

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

APPELLANT'S APPENDIX VOLUME I

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Attorney for Appellant Darrell Moore and Charlene Moore

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I	Dignity Health's Answer to Complaint dated January 17, 2018	AA00050- AA00059
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I	Proof of Service of Amended Complaint upon Jason Lasry dated January 31, 2018	AA00061
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XIX	Trial Transcripts for February 12, 2020, February 13, 2020 and June 11, 2020	AA02986- AA03225

CERTIFICATE OF SERVICE

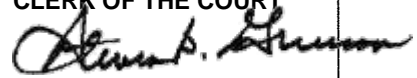
Pursuant to NRAP 25(b), I certify that I am an employee of the law firm and that on this 21st day of July, 2021, I served a true and correct copy of the foregoing **APPELLANT'S APPENDIX VOLUME I** as follows:

- ☐ 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

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Lewis Brisbois Bisgaard & Smith, LLP
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By: /s/ E. Breen Arntz
An employee of E. Breen Arntz, Chtd.



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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

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

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

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

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

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

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

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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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32. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by failing to obtain timely intervention by a qualified health care provider.

33. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by falling below its respective professional degrees of learning, skill and exercise of good judgment.

34. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by failing to recognize and treat DARELL's presenting medical condition.

35. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

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

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

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

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

2ND CAUSE OF ACTION
CORPORATE NEGLIGENCE/VICARIOUS LIABILITY
(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN
MARTIN CAMPUS)

40. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 39 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

...

41. 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, and at all times their actions caused DARELL's above-the-knee amputation.

42. 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 failing to supervise and/or correct the negligence of its employees demonstrated disregard for the safety of its patients.

43. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

44. ST. ROSE - SAN MARTIN fell below the standard of care by failing to recognize and treat DARELL's presenting medical condition and failing to communicate test results to DARELL's medical providers.

45. As a proximate result of the negligence of the Defendant, DARELL had to endure extreme pain and suffering.

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

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

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

3RD CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against JASON LASRY, M.D.)

49. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 48 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

...

50. Defendant, JASON LASRY, M.D., fell below the standard of care of health care providers who possess the degree of professional learning, skill and ability of other similar health care providers by negligently failing to order appropriate testing, failing to follow-up on ultrasound results, failing to recognize and treat DARELL's presenting medical condition, and discharging DARELL without addressing his presenting medical condition.

51. Defendant, JASON LASRY, M.D., fell below the standard of care by falling below his respective professional degree of learning, skill and exercise of good judgment.

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

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

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

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

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

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

4TH CAUSE OF ACTION
(NEGLIGENT HIRING, TRAINING AND SUPERVISION
(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

58. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 57 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

59. Defendant FREMONT'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, and at all times their actions caused DARELL's injuries.

60. Defendant FREMONT 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, and failing to train, supervise and/or correct the negligence of its employees and/or agents demonstrated disregard for the safety of its patients.

61. Defendant FREMONT failed to adequately hire, train, and/or supervise their agents and/or employees, including but not limited to Defendant LASRY, and failed to provide adequate, sufficient and reasonable staffing protocols and procedures.

62. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

63. As a proximate result of the negligence of the Defendant, DARELL had to endure extreme pain and suffering.

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

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

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

5TH CAUSE OF ACTION
CORPORATE NEGLIGENCE/VICARIOUS LIABILITY
(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

67. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 66 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

...

68. Defendant FREMONT had a duty to exercise due care in the selection, training, supervision, oversight, direction, retention and control of its employees and/or agents, retained by it to perform and provide services.

69. Defendant FREMONT breached the above-referenced duty when they negligently, carelessly, and recklessly hired, trained, supervised, oversaw, directed and/or retained their personnel.

70. As a proximate result of the negligence of the Defendant's employees and/or agents, by failing to appropriately care and treat DARELL, he had to endure extreme pain and suffering.

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

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

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

6TH CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against TERRY BARTMUS, RN, APRN)

74. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 73 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

75. Defendant, TERRY BARTMUS, RN, APRN, fell below the standard of care of health care providers who possess the degree of professional learning, skill and ability of other similar health care providers by negligently failing to ensure appropriate testing was ordered; failing to properly report and follow-up on ultrasound results; failing to recognize and ensure DARELL'S presenting medical condition was brought to the attention of other medical providers for treatment; and allowing DARELL to be discharged without addressing his presenting medical condition.

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.

21 ...

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23 ...

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28 ...

1 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
2 follows:

- 3 1. For medical special damages and compensatory damages against Defendants, for an
4 amount in excess of \$15,000, plus pre-judgment and post-judgment interest thereon
5 at the highest legal rate;
- 6 2. For an award of Plaintiffs' attorneys' fees and costs;
- 7 3. For such other and further relief as this Court deems just and proper.

8 DATED this 18th day of December, 2017.

9
10 ATKINSON WATKINS HOFFMANN, LLP

11
12 By: /s/ Matthew W. Hoffmann, Esq.
13 MATTHEW W. HOFFMANN, ESQ.
14 Nevada Bar No. 009061
15 10789 W. Twain Avenue, Suite 100
16 Las Vegas, NV 89135
17 *Attorneys for Plaintiffs*
18
19
20
21
22
23
24
25
26
27
28

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, Amee 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.

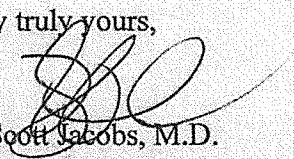
In summary, it is my opinion that Dr. Lasry, Terry Bartmus, and the staff at St. Rose Dominican Hospital were negligent in the treatment of Mr. Moore in several respects. Dr. Lasry's and/or Terry Bartmus' initial error was in fixating on venous vascular problem as the cause of Mr. Moore's symptoms. They 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.

CALIFORNIA JURAT WITH AFFIANT STATEMENT**GOVERNMENT CODE § 8202**

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)



Signature of Document Signer No. 1_____
Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

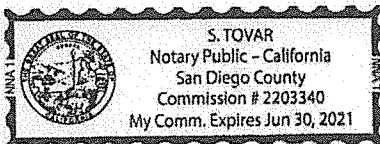
County of San Diego

Subscribed and sworn to (or affirmed) before me

on this 11th day of December, 2017,
by _____
Date Month Year(1) Russell Scott Jacobs

(and (2) _____),

Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature _____

Signature of Notary Public

Seal
Place Notary Seal Above**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

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
---	-------------

MEDICAL LICENSURE

State of California	1975 - current
---------------------	----------------

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

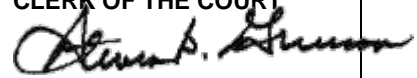
American Academy of Emergency Physicians
American College of Emergency Physicians
National Association of EMS Physicians

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

FEE SCHEDULE

My hourly fees for consulting services are as follows:

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



COMP
MATTHEW W. HOFFMANN, ESQ.
Nevada Bar No. 009061
ATKINSON WATKINS & HOFFMANN, LLP
10789 W. Twain Avenue, Suite 100
Las Vegas, NV 89135
Email: mhoffmann@awhlawyers.com
Telephone: 702-562-6000
Facsimile: 702-562-6066
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. 26

FIRST AMENDED 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:

...

...

...

...

I.

GENERAL ALLEGATIONS

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

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

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

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

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

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

...

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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NEGLIGENT HIRING, TRAINING AND SUPERVISION

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32. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by failing to obtain timely intervention by a qualified health care provider.

33. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by falling below its respective professional degrees of learning, skill and exercise of good judgment.

34. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants, fell below the standard of health care providers by failing to recognize and treat DARELL's presenting medical condition.

35. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

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

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

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

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

2ND CAUSE OF ACTION
CORPORATE NEGLIGENCE/VICARIOUS LIABILITY
(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN
MARTIN CAMPUS)

40. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 39 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

• • •

41. 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, and at all times their actions caused DARELL's above-the-knee amputation.

42. 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 failing to supervise and/or correct the negligence of its employees demonstrated disregard for the safety of its patients.

43. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

44. ST. ROSE - SAN MARTIN fell below the standard of care by failing to recognize and treat DARELL's presenting medical condition and failing to communicate test results to DARELL's medical providers.

45. As a proximate result of the negligence of the Defendant, DARELL had to endure extreme pain and suffering.

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

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

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

3RD CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against JASON LASRY, M.D.)

49. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 48 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

• • •

50. Defendant, JASON LASRY, M.D., fell below the standard of care of health care providers who possess the degree of professional learning, skill and ability of other similar health care providers by negligently failing to order appropriate testing, failing to follow-up on ultrasound results, failing to recognize and treat DARELL's presenting medical condition, and discharging DARELL without addressing his presenting medical condition.

51. Defendant, JASON LASRY, M.D., fell below the standard of care by falling below his respective professional degree of learning, skill and exercise of good judgment.

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

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

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

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

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

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

4TH CAUSE OF ACTION
(NEGLIGENT HIRING, TRAINING AND SUPERVISION
(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

58. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 57 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

59. Defendant FREMONT'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, and at all times their actions caused DARELL's injuries.

60. Defendant FREMONT 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, and failing to train, supervise and/or correct the negligence of its employees and/or agents demonstrated disregard for the safety of its patients.

61. Defendant FREMONT failed to adequately hire, train, and/or supervise their agents and/or employees, including but not limited to Defendants LASRY and BARTMUS, and failed to provide adequate, sufficient and reasonable staffing protocols and procedures.

62. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

63. As a proximate result of the negligence of the Defendant, DARELL had to endure extreme pain and suffering.

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

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

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

5TH CAUSE OF ACTION
CORPORATE NEGLIGENCE/VICARIOUS LIABILITY
(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

67. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 66 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

• • •

68. Defendant FREMONT had a duty to exercise due care in the selection, training, supervision, oversight, direction, retention and control of its employees and/or agents, retained by it to perform and provide services.

69. Defendant FREMONT breached the above-referenced duty when they negligently, carelessly, and recklessly hired, trained, supervised, oversaw, directed and/or retained their personnel.

70. As a proximate result of the negligence of the Defendant's employees and/or agents, by failing to appropriately care and treat DARELL, he had to endure extreme pain and suffering.

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

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

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

6TH CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against TERRY BARTMUS, RN, APRN)

74. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 73 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

75. Defendant, TERRY BARTMUS, RN, APRN, fell below the standard of care of health care providers who possess the degree of professional learning, skill and ability of other similar health care providers by negligently failing to ensure appropriate testing was ordered; failing to properly report and follow-up on ultrasound results; failing to recognize and ensure DARELL'S presenting medical condition was brought to the attention of other medical providers for treatment; and allowing DARELL to be discharged without addressing his presenting medical condition.

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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1 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
2 follows:

- 3 1. For medical special damages and compensatory damages against Defendants, for an
4 amount in excess of \$15,000, plus pre-judgment and post-judgment interest thereon
5 at the highest legal rate;
- 6 2. For an award of Plaintiffs' attorneys' fees and costs;
- 7 3. For such other and further relief as this Court deems just and proper.

8 DATED this 20th day of December, 2017.

9
10 ATKINSON WATKINS HOFFMANN, LLP

11
12 By: /s/ Matthew W. Hoffmann, Esq.
13 MATTHEW W. HOFFMANN, ESQ.
14 Nevada Bar No. 009061
15 10789 W. Twain Avenue, Suite 100
16 Las Vegas, NV 89135
17 *Attorneys for Plaintiffs*
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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, Amee 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.

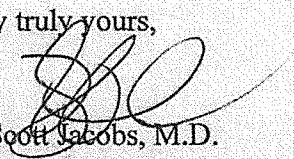
In summary, it is my opinion that Dr. Lasry, Terry Bartmus, and the staff at St. Rose Dominican Hospital were negligent in the treatment of Mr. Moore in several respects. Dr. Lasry's and/or Terry Bartmus' initial error was in fixating on venous vascular problem as the cause of Mr. Moore's symptoms. They 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.

CALIFORNIA JURAT WITH AFFIANT STATEMENT**GOVERNMENT CODE § 8202**

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)



Signature of Document Signer No. 1_____
Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

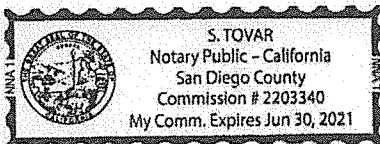
County of San Diego

Subscribed and sworn to (or affirmed) before me

on this 11th day of December, 2017,
by _____
Date Month Year(1) Russell Scott Jacobs

(and (2) _____),

Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature _____

Signature of Notary Public

Seal
Place Notary Seal Above**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

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
---	-------------	------

Postgraduate Education

Rotating Internship Mercy Hospital and Medical Center San Diego, California	1974 - 1975
---	-------------

General Surgery Residency Mercy Hospital and Medical Center San Diego, California	1975 - 1976
---	-------------

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
2017

FEE SCHEDULE

My hourly fees for consulting services are as follows:

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



Steven D. Grierson

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 DOMINICAN 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**

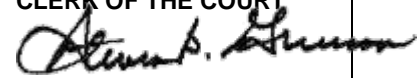
by serving: TAYLOR LEE, SERVICE LIAISON ON BEHALF OF CSC SERVICES OF NEVADA, INC.,
REGISTERED AGENT PURSUANT TO NRS 14.020 at the Defendant's Business located at 2215-B
RENAISSANCE DR, Las Vegas, NV 89119.

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



ANS
KENNETH M. WEBSTER, ESQ.
Nevada Bar No. 7205
JOHN F. BEMIS, ESQ.
Nevada Bar No. 9509
SARAH S. SILVERMAN, ESQ.
Nevada Bar No. 13624
HALL PRANGLE & SCHOONVELD, LLC
1160 North Town Center Drive, Ste. 200
Las Vegas, Nevada 89144
Phone: 702-889-6400
Facsimile: 702-384-6025
efile@hpslaw.com
Attorneys for Defendant
Dignity Health dba
St. Rose Dominican Hospital – San Martin Campus

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

Defendants.

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

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

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

///

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.

27 ///

28 ///

SPECIFIC ALLEGATIONS OF NEGLIGENCE

1ST CAUSE OF ACTION

NEGLIGENT HIRING, TRAINING AND SUPERVISION

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

6. In answering paragraph 26 of Plaintiffs' Complaint, this answering Defendant hereby incorporates its answers to paragraphs 1 through 25 as though fully set forth herein.

7. In answering paragraph 27 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.

8. In answering paragraph 28 of Plaintiffs' Complaint, this answering Defendant denies that this answering Defendant conducted negligent hiring, failed to train, supervise and/or correct any alleged negligence of its employees and 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 such allegations call for legal conclusion, that this answering Defendant is without sufficient information to form a belief as to the truth of the allegations contained therein and therefore denies the same.

9. In answering paragraphs 29, 30, 31, 32, 33 and 34 of Plaintiffs' Complaint, this answering Defendant denies each and every allegation contained therein.

10. In answering paragraphs 35, 36, 37, 38 and 39 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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2ND 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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3RD 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.

4TH 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.

5th 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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6th CAUSE OF ACTION

PROFESSIONAL NEGLIGENCE

(As Against TERRY BARTMUS, RN, APRN)

21. In answering paragraph 74 of Plaintiffs' Complaint, this answering Defendant hereby incorporates its answers to paragraphs 1 through 73 as though fully set forth herein.

22. In answering paragraphs 75, 76, 77, 78, 79, 80, 81 and 82 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.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint on file herein fails to state a claim against this Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The injuries, if any, complained of by Plaintiffs in the Complaint were proximately caused by the acts or omissions of unknown third parties or other persons over whom this Defendant exercised no control and over who this Defendant had no right or duty to control, nor ever has had a right or duty to exercise control.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs did not exercise ordinary care, caution or prudence in the conduct of their affairs relating to the allegations of the Complaint herein for damages in order to avoid the injuries or damages of which Plaintiffs complained and said injuries or damages, if any, were directly and proximately contributed to or caused by the fault, carelessness and negligence of the Plaintiffs.

FOURTH AFFIRMATIVE DEFENSE

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

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FIFTH AFFIRMATIVE DEFENSE

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

SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

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

EIGHTH AFFIRMATIVE DEFENSE

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

NINTH AFFIRMATIVE DEFENSE

Defendant is liable for only that portion of the Plaintiffs' claims that represents the 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 17th 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 17th 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
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 DOMINICAN 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 DOMINICAN 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 DOMINICAN 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

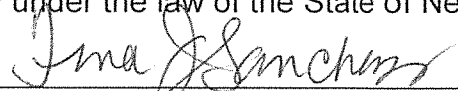
I served the same on Sunday January 21 2018 at 02:48PM by:

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 DOMINICAN 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

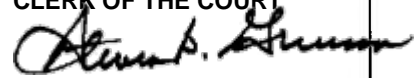
Affiant: BRENT ALLEN REID #R-061962

LEGAL WINGS, INC. - NV LIC #389

1118 FREMONT STREET

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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*
8 *Emergency Services (Mandavia), Ltd. and*
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:

27 ///

28 I.

GENERAL ALLEGATIONS

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.

1 SPECIFIC ALLEGATIONS OF NEGLIGENCE

2 1ST CAUSE OF ACTION

3 NEGLIGENT HIRING, TRAINING AND SUPERVISION

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

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

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

15 2ND CAUSE OF ACTION

16 CORPORATE NEGLIGENCE/VICARIOUS LIABILITY

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

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

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

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1 3RD CAUSE OF ACTION

2 PROFESSIONAL NEGLIGENCE
3 (As Against JASON LASRY, M.D.)

4 12. Answering Paragraph 49, these Answering Defendants repeat and reallege
5 its responses to Paragraphs 1 through 48 and incorporate the same by reference as
6 though fully set forth herein.

7 13. Paragraphs 50 through 57 do not call for a response from these Answering
8 Defendants as they relate to co-Defendant Jason Lasry, M.D. only. To the extent that
9 Paragraphs 50 through 57 require a response from these Answering Defendants, these
10 Answering Defendants are without knowledge or information sufficient to form a belief as
11 to the truth or falsity of the allegations contained in Paragraphs 50 through 57, and
12 therefore deny those allegations.

13 4TH CAUSE OF ACTION
14 NEGLIGENT HIRING, TRAINING AND SUPERVISION
15 (As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

16 14. Answering Paragraph 58, these Answering Defendants repeat and reallege
17 its responses to Paragraphs 1 through 57 and incorporate the same by reference as
18 though fully set forth herein.

19 15. Paragraphs 59 through 60 contain legal conclusions that do not call for a
20 response from these Answering Defendants. To the extent the allegations in Paragraphs
21 59 through 60 require a response from these Answering Defendants, these Answering
22 Defendants deny the allegations contained in Paragraphs 59 through 60, as phrased.

23 16. These Answering Defendants deny the allegations contained in Paragraphs
24 61 through 66.

25 5TH CAUSE OF ACTION
26 CORPORATE NEGLIGENCE/VIACRIOUS LIABILITY
27 (As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

28 17. Answering Paragraph 67, these Answering Defendants repeat and reallege
its responses to Paragraphs 1 through 66 and incorporate the same by reference as
though fully set forth herein.

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 6TH 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
Defendants, Plaintiffs are not entitled to any recovery.

1 FOURTH AFFIRMATIVE DEFENSE

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

4 FIFTH AFFIRMATIVE DEFENSE

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

8 SIXTH AFFIRMATIVE DEFENSE

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

13 SEVENTH AFFIRMATIVE DEFENSE

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

18 EIGHTH AFFIRMATIVE DEFENSE

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

22 NINTH AFFIRMATIVE DEFENSE

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

25 TENTH AFFIRMATIVE DEFENSE

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

1 ELEVENTH AFFIRMATIVE DEFENSE

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

4 TWELFTH AFFIRMATIVE DEFENSE

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

7 THIRTEENTH AFFIRMATIVE DEFENSE

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

10 FOURTEENTH AFFIRMATIVE DEFENSE

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

12 FIFTEENTH AFFIRMATIVE DEFENSE

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

15 SIXTEENTH AFFIRMATIVE DEFENSE

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

20 SEVENTEENTH AFFIRMATIVE DEFENSE

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

23 EIGHTEENTH AFFIRMATIVE DEFENSE

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

27 NINETEENTH AFFIRMATIVE DEFENSE

28 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

27 ///

28 ///

4. For such other and further relief as the court may deem just and proper in these premises.

DATED this 9 day of February, 2018

LEWIS BRISBOIS BISGAARD & SMITH LLP

By

KEITH A. WEAVER

Nevada Bar No. 10271

MICHAEL J. LIN

Nevada Bar No. 13711

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Tel. 702.893.3383

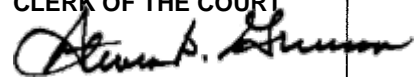
Attorneys for Defendants Fremont Emergency Services (Mandavia), Ltd. and Terry Bartmus, A.P.R.N.

1
2 CERTIFICATE OF SERVICE

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

9 Matthew W. Hoffmann, Esq.
10 ATKINSON WATKINS & HOFFMANN, LLP
11 10789 W. Twain Ave., Suite 100
12 Las Vegas, NV 89135
13 Tel: 702.562.6000
14 Fax: 702.562.6066
15 Email: mhoffmann@awhlawyers.com
16 *Attorneys for Plaintiffs*

17
18
19
20
21
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27
28
By Emma F. Gonzales
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: rmcbride@cktfmlaw.com
13 E-mail: crhueth@cktfmlaw.com
14 Attorneys for Defendant,
15 *Jason Lasry, M.D.*

16 DISTRICT COURT

17 CLARK COUNTY, NEVADA

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

21 Plaintiffs,

22 v.

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

Defendants.

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

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

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

I.

GENERAL ALLEGATIONS

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

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

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

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

SPECIFIC ALLEGATIONS OF NEGLIGENCE

1ST CAUSE OF ACTION

NEGLIGENT HIRING, TRAINING AND SUPERVISION

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

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

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

7. Answering Paragraph 40 of Plaintiffs' First Amended Complaint on file herein, this answering Defendant repeats each and every response to Paragraphs 1 through 39, inclusive, and incorporate the same by reference as though set forth fully herein.

3RD CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against JASON LASRY, M.D.)

10. Answering Paragraphs 50 through 57 of Plaintiffs' First Amended Complaint, this answering Defendant denies all allegations therein.

11. Answering Paragraph 58 of Plaintiffs' First Amended Complaint on file herein, this answering Defendant repeats each and every response to Paragraphs 1 through 57, inclusive, and incorporate the same by reference as though set forth fully herein.

~~AA00075~~

1 13. Answering paragraphs 61, 62, 63, 64, 65, and 66 of Plaintiffs' First Amended
2 Complaint on file herein, this answering Defendant denies the allegations as to Jason Lasry,
3 M.D. and as to all remaining allegations, this answering Defendant is without sufficient
4 knowledge and information to formulate a belief as to the truth of the allegations contained
5 therein and, based upon such lack of information and belief, the same are hereby denied
6

7 **5TH CAUSE OF ACTION**
8 **CORPORATE NEGLIGENCE/VICARIOUS LIABILITY**
9 **(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)**

10 10. Answering Paragraph 67 of Plaintiffs' First Amended Complaint on file herein,
11 this answering Defendant repeats each and every response to Paragraphs 1 through 66, inclusive,
12 and incorporate the same by reference as though set forth fully herein.

13 11. Answering Paragraphs 68 through 73 of Plaintiffs' First Amended Complaint on
14 file herein, this answering Defendant is without sufficient knowledge to form a belief as to the
15 truth of the allegations contained in said paragraphs and therefore denies the same.

16 **6TH CAUSE OF ACTION**
17 **PROFESSIONAL NEGLIGENCE**
18 **(As Against TERRY BARTMUS, RN, APRN)**

19 12. Answering Paragraph 74 of Plaintiffs' First Amended Complaint on file herein,
20 this answering Defendant repeats each and every response to Paragraphs 1 through 73, inclusive,
21 and incorporate the same by reference as though set forth fully herein.

22 13. Answering Paragraphs 75 through 82 of Plaintiffs' First Amended Complaint on
23 file herein, this answering Defendant is without sufficient knowledge to form a belief as to the
24 truth of the allegations contained in said paragraphs and therefore denies the same.

25 **PRAYER FOR RELIEF**

26 This Answering Defendant denies that Plaintiffs are entitled to any of the requested relief
27 as contained within Plaintiff's First Amended Complaint.
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1 **SEVENTH AFFIRMATIVE DEFENSE**

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

5 **EIGHTH AFFIRMATIVE DEFENSE**

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

9 **NINTH AFFIRMATIVE DEFENSE**

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

13 **TENTH AFFIRMATIVE DEFENSE**

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

17 **ELEVENTH AFFIRMATIVE DEFENSE**

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

20 **TWELFTH AFFIRMATIVE DEFENSE**

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

2 All possible affirmative defenses may not have been alleged herein insofar as sufficient
3 facts were not available after reasonable inquiry upon the filing of Defendant's Answer and,
4 therefore, Defendant reserves the right to amend his Answer to allege additional Affirmative
5 Defenses if subsequent investigation so warrants.
6

7 **FOURTEENTH AFFIRMATIVE DEFENSE**

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

10 **FIFTEENTH AFFIRMATIVE DEFENSE**

11 Defendant alleges it has been necessary for this Defendant to employ the services of an
12 attorney to defend this action and a reasonable sum should be allowed to Defendant for
13 attorney's fees, together with costs of suit incurred herein.
14

15 **SIXTEENTH AFFIRMATIVE DEFENSE**

16 Defendant hereby incorporates by reference those affirmative defenses enumerated in
17 Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further
18 investigation or discovery reveals the applicability of any such defenses, Defendant reserves the
19 right to seek leave of Court to amend their Answer to specifically assert the same. Such defenses
20 are herein incorporated by reference for the specific purpose of not waiving the same.
21

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 Plaintiffs' non-economic damages, if any, may not exceed \$350,000.00 pursuant to NRS
24 41A.035; Defendant is otherwise entitled to all protections, benefits, and set offs available to
25 Defendant in medical malpractice actions under NRS Chapters 41, 41A and 42.

26 **EIGHTEENTH AFFIRMATIVE DEFENSE**

27 To the extent Plaintiffs have been reimbursed from any source for any special damages
28

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
5 **NINETEENTH AFFIRMATIVE DEFENSE**

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

8 WHEREFORE, Defendant prays for relief as follows:

- 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 12th day of February 2018.

CARROLL, KELLY, TROTTER,
FRANZEN, McBRIDE & PEABODY

17
18 

19 ROBERT C. McBRIDE, ESQ.
20 Nevada Bar No.: 7082
21 CHELSEA R. HUETH, ESQ.
22 Nevada Bar No.: 10904
23 8329 W. Sunset Road, Suite 260
24 Las Vegas, Nevada 89113
25 Attorneys For Defendant,
26 Jason Lasry, M.D.
27
28

1 **CERTIFICATE OF SERVICE**

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

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

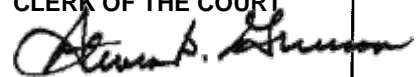
13 Matthew W. Hoffmann, Esq.
14 ATKINSON WATKINS, & HOFFMANN, LLP
15 10789 W. Twain Avenue, Suite 100
16 Las Vegas, NV 89135
17 *Attorneys for Plaintiffs*

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

18 Keith A. Weaver, Esq.
19 LEWIS BRISBOIS BISGAARD & SMITH LLP
20 6385 S. Rainbow Boulevard, Suite 600
21 Las Vegas, Nevada 89118
22 Attorney for Defendant,
23 *Terry Bartmus, RN, APRN*

24
25
26
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28


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



DSO

DISTRICT COURT
CLARK COUNTY, NEVADA

DARELL L. MOORE, et al.,
Plaintiff(s),
v.
DIGNITY HEALTH, et al.,
Defendant(s).

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

SCHEDULING ORDER

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

NATURE OF ACTION: **Medical malpractice**

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

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

DATES FOR SETTLEMENT CONFERENCE: **None requested**

Counsel for Plaintiff(s):

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

Counsel for Defendant(s) DIGNITY HEALTH:

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

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

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

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

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

Counsel representing all parties have been heard and after
consideration by the Discovery Commissioner,

**DISCOVERY
COMMISSIONER**
EIGHTH JUDICIAL
DISTRICT COURT

1 IT IS HEREBY ORDERED:

2 1. all parties shall complete discovery on or before
3 9/3/19.

4
5 2. all parties shall file motions to amend pleadings or
6 add parties on or before 6/4/19.

7 3. all parties shall make initial expert disclosures
8 pursuant to N.R.C.P. 16.1(a)(2) on or before 6/4/19.

9 4. all parties shall make rebuttal expert disclosures
10 pursuant to N.R.C.P. 16.1(a)(2) on or before 7/5/19.

11
12 5. all parties shall file dispositive motions on or
13 before 10/2/19.

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

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

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

23 . . .

24 . . .

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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

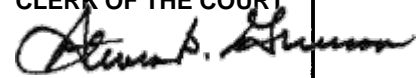
11 
12 DISCOVERY COMMISSIONER

13
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,**

15 **Plaintiff,**

16 **vs.**

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

25 **Defendants.**

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

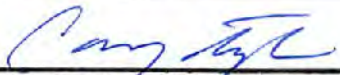
26 **STIPULATION AND ORDER TO** Only
27 **DISMISS DEFENDANT DIGNITY**
28 **HEALTH dba ST. ROSE DOMINICAN**
HOSPITAL – SAN MARTIN CAMPUS
WITH PREJUDICE U

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

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: 6/14/18



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: 6/6/18



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: _____

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

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
Las Vegas, NV 89144
*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: 6/6/18

Dated: _____

Bianca V. Gonzalez
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*

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

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: _____

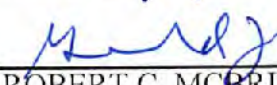
KENNETH M. WEBSTER, ESQ.
Nevada Bar No. 7205
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144
*Attorneys for Defendant
Dignity Health d/b/a St. Rose Dominican
Hospital – San Martin Campus*

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

Dated: _____

Dated: 2/13/18

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*

 #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

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

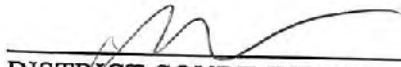
Moore v. Dignity Health, et al.
Case No. A-17-766426-C

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.

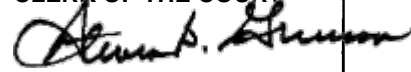
DATED this 15th day of June, 2018.


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



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
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

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 DARELL L. MOORE and CHARLENE A.
18 MOORE, individually and has husband and
19 wife,

20 Plaintiff,

21 vs.

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

Defendants.

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

NOTICE OF ENTRY OF ORDER

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

1 Dated this 28th day of June, 2018.

2
3 HALL PRANGLE & SCHOONVELD, LLC

4 By: /s/ Kenneth M. Webster

5 KENNETH M. WEBSTER, ESQ.

6 Nevada Bar No. 7205

7 SARAH S. SILVERMAN, ESQ.

8 Nevada Bar No. 13624

9 1160 North Town Center Drive, Ste. 200

10 Las Vegas, Nevada 89144

11 Attorneys for Defendant

12 Dignity Health dba

13 St. Rose Dominican Hospital – San Martin Campus

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD,
16 LLC; that on the 28th day of June, 2018, I served a true and correct copy of the foregoing

17 **NOTICE OF ENTRY OF ORDER** as follows:

18 XX the E-Service Master List for the above referenced matter in the Eighth Judicial District

19 Court e-filing System in accordance with the electronic service requirements of

20 Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules;

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

22 _____ Receipt of Copy at their last known address:

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

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.

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
12
13
14
15
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17
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19
20
21
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23
24
25
26
27
28

/s/ Tamie Phillips

An employee of HALL PRANGLE & SCHOONVELD, LLC

Steven D. Grierson

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

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

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

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: 6/14/18



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: 6/6/18



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: _____

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

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:

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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
Las Vegas, NV 89144
*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: 6/6/18

Dated: _____

Bianca V. Gonzalez
KEITH A. WEAVER, ESQ.
Nevada Bar No. 10271
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*

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Attorney for Defendant Jason Lasry, MD

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:

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2. With each party to bear their own attorneys' fees and costs.

Dated: _____

Dated: _____

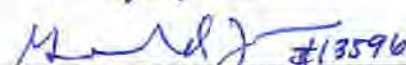
KENNETH M. WEBSTER, ESQ.
Nevada Bar No. 7205
1160 North Town Center Drive, Suite 200
Las Vegas, NV 89144
*Attorneys for Defendant
Dignity Health d/b/a St. Rose Dominican
Hospital – San Martin Campus*

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.
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*

 #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

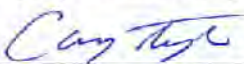
IT IS HEREBY ORDERED, ADJUGED AND DECREED that Defendant DIGNITY HEALTH d/b/a ST. ROSE DOMINICAN HOSPITAL – SAN MARTIN CAMPUS shall be dismissed, with prejudice, from the instant litigation in case A-17-766426-C;

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

DATED this 15th 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



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, 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:

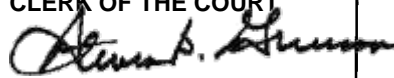
**Serving Witness DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN
MARTIN CAMPUS, PERSON MOST KNOWLEDGEABLE, C/O TYSON DOBBS, ESQ.**

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


KATHLEEN E. DELANEY
DISTRICT JUDGE
DEPARTMENT XXV

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 6th day of May, 2019.

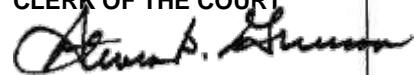

KATHLEEN E. DELANEY
District Court Judge

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



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
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

17 vs.

18 DIGNITY HEALTH d/b/a ST. ROSE
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

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

STIPULATION AND ORDER
REGARDING EXPERT DISCLOSURES

24 ///

25 ///

26 ///

27 ///

28 ///

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.*

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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8329 W. Sunset Road, Ste. 260
Las Vegas, NV 89113
*Attorneys for Defendant, Jason Lasry,
M.D.*

And

BREEN ARNTZ, ESQ.
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Fax: 702-446-8164
Email: breen@breen.com
Attorneys for Plaintiffs

Dated September 30th, 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 2nd 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

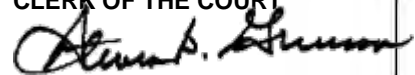
6385 S. Rainbow Boulevard, Suite 600

Las Vegas, NV 89118

Attorneys for Defendants Fremont Emergency

Services (Mandavia) and Terry Bartmus,

A.P.R.N



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

10
11 DISTRICT COURT
12 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.
23

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

NOTICE OF ENTRY OF STIPULATION
AND ORDER REGARDING EXPERT
DISCLOSURES

24 ///

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26 ///

27 ///

28 ///

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 7th 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
21
22
23
24
25
26
27
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 7th 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
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12 Fax: 702-562-6066
13 Email: mhoffmann@awhlawyers.com
14 *Attorneys for Plaintiffs*

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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
25
26
27
28



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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

17 vs.

18 DIGNITY HEALTH d/b/a ST. ROSE
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

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

STIPULATION AND ORDER
REGARDING EXPERT DISCLOSURES

24 ///

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27 ///

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
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.*

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
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M.D.*

And

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Email: breen@breen.com
Attorneys for Plaintiffs

Dated September 30th, 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;

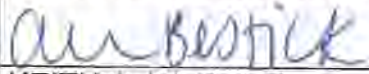
IT IS FURTHER ORDERED that the deadline for Rebuttal Expert Disclosures
shall be October 3, 2019.

DATED this 2nd day of OCTOBER, 2019.

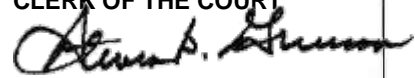

DISTRICT COURT JUDGE

Respectfully submitted by:

LEWIS BRISBOIS BISGAARD & SMITH LLP



KEITH A. WEAVER
Nevada Bar No. 10271
DANIELLE WOODRUM
Nevada Bar No. 12902
ALISSA BESTICK
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Services (Mandavia) and Terry Bartmus,
A.P.R.N*



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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
wife;

15 Plaintiffs,
16

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
through X, inclusive; and ROE
21 CORPORATIONS I through V, inclusive;

22 Defendants.
23
24
25
26
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CASE NO. A-17-766426-C
Dept. No.: XXV

ORDER

HEARING DATE: 7/17/19

HEARING TIME: 9:00am

LEWIS
S
BRISBOIS
S

4815-9677-0975.1

SEP 25 2019

AA00115

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

✓me No timely objection having been filed,

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

AND

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

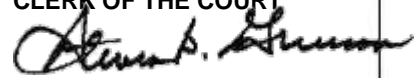
IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner. (attached hereto)

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 7th day of October, 2019.


DISTRICT COURT JUDGE



1 KEITH A. WEAVER
Nevada Bar No. 10271
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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.,
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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

NOTICE OF ENTRY OF ORDER

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1 PLEASE TAKE NOTICE that the Order was entered into this matter on October 14,
2 2019, a true and correct copy of which is attached hereto.

3 DATED this 14th day of October, 2019

4 LEWIS BRISBOIS BISGAARD & SMITH LLP

5
6
7 By /s/ Ann N. Bestick
8 KEITH A. WEAVER
9 Nevada Bar No. 10271
10 DANIELLE WOODRUM
11 Nevada Bar No. 12902
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15 Las Vegas, Nevada 89118
16 *Attorneys for Defendants Fremont Emergency*
17 *Services (Mandavia) and Terry Bartmus,*
18 *A.P.R.N.*
19
20
21
22
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25
26
27
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 14th 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
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Attorneys for Defendant, Jason Lasry, M.D.

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14 Las Vegas, NV 89120
15 Tel: 702-384-8000
16 Fax: 702-446-8164
17 Email: breen@breen.com
18 *Attorneys for Plaintiffs*

19 By /s/ Emma L. Gonzales
20 An Employee of
21 LEWIS BRISBOIS BISGAARD & SMITH LLP
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Steven D. Grierson

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7 702.893.3383
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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
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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28

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

ORDER

HEARING DATE: 7/17/19

HEARING TIME: 9:00am

LEWIS
S
BRISBOIS
S

4815-9677-0975.1

SEP 25 2019

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

✓(RW) 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 7th day of October, 2019.


DISTRICT COURT JUDGE

Moore 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, Does I through X, inclusive; and Roe Corporations I through V, inclusive;

ORD

MATTHEW W. HOFFMANN, ESQ.
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RACHEAL A. ROSS, ESQ.
Nevada Bar No. 014943
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Facsimile: 702-562-6066
Email: mhoffmann@awhlawyers.com
Email: rross@awhlawyers.com
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,

✓mk No timely objection having been filed,

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

* * *

AND


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

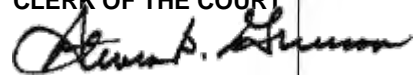
IT IS HEREBY ORDERED the Discovery Commissioner's Report and
Recommendations are affirmed and adopted as modified in the following manner.
(attached hereto)

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 7th 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
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11 Email: mhoffmann@awhlawyers.com
12 Email: 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 27 2019
AA00124

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.

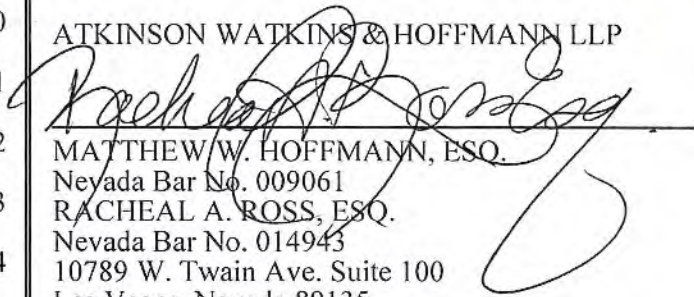
5 It is so ORDERED.

6 DATED this 7th 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
19
20
21
22
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24
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26
27

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

APPELLANT'S APPENDIX VOLUME I

E. Breen Arntz, Esq.
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Breen@breen.com
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Fax: 702-446-8164
Attorney for Appellant Darrell Moore and Charlene Moore

INDEX TO APPELLANT'S APPENDIX

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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
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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
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XIII	Trial Transcript for February 4, 2020	AA01879- AA02060
XIV	Trial Transcript for February 5, 2020	AA02061- AA02218
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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

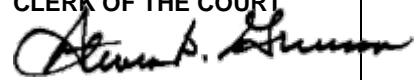
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Attorneys for Plaintiff

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

NOTICE OF ENTRY OF ORDER

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

DATED this 21st day of October, 2019.

ATKINSON WATKINS & HOFFMANN, LLP

/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

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

Document Served: NOTICE OF ENTRY OF ORDER

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An Employee of ATKINSON WATKINS & HOFFMANN, LLP

Moore 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, Does I through X, inclusive; and Roe Corporations I through V, inclusive.

ORD

MATTHEW W. HOFFMANN, ESQ.
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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,

✓mk No timely objection having been filed,

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

* * *

AND


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

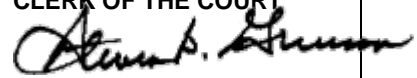
IT IS HEREBY ORDERED the Discovery Commissioner's Report and
Recommendations are affirmed and adopted as modified in the following manner.
(attached hereto)

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 7th day of OCTOBER, 2019.


DISTRICT COURT JUDGE



NEOJ
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CLARK COUNTY, NEVADA

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Plaintiffs,

v.

DIGNITY HEALTH d/b/a ST. ROSE
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SERVICES (MANDAVIA), LTD.; TERRY
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/s/ Racheal A. Ross, Esq.

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Nevada Bar No. 009061
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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 21st day of October, 2019, I caused to be served via Odyssey, the Court's mandatory efilng/eservice system, a true and correct copy of the document described herein.

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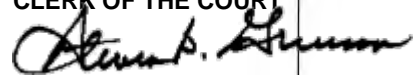
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/s/ Erika Jimenez

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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

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.

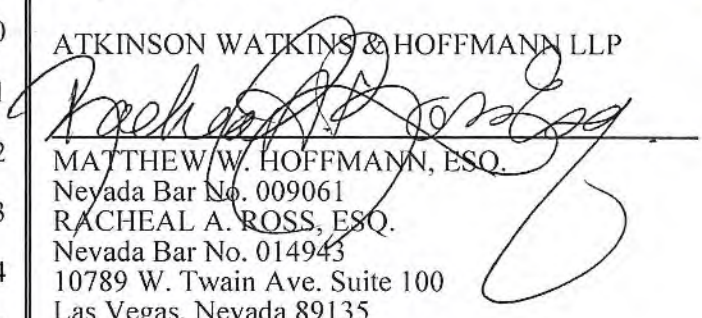
5 It is so ORDERED.

6 DATED this 7th day of October, 2019.

7
8 
HONORABLE KATHLEEN E. DELANEY *tg*

9 Respectfully submitted by:

10 ATKINSON WATKINS & HOFFMANN LLP

11 
12 MATTHEW W. HOFFMANN, ESQ.

13 Nevada Bar No. 009061

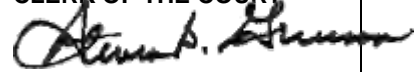
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CAMPUS; JASON LASRY, M.D.,
individually; FREMONT EMERGENCY
SERVICES (MANDAVIA), LTD.; TERRY
BARTMUS, RN, APRN; and DOES I through
X, inclusive; and ROE CORPORATIONS I
through V, inclusive;

Defendants.

CASE NO.: A-17-766426-C

DEPT. NO.: Dept. 26

FIRST AMENDED 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:

...

...

...

...

I.

GENERAL ALLEGATIONS

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

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

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

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

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

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

...

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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NEGLIGENT HIRING, TRAINING AND SUPERVISION

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1 32. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants,
2 fell below the standard of health care providers by failing to obtain timely intervention by a
3 qualified health care provider.

4 33. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants,
5 fell below the standard of health care providers by falling below its respective professional degrees
6 of learning, skill and exercise of good judgment.

7 34. ST. ROSE - SAN MARTIN, by and through its employees, agents, and/or servants,
8 fell below the standard of health care providers by failing to recognize and treat DARELL's
9 presenting medical condition.

10 35. As a direct result of Defendant's acts and/or omissions, DARELL's condition was
11 left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

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

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

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

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

23 **2ND CAUSE OF ACTION**
24 **CORPORATE NEGLIGENCE/VICARIOUS LIABILITY**
25 **(As Against DIGNITY HEALTH D/B/A ST. ROSE DOMINICAN HOSPITAL - SAN**
26 **MARTIN CAMPUS)**

27 40. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 39 of this
28 complaint, and make them a part of the instant cause of action as though fully set forth herein.

...

41. 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, and at all times their actions caused DARELL's above-the-knee amputation.

42. 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 failing to supervise and/or correct the negligence of its employees demonstrated disregard for the safety of its patients.

43. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

44. ST. ROSE - SAN MARTIN fell below the standard of care by failing to recognize and treat DARELL's presenting medical condition and failing to communicate test results to DARELL's medical providers.

45. As a proximate result of the negligence of the Defendant, DARELL had to endure extreme pain and suffering.

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

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

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

3RD CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against JASON LASRY, M.D.)

49. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 48 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

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50. Defendant, JASON LASRY, M.D., fell below the standard of care of health care providers who possess the degree of professional learning, skill and ability of other similar health care providers by negligently failing to order appropriate testing, failing to follow-up on ultrasound results, failing to recognize and treat DARELL's presenting medical condition, and discharging DARELL without addressing his presenting medical condition.

51. Defendant, JASON LASRY, M.D., fell below the standard of care by falling below his respective professional degree of learning, skill and exercise of good judgment.

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

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

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

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

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

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

4TH CAUSE OF ACTION
(NEGLIGENT HIRING, TRAINING AND SUPERVISION
(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

58. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 57 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

59. Defendant FREMONT'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, and at all times their actions caused DARELL's injuries.

60. Defendant FREMONT 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, and failing to train, supervise and/or correct the negligence of its employees and/or agents demonstrated disregard for the safety of its patients.

61. Defendant FREMONT failed to adequately hire, train, and/or supervise their agents and/or employees, including but not limited to Defendants LASRY and BARTMUS, and failed to provide adequate, sufficient and reasonable staffing protocols and procedures.

62. As a direct result of Defendant's acts and/or omissions, DARELL's condition was left undiagnosed and untreated leading to the above-the-knee amputation of his left lower extremity.

63. As a proximate result of the negligence of the Defendant, DARELL had to endure extreme pain and suffering.

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

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

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

5TH CAUSE OF ACTION
CORPORATE NEGLIGENCE/VICARIOUS LIABILITY
(As Against FREMONT EMERGENCY SERVICES (MANDAVIA), LTD.)

67. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 66 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

• • •

68. Defendant FREMONT had a duty to exercise due care in the selection, training, supervision, oversight, direction, retention and control of its employees and/or agents, retained by it to perform and provide services.

69. Defendant FREMONT breached the above-referenced duty when they negligently, carelessly, and recklessly hired, trained, supervised, oversaw, directed and/or retained their personnel.

70. As a proximate result of the negligence of the Defendant's employees and/or agents, by failing to appropriately care and treat DARELL, he had to endure extreme pain and suffering.

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

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

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

6TH CAUSE OF ACTION
PROFESSIONAL NEGLIGENCE
(As Against TERRY BARTMUS, RN, APRN)

74. Plaintiffs hereby adopt and incorporate by reference Paragraphs 1 through 73 of this complaint, and make them a part of the instant cause of action as though fully set forth herein.

75. Defendant, TERRY BARTMUS, RN, APRN, fell below the standard of care of health care providers who possess the degree of professional learning, skill and ability of other similar health care providers by negligently failing to ensure appropriate testing was ordered; failing to properly report and follow-up on ultrasound results; failing to recognize and ensure DARELL'S presenting medical condition was brought to the attention of other medical providers for treatment; and allowing DARELL to be discharged without addressing his presenting medical condition.

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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1 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
2 follows:

- 3 1. For medical special damages and compensatory damages against Defendants, for an
4 amount in excess of \$15,000, plus pre-judgment and post-judgment interest thereon
5 at the highest legal rate;
- 6 2. For an award of Plaintiffs' attorneys' fees and costs;
- 7 3. For such other and further relief as this Court deems just and proper.

8 DATED this 20th day of December, 2017.

9
10 ATKINSON WATKINS HOFFMANN, LLP

11
12 By: /s/ Matthew W. Hoffmann, Esq.
13 MATTHEW W. HOFFMANN, ESQ.
14 Nevada Bar No. 009061
15 10789 W. Twain Avenue, Suite 100
16 Las Vegas, NV 89135
17 *Attorneys for Plaintiffs*
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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, Amee 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.

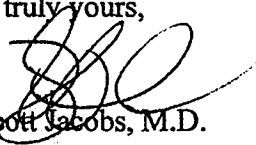
In summary, it is my opinion that Dr. Lasry, Terry Bartmus, and the staff at St. Rose Dominican Hospital were negligent in the treatment of Mr. Moore in several respects. Dr. Lasry's and/or Terry Bartmus' initial error was in fixating on venous vascular problem as the cause of Mr. Moore's symptoms. They 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.

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)



Signature of Document Signer No. 1_____
Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Diego

Subscribed and sworn to (or affirmed) before me

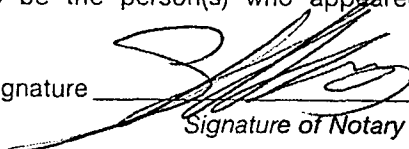
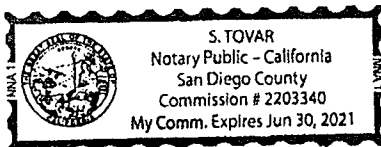
on this 11th day of December, 2017.
by _____ Date _____ Month _____ Year _____(1) Russell Scott Jacobs

(and (2) _____),

Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature _____


Signature of Notary PublicSeal
Place Notary Seal Above**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

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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2017

FEE SCHEDULE

My hourly fees for consulting services are as follows:

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