COURT**  
9  
10 **CLARK COUNTY, NEVADA**

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

13 Plaintiffs,

14 v.

15 DIGNITY HEALTH d/b/a ST. ROSE  
16 DOMINICAN HOSPITAL – SAN MARTIN  
17 CAMPUS; JASON LASRY, M.D.,  
18 individually; FREMONT EMERGENCY  
19 SERVICES (MANDAVIA), LTD.; TERRY  
20 BARTMUS, RN, APRN; and DOES I through  
21 X, inclusive; and ROE CORPORATIONS I  
22 through V, inclusive;

23 Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 25

21 **ORDER**

22 Upon Motion by Plaintiffs, DARELL MOORE and CHARLENE MOORE (hereafter,  
23 “Plaintiffs”), no Opposition having been filed by any Defendant, the Court being fully informed in  
24 the premises and good cause appearing therefor:

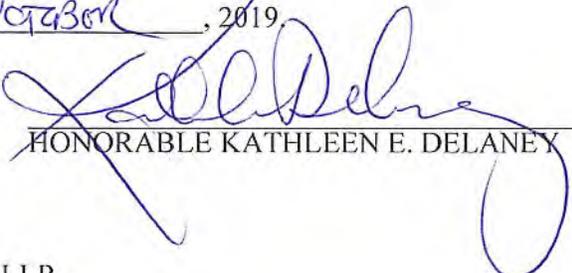
25 IT IS HEREBY ORDERED that Plaintiffs may amend their Complaint to remove  
26 DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS  
27 from the case caption.  
28

AA00132  
OCT 02 2019

1 IT IS FURTHER ORDERED that Plaintiffs may amend their Complaint to delete  
2 allegations against and references to DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN  
3 HOSPITAL – SAN MARTIN CAMPUS consistent with Plaintiffs’ proposed Second Amended  
4 Complaint.

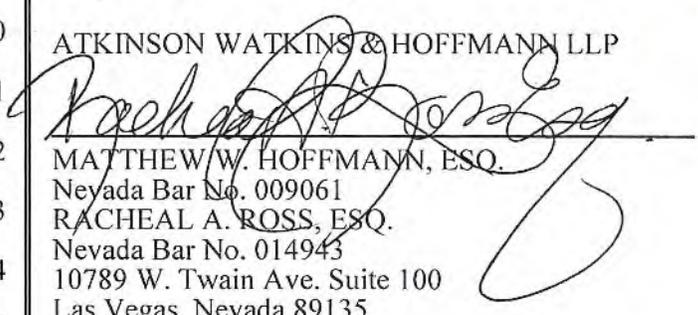
5 It is so ORDERED.

6 DATED this 7<sup>th</sup> day of October, 2019.

7  
8   
HONORABLE KATHLEEN E. DELANEY *TD*

9 Respectfully submitted by:

10 ATKINSON WATKINS & HOFFMANN LLP

11   
12 MATTHEW W. HOFFMANN, ESQ.

13 Nevada Bar No. 009061

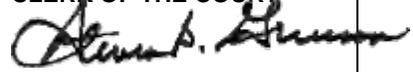
14 RACHEAL A. ROSS, ESQ.

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18 *Attorneys for Plaintiffs*



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7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

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

12 Plaintiffs,

13 v.

14 DIGNITY HEALTH d/b/a ST. ROSE  
15 DOMINICAN HOSPITAL – SAN MARTIN  
16 CAMPUS; JASON LASRY, M.D.,  
17 individually; FREMONT EMERGENCY  
18 SERVICES (MANDAVIA), LTD.; TERRY  
19 BARTMUS, RN, APRN; and DOES I through  
20 X, inclusive; and ROE CORPORATIONS I  
21 through V, inclusive;

22 Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 26

**FIRST AMENDED COMPLAINT**  
**MEDICAL MALPRACTICE**

**EXEMPT FROM ARBITRATION**

23 COME NOW, Plaintiffs, DARELL L. MOORE and CHARLENE A. MOORE, individually  
24 and as husband and wife, by and through their attorneys of record, MATTHEW W. HOFFMANN,  
25 ESQ., of the law firm of ATKINSON WATKINS & HOFFMANN, LLP, and for their complaint  
26 on file herein allege as follows:  
27  
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...

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I.

**GENERAL ALLEGATIONS**

1  
2  
3 1. Plaintiff, DARELL L. MOORE, individually (hereinafter referred to as  
4 “DARELL”), is, and at all times mentioned herein was a resident of the County of Clark, State of  
5 Nevada.

6 2. Plaintiff, CHARLENE A. MOORE, individually (hereinafter referred to as  
7 “CHARLENE”), is, and at all times mentioned herein was a resident of the County of Clark, State  
8 of Nevada.

9 3. Defendant, DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL -  
10 SAN MARTIN CAMPUS (hereinafter referred to as “Defendant ST. ROSE - SAN MARTIN”), is  
11 and was at all times hereto a non-profit Corporation duly authorized to conduct business in the State  
12 of Nevada and at all times relevant hereto, licensed to do business in the State of Nevada as a  
13 medical care provider pursuant to NRS Chapter 449 and is vicariously liable for its employees,  
14 agents and/or servants, and their actions.

15 4. Defendant, JASON LASRY, M.D. (hereinafter referred to as “Defendant LASRY”),  
16 individually, is and was at all times relevant hereto, a physician licensed to practice medicine in the  
17 State of Nevada pursuant to NRS Chapters 630 and 449.

18 5. Defendant, FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.  
19 (hereinafter referred to as “Defendant FREMONT”), is and was at all times hereto, a Nevada  
20 Corporation duly authorized to conduct business in the State of Nevada and was responsible for the  
21 actions of their employees and/or agents, including but not limited to Defendant LASRY, and was  
22 further responsible for the hiring, training, and supervision of said employees and/or agents,  
23 including but not limited to Defendant LASRY, at all times relevant hereto.

24 6. Defendant, TERRY BARTMUS, RN, APRN (hereinafter referred to as “Defendant  
25 BARTMUS”), individually, is and was at all times relevant hereto, a Registered Nurse and Advance  
26 Practice Registered Nurse employed by Defendants FREMONT and/or a presently unknown  
27 nursing company, and licensed to practice nursing pursuant to NRS Chapter 449.

28 . . .

1           7.       At all relevant times the Defendants, DOES I through X, inclusive, were and are  
2 now physicians, surgeons, registered nurses, licensed occasional nurses, practical nurses, registered  
3 technicians, psychologists, aides, technicians, attendants, physician assistants, pharmacists,  
4 pharmacy technicians, or paramedical personnel holding themselves out as duly licensed to practice  
5 their professions under and by virtue of laws of the State of Nevada and are now engaged in the  
6 practice of their professions in the State of Nevada; the true names and capacities, whether  
7 individual, corporate, associate, or otherwise of Defendants DOES I through X, inclusive, and ROE  
8 CORPORATIONS I through X, inclusive, are presently unknown to the Plaintiffs, who therefore  
9 sue those Defendants by such fictitious names; the Plaintiffs are informed and do believe, and  
10 thereupon allege that each of the Defendants sued herein as DOES I through X are responsible in  
11 some manner for the events and happenings herein referred to, which thereby proximately caused  
12 the injuries and damages to the Plaintiffs as alleged herein; that when the true names and capacities  
13 of such Defendants become known, Plaintiffs will ask leave to amend this Complaint to insert the  
14 true names, identities and capacities, together with proper charges and allegations.

15           8.       At all relevant times, Defendants, ROE CORPORATIONS, I through X, were and  
16 now are corporations, firms, partnerships, associations, or other legal entities, involved with the  
17 employment of the Defendant doctors and nurses named herein, including but not limited to the  
18 employment of Defendant BARTMUS, and were further involved with the care, treatment,  
19 diagnosis, surgery and/or other provision of medical care to the Plaintiffs herein; that the true  
20 names, identities or capacities whether individual, corporate, associate or otherwise of the  
21 Defendants, ROE CORPORATIONS I through X, inclusive are presently unknown to Plaintiffs,  
22 who therefore sue said Defendants by such fictitious names; that the Plaintiffs are informed and do  
23 believe and thereupon allege that each of the Defendants sued herein as ROE CORPORATIONS I  
24 through X are responsible in some manner for the events and happenings herein referred to, which  
25 thereby proximately caused the injuries and damages to the Plaintiffs alleged herein; that when  
26 their true names and capacities of such Defendants become known, Plaintiffs will ask leave of this  
27 Court to amend this Complaint to insert the true names, identities and capacities, together with  
28 proper charges and allegations.

1           9.       At all relevant times, Defendants, and each of them, were the agents, ostensible  
2 agents, servants, employees, employers, partners, co-owners and/or joint venturers of each other  
3 and of their co-defendants, and were acting within the color, purpose and scope of their  
4 employment, agency, ownership and/or joint ventures.

5           10.       Plaintiffs' claims arise out of errors and omissions by Defendant LASRY, while in  
6 the course and scope of his employment with Defendant FREMONT; Defendant BARTMUS, while  
7 in the course and scope of his or her employment with Defendant FREMONT and/or a presently  
8 unknown nursing company; Defendant FREMONT and/or its employees, agents and/or servants,  
9 and their failure to appropriately monitor, inform, document, and/or implement appropriate medical  
10 treatment; and Defendant ST. ROSE - SAN MARTIN and/or its employees, agents and/or servants,  
11 and their failure to appropriately monitor, inform, document, and/or implement appropriate medical  
12 treatment to Plaintiff DARELL MOORE.

13           11.       The combined failures of the Defendants proximately led to Plaintiff DARELL  
14 MOORE requiring an above-the-knee amputation of the left lower extremity.

15           12.       On or about December 25, 2016, DARELL presented to ST. ROSE - SAN MARTIN  
16 with a one day history of pain in the calf area of his left leg. He was noted to have a prior history  
17 of deep vein thrombosis and a prior femoral and/or popliteal artery bypass surgery on December  
18 11, 2014.

19           13.       The evaluation at the emergency department consisted of routine laboratory studies  
20 and a venous duplex ultrasound of the left leg.

21           14.       The ultrasound showed occlusion of the left femoral-popliteal arterial bypass graft.

22           15.       No further treatment was recommended in response to the left arterial occlusion and  
23 the differential diagnosis did not include arterial occlusion despite DARELL's history of a prior  
24 femoral-popliteal bypass and despite the fact DARELL reported pain increased with walking.

25           16.       DARELL was discharged with aftercare instructions for musculoskeletal pain as  
26 well as hypertension.

27           17.       On December 28, 2016, DARELL returned to the Emergency Department at ST.  
28 ROSE – SAN MARTIN.

1           18.     At that time, DARELL reported persistent and increasing left leg pain. An arterial  
2 duplex ultrasound of the left leg was performed and once again showed occlusion of the left leg  
3 graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedis  
4 arteries.

5           19.     DARELL was noted to have an ischemic lower extremity and started on  
6 anticoagulants including heparin and tissue plasminogen activator.

7           20.     DARELL was eventually admitted to the Intensive Care Unit in critical condition.

8           21.     On January 2, 2017, DARELL underwent an above-the-knee amputation of his left  
9 lower extremity under the care of Holman Chan, M.D. He was discharged on January 5, 2017.

10          22.     DARELL's injuries and medical treatment were preventable. The venous  
11 ultrasound performed at the emergency department at ST. ROSE - SAN MARTIN Hospital on  
12 December 25, 2016 showed an occlusion of the left femoral-popliteal arterial bypass graft, despite  
13 being the incorrect ultrasound to order. Defendants LASRY, ST. ROSE - SAN MARTIN and  
14 BARTMUS failed to recognize the obvious occlusion recognized by the Radiologist and failed to  
15 properly address DARELL'S condition, thus leading to above-the-knee amputation of his left lower  
16 extremity.

17          23.     Furthermore, Defendants ST. ROSE- SAN MARTIN and FREMONT  
18 EMERGENCY SERVICES (MANDAVIA), LTD. failed to properly hire, train, and supervise their  
19 employees and/or agents and failed to provide adequate, sufficient and reasonable staffing protocols  
20 and procedures.

21          24.     As a direct and proximate result of Defendants' combined negligence, DARELL  
22 experienced pain, suffering, and medical treatment, with said suffering and medical treatment  
23 continuing at the present time.

24          25.     In support of Plaintiffs' allegations of medical malpractice, Plaintiffs submit the  
25 merit affidavit/report of R. Scott Jacobs, M.D., attached hereto as **Exhibit 1**.

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**SPECIFIC ALLEGATIONS OF NEGLIGENCE**

**1<sup>ST</sup> CAUSE OF ACTION**  
**NEGLIGENT HIRING, TRAINING AND SUPERVISION**  
**(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN MARTIN CAMPUS)**

26. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 25 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

27. Defendant ST. ROSE - SAN MARTIN's employees, agents and/or servants were acting in the scope of their employment, under Defendant's control, and in furtherance of Defendant's interest, at all times their actions caused DARELL's injuries.

28. Defendant ST. ROSE - SAN MARTIN is vicariously liable for damages resulting from its agents' and/or employees' and/or servants' negligent actions and omissions regarding DARELL. Defendant's conduct in negligently hiring, failing to train, supervise and/or correct the negligence of its employees demonstrated disregard for the safety of its patients.

29. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers who possess the degree of professional learning, skill and ability of other similarly situated health care providers in their respective care and treatment of DARELL.

30. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers who possess the degree of professional learning, skill and ability of other similarly situated health care providers who possess the degree of professional learning, skill and ability of other similarly situated health care providers in hiring and supervision of employees, agents and/or servants resulting in the acts for negligence alleged herein. The ST. ROSE - SAN MARTIN staff failed to properly evaluate, communicate, and treat DARELL's condition.

31. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by failing to observe and report the patient's true condition and status.

...











1           76. Defendant, TERRY BARTMUS, RN, APRN, fell below the standard of care by  
2 falling below his or her respective professional degree of learning, skill and exercise of good  
3 judgment.

4           77. At all times mentioned herein, Defendant knew, or in the exercise of reasonable care  
5 should have known, that the providing of medical care, treatment and advice was of such a nature  
6 that, if it was not properly given, it was likely to injure the person to whom it was given.

7           78. As a proximate result of the negligence of the Defendant, by failing to appropriately  
8 evaluate, diagnose, care, treat, report, monitor, and respond to DARELL's condition, it was allowed  
9 to proceed and progress to such a stage as to place him at risk and caused him to suffer.

10          79. As a proximate result of the negligence of the Defendant, by failing to appropriately  
11 care and treat DARELL, he had to endure extreme pain and suffering.

12          80. As a proximate result of the negligence of the Defendant, DARELL incurred  
13 medical and hospital expenses, the full extent of said expenses are not known to Plaintiffs, and  
14 leave is requested of this Court to amend this complaint to conform to proof at time of trial.

15          81. As a further proximate result of the negligence of the Defendant, Plaintiffs, as  
16 husband and wife, have and will experience a loss of consortium, and Plaintiffs seek compensatory  
17 damages therefor.

18          82. That as a further proximate result of Defendant's negligent acts and/or omissions,  
19 Plaintiffs were forced to retain the services of attorneys in this matter and therefore seek  
20 reimbursement for attorneys' fees and costs.

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# EXHIBIT 1

**R. SCOTT JACOBS, M.D. FAAEM**  
**1669 TORRANCE STREET**  
**SAN DIEGO, CALIFORNIA 92103**  
**DECEMBER 8, 2017**

Matthew Hoffman  
Atkinson & Watkins, LLP  
10789 W. Twain Avenue, Suite 100  
Las Vegas, NV 89135

Dear Mr. Hoffman:

I have reviewed the records, reports and other materials that your office supplied to me regarding Darell Moore. This letter is a summary of my qualifications, opinions, and conclusions.

I am a physician and have been licensed to practice medicine in California since 1975. I am board certified in Emergency Medicine and have been since 1983. I have practiced Emergency Medicine for over thirty years and since 1984 have been at Sharp Memorial Hospital in San Diego, California. I am very familiar with the pathophysiology involved in this case and am qualified to render an expert opinion. My current curriculum vitae is attached hereto.

The cases in which I have given testimony during the past four years are:

2013	Charles Thiede v. Stephen Johnson, et al.	Huron County, MI
2013	Ford Cutler v. Ronald A. Sparschu et al.	Genesee County, MI
2013	Lydell Burt v. Sheriff Paul Bailey et al.	U.S. Southern MI
2013	Rachel Hegler v. Port Huron Hospital et al.	St. Clair County, MI
2014	Nancy Warner v. Henry Ford Health System et al.	Wayne County, MI
2014	Jeffrey Frampton v. Northland Pain Consultants et al.	Clay County, MO
2015	Julie Szatkowski v. Metropolitan Hospital et at.	Kent County, MI
2015	Sharon Geisler v. Specialized Assistance Services	Cook County, IL
2015	Joseph Cartwright v. Dr. Sinem Sherifali	Wayne County, MI
2015	Kimberly Shaver v. Dignity Health et al.	Clark County, NV
2016	Taylor-Laryea v. Genesis Regional Medical Center et al.	Genesis County, MI
2016	Terrance McClellan v. William Backus Hospital et al.	New London, CT

My fees for consulting services are as follows:

Review of materials	\$400.00 per hour
Deposition testimony	\$600.00 per hour
Trial testimony	\$600.00 per hour

There is a two hour minimum charge for deposition or trial testimony

As basis for forming my opinions, I have reviewed the following materials:

Records of Darell Moore from St. Rose Dominican Dec. 25, 2016

Records of Darell Moore from St. Rose Dominican Dec. 28, 2016 to Jan. 5, 2017

Records of Darell Moore from Advanced Orthotics and Prosthetics

My review of the records indicates that Mr. Moore presented to the Emergency Department at St. Rose Dominican Hospital on Dec. 25, 2016. He was seen by Dr. Jason Lasry and/or Terry Bartmus and was found to have a one day history of pain in the calf area of his left leg. He was noted also to have been walking more than usual in the prior two days and to have a past history of deep vein thrombosis and to be taking the anticoagulant Xarelto. Additionally, Anee Kuchinsky R.N. documented that Mr. Moore had a history of femoral and/or popliteal artery bypass on Dec. 11, 2014 and to have a history of an abdominal aortic aneurysm.

Mr. Moore's evaluation in the Emergency Department that day consisted of routine laboratory studies and a venous duplex ultrasound of the left leg. The laboratory studies were non-diagnostic and the venous ultrasound demonstrated no venous occlusion, but did show occlusion of the left femoral-popliteal arterial bypass graft. Nonetheless, Dr. Lasry and/or Terry Bartmus apparently felt comfortable that this study did not merit further immediate treatment and discharged Mr. Moore with aftercare instructions on musculoskeletal pain as well as hypertension. Of note, the differential diagnosis included deep vein thrombosis, arthritis, sprain, and strain, but did not include arterial occlusion despite Mr. Moore's history of a prior femoral-popliteal bypass and despite the fact that Mr. Moore reported pain increased with walking.

Mr. Moore returned to the Emergency Department at St. Rose Dominican on Dec. 28, 2016 at which time he was seen by Dr. Stan Liu. He complained of persistent and increasing left leg pain and was evaluated with studies that included an arterial duplex ultrasound of the left leg which again showed occlusion of the left leg graft vasculature with no flow detected in the left posterior tibial anterior tibial or dorsalis pedis arteries. He was noted to have an ischemic lower extremity and started on anticoagulants including heparin and tissue plasminogen activator (TPA). He was seen by interventional radiology for placement of an arterial catheter above the occlusion. This was done so that the TPA could be administered directly to the occluded area. Mr. Moore was subsequently admitted to the ICU in critical condition. Despite these measures, his leg was too ischemic to be salvaged and he eventually required an above the knee (AK) amputation of the lower extremity. He had some post-operative complications, and was eventually discharged January 5, 2017.

It is my professional opinion that Dr. Jason Lasry and/or Terry Bartmus were negligent in the care of Darell Moore in several respects. The history as documented does not convincingly

demonstrate that they were aware that Mr. Moore had undergone a previous femoral popliteal arterial bypass. Although they did document Mr. Moore's history of prior deep venous thrombosis and history of taking Xarelto, they made no comment about his past bypass. In addition, Dr. Lasry and/or Terry Bartmus documented a differential diagnosis that included deep vein thrombosis, arthritis, sprain and strain, but importantly, did not include the possibility of arterial insufficiency. Mr. Moore described pain with increased walking and this is often from muscle ischemia or claudication which is a classic symptom of arterial vascular insufficiency.

This erroneous thought process was further compounded by ordering a venous ultrasound and excluding an arterial study. Both arterial and venous studies can be performed ultrasonically and can be very easily combined when the patient is having an ultrasound. An arterial ultrasound was, in fact, the study that diagnosed Mr. Moore when he returned with an ischemic limb on December 28. Had an arterial ultrasound been performed on Dec. 25, 2016, certainly the diagnosis of acute arterial occlusion should have been made and hospitalization and appropriate therapy undertaken.

Even more perplexing, however, is Dr. Lasry's and/or Terry Bartmus' failure to act upon the findings that were present on the venous ultrasound performed Dec. 25. Although the study does demonstrate no evidence of venous occlusion or DVT, the radiologist comments specifically that the left femoral-popliteal graft appears occluded. This finding should have been alarming enough to cause Dr. Lasry and/or Terry Bartmus to either order further diagnostic studies such as an arterial ultrasound or arteriogram or to admit Mr. Moore for attempts at revascularization. Dr. Lasry in his medical teaching addendum commented that the ultrasound showed arterial occlusion with good distal perfusion. However, it should be noted, that the radiologist did not comment on distal perfusion and it would be unlikely that a venous ultrasound would demonstrate distal perfusion. If "good distal perfusion" was meant as a clinical assessment, the standard of care requires the physician to document the clinical assessment including, at least, extremity warmth and pulses.

Dr. Lasry's and/or Terry Bartmus' incomplete assessment and lack of understanding of Mr. Moore's disease process led to Mr. Moore being discharged on Dec. 25 with limited and inadequate follow-up. He was diagnosed with "musculoskeletal leg pain" and given instructions to make a routine follow-up appointment with his primary care provider.

Mr. Moore was clearly suffering from an ischemic lower extremity at the time he presented to the Emergency Department at St. Rose on December 25, 2016. He had a history of a femoral-popliteal bypass and it should have been apparent to any reasonable and prudent physician that re-occlusion was a real possibility. In fact, the radiologist's reading on the ultrasound performed that day literally spells out the diagnosis. Despite that, Mr. Moore was discharged on Dec. 25, and never advised that he had a condition that required emergent or urgent treatment.

Finally, it is also my opinion that the delay in the treatment of Mr. Moore caused by his being discharged on Dec. 25, led directly to the progressive ischemia of his left leg and ultimately to his subsequent need for an above the knee amputation of his leg. It is well known that an acutely ischemic limb needs to have its blood supply restored within six hours in order to preserve an intact limb. Although this time frame is somewhat looser in the circumstance of subacute arterial occlusion or partial occlusion one principle remains constant. The sooner that revascularization is preformed the better the results and the less disability ensues.

The fact that there was a three day delay in diagnosing and treating Mr. Moore meant that his leg was significantly more ischemic and that there was substantially more devitalized and necrotic tissue. Areas that would have been amenable to restored blood flow on Dec. 25 were no longer viable on Dec. 28, because the tissue had died in the intervening three days. Had the treatment including heparin and TPA that was administered on Dec. 28 been initiated on Dec. 25, it is my opinion that Mr. Moore's leg could have been salvaged and that certainly he would not have required an above the knee amputation.

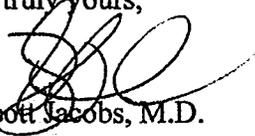
In summary, it is my opinion that Dr. Lasry, Terry Bartmus, and the staff at St. Rose Dominican Hospital were negligent in the treatment of Mr. Moore in several respects. Dr. Lasry's and/or Terry Bartmus' initial error was in fixating on venous vascular problem as the cause of Mr. Moore's symptoms. They appear to have excluded the fact that he had had a previous femoral-popliteal bypass as increasing the possibility that he had an arterial occlusion. Their differential diagnosis included deep vein thrombosis, but excluded arterial occlusion. This error was then compounded by ordering only a venous ultrasound study and not an arterial study. Even with these errors, however, they should have realized the diagnosis was arterial occlusion, because the venous ultrasound demonstrated complete occlusion of the popliteal artery graft. The fact that this significant finding was ignored again demonstrates Dr. Lasry's and/or Terry Bartmus tunnel vision in only considering venous problems as the etiology of Mr. Moore's symptoms.

Finally, it is my opinion that had Mr. Moore been diagnosed with arterial occlusion and started on treatment December 25, 2016 that his outcome would have been significantly improved. It is likely that his leg could have been successfully revascularized and that he would not have required an amputation of the leg. It is also certain that had appropriate treatment been initiated on December 25, that any procedure required in treating Mr. Moore would not have been as invasive nor as drastic.

I reserve the right to amend and supplement my findings and opinions in this report based on any additional, testing, or information which may provided to me hereafter. All of the opinions expressed herein are stated to a reasonable degree of medical certainty. Further, I base these conclusions not only on the aforementioned documentation, but also on my education, training and over thirty years of experience in the active practice of Emergency Medicine in an

acute care setting. During that time, I have cared for perhaps 100,000 patients including thousands with ischemia and hundreds with ischemic limbs.

Very truly yours,

  
R. Scott Jacobs, M.D.



**R. Scott Jacobs, M.D. FAAEM**  
1669 Torrance Street  
San Diego, California 92103

**Curriculum Vitae**

**EDUCATION**

**Premedical Education**

University of Michigan Ann Arbor, Michigan	A.B. Degree	1970
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**Medical Education**

University of Michigan Ann Arbor, Michigan	M.D. Degree	1974
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**Postgraduate Education**

Rotating Internship Mercy Hospital and Medical Center San Diego, California		1974 - 1975
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General Surgery Residency Mercy Hospital and Medical Center San Diego, California		1975 -1976
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**MEDICAL LICENSURE**

State of California		1975 - current
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**CERTIFICATION**

American Board of Emergency Medicine		1983 - current
Pediatric Advanced Life Support		1992
Advanced Trauma Life Support		1982
Advanced Cardiac Life Support		1976
ACEP Base Station Physician Symposium		1985
National Board of Medical Examiners		1975

**PROFESSIONAL PRACTICE**

Emergency Physician	Sharp Memorial Hospital San Diego, California	1984 - present
Emergency Department Director of Risk Management		2002 - 2012
Emergency Department Supervisory Committee		2012 - present
Medical Director	Care Medical Transportation San Diego, California	1996 - present
Medical Director	Care Medical Transportation National City, California	1992 - 1993
Emergency Physician	Grossmont Hospital La Mesa, California	1983 - 1984
Emergency Physician	Valley Medical Center El Cajon, California	1980 - 1983
Emergency Physician	Pomerado Hospital Poway, California	1979 - 1980
Industrial Medicine	Kearny Mesa Industrial Medical Center San Diego, California	1978 - 1979
Emergency Physician	Clairemont Community Hospital San Diego, California	1976 - 1979
Emergency Physician	San Clemente General Hospital San Clemente, California	1976 - 1978

**EMERGENCY MEDICAL SERVICES ADMINISTRATION**

Base Hospital Medical Director	Sharp Memorial Hospital	1986 - 1989
San Diego County Base Station Physicians Committee		1986 - 1989
San Diego County Trauma System Medical Audit Committee		1986 - 1989
San Diego County Shared Helicopter Services Committee		1986 - 1989
San Diego County Pre-hospital Audit Committee		1987 - 1989
Chairman	1989	

**CONFERENCE PARTICIPATION**

Trauma Management 1989  
San Diego, California  
Topic: Pre-hospital Quality Assurance

R. Scott Jacobs, MD

**PUBLICATIONS**

Chernof, D., Pion, R., et al. Self-Care Advisor. Time Health Inc. 1996. Advisor to author of Emergency and First Aid section pp13-48.

Kaufman I.A., Stonecipher J., Kitchen L., Haubner L.M., Jacobs, R.S.  
Children's Trauma Tool. As published in Guidelines for the Triage of Pediatric Trauma Patients. Journal of Emergency Nursing, 1989. Vol 15, No.5 pp414-415.

**PROFESSIONAL AFFILIATIONS**

American Academy of Emergency Physicians  
American College of Emergency Physicians  
National Association of EMS Physicians

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**1669 Torrance Street**  
**San Diego, California 92103**  
**Cell: 619-750-7651**  
**E-Mail: rsjacobsmd@gmail.com**  
**2017**

## **FEE SCHEDULE**

**My hourly fees for consulting services are as follows:**

<b>Review of materials</b>	<b>\$400.00</b>
<b>Deposition testimony</b>	<b>\$600.00</b>
<b>Two hour minimum</b>	
<b>Trial testimony</b>	<b>\$600.00</b>
<b>Two hour minimum</b>	