

Electronically Filed
Jan 11 2022 04:08 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS
COREY M. ESCHWEILER, ESQ.
Nevada Bar No. 6635
CRAIG A. HENDERSON, ESQ.
Nevada Bar No. 10077
ER INJURY ATTORNEYS
4795 South Durango Drive
Las Vegas, Nevada 89147
Telephone: (702) 877-1500
Facsimile: (702) 933-7043
ceschweiler@lernerandrowe.com
chenderon@lernerandrowe.com

RAHUL RAVIPUDI, ESQ.
Nevada Bar No. 14750
ravipudi@psblaw.com
IAN SAMSON, ESQ.
Nevada Bar No. 15089
samson@psblaw.com
ADAM ELLIS, ESQ.
Nevada Bar No. 14514
ellis@psblaw.com

PANISH SHEA & BOYLE LLP
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Telephone: 702.560.5520
Facsimile: 702.975.2515

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

GIANN BIANCHI, individually,
DARA DELPRIORE, individually,

Plaintiff,

vs.

SUSAN CLOKEY, as Special Administrator for the
ESTATE OF JAMES McNAMEE, deceased, DOES
I - X, and ROE CORPORATIONS I - X, inclusive,

Defendants.

) CASE NO.: A-13-691887-C
) DEPT NO.: XXIII

) **NOTICE OF APPEAL**

Plaintiffs, Gianni Bianchi and Dara Del Priore, by and through their counsel of record, the law firms of ER Injury Attorneys and Panish Shea & Boyle, LLP, hereby appeal to the Supreme Court of Nevada from the Order Granting Defendant's Motion for Judgment Notwithstanding the Verdict (NRCp 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCp 59(e)) in Accordance with NRS 140.040, which was filed on December 7, 2021, and is attached hereto as **Exhibit 1**, and the corresponding Judgment.

Dated this 5th day of January, 2022

PANISH SHEA & BOYLE LLP

/s/ Adam Ellis

Ian Samson, Esq. (NV Bar No. 15089)
Adam Ellis, Esq. (NV Bar No. 14514)
8816 Spanish Ridge Ave.
Las Vegas, NV 89148
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of PANISH SHEA &
3 BOYLE, LLP and that on January 5, 2022, I caused the foregoing **NOTICE OF APPEAL**, to be
4 served as follows:

5 [X] pursuant to N.E.F.C.R. 9 by serving it via this Court's Electronic Filing System
6 ("EFS") to all parties listed in the Service Contact List of EFS;
7 including to the attorneys listed below:

8 JAMES P.C. SILVESTRI, ESQ.

9 ROBERT P. MILONA, ESQ.

PYATT SILVESTRI

10 701 Bridger Avenue, Suite 600

Las Vegas, Nevada 89101

11 Tel. (702) 383-6000

12 Fax: (702) 477-0088

jsilvestri@pyattsilvestri.com

13 rmolina@pyattsilvestri.com

Attorneys for SUSAN CLOKEY,

14 Special Administrator for the

ESTATE OF JAMES MCNAMEE
15

16 ALEXANDER G. LEVEQUE, ESQ.

BRIAN P. EAGAN, ESQ.,

17 **SOLOMON DWIGGINS & FREER, LTD.**

9060 W. Cheyenne Avenue

18 Las Vegas, Nevada 89129

aleveque@sdfnvlaw.com

19 beagan@sdfnvlaw.com

Attorneys for SUSAN CLOKEY

20 Special Administrator for the

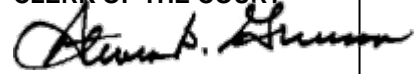
Estate of James McNamee
21

22 By: /s/ Adam Ellis

23 An Employee of PANISH SHEA & BOYLE LLP

EXHIBIT 1

EXHIBIT 1



1 **NEOJ**
2 JAMES P.C. SILVESTRI, ESQ.
3 Nevada Bar No. 3603
4 ROBERT P. MILONA, ESQ.
5 Nevada Bar No. 6422
6 PYATT SILVESTRI
7 701 Bridger Avenue, Suite 600
8 Las Vegas, Nevada 89101
9 Tel. (702) 383-6000
10 Fax: (702) 477-0088
11 jsilvestri@pyattsilvestri.com
12 rmolina@pyattsilvestri.com
13 Attorneys for SUSAN CLOKEY,
14 Special Administrator for the
15 ESTATE OF JAMES MCNAMEE

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 GIANN BIANCHI, individually, DARA
12 DELPRIORE, individually,

13 Plaintiffs,

14 vs.

15 SUSAN CLOKEY, Special Administrator for
16 the ESTATE OF JAMES MCNAMEE, DOES
17 I-X, and ROE CORPORATIONS I-X,
18 inclusive,

19 Defendants.

Case No.: A-13-691887-C
Dept. No.: IX

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANT'S MOTION
FOR JUDGMENT NOTWITHSTANDING
THE VERDICT (NRCp 50(b)) AND/OR
MOTION TO ALTER OR AMEND JURY
VERDICT (NRCp 59(e)) IN
ACCORDANCE WITH NRS 140.040**

19 NOTICE IS HEREBY GIVEN that the Stipulation and Order for Briefing Schedule
20 Concerning Defendant's Motion for Application of NRS 140.040 was entered with the Court on
21 September 8, 2021, a copy of which is attached hereto.

22 DATED this 10th day of December, 2021.

23 PYATT SILVESTRI

24 /s/ James P. C. Silvestri
25 JAMES P.C. SILVESTRI, ESQ.
26 Nevada Bar No. 3603
27 701 Bridger Avenue, Suite 600
28 Las Vegas, Nevada 89101
Attorneys for Defendant
JAMES MCNAMEE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Pyatt Silvestri and that on the 7th day of December, 2021, I caused the above and foregoing document **NOTICE OF ENTRY OF NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT (NRCP 50(b)) AND/OR MOTION TO ALTER OR AMEND JURY VERDICT (NRCP 59(e)) IN ACCORDANCE WITH NRS 140.040**, to be served as follows: Pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to the attorney(s) listed below:

Corey M. Eschweiler, Esq.
LERNER & ROWE
4795 S. Durango Drive
Las Vegas, NV 89147
ceschweiler@glenlerner.com

Attorney for Plaintiffs
GIANN BIANCHI and
DARA DELPRIORE

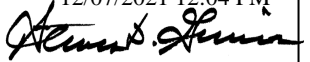
Rahul Ravipudi, Esq.
Ian Samson, Esq.
Adam R. Ellis, Esq.
PANISH SHEA & BOYLE LLP
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
ravipudi@psblaw.com
samson@psblaw.com
ellis@psblaw.com

Co-Counsel for Plaintiffs
GIANN BIANCHI and
DARA DELPRIORE

Alexander G. LeVeque, Esq.
Brian P. Eagan, Esq.
SOLOMON DWIGGINS & FREER, LTD.
9060 W. Cheyenne Avenue
Las Vegas, Nevada 89129
aleveque@sdfnvlaw.com
beagan@sdfnvlaw.com

Attorneys for SUSAN CLOKEY
Special Administrator for the
Estate of James McNamee

/s/ Barbara Abbott
An Employee of PYATT SILVESTRI


CLERK OF THE COURT

ORDER

JAMES P.C. SILVESTRI, ESQ.

Nevada Bar No. 3603

ROBERT P. MOLINA, ESQ.

Nevada Bar No. 6422

PYATT SILVESTRI

701 Bridger Avenue, Suite 600

Las Vegas, Nevada 89101

(702) 383-6000

(702) 477-0088 (Fax)

jsilvestri@pyattsilvestri.com

rmolina@pyattsilvestri.com

Attorneys for Susan Clokey
Special Administrator for the
Estate of James McNamee

DISTRICT COURT

CLARK COUNTY, NEVADA

GIANN BIANCHI, individually, DARA
DELPRIORE, individually,

Plaintiffs,

vs.

SUSAN CLOKEY, Special Administrator for the
ESTATE OF JAMES MCNAMEE, DOES I-X,
and ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No.: A-13-691887-C

Dept. No.: XXIII

**ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING
THE VERDICT (NRCF 50(b)) AND/OR MOTION TO ALTER OR AMEND JURY
VERDICT (NRCF 59(e)) IN ACCORDANCE WITH NRS 140.040**

Defendant's Motion For Judgment Notwithstanding the Verdict (NRCF 50(b)) and/or
Motion to Alter or Amend Jury Verdict (NRCF 59(c)) in accordance with NRS 140.040, having
come on for hearing on the 16th day of November, 2021, in Department XXIII, the Honorable
Jasmin Lilly Spells presiding, Defendant Susan Clokey, Special Administrator for the Estate of
James McNamee, being represented by James P.C. Silvestri, Esq. of Pyatt Silvestri, Daniel F.
Polsenberg, Esq. and Joel D. Henriod, Esq. of Lewis Roca Rothgerber Christie LLP, and Alex
LeVeque, Esq. of Solomon Dwiggin Freer & Steadman, Ltd., and Plaintiffs Giann Bianchi and
Dara Del Priore, being represented by Ian Samson, Esq. of Panish Shea & Boyle, having
considered the same and the papers and pleadings on file herein as well as the oral argument from

counsel, having deferred its decision, the Court now rules as follows:

ORDER

b

1. Defendants Motion is GRANTED under NRCP 50, subsection ~~6~~. The Court has the authority to the grant the relief requested. The Motion for Judgment as a Matter of Law may be made at any time before the case is submitted to the jury. The Court finds that the Motion was made prior to the case being submitted to the jury. The Court deferred ruling, waiting until after the jury had rendered a verdict, allowing the subject matter to be tried on its merits.

2. NRCP 50(b) states in relevant part:

If the Court does not grant a Motion for Judgment as a matter of law made under Rule 50(a), the Court is considered to have submitted the action to the jury subject to the Court's later deciding the legal questions raised by the Motion. Not later than 28 days after service of written notice of the entry of Judgment, the movant may file a renewed motion.

The 28-day deadline was met in this case.

3. A motion for judgment under NRCP 50(b) presents solely a question of law to be determined by the Court. *Dudley v. Prima*, 84 Nev. 549, 445 P.2d 31 (1968).

4. In ruling on the renewed motion for judgment under NRCP 50(b), the Court may allow the judgment on the verdict, order a new trial, or direct entry of judgment as a matter of law. If the Court grants the renewed motion for judgment as a matter of law, it must also conditionally rule on any motion for a new trial under NRCP 50(c).

5. NRS 140.040(3) limits the liability of a special administrator to the limits available under a liability insurance policy. In this case, the Defendant Special Administrator is only liable to Plaintiffs for the amount available under the automobile liability policy issued by GEICO insurance, *i.e.*, \$30,000 for each Plaintiff for a total amount of \$60,000.

6. The Court finds that *Zhang v. Barnes*, 132 Nev. 1049 (2016) (unpublished), and *Las Vegas Metropolitan Police Department v. Yeghiazarian*, 129 Nev. 760 (2013), to be instructive. In both of those cases, the Court reduced jury verdicts and jury judgments based upon statutory

caps. Here, NRS 140.040 caps the Special Administrator's liability to the insurance policy limits. Therefore, it is appropriate to cap the Judgment pursuant to NRS 140.040.

7. Under NRCP 50(c), the Court hereby entertains the possibility of a new trial. The rule likely does not apply to circumstances where a statute or rule requires a particular result as a matter of law, rather than a Rule 50(b) motion premised on an insufficiency of evidence to support a claim. Nevertheless, here, Plaintiffs have not made any conditional motion for new trial and the Court does not find, *sua sponte*, any grounds for a new trial.

8. The Court finds that the judgment reduction is based solely on the statutory liability cap. This case has been fully tried as to all relevant facts with the exception of the legal question posed by NRS 140.040.

9. Judgment may now be entered accordingly based upon the above stated findings of facts and conclusions of law.

DATED this ____ day of _____, 2021.

Dated this 7th day of December, 2021


DISTRICT COURT JUDGE

4A9 16F BB02 C108

Jasmin Lilly Spells

Appellate Court Judge

Submitted by:

PYATT SILVESTRI

PANISH SHEA & BOYLE

/s/ James P. C. Silvestri, Esq.
JAMES P. C. SILVESTRI, ESQ.
Nevada Bar No. 3603
ROBERT P. MOLINA, ESQ.
Nevada Bar No. 6422
701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
Attorneys for Defendant Susan Clokey
Special Administrator for the
Estate of James McNamee

/s/ Ian Samson
IAN SAMSON, ESQ.
Nevada Bar No. 15089
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiffs

Barbara Abbott

From: Ian Samson <samson@psblaw.com>
Sent: Wednesday, December 01, 2021 4:28 PM
To: James Silvestri; Adam Ellis; corey@erinjuryattorneys.com
Cc: Robert Molina; Polsenberg, Daniel F.; Henriod, Joel D.; Alexander LeVeque; Barbara Abbott
Subject: RE: 2021.11.29 Order.revised

Caution! This message was sent from outside your organization.

[Block sender](#)

You may include my signature.

From: James Silvestri <jsilvestri@pyattsilvestri.com>
Sent: Wednesday, December 1, 2021 4:25 PM
To: Ian Samson <samson@psblaw.com>; Adam Ellis <ellis@psblaw.com>; corey@erinjuryattorneys.com
Cc: Robert Molina <rmolina@pyattsilvestri.com>; Polsenberg, Daniel F. <DPolsenberg@lewisroca.com>; Henriod, Joel D. <JHenriod@lewisroca.com>; Alexander LeVeque <aleveque@sdfnlaw.com>; Barbara Abbott <babbott@pyattsilvestri.com>
Subject: RE: 2021.11.29 Order.revised

CAUTION: External Email

Ian
Any word on the proposed Order?

Jim

James P.C. Silvestri



701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
Telephone: (702) 383-6000
Facsimile: (702) 477-0088
jsilvestri@pyattsilvestri.com
www.pyattsilvestri.com



1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Gianni Bianchi, Plaintiff(s)

CASE NO: A-13-691887-C

7 vs.

DEPT. NO. Department 23

8 Susan Clokey, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/7/2021

15 Jonathan Carlson

jonathan.carlson@mccormickbarstow.com

16 Cheryl Schneider

cheryl.schneider@mccormickbarstow.com

17 Wade Hansard

wade.hansard@mccormickbarstow.com

18 Alexander LeVeque

aleveque@sdfnvlaw.com

19 Brian Eagan

beagan@sdfnvlaw.com

20 "Brittany Jones, Paralegal" .

bjones@glenlerner.com

21 "Craig Henderson, Esq." .

chenderson@glenlerner.com

22 "Lisa Titolo, Paralegal" .

ltitolo@glenlerner.com

23 "Miriam Alvarez, Paralegal" .

ma@glenlerner.com

24 Barbara Abbott .

babbott@pyattsilvestri.com

25 James Silvestri .

jsilvestri@pyattsilvestri.com

26
27
28

1	Susan Clokey .	sclokey@pyattsilvestri.com
2	Audra Bonney	abonney@wwhgd.com
3	D. Lee Roberts	lroberts@wwhgd.com
4	Kelly Pierce	kpierce@wwhgd.com
5	Janine Prupas	jprupas@swlaw.com
6	Docket Docket	docket_las@swlaw.com
7	Robert Molina	rmolina@pyattsilvestri.com
8	Rahul Ravipudi	ravipudi@psblaw.com
9	Jake Douglass	Douglass@psblaw.com
10	Jaqueline Lucio	Lucio@psblaw.com
11	Adam Ellis	ellis@psblaw.com
12	Christiane Smith	csmith@pyattsilvestri.com
13	Janice Parker	parker@psblaw.com
14	Debbie DeArmond (Paralegal)	ddearmond@mbswc.com
15	Gregorio Silva	gsilva@psblaw.com
16	Corey Eschweiler	ceschweiler@glenlerner.com
17	Rahul Ravipudi	ravipudi@psblaw.com
18	Claudia Lomeli	lomeli@psblaw.com
19	Jaqueline Lucio	lucio@psblaw.com
20	Paul Traina	traina@psblaw.com
21	Ian Samson	samson@psblaw.com
22	Isolde Parr	parr@psblaw.com
23	Craig Henderson	chenderson@lernerandrowe.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Miriam Alvarez	Miriam@erinjuryattorneys.com
Craig Henderson	Craig@erinjuryattorneys.com
Corey Eschweiler	Corey@erinjuryattorneys.com
Maxine Rosenberg	Mrosenberg@wwhgd.com
Lourdes Chappell	chappell@psblaw.com

Case Number: A-13-691887-C

1 Plaintiffs, Giann Bianchi and Dara Del Priore, by and through their counsel of record, the
2 law firms of ER Injury Attorneys and Panish Shea & Boyle, LLP, hereby file this Case Appeal
3 Statement.

4 1. Name of appellant filing this Case Appeal Statement:

5 Plaintiffs/Appellants, Giann Bianchi and Dara Del Priore

6 2. Identify the Judge issuing the decision, judgment, or order appealed from:

7 The Honorable Jasmin Lilly-Spells Presiding

8 3. Identify each appellant and the name and address of counsel for each appellant:

9 Appellants: Giann Bianchi

10 Dara Del Priore

11 Counsel: **Panish Shea & Boyle LLP**

12 Rahul Ravipudi, Esq.

13 Ian Samson, Esq.

14 Adam Ellis, Esq.

15 8816 Spanish Ridge Avenue

16 Las Vegas, Nevada 89148

17 and

18 **ER Injury Attorneys**

19 Corey M. Eschweiler, Esq.

20 Craig A. Henderson, Esq.

21 4795 South Durango Drive

22 Las Vegas, Nevada 89147

23 4. Identify each respondent and the name and address of appellate counsel, if known,
24 for each respondent (if the name of a respondent's appellate counsel is unknown,
25 indicated as much and provide the name and address of that respondent's trial
26 counsel):

27 Respondent: Susan Clokey, as Special Administrator for the Estate of James
28 McNamee

Counsel: **Pyatt Silvestri**

James P.C. Silvestri, Esq.

Robert P. Molina, Esq.

701 Bridger Avenue, Suite 600

Las Vegas, Nevada 89101

1 and

2 **Solomon Dwiggin Freer**

3 Alexander G. LeVeque, Esq.

4 Brian P. Eagan, Esq.

5 9060 W. Cheyenne Avenue

6 Las Vegas, Nevada 89129

7 and

8 **Lewis Roca**

9 Daniel F. Polsenberg, Esq.

10 Erik J. Foley, Esq.

11 3993 Howard Hughes Parkway

12 Suite 600

13 Las Vegas, NV 89169

- 14 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
15 licensed to practice law in Nevada and, if so, whether the district court granted that
16 attorney permission to appear under SCR 42 (attach a copy of any district court order
17 granting such permission):

18 N/A

- 19 6. Indicate whether appellant was represented by appointed or retained counsel in the
20 district court:

21 Retained counsel.

- 22 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

23 Retained counsel.

- 24 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
25 date of entry of the district court order granting such leave:

26 N/A

- 27 9. Indicate the date the proceedings commenced in the district court (*e.g.*, date
28 complaint indictment, information, or petition was filed):

Complaint was filed on November 19, 2013.

1 10. Provide a brief description of the nature of the action and result in the district court,
2 including the type of judgment or order being appealed and the relief granted by the
3 district court:

4 On July 17, 2013, Plaintiffs suffered personal injuries when the vehicle driven
5 by James McNamee crashed into the rear of their stopped vehicle. In the Complaint,
6 Plaintiffs alleged Negligence and Negligence Per Se against James McNamee. Mr.
7 McNamee passed away on August 12, 2017, and Susan Clokey (Special
Administrator of the Estate of James McNamee) was substituted in as the Defendant
on December 26, 2019.

8 The case proceeded to trial, and verdicts were rendered in favor of Plaintiffs.
9 On December 7, 2021, the District Court granted Judgment as a Matter of Law,
10 reducing the jury's verdicts to the limits of the insurance policy in effect on the date
of loss. Plaintiffs appeal from the order granting judgment as a matter of law, as well
as the judgment.

11 11. Indicate whether the case has previously been the subject of an appeal to or original
12 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court
13 docket number of the prior proceeding:

14 This case was subject to an original writ proceeding in the Supreme Court,
15 McNamee v. Dist. Ct. (Bianchi), Docket No. 76904.

16 12. Indicate whether this appeal involves child custody or visitation:

17 N/A

18 13. If this is a civil case, indicate whether this appeal involves the possibility of
19 settlement:

20 Plaintiffs believe this case involves the possibility of settlement.

21 Dated this 5th day of January, 2022

22 **PANISH SHEA & BOYLE LLP**

23 */s/ Adam Ellis*

24
25 Ian Samson, Esq. (NV Bar No. 15089)
26 Adam Ellis, Esq. (NV Bar No. 14514)
27 8816 Spanish Ridge Ave.
28 Las Vegas, NV 89148
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of PANISH SHEA &
3 BOYLE, LLP and that on January 5, 2022, I caused the foregoing **CASE APPEAL STATEMENT**,
4 to be served as follows:

5 [X] pursuant to N.E.F.C.R. 9 by serving it via this Court's Electronic Filing System
6 ("EFS") to all parties listed in the Service Contact List of EFS;
7 including to the attorneys listed below:

8 JAMES P.C. SILVESTRI, ESQ.

9 ROBERT P. MILONA, ESQ.

PYATT SILVESTRI

10 701 Bridger Avenue, Suite 600

Las Vegas, Nevada 89101

11 Tel. (702) 383-6000

12 Fax: (702) 477-0088

jsilvestri@pyattsilvestri.com

13 rmolina@pyattsilvestri.com

Attorneys for SUSAN CLOKEY,

14 Special Administrator for the

15 ESTATE OF JAMES MCNAMEE

16 ALEXANDER G. LEVEQUE, ESQ.

BRIAN P. EAGAN, ESQ.

17 **SOLOMON DWIGGINS & FREER, LTD.**

9060 W. Cheyenne Avenue

18 Las Vegas, Nevada 89129

19 aleveque@sdfnlaw.com

beagan@sdfnlaw.com

20 Attorneys for SUSAN CLOKEY

Special Administrator for the

21 Estate of James McNamee

22 By: /s/ Adam Ellis

23 An Employee of PANISH SHEA & BOYLE LLP

CASE SUMMARY**CASE NO. A-13-691887-C**

Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

§
 §
 §
 §
 §

Location: **Department 23**
 Judicial Officer: **Lilly-Spells, Jasmin**
 Filed on: **11/19/2013**
 Case Number History:
 Cross-Reference Case Number: **A691887**

CASE INFORMATIONCase Type: **Negligence - Auto**

Case Status: **02/21/2020 Reactivated**


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


Case Number A-13-691887-C
 Court Department 23
 Date Assigned 01/04/2021
 Judicial Officer Lilly-Spells, Jasmin

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Bianchi, Giann	Ellis, Adam R. <i>Retained</i> 702-667-4847(W)
	Delpriore, Dara	Ellis, Adam R. <i>Retained</i> 702-667-4847(W)
Defendant	Clokey, Susan	Molina, Robert P. <i>Retained</i> 7023836000(W)
	Estate of James McNamee Removed: 12/26/2019 Inactive	
	McNamee, James Removed: 06/21/2018 Inactive	
Administrator	Waid, Fred P.	Geist, Russel J, ESQ <i>Retained</i> 702-385-2500(W)















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

11/19/2013  **Complaint**
 Filed By: Plaintiff Bianchi, Giann
[1] Complaint

11/19/2013  **Demand for Jury Trial**
 Filed By: Plaintiff Bianchi, Giann
[2] Demand for Jury Trial

CASE SUMMARY

CASE NO. A-13-691887-C

11/19/2013	Case Opened
12/06/2013	 Summons Filed by: Plaintiff Bianchi, Giann <i>[3] Summons</i>
12/23/2013	 Initial Appearance Fee Disclosure Filed By: Defendant McNamee, James <i>[5] Initial Appearance Fee Disclosure (N.R.S. Chapter 19)</i>
12/23/2013	 Answer to Complaint Filed by: Defendant McNamee, James <i>[4] Answer to Complaint</i>
01/28/2014	 Commissioners Decision on Request for Exemption - Granted <i>[6] Commissioner's Decision on Request for Exemption - Granted</i>
02/06/2014	 Demand for Jury Trial Filed By: Defendant McNamee, James <i>[7] Demand for Jury Trial</i>
03/13/2014	 Joint Case Conference Report Filed By: Plaintiff Bianchi, Giann <i>[8] Joint Case Conference Report</i>
03/20/2014	 Scheduling Order <i>[9] Scheduling Order</i>
03/24/2014	 Order Setting Civil Jury Trial <i>[10] Order Setting Civil Jury Trial</i>
07/09/2014	 Substitution of Attorney Filed by: Defendant McNamee, James <i>[11] Substitution of Attorneys</i>
11/04/2014	 Stipulation to Extend Discovery Party: Defendant McNamee, James <i>[12] Stipulation and Order to Extend Discovery Deadlines and Trial Date (First Request)</i>
11/05/2014	 Notice of Entry of Order Filed By: Defendant McNamee, James <i>[13] Notice of Entry of Order</i>
01/14/2015	 Expert Witness Designation Filed By: Defendant McNamee, James <i>[14] Defendant's Disclosure of Expert Witnesses</i>
01/16/2015	 Supplemental Expert Disclosure Filed By: Defendant McNamee, James <i>[15] Defendant's First Supplement to His Disclosure of Expert Witnesses</i>
02/13/2015	 Expert Witness Designation Filed By: Defendant McNamee, James

CASE SUMMARY

CASE NO. A-13-691887-C

[16] Defendant's Rebuttal Expert Disclosure

02/23/2015



Motion to Strike

Filed By: Plaintiff Bianchi, Giann

[17] Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time

02/25/2015



Subpoena Duces Tecum

Filed by: Defendant McNamee, James

[19] Subpoena Duces Tecum

02/25/2015



Affidavit of Service

Filed By: Defendant McNamee, James

[18] Affidavit/Declaration of Service of Paris Las Vegas Operating Company, LLC

02/27/2015



Opposition to Motion

Filed By: Defendant McNamee, James

[20] Defendant's Opposition to Plaintiff's Motion to Strike Defendant's Medical Expert Dr. Edson Parker on Order Shortening Time

03/18/2015



Supplemental Disclosure of Expert Witness

Filed By: Defendant McNamee, James

[21] Defendant's Second Supplement to His Disclosure of Expert Witnesses

03/26/2015



Affidavit of Service

Filed By: Defendant McNamee, James

[22] Affidavit of Service of Dr. David Wichman

03/26/2015



Deposition Subpoena

Filed By: Defendant McNamee, James

[23] Subpoena for Deposition

04/01/2015



Deposition Subpoena

Filed By: Defendant McNamee, James

[24] Subpoena for Deposition

04/01/2015



Affidavit of Service

Filed By: Defendant McNamee, James

[25] Affidavit of Service on Dr. Kenneth Grant

04/16/2015



Subpoena Duces Tecum

Filed by: Defendant McNamee, James

[26] Subpoena Duces Tecum

04/17/2015



Affidavit of Service

Filed By: Defendant McNamee, James

[27] Affidavit/Declaration of Service of Paris Las Vegas Operating Company, LLC

04/20/2015



Amended Order Setting Jury Trial

[28] Amended Order Setting Civil Jury Trial

04/20/2015

















Stipulation to Extend Discovery

Party: Defendant McNamee, James

[29] Stipulation and Order to Extend Discovery Deadlines and Trial Date (First Request)

CASE SUMMARY

CASE NO. A-13-691887-C

04/22/2015	 Notice of Entry of Order Filed By: Defendant McNamee, James <i>[30] Notice of Entry of Order</i>
07/13/2015	 Supplemental Designation of Expert Witnesses Filed By: Defendant McNamee, James <i>[31] Defendant's Third Supplement to His Disclosure of Expert Witnesses</i>
10/14/2015	 Notice of Entry of Order Filed By: Defendant McNamee, James <i>[34] Notice of Entry of Order</i>
10/14/2015	 Amended Order Setting Jury Trial <i>[32] Second Amended Order Setting Civil Jury Trial</i>
10/14/2015	 Stipulation and Order Filed by: Defendant McNamee, James <i>[33] Stipulation and Order to Extend Discovery Deadlines and Trial Date (Third Request)</i>
12/07/2015	 Notice of Vacating Deposition Filed By: Defendant McNamee, James <i>[35] Notice of Vacating Deposition</i>
12/10/2015	 Amended Notice Filed By: Defendant McNamee, James <i>[36] First Amended Notice of Taking Deposition of Dr. Gross</i>
01/12/2016	 Amended Notice of Taking Deposition Filed By: Defendant McNamee, James <i>[37] Second Amended Notice of Taking Deposition of Dr. Gross</i>
02/02/2016	 Amended Notice of Taking Deposition Filed By: Defendant McNamee, James <i>[38] Third Amended Notice of Taking Deposition (Time Change Only)</i>
03/02/2016	 Stipulation to Extend Discovery Party: Defendant McNamee, James <i>[40] Stipulation and Order to Extend Discovery Deadlines and Trial Date (Fourth Request)</i>
03/02/2016	 Notice of Deposition Filed By: Defendant McNamee, James <i>[39] Notice of Taking Deposition</i>
03/04/2016	 Notice of Entry of Stipulation and Order Filed By: Defendant McNamee, James <i>[41] Notice of Entry of Order</i>
03/08/2016	 Order Setting Civil Jury Trial <i>[42] Second Amended Order Setting Civil Jury trial</i>
03/09/2016	 Supplemental Disclosure of Expert Witness Filed By: Defendant McNamee, James

CASE SUMMARY

CASE NO. A-13-691887-C

[43] Defendant's Fourth Supplement to His Disclosure of Expert Witnesses

06/17/2016



Designation of Expert Witness

Filed By: Plaintiff Bianchi, Giann

[44] Plaintiffs' Ninth Supplemental Designation of Expert Witnesses and Reports

06/24/2016



Designation of Expert Witness

Filed By: Plaintiff Bianchi, Giann

[45] Plaintiff's Tenth Supplemental Designation of Expert Witnesses and Reports

07/01/2016



Designation of Expert Witness

Filed By: Plaintiff Bianchi, Giann

[46] Plaintiffs' Eleventh Supplemental Designation of Expert Witnesses and Reports

07/18/2016



Designation of Expert Witness

Filed By: Plaintiff Bianchi, Giann

[47] Plaintiffs' Twelfth Supplemental Designation of Expert Witnesses and Reports

08/09/2016



Designation of Expert Witness

Filed By: Plaintiff Bianchi, Giann

[48] Plaintiffs' Thirteenth Supplemental Designation of Expert Witnesses and Reports

09/13/2016



Reply in Support

Filed By: Plaintiff Bianchi, Giann

[49] Reply in Support of Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker

09/26/2016



Stipulation and Order

Filed by: Plaintiff Bianchi, Giann

[50] Stipulation and Order to Continue Trial Date

09/27/2016



Stipulation and Order

Filed by: Plaintiff Bianchi, Giann

[51] Stipulation and Order to Continue Hearing

10/03/2016



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Bianchi, Giann

[53] Notice of Entry of Stipulation and Order

10/03/2016



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Bianchi, Giann

[52] Notice of Entry of Stipulation and Order

10/13/2016



Amended Order Setting Jury Trial

[54] Fourth Amended Order Setting Civil Jury Trial

10/31/2016



Motion to Strike

Filed By: Plaintiff Bianchi, Giann

[55] Plaintiffs' Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin

11/18/2016



Opposition

Filed By: Defendant McNamee, James

[56] Defendant James McNamee's Opposition to Motion to Strike Rebuttal Expert Mark Erwin

CASE SUMMARY

CASE NO. A-13-691887-C

11/28/2016	 Reply in Support Filed By: Plaintiff Bianchi, Giann <i>[57] Reply in Support of Plaintiff's Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin</i>
01/16/2017	 Motion Filed By: Plaintiff Bianchi, Giann <i>[58] Plaintiffs' Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire</i>
01/16/2017	 Motion to Strike Filed By: Plaintiff Bianchi, Giann <i>[59] Plaintiffs' Motion to Strike Defendant's Expert Witness Mark Winkler</i>
02/02/2017	 Opposition Filed By: Defendant McNamee, James <i>[60] Defendant's Opposition to Motion to Strike Expert Witness Mark Winkler</i>
02/02/2017	 Opposition Filed By: Defendant McNamee, James <i>[61] Defendant's Opposition to Motion to Allow Jury Questionnaire</i>
02/17/2017	 Reply in Support Filed By: Plaintiff Bianchi, Giann <i>[62] Reply in Support of Plaintiff's Motion to Strike Defendant's Expert Witness Mark Winkler</i>
02/17/2017	 Reply in Support Filed By: Plaintiff Bianchi, Giann <i>[63] Reply in Support of Plaintiffs' Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire</i>
03/14/2017	 Order Denying Filed By: Defendant McNamee, James <i>[65] Order Denying Plaintiff's Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire</i>
03/14/2017	 Order Denying Filed By: Defendant McNamee, James <i>[64] Order Denying Plaintiff's Motion to Strike Defendant's Expert Witness Mark Winkler</i>
03/15/2017	 Notice of Entry Filed By: Defendant McNamee, James <i>[66] Notice of Entry of Order Denying Plaintiff's Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire</i>
03/15/2017	 Notice of Entry Filed By: Defendant McNamee, James <i>[67] Notice of Entry of Order Denying Plaintiff's Motion to Strike Defendant's Expert Witness Mark Winkler</i>
05/10/2017	 Motion to Strike Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[68] Plaintiffs' Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time</i>
05/12/2017	





CASE SUMMARY

CASE NO. A-13-691887-C

	 Motion in Limine Filed By: Defendant McNamee, James <i>[73] Defendant James McNamee's Motion in Limine to Limit the Testimony of Plaintiff's Expert Stan Smith</i>
05/12/2017	 Motion Filed By: Defendant McNamee, James <i>[74] Defendant James McNamee's Motion to Preclude Evidence or Argument Regarding "Reptile" Tactics</i>
05/12/2017	 Motion in Limine Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[69] Plaintiffs' Motions in Limine 1 through 10</i>
05/12/2017	 Motion in Limine Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[70] Plaintiffs' Motions in Limine 11 through 26</i>
05/12/2017	 Motion in Limine Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[71] Plaintiffs' Motion in Limine Number 27 to Preclude Defendant James McNamee from Testifying at Trial and to Preclude McNamee from Contesting Liability at Trial</i>
05/12/2017	 Motion in Limine Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[72] Plaintiffs' Motion in Limine Number 28 to Preclude Defendant From Arguing Apportionment of Plaintiff Dara Del Priore's Luumbar Spine Pain</i>
05/17/2017	 Opposition to Motion Filed By: Defendant McNamee, James <i>[75] Defendant James McNamee's Opposition to Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendant's Rebuttal Expert Mark Erwin on OST</i>
05/22/2017	 Reply in Support Filed By: Plaintiff Bianchi, Giann <i>[76] Reply in Support of Plaintiff's Motion to Strike Untimely Supplemental Expert Report fromD efendants' Rebuttal Expert Mark Erwin on Order Shortenting Time</i>
05/24/2017	 Order <i>[77] Order</i>
05/25/2017	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[78] Notice of Entry of Order</i>
05/26/2017	 Pre-Trial Disclosure Party: Defendant McNamee, James <i>[79] Defendant's Pre-Trial Disclosures</i>
05/26/2017	 Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[80] Defendant's Opposition to Plaintiff's Motion in Limine #2 (Precluding Hypothetical Medical Questions)</i>
05/26/2017	 Opposition to Motion in Limine

CASE SUMMARY

CASE NO. A-13-691887-C

	<p>Filed By: Defendant McNamee, James <i>[81] Defendant's Opposition to Plaintiff's Motion in Limine #3 (Precluding Suggestions That There May Be Undisclosed Medical Records)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[82] Defendant's Opposition to Plaintiff's Motion in Limine #4 (Precluding References to Attorney Driven Litigation or Medical Buildup)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[83] Defendant's Opposition to Plaintiff's Motion in Limine #6 (Precluding References RE Retention of Counsel)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[84] Defendant's Opposition to Plaintiff's Motion in Limine #7 (Precluding References to Relationship Between Counsel and Physicians)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[85] Defendant's Opposition to Plaintiff's Motion in Limine #9 (To Limit Closing Arguments to Evidence Presented at Trial)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[86] Defendant's Opposition to Plaintiff's Motion in Limine #11 (To Permit Voir Dire RE Insurance)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[87] Defendant's Opposition to Plaintiff's Motion in Limine #12 (To Permit Voir Dire RE Tort Reform Exposure)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[88] Defendant's Opposition to Plaintiff's Motion in Limine #13 (To Permit Voir Dire RE Verdict Amounts)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[89] Defendant's Opposition to Plaintiff's Motion in Limine #14 (To Permit Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment and Extent of Disability w/o a Formal Report)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[90] Defendant's Opposition to Plaintiff's Motion in Limine #28 (To Preclude Apportionment of Plaintiff Dara DelPriore's Lumbar Spine Pain)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[91] Defendant's Opposition to Plaintiff's Motion in Limine #16 (Precluding Evidence as to How a Judgment Will be Paid)</i></p>
05/26/2017	<p> Opposition to Motion in Limine</p>

CASE SUMMARY

CASE NO. A-13-691887-C

	<p>Filed By: Defendant McNamee, James <i>[92] Defendant's Opposition to Plaintiff's Motion in Limine #17 (Precluding Negative Inferences from Failing to Call Cumulative Witnesses)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[93] Defendant's Opposition to Plaintiff's Motion in Limine #21 (Precluding References to Collateral Source)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[94] Defendant's Opposition to Plaintiff's Motion in Limine #22 (Precluding Injuries Other Than Plaintiff's Injuries)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[95] Defendant's Opposition to Plaintiff's Motion in Limine #23 (To Admit Plaintiffs' Medical Records and Bills Into Evidence)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[96] Defendant's Opposition to Plaintiff's Motion in Limine #25 (To Exclud Surveillance Video of Plaintiffs)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[97] Defendant's Opposition to Plaintiff's Motion in Limine #26 (Dr. Kabin's Felony Conviction)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[98] Defendant's Opposition to Plaintiff's Motion in Limine #27 (To Preclude Defendant from Testifying at Trial and Contesting Liability)</i></p>
05/26/2017	<p> Opposition to Motion in Limine Filed By: Defendant McNamee, James <i>[99] Defendant's Opposition to Plaintiff's Motion in Limine #1 (Precluding Closing Argument that Plaintiff Asked for a Greater Amount of Money Than Was Expected)</i></p>
05/30/2017	<p> Opposition to Motion in Limine Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[100] Plaintiffs' Opposition to Defendant's Motion in Limine to Limit the Testimony of Plaintiffs' Expert Stan Smith</i></p>
05/30/2017	<p> Opposition to Motion in Limine Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[101] Plaintiffs' Opposition to Defendant's Motion in Limine to Preclude Evidence or Argument Regarding "Reptile" Tactics</i></p>
06/05/2017	<p> Motion to Strike Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[102] Plaintiffs' Motion to Strike Untimely Supplemental Expert Report from Defendants' Medical Expert Edson O. Parker on Order Shortening Time</i></p>
06/06/2017	<p> Motion to Strike Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara</p>

CASE SUMMARY

CASE NO. A-13-691887-C

[103] Plaintiff's Motion to Strike Defendant's Untimely Seventh Supplemental Expert Witness Disclosure and Request for Attorneys' Fees and Costs on Order Shortening Time

06/06/2017



Reply to Opposition

Filed by: Defendant McNamee, James

[104] Defendant James McNamee's Reply to Opposition to Motion in Limine to Limit the Testimony of Plaintiff's Expert Stan Smith

06/06/2017



Reply in Support

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[105] Reply in Support of Plaintiffs' Motions in Limine 11 through 26

06/06/2017



Reply in Support

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[106] Reply in Support of Plaintiffs' Motion in Limine Number 27 to Preclude Defendant James McNamee from Testifying at Trial and to Preclude McNamee from Contesting Liability at Trial

06/06/2017



Reply in Support

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[107] Reply in Support of Plaintiffs' Motion in Limine Number 28 to Preclude Defendant from Arguing Apportionment of Plaintiff Dara Del Priore's Lumbar Spine Pain

06/06/2017



Reply in Support

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[108] Reply in Support of Plaintiffs' Motions in Limine 1 though 10

06/06/2017



Reply to Opposition

Filed by: Defendant McNamee, James

[109] Defendant James McNamee's Reply to Opposition to Motion to Preclude Evidence or Argument Regarding Reptile Tactics

06/06/2017



Stipulation and Order

Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[111] Stipulation and Order Regarding Motions in Limine

06/07/2017



Receipt of Copy

Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[110] Receipt of Copy

06/08/2017



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[112] Notice of Entry of Stipulation and Order

06/08/2017



Opposition

Filed By: Defendant McNamee, James

[113] Defendant James McNamee's Opposition to Plaintiffs' Motion to Strike Untimely Supplemental Expert Report from Defendant's Medical Expert Edson O. Parker on Order Shortening Time

06/08/2017






Opposition

Filed By: Defendant McNamee, James

[114] Defendant James McNamee's Opposition to Plaintiffs' Motion to Strike Defendant's Untimely Seventh Supplemental Expert Witness Disclosure and Request for Attorney's Fees and Costs on Order Shortening Time

CASE SUMMARY

CASE NO. A-13-691887-C

06/09/2017	 Objection Filed By: Defendant McNamee, James <i>[115] Defendant's Objections to Plaintiffs' Pre-Trial Disclosures</i>
06/09/2017	 Joint Pre-Trial Memorandum Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[116] EDCR 2.67 Joint Pre-Trial Memorandum</i>
06/12/2017	 Reply in Support Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[117] Reply in Support of Plaintiff's Motion to Strike Defendant's Untimely Seventh Supplemental Expert Witness Disclosure and Request for Attorneys' Fees</i>
06/12/2017	 Reply in Support Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[118] Reply in Support of Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Medical Expert Edson O. Parker on Order Shortening Time</i>
06/15/2017	 Order Filed By: Defendant McNamee, James <i>[119] Order Denying Defendant James McNamee's Motion in Limine to Limit the Testimony of Plaintiffs' Expert Stan Smith</i>
06/15/2017	 Order <i>[120] Order Granting Plaintiffs' Motion to Strike Defendant's Seventh Supplemental Expert Witness Disclosure and Order Denying Plaintiffs' Request for Attorneys' Fees and Costs</i>
06/15/2017	 Order Filed By: Plaintiff Bianchi, Gianni <i>[121] Order Granting Plaintiffs' Motion to Strike Untimely Supplemental Expert Report from Defendant's Medical Expert Edson O. Parker</i>
06/15/2017	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[122] Notice of Entry of Order</i>
06/15/2017	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[123] Notice of Entry of Order</i>
06/15/2017	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[124] Notice of Entry of Order</i>
07/19/2017	 Order <i>[125] Order Regarding Plaintiffs' Motions in Limine Numbers 1 through 28</i>
07/21/2017	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[126] Notice of Entry of Order</i>
08/22/2017	 Notice of Appearance Party: Plaintiff Bianchi, Gianni; Plaintiff Delpriore, Dara <i>[127] Notice of Appearance</i>

CASE SUMMARY

CASE NO. A-13-691887-C

09/12/2017



Proof of Service

Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara
[128] *Proof of Service*

09/12/2017



Motion in Limine

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara
[129] *Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions From Defendant's Medical Experts on Order Shortening Time*

09/14/2017



Motion in Limine

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara
[130] *Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle on Order Shortening Time*

09/19/2017



Objection

Filed By: Defendant McNamee, James
[131] *Defendant's Objection to Plaintiff's First Supplemental Pre-Trial Disclosures*

09/20/2017



Suggestion of Death

Filed by: Defendant McNamee, James
[132] *Suggestion of Death Upon the Record*

12/14/2017



Motion

Filed By: Defendant McNamee, James
[133] *Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption*

01/03/2018



Opposition to Motion

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara
[134] *Opposition to Defendant James Allen McNamee's Motion to Substitute Special Administrator in the Place and stead of Defendant James McNamee and to Amend Caption*

01/12/2018



Reply to Opposition

Filed by: Defendant McNamee, James
[135] *Defendant James McNamee's Reply to Plaintiff's Opposition to Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption*

02/09/2018



Motion

Filed By: Plaintiff Bianchi, Giann
[136] *Motion for Apointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time*

02/09/2018



Receipt of Copy

Filed by: Plaintiff Bianchi, Giann
[137] *Receipt of Copy*

02/09/2018



Opposition

Filed By: Other GEICO
[138] *Opposition to Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee*

02/09/2018















Initial Appearance Fee Disclosure

Filed By: Other GEICO

CASE SUMMARY

CASE NO. A-13-691887-C

	<i>[139] Geico Initial Appearance Fee Disclosure</i>
02/12/2018	 Receipt of Copy <i>[140] Receipt of Copy</i>
02/23/2018	 Brief <i>[141] Special Administrator's Brief Concerning the Probate Court's Exclusive Jurisdiction Over the Estate of James McNamee</i>
03/12/2018	 Response Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[142] Plaintiffs' Response to Special Administrator's Brief Concerning the Probate Court's Exclusive Jurisdiction Over the Estate of James McNamee</i>
03/12/2018	 Order Denying Motion Filed By: Other GEICO <i>[143] Order Denying Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee</i>
03/12/2018	 Notice of Entry Filed By: Other GEICO <i>[144] Notice of Entry of Order Denying Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee</i>
03/20/2018	 Opposition Filed By: Defendant McNamee, James <i>[145] Defendant James McNamee's Opposition to Plaintiff's Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts on OST</i>
03/20/2018	 Opposition Filed By: Defendant McNamee, James <i>[146] Defendant James McNamee's Opposition to Plaintiff's Motion in Limine to Preclude Photographs and Repair Estimate RE Plaintiff's Vehicle on OST</i>
03/27/2018	 Order Denying Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[147] Order Denying Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James Allen McNamee and to Amend Caption</i>
03/27/2018	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[148] Notice of Entry of Order</i>
03/30/2018	 Motion Filed By: Defendant McNamee, James <i>[149] Defendant James McNamee's Motion to Amend Order on Order Shortening Time</i>
03/30/2018	 Motion Filed By: Defendant McNamee, James <i>[150] (4/4/2018 Withdrawn) Defendant James McNamee's Motion to Continue Trial on Order Shortening Time</i>
03/30/2018	 Motion to Dismiss <i>[151] Defendant James McNamee's Motion to Dismiss on Order Shortening Time</i>

CASE SUMMARY

CASE NO. A-13-691887-C

04/03/2018	 Reply in Support Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[152] Reply in Support of Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle</i>
04/03/2018	 Reply in Support Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[153] Reply in Support of Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts</i>
04/04/2018	 Notice Filed By: Defendant McNamee, James <i>[154] Defendant James McNamee's Notice of Withdrawal of Motion to Continue Trial on Order Shortening Time</i>
04/09/2018	 Opposition to Motion to Dismiss Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[155] Plaintiffs' Opposition to Defendant's Motion to Dismiss; and Plaintiffs' Limited Opposition to Motion to Amend Order</i>
04/11/2018	 Receipt of Copy Filed by: Plaintiff Bianchi, Giann <i>[156] Receipt of Copy</i>
05/14/2018	 Order <i>[157] Order Denying Defendant James McNamee's Motion to Dismiss and Granting in Part and Denying in Part Defendant James McNamee's Motion to Amend Order</i>
05/15/2018	 Notice of Entry of Order <i>[158] Notice of Entry of Order</i>
06/21/2018	 Amended Complaint Filed By: Plaintiff Bianchi, Giann <i>[159] Amended Complaint</i>
07/02/2018	 Motion to Set Trial Date Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[160] Plaintiffs' Motion for Trial Setting</i>
07/09/2018	 Answer to Amended Complaint Filed By: Administrator Waid, Fred P. <i>[161] Answer to Plaintiffs' Amended Complaint</i>
08/03/2018	 Amended Notice Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[162] Amended Notice of Hearing on Plaintiffs' Motion for Trial Setting</i>
09/05/2018	 Notice of Association of Counsel Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[163] Notice of Association of Counsel for Plaintiffs</i>
09/11/2018	 Notice Filed By: Defendant Estate of James McNamee

CASE SUMMARY

CASE NO. A-13-691887-C

[164] Defendant James McNamee's Notice of Filing Petition for Writ of Mandamus

10/01/2018



Recorders Transcript of Hearing

[165] RECORDER'S TRANSCRIPT OF PROCEEDINGS: MOTION FOR APPOINTMENT OF CUMIS COUNSEL FOR THE ESTATE OF JAMES ALLEN MCNAMEE ON ORDER SHORTENING TIME. HEARD ON FEBRUARY 13, 2018

10/01/2018



Recorders Transcript of Hearing

[166] RECORDER'S TRANSCRIPT OF PROCEEDINGS: ALL PENDING MOTIONS. HEARD ON APRIL 10, 2018

10/03/2018



Motion

Filed By: Defendant Estate of James McNamee
[167] Defendant's Motion for Stay Pending Writ of Mandamus on Order Shortening Time

10/08/2018



Opposition to Motion

Filed By: Plaintiff Bianchi, Giann
[168] Plaintiffs' Opposition to Defendant's Motion for Stay Pending Writ of Mandamus on Order Shortening Time

10/29/2018



Order

Filed By: Defendant Estate of James McNamee
[169] Order Granting Defendant's Motion for Stay Pending Writ of Mandamus on Order Shortening Time

10/30/2018



Notice of Entry

Filed By: Defendant Estate of James McNamee
[170] Notice of Entry of Order Granting Deft.'s Mtn for Stay Pending Writ of Mandamus on OST

11/29/2018



Order Admitting to Practice

Filed By: Plaintiff Bianchi, Giann
[171] Order admitting Jake Douglas to Practice

11/30/2018



Notice of Entry

Filed By: Plaintiff Bianchi, Giann
[172] Notice of Entry of Order

03/22/2019



Notice of Rescheduling of Hearing

[173] Notice of Rescheduling of Hearing

04/29/2019

Case Reassigned to Department 9
Judicial Reassignment to Department 9 - Judge Cristina Silva

06/11/2019



Order Scheduling Status Check

[174] Order Scheduling Status Check

07/22/2019



Notice of Rescheduling of Hearing

[175] Notice of Rescheduling of Hearing

08/28/2019



Notice of Rescheduling of Hearing

[176] Notice of Rescheduling of Hearing

10/07/2019



Notice of Rescheduling of Hearing

CASE SUMMARY

CASE NO. A-13-691887-C

	<i>[177] Notice of Rescheduling of Hearing</i>
10/28/2019	 Motion for Substitution Filed By: Defendant Estate of James McNamee <i>[178] Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ</i>
10/29/2019	 Clerk's Notice of Hearing <i>[179] Notice of Hearing</i>
11/07/2019	 Opposition to Motion Filed By: Plaintiff Bianchi, Giann <i>[180] Plaintiffs' Opposition to Defendant James McNamee's Motion to Substitute Special Adminsitator in Place and Stead of Defendant James McNamee Pursuant to Writ</i>
11/15/2019	 Notice of Appearance Party: Plaintiff Bianchi, Giann <i>[181] Notice of Appearance and Change of Attorney</i>
11/27/2019	 Reply in Support Filed By: Defendant Estate of James McNamee <i>[182] Defendant James McNamee's Reply in Support of his Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ</i>
12/03/2019	 Stipulation and Order Filed by: Plaintiff Bianchi, Giann <i>[183] Stipulation and Order to Extend The 5-year Rule</i>
12/04/2019	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Bianchi, Giann <i>[184] Notice of Entry of Stipulation and Order to Extend The 5-Year Rule</i>
12/26/2019	 Order Filed By: Defendant Estate of James McNamee <i>[185] Order Granting Defendant s Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant To Writ</i>
12/26/2019	 Notice of Entry of Order Filed By: Defendant Estate of James McNamee <i>[186] Notice of Entry of Order Granting Defendant s Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant To Writ</i>
01/14/2020	 Amended Order Setting Jury Trial <i>[187] Amended Order Setting Civil Jury Trial and Calendar Call</i>
01/29/2020	 Motion for Appointment Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[188] Plaintiffs' Motion for Appointment of a General Administrator on an Order Shortening Time</i>
02/07/2020	 Stipulation and Order Filed by: Defendant Clokey, Susan <i>[189] Stipulation and Order to Continue Hearing and Stay Proceedings Pending Mediation</i>
02/10/2020	















CASE SUMMARY

CASE NO. A-13-691887-C

	 Notice of Entry of Stipulation and Order Filed By: Defendant Clokey, Susan <i>[190] Notice of Entry of Stipulation and Order to Continue Hearing and Stay Proceedings Pending Mediation</i>
02/24/2020	 Order Setting Hearing <i>[191] Order Directing Response and Setting Hearing</i>
03/02/2020	 Opposition and Countermotion Filed By: Defendant Clokey, Susan <i>[192] Defendant's Opposition to Plaintiff's Motion for Appointment of a General Administrator -and- Countermotion to Join GEICO as a Required Party</i>
03/03/2020	 Clerk's Notice of Nonconforming Document <i>[193] Clerk's Notice of Nonconforming Document</i>
03/04/2020	 Clerk's Notice of Nonconforming Document and Curative Action <i>[194] Clerk's Notice of Curative Action</i>
03/05/2020	 Reply in Support Filed By: Plaintiff Bianchi, Giann <i>[195] Plaintiffs' Reply in Support of Motion for Appointment of a General Administrator</i>
03/07/2020	 Motion to Reconsider Filed By: Defendant Clokey, Susan <i>[196] Motion for Reconsideration on Order Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. Parker M.D. and Hugh Selznick M.D.</i>
03/09/2020	 Clerk's Notice of Hearing <i>[197] Notice of Hearing</i>
03/23/2020	 Opposition to Motion Filed By: Plaintiff Bianchi, Giann <i>[198] Plaintiffs' Opposition to Defendant's Motion for Reconsideration on Orders Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. O Parker and Hugh Selznick</i>
03/27/2020	 Motion in Limine Filed By: Defendant Clokey, Susan <i>[199] Defendant's Motion in Limine, Re: Testimony and Employment of Special Administrator Susan Clokey</i>
03/27/2020	 Motion in Limine Filed By: Defendant Clokey, Susan <i>[200] Motion in Limine to Exclude Plaintiffs' Improperly Disclosed Non-Retained Experts</i>
03/27/2020	 Motion in Limine Filed By: Defendant Clokey, Susan <i>[201] Motion in Limine to Preclude Stan Smith PH.D. from Testifying on Medical Issues and Causation</i>
03/27/2020	 Motion in Limine Filed By: Defendant Clokey, Susan <i>[202] Motion in Limine to Preclude Information or Testimony on Lost Income or Wage Loss</i>

CASE SUMMARY

CASE NO. A-13-691887-C

03/27/2020	 Clerk's Notice of Hearing <i>[203] Notice of Hearing</i>
03/27/2020	 Motion in Limine Filed By: Defendant Clokey, Susan <i>[204] Motion In Limine To Preclude Evidence or Testimony Regarding Medical Damages or Providers Not Contained in Plaintiff's Verified Interrogatory Answers</i>
03/27/2020	 Motion in Limine Filed By: Defendant Clokey, Susan <i>[205] MIL to Exclude Expert Opinions from Lay Witnesses</i>
03/27/2020	 Motion in Limine <i>[206] Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle</i>
03/27/2020	 Motion in Limine Filed By: Plaintiff Bianchi, Giann <i>[207] Plaintiff's Motion in Limine To Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts</i>
03/30/2020	 Clerk's Notice of Hearing <i>[208] Notice of Hearing</i>
03/30/2020	 Clerk's Notice of Hearing <i>[209] Notice of Hearing</i>
03/30/2020	 Clerk's Notice of Hearing <i>[210] Clerk's Notice of Hearing</i>
03/30/2020	 Clerk's Notice of Hearing <i>[211] Clerk's Notice of Hearing</i>
04/07/2020	 Errata Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[212] Errata to Certificate of Service</i>
04/10/2020	 Opposition Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[213] Plaintiffs' Opposition to Defendant's Motion in Limine to Preclude Stan Smith, Ph.D. From Testifying On Medical Issues and Causation</i>
04/10/2020	 Opposition Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[214] Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Expert Opinions from Lay Witnesses</i>
04/10/2020	 Opposition Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[215] Plaintiffs' Opposition to Defendant's Motion in Limine Re: Testimony and Employment of Special Administrator Susan Clokey</i>
04/10/2020	 Opposition Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

CASE SUMMARY

CASE NO. A-13-691887-C

[216] Plaintiffs' Opposition to Defendant's Motion in Limine to Exclude Plaintiffs' Improperly Disclosed Non-retained Experts

04/10/2020



Opposition

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[217] Plaintiffs' Opposition to Defendant's Motion in Limine to Preclude Information or Testimony on Lost Income or Wage Loss

04/10/2020



Opposition

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[218] Plaintiffs' Opposition to Defendant's Motion in Limine to Preclude Evidence or Testimony Regarding Medical Damages or Providers Not Contained In Plaintiffs' Verified Interrogatory Answers

04/13/2020



Opposition to Motion in Limine

Filed By: Defendant Clokey, Susan

[219] Defendant's Opposition to Plaintiffs' Motion In Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts

04/13/2020



Opposition to Motion in Limine

Filed By: Defendant Clokey, Susan

[220] Defendant's Opposition to Plaintiffs' Motion In Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle

04/15/2020



Motion to Exclude

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[221] Plaintiffs' Motion to Exclude Defendants' 8th Supplemental Expert Witness Disclosure on Order Shortening Time

04/16/2020



Clerk's Notice of Hearing

[222] Notice of Hearing

04/16/2020



Decision

[223] Decision: Plaintiffs' Motion for Appointment of a General Administrator and Defendant's Opposition and Countermotion to Join GEICO as a Required Party

04/16/2020



Decision and Order

Filed By: Defendant Clokey, Susan

[224] Decision

04/23/2020



Notice of Rescheduling of Hearing

[225] Notice of Rescheduling of Hearing

04/29/2020



Opposition to Motion

Filed By: Defendant Clokey, Susan

[226] Defendant's Opposition to Plaintiff's Motion to Exclude Defendant's 8th Supplemental Expert Witness Disclosure

04/29/2020



Reply in Support

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[227] PLAINTIFFS' REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE ACCIDENT RECONSTRUCTION AND BIOMECHANICAL OPINIONS FROM DEFENDANT'S MEDICAL EXPERTS

04/29/2020



Reply in Support

CASE SUMMARY

CASE NO. A-13-691887-C

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara
[228] PLAINTIFFS' REPLY IN SUPPORT OF MOTION IN LIMINE TO PRECLUDE PHOTOGRAPHS AND REPAIR ESTIMATE REGARDING PLAINTIFFS' VEHICLE

05/06/2020



Reply to Opposition

Filed by: Defendant Clokey, Susan

[229] Reply to Plaintiffs Opposition to Motion in Limine to Exclude Expert Opinions for Lay Witnesses

05/06/2020



Reply to Opposition

Filed by: Defendant Clokey, Susan

[230] Reply to Plaintiffs Opposition to Defendant's Motion in Limine regarding the testimony and employment of Special Administrator Susan Clokey

05/06/2020



Reply to Opposition

Filed by: Defendant Clokey, Susan

[231] Reply to Plaintiffs Opposition to Motion in Limine to Preclude Stan Smith, Ph.D. From Testifying on Medical Issues and Causation

05/06/2020



Reply to Opposition

Filed by: Defendant Clokey, Susan

[232] Reply to Plaintiffs Opposition to Motion in Limine to Exclude Plaintiffs Improperly Disclosed Non-Retained Experts

05/06/2020



Reply to Opposition

Filed by: Defendant Clokey, Susan

[233] Omnibus Reply to Plaintiffs Oppositions to Defendant's Motion in Limine to Exclude Claims of Lost Income or Wage Loss and Defendant's Motion in Limine to Preclude Information or Testimony on Plaintiffs Computation of Damages and List of Treating Physicians Expected to Testify at Trial Inconsistent with Plaintiffs Verified Responses

05/06/2020



Notice of Change of Firm Name

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[234] Notice of Change of Firm Name, Contact Information for Corey M. Eschweiler and Craig A. Henderson

05/06/2020



Reply in Support

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[235] Reply in Support of Plaintiffs' Motion to Exclude Defendants' 8th Supplemental Expert Witness Disclosure on Order Shortening Time

05/06/2020



Notice of Change of Firm Name

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[236] Notice of Change of Firm Name and Contact Information for Corey M. Eschweiler and Craig A. Henderson

05/27/2020



Order Denying Motion

Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara

[237] Order Denying Plaintiff's Motion For Appointment of A General Administrator And Defendant's Countermotion To Join Geico As A Required Party

06/01/2020



Recorders Transcript of Hearing

[238] RECORDER'S TRANSCRIPT OF PROCEEDINGS RE: ALL PENDING MOTIONS. HEARD ON MAY 13, 2020










06/18/2020



Supplemental Brief












CASE SUMMARY

CASE NO. A-13-691887-C

	<p>Filed By: Defendant Clokey, Susan <i>[239] Defendant's Supplemental Brief re: Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate regarding Plaintiffs' Vehicle</i></p>
06/19/2020	<p> Supplement Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[240] Plaintiff's Supplemental Brief Concerning Parties' Joint Submission Regarding Mr. McNamee's Vehicle</i></p>
06/19/2020	<p> Statement Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[241] Plaintiff's Submission Concerning the Disposition and Preservation of Evidence Concerning The McNamee Vehicle</i></p>
06/23/2020	<p> Response Filed by: Defendant Clokey, Susan <i>[242] Defendant's Response to Plaintiffs Supplemental Brief Concerning the Parties Joint Submission Regarding Mr. McNamee's Vehicle</i></p>
08/10/2020	<p> Stipulation and Order Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara; Administrator Waid, Fred P. <i>[243] Stipulation and Order to Extend the 5-Year Rule</i></p>
08/11/2020	<p> Notice of Entry of Stipulation and Order Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[244] Notice of Entry of Stipulation and Order to Extend 5-Year Rule</i></p>
09/18/2020	<p> Notice of Withdrawal of Attorney Filed by: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[245] Notice of Withdrawal of Attorney Jake Douglass, Esq.</i></p>
01/04/2021	<p>Case Reassigned to Department 23 <i>Judicial Reassignment to Judge Jasmin Lilly-Spells</i></p>
01/21/2021	<p> Request Filed by: Plaintiff Bianchi, Giann <i>[246] Plaintiffs' Request for Status Check</i></p>
01/25/2021	<p> Clerk's Notice of Hearing <i>[247] Notice of Hearing</i></p>
02/15/2021	<p> Stipulation and Order Filed by: Plaintiff Bianchi, Giann <i>[248] Stipulation and Order to Extend Five Year Rule</i></p>
02/18/2021	<p> Notice of Entry of Stipulation and Order Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[249] Notice of Entry of Stipulation and Order to Extend Five Year Rule</i></p>
03/04/2021	<p> Order Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[250] Order Regarding Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimates Regarding Plaintiffs' Vehicle</i></p>
03/26/2021	<p> Order</p>











CASE SUMMARY

CASE NO. A-13-691887-C

	<p>Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[251] Omnibus Order Regarding Motions in Limine</i></p>
03/30/2021	<p> Notice of Entry of Order Filed By: Plaintiff Bianchi, Giann <i>[252] Notice of Entry of Omnibus Order Re Motions in Limine</i></p>
04/07/2021	<p> Notice of Firm Name Change Filed By: Administrator Waid, Fred P. <i>[253] Notice of Firm Name Change</i></p>
04/28/2021	<p> Pre-Trial Disclosure Party: Defendant Clokey, Susan <i>[254] Defendant's Amended Pre-Trial Disclosures</i></p>
05/07/2021	<p> Motion to Exclude Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[255] Plaintiffs' Motion to Exclude Defendants' Ninth Supplemental Expert Witness Disclosure on Order Shortening Time</i></p>
05/07/2021	<p> Application Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[256] Plaintiffs' Application for Order Shortening Time on Plaintiff's Motion to Exclude Defendants' 9th Supplemental Expert Witness Disclosure</i></p>
05/07/2021	<p> Objection Filed By: Plaintiff Bianchi, Giann <i>[257] Plaintiffs' Objections to Defendant's Amended Pre-Trial Disclosures</i></p>
05/08/2021	<p> Certificate of Service Filed by: Plaintiff Bianchi, Giann <i>[258] Certificate of Service</i></p>
05/10/2021	<p> Clerk's Notice of Hearing <i>[259] Notice of Hearing</i></p>
05/10/2021	<p> Application Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[260] Plaintiffs' Applications for Order Shortening Time on Plaintiff's Motion to Exclude Defendants' 9th Supplemental Expert Witness Disclosure on Order Shortening Time</i></p>
05/10/2021	<p> Notice of Hearing <i>[261] Motion to Exclude</i></p>
05/21/2021	<p> Opposition Filed By: Defendant Clokey, Susan <i>[262] Defendant's Opposition to Plaintiff's Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure and Defendant's Counter-Motion for Related Relief</i></p>
06/08/2021	<p> Reply in Support Filed By: Plaintiff Bianchi, Giann <i>[263] Reply in Support of Plaintiffs' Motion to Exclude Defendants' Ninth Supplemental Expert Witness Disclosure and Opposition to Counter-motion</i></p>
06/16/2021	
















CASE SUMMARY

CASE NO. A-13-691887-C

	 Reply Filed by: Defendant Clokey, Susan <i>[264] Defendant's Reply to Plaintiffs' Opposition to Defendant's Counter-Motion for Related Relief</i>
07/13/2021	 Recorders Transcript of Hearing <i>[265] Recorder's Transcript of Hearing: Plaintiff's Motion to Exclude Defendants' Ninth Supplemental Expert Witness Disclosure on Order Shortening Time, July 6, 2021</i>
07/16/2021	 Order Shortening Time Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[266] Plaintiff's Motion in Limine to Exclude Any Evidence of Dr. Jeffrey D. Gross' Unrelated Criminal Conviction on an Order Shorteninng Time</i>
07/16/2021	 Notice of Entry of Order Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[267] Notice of Entry of Order Shortening Time to Hear Plaintiff's Motion in Limine to Exclude Evidence of Dr. Jeffrey Gross' Unrelated Criminal Conviction on Order Shortening Time</i>
07/16/2021	 Appendix Filed By: Plaintiff Bianchi, Giann <i>[268] APPENDIX OF EXHIBITS IN SUPPORT OF PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE ANY EVIDENCE OF DR. JEFFREY D. GROSS' UNRELATED CRIMINAL CONVICTION ON AN ORDER SHORTENING TIME</i>
07/19/2021	 Opposition Filed By: Defendant Clokey, Susan <i>[269] Defendant's Opposition to Plaintiff's Motion in Limine To Exclude any Evidence of Dr. Jeffrey D. Goss' Unrelated Criminal Conviction on an Order Shortening Time</i>
07/22/2021	 Recorders Transcript of Hearing <i>[270] Recorder's Transcript of Hearing: Plaintiff's MIL to Exclude Evidence; Calendar Call, July 20, 2021</i>
08/04/2021	 Affidavit of Service Filed By: Defendant Clokey, Susan <i>[271] Affidavit of Service - Thomas Cicero</i>
08/04/2021	 Affidavit of Service <i>[272]</i>
08/04/2021	 Joint Pre-Trial Memorandum Filed By: Plaintiff Bianchi, Giann <i>[273] Amended Joint Pretrial Memorandum</i>
08/05/2021	 Trial Brief Filed By: Plaintiff Bianchi, Giann <i>[274] Plaintiffs' Trial Brief Regarding Legal Standard for Challenge for Cause</i>
08/09/2021	 Audiovisual Transmission Equipment Appearance Request Party: Defendant Clokey, Susan <i>[275] Audiovisual Transmission Equipment Appearance Request</i>
08/09/2021	 Errata

CASE SUMMARY

CASE NO. A-13-691887-C

	<p>Filed By: Defendant Clokey, Susan <i>[276] Defendant's Errata to Its Audiovisual Transmission Equipment Appearance Request</i></p>
08/10/2021	<p> Audiovisual Transmission Equipment Appearance Request Party: Plaintiff Delpriore, Dara <i>[277] Audiovisual Transmission Appearance Request (Dr. Kidwell)</i></p>
08/10/2021	<p> Audiovisual Transmission Equipment Appearance Request Party: Plaintiff Bianchi, Giann <i>[278] Audiovisual Transmission Appearance Request (Stan Smith, Ph.D)</i></p>
08/10/2021	<p> Jury List <i>[288] Jury List</i></p>
08/13/2021	<p> Trial Memorandum Filed by: Defendant Clokey, Susan <i>[279] Trial Memorandum Concerning Application of NRS 140.040</i></p>
08/13/2021	<p> Affidavit of Service Filed By: Defendant Clokey, Susan <i>[280] Affidavit of Service - Thomas Cicero</i></p>
08/17/2021	<p> Order to Show Cause <i>[281] Order to Show Cause</i></p>
08/17/2021	<p> Order to Show Cause <i>[282] Order to Show Cause</i></p>
08/17/2021	<p> Order to Show Cause Filed by: Plaintiff Bianchi, Giann <i>[283] Order to Show Cause Ilene Garcia</i></p>
08/17/2021	<p> Order to Show Cause Filed by: Plaintiff Bianchi, Giann <i>[284] Order to Show Cause Mary Moses</i></p>
08/18/2021	<p> Jury Instructions <i>[292] 3rd Amended Jury Trial</i></p>
08/18/2021	<p> Verdict <i>[293] Verdict Form</i></p>
08/18/2021	<p> Verdict <i>[294] Verdict Form</i></p>
08/19/2021	<p> Recorders Transcript of Hearing <i>[285] Partial Transcript: Trial By Jury - Day 3, Opening Statements Only, August 9, 2021</i></p>
08/19/2021	<p> Instructions to the Jury <i>[286] Instructions to the Jury</i></p>
08/19/2021	<p> Jury List <i>[287] Amended Instructions to the Jury</i></p>

CASE SUMMARY












CASE NO. A-13-691887-C

08/19/2021	 Verdict <i>[289] Verdict Submitted to Jury But Returned Unsigned</i>
08/19/2021	 Jury List <i>[290] 2nd Amended Jury List</i>
08/19/2021	 Jury Instructions <i>[291] Proposed Jury Instructions Not Used At Trial</i>
09/08/2021	 Stipulation and Order Filed by: Defendant Clokey, Susan <i>[295] Stipulation and Order for Briefing Schedule Concerning Defendant's Motion for Application of NRS 140.040</i>
09/09/2021	 Notice of Entry of Stipulation and Order Filed By: Defendant Clokey, Susan <i>[296] Notice of Entry of Stipulation and Order for Briefing Schedule Concerning Defendant s Motion for Application of NRS 140.040</i>
09/10/2021	 Errata Filed By: Defendant Clokey, Susan <i>[297] Errata to Notice of Stipulation and Order for Briefing Schedule Concerning Defendant s Motion for Application of NRS 140.040</i>
09/13/2021	 Motion for Judgment Notwithstanding Verdict Filed By: Defendant Clokey, Susan <i>[298] Motion for Judgment Notwithstanding the Verdict (NRCp 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCp 59(e)) in Accordance with NRS 140.040</i>
09/14/2021	 Clerk's Notice of Hearing <i>[299] Notice of Hearing</i>
09/16/2021	 Notice of Hearing <i>[300] Notice of Hearing</i>
09/27/2021	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Bianchi, Giann <i>[301] Plaintiffs' Opposition to Defendants' Motion for Judgment Notwithstanding the Verdict (NRCp 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCp 59(e)) in Accordance with NRS 140.040</i>
09/29/2021	 Errata Filed By: Plaintiff Bianchi, Giann; Plaintiff Delpriore, Dara <i>[302] Errata to Plaintiffs' Opposition to Defendants' Motion for Judgment Notwithstanding the Verdict (NRCp 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCp 59(e)) In Accordance with NRS 140.040</i>
10/08/2021	 Notice of Rescheduling of Hearing <i>[303] Motion for Judgment Notwithstanding the Verdict</i>
10/08/2021	 Reply to Opposition Filed by: Defendant Clokey, Susan <i>[304] Defendant s Reply to Plaintiffs Opposition to Defendant s Motion for Judgment Notwithstanding the Verdict (NRCp 50(b)) and/or Motion to Alter or Amend Jury Verdict</i>

CASE SUMMARY

CASE NO. A-13-691887-C

(NRCF 59(e)) in Accordance With NRS 140.040

- | | |
|------------|--|
| 11/24/2021 |  Recorders Transcript of Hearing
<i>[305] Transcript of Proceedings, Defendant's Motion for Judgment Notwithstanding the Verdict, Tuesday, November 16, 2021</i> |
| 12/07/2021 |  Order
Filed By: Defendant Clokey, Susan
<i>[306] Order Granting Defendant s Motion for Judgment Notwithstanding the Verdict (NRCF 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCF 59(e)) in Accordance with NRS 140.040</i> |
| 12/07/2021 |  Notice of Entry of Order
Filed By: Defendant Clokey, Susan
<i>[307] Notice of Entry of Order Granting Defendant s Motion for Judgment Notwithstanding the Verdict (NRCF 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCF 59(e)) in Accordance with NRS 140.040</i> |
| 12/10/2021 |  Memorandum of Costs and Disbursements
Filed By: Plaintiff Bianchi, Giann
<i>[308] Plaintiffs' Verified Memorandum of Costs</i> |
| 12/14/2021 |  Stipulation and Order
<i>[309] 2021.12.14 Stip to Ext DL to file Mtn to Retax</i> |
| 12/15/2021 |  Notice of Entry of Order
Filed By: Defendant Clokey, Susan
<i>[310] Notice of Entry of Stipulation and Order to Extend Deadline for Defendant to File Motion to Retax Costs (First Request)</i> |
| 12/17/2021 |  Motion to Retax
Filed By: Defendant Clokey, Susan
<i>[311] Motion to Retax Costs</i> |
| 12/20/2021 |  Clerk's Notice of Hearing
<i>[312] Notice of Hearing</i> |
| 01/03/2022 |  Opposition and Countermotion
Filed By: Plaintiff Bianchi, Giann
<i>[313] Opposition to Motion to Retax and Countermotion for Award of Costs, Interest, and Entry of Judgment</i> |
| 01/05/2022 |  Notice of Appeal
Filed By: Plaintiff Bianchi, Giann
<i>[314] Notice of Appeal</i> |
| 01/05/2022 |  Case Appeal Statement
Filed By: Plaintiff Bianchi, Giann
<i>[315] Case Appeal Statement</i> |

DISPOSITIONS

08/18/2021 **Verdict** (Judicial Officer: Lilly-Spells, Jasmin)
 Debtors: Susan Clokey (Defendant)
 Creditors: Dara Delpriore (Plaintiff)
 Judgment: 08/18/2021, Docketed: 08/26/2021
 Total Judgment: 125,100.00

CASE SUMMARY


CASE NO. A-13-691887-C

08/18/2021 **Verdict** (Judicial Officer: Lilly-Spells, Jasmin)
Debtors: Susan Clokey (Defendant)
Creditors: Giann Bianchi (Plaintiff)
Judgment: 08/18/2021, Docketed: 12/08/2021
Total Judgment: 62,800.00

12/07/2021 **Judgment** (Judicial Officer: Lilly-Spells, Jasmin)
Debtors: Susan Clokey (Defendant)
Creditors: Dara Delpriore (Plaintiff)
Judgment: 12/07/2021, Docketed: 12/08/2021
Total Judgment: 30,000.00

Debtors: Susan Clokey (Defendant)
Creditors: Giann Bianchi (Plaintiff)
Judgment: 12/07/2021, Docketed: 12/08/2021
Total Judgment: 30,000.00

HEARINGS

03/03/2015  **Motion to Strike** (8:00 AM) (Judicial Officer: Smith, Douglas E.)

03/03/2015, 11/01/2016

Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time

Matter Heard;

4/8/15 Defendant's counsel letter

Dept. VIII Request Re: Rescheduling 10-20-15 @ 8:00am MSTR to 03-22-16 @ 8:00am

Matter Heard; Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time

Journal Entry Details:

This is the time set for hearing on Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time. Mr. Benson advised that the parties were before the Court on the same Motion back in March 2015. The Medical Expert, Dr. Edson Parker, intends to come in and testify that the reasonable value of Plaintiffs' medical care is what insurance will pay; that is collateral source. Dr. Parker has said the medical bills were customary for Nevada but the reasonable expectation of the doctors is to receive what insurance will pay. Mr. Benson discussed Khoury v. Seastrand. For the reasons stated on the record, Mr. Benson would request that the Court STRIKE Dr. Parker and not allow him to testify that the reasonable value of medical care is what insurance will pay. Mr. Orr advised that although Mr. Benson entitled his Motion as a Motion to Strike, he believes it is actually a Motion to Limit Dr. Parker from talking about the reasonable and customary value of the services; Mr. Benson CONCURRED. Argument by Mr. Orr; if Plaintiff is allowed to put a doctor on the stand to say, "Yes, this charge is reasonable and customary." Defendant should be allowed to put someone on the stand to say the opposite. COURT ORDERED, Dr. Parker will be allowed to testify; however, if he goes into anything about insurance, the Court will accept a Motion for a New Trial and Defendant will have to pay all the costs. Mr. Orr to prepare the Order.;

Matter Heard;

4/8/15 Defendant's counsel letter

Dept. VIII Request Re: Rescheduling 10-20-15 @ 8:00am MSTR to 03-22-16 @ 8:00am

Matter Heard; Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time

Journal Entry Details:




Following arguments by counsel regarding Dr. Parker's testimony, COURT ADVISED it was inclined to grant the motion; however, continued to allow further disclosure of discovery for Defendant to refine argument and opposition. 4/21/15 8:00 AM PLTF'S MOTION TO STRIKE DEFTS' MEDICAL EXPERT DR. EDSON PARKER ON ORDER SHORTENING TIME. ;

06/23/2015 **CANCELED Calendar Call** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - Superseding Order

06/29/2015 **CANCELED Jury Trial** (9:30 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - Superseding Order

CASE SUMMARY

CASE NO. A-13-691887-C

02/02/2016	CANCELED Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Vacated - Superseding Order</i>
02/08/2016	CANCELED Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.) <i>Vacated - Superseding Order</i>
11/01/2016	CANCELED Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Vacated - per Stipulation and Order</i>
11/14/2016	CANCELED Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.) <i>Vacated - per Stipulation and Order</i>
12/05/2016	 Motion to Strike (3:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Plaintiffs' Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin</i> Denied; Plaintiffs' Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin Journal Entry Details: <i>The Plaintiffs' Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin came before this Court on the December 5, 2016, Chambers Calendar. Having reviewed the Motion, as well as the Opposition and Reply thereto, COURT ORDERED, Motion DENIED. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Corey M. Eschweiler, Esq., (Glen J. Lerner & Associates) and Jeffrey J. Orr, Esq., (Pyatt Silvestri).;</i>
02/27/2017	Motion (3:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Plaintiffs' Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire</i> Denied;
02/27/2017	Motion to Strike (3:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Plaintiff's Motion to Strike Defendant's Expert Witness Mark Winkler</i> Denied;
02/27/2017	 All Pending Motions (3:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Plaintiffs' Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire . . .</i> <i>Plaintiff's Motion to Strike Defendant's Expert Witness Mark Winkler</i> Matter Heard; Journal Entry Details: <i>The Plaintiffs' Motions to Allow Presentation of a Jury Questionnaire and Motion to Strike Defendant's Expert Witness Mark Winkler came before the Court on the February 27, 2017, Chamber Calendar. Having reviewed the Motions, as well as the Oppositions thereto, COURT ORDERED, the Plaintiffs' Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire is DENIED and Plaintiffs' Motion to Strike Defendant's Expert Witness Mark Winkler is also DENIED. Jeffrey J. Orr, Esq., to prepare an Order reflecting the Court's decision. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Jeffrey J. Orr, Esq., (Pyatt Silvestri).;</i>
05/23/2017	 Motion to Strike (8:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time</i> Deferred Ruling; Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time Journal Entry Details: <i>This is the time set for hearing on Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendant's Rebuttal Expert Mark Erwin on Order Shortening Time. Mr. Benson advised that the Expert Report includes new opinions in the form of a supplemental opinion based on documentation and reports Defendant received over two (2) years ago. The discovery deadlines were extended four times before closing, then Defendants provided the Plaintiffs with a whole new report discussing various topics and new opinions. Additionally, on May 19, Plaintiffs received a new supplemental report from another one of Defendant's experts who completely changed the foundation and the basis of his opinions. Mr. Benson discussed Rule 26; he is requesting that Mark Erwin's supplemental report be stricken. Additionally, with regard to the report, the Plaintiffs' expert had the recently disclosed information since the</i>

CASE SUMMARY

CASE NO. A-13-691887-C

summer of 2015 and now two (2) years later, he is giving up new opinions and providing assumptions that the Plaintiffs were not aware of and so the assumptions is what will prejudice them at trial; i.e., not knowing what assumptions were made, why they were made, and what the basis for those assumptions were. Mr. Orr advised there is no prejudice alleged here; Mark Erwin is a rebuttal economic expert. The new information he received is documentation from the Plaintiff's employer which shows her wage loss, the main issue in this case. Colloquy as to when the information was disclosed; trial is set for June 26, 2017, and the information was disclosed on March 23, 2017. COURT ORDERED, decision DEFERRED, the Court will prepare a written decision. ;

05/24/2017



Decision (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Decision: Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time

Decision Made; Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time

Journal Entry Details:

The Court heard oral argument on Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time on May 23, 2017, but DEFERRED its ruling. The Court's ruling is as set forth in the Order filed on May 24, 2017. ;

06/13/2017

Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Matter Heard;

06/13/2017

Motion in Limine (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Plaintiff's Motion in Limine 1 Through 10

Matter Heard;

06/13/2017

Motion in Limine (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Plaintiffs' Motions in Limine 11 through 26

Matter Heard;

06/13/2017

Motion in Limine (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Plaintiffs' Motion in Limine Number 27 to Preclude Defendant James McNamee from Testifying at Trial and to Preclude McNamee from Contesting Liability at Trial
Granted;

06/13/2017

Motion in Limine (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Plaintiffs' Motion in Limine Number 28 to Preclude Defendant From Arguing Apportionment of Plaintiff Dara Del Priore's Lumbar Spine Pain
Denied in Part;

06/13/2017

Motion in Limine (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Defendant James McNamee's Motion in Limine to Limit the Testimony of Plaintiffs' Expert, Stan Smith
Deferred Ruling;

06/13/2017

Motion to Strike (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Plaintiffs' Motion to Strike Untimely Supplemental Expert Report from Defendant's Medical Expert Edson O. Parker on Order Shortening Time
Deferred Ruling;

06/13/2017

Motion to Strike (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Plaintiffs' Motion to Strike Defendant's Untimely Seventh Supplemental Expert Witness Disclosure and Request for Attorneys' Fees and Costs on Order Shortening Time
Deferred Ruling;

06/13/2017



All Pending Motions (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Calendar Call . . . Plaintiffs' Motion to Strike Untimely Supplemental Expert Report from Defendant's Medical Expert Edson O. Parker on Order Shortening Time . . . Plaintiffs' Motion to Strike Defendant's Untimely Seventh Supplemental Expert Witness Disclosure and Request for Attorneys' Fees and Costs on Order Shortening Time . . . Plaintiffs' Motions in Limine (1-

CASE SUMMARY

CASE NO. A-13-691887-C

28) . . . Defendant's Moiton in Limine

Matter Heard;

Journal Entry Details:

CALENDAR CALL: Colloquy regarding scheduling issues and the September Civil Stack; counsel anticipate the trial will take four (4) weeks. Court noted that it has a criminal trial set on a special setting for September 18; it will last a week. Thereafter, the Court and counsel discussed the trial schedule for the instant case. COURT ORDERED, trial date VACATED and RESET; this is a FIRM setting. This trial will begin on September 5, 2017, and go for two (2) weeks; break a week for the criminal trial, and then resume the next week. PLAINTIFFS' MOTION TO STRIKE UNTIMELY SUPPLEMENTAL EXPERT REPORT FROM DEFENDANT'S MEDICAL EXPERT EDSON O. PARKER ON ORDER SHORTENING TIME and PLAINTIFFS' MOTION TO STRIKE DEFENDANT'S UNTIMELY SEVENTH SUPPLEMENTAL EXPERT WITNESS DISCLOSURE AND REQUEST FOR ATTORNEYS' FEES AND COSTS ON ORDER SHORTENING TIME: Mr. Benson advised that the Defendant had a duty to supplement their expert reports at the appropriate intervals and they failed to do so. Dr. Parker supplemented his report at the last minute essentially creating a whole new report. The records are not new; they have had all the records since the surgery was performed in 2015/2016 and did nothing for over a year. Therefore, Mr. Benson is requesting that the Seventh Supplement be stricken as well as Dr. Parker's new opinions that address the surgery; they reformulate the foundation of what his report is all about. Mr. Orr advised the Supplements were done thirty (30) days before trial, which is currently set for June 26 but it going to be continued to September 5. This is not the eve of trial; there is no prejudice, and none of the experts' opinions have changed. The experts are entitled to supplement their reports; argument. Rebuttal by Mr. Benson; he discussed Khoury v. Seastrand. For the reasons stated on the record, the reports of Dr. Parker, Mr. Selznick, and Mr. Erwin should be struck. COURT ORDERED, decision on the above-named motions are DEFERRED; the Court would like to review the Seastrand case. PLAINTIFF'S MOTION IN LIMINE 1 THROUGH 10: 1. Preclude Closing Argument that Plaintiff Asked for a Greater Amount of Money Than was Expected: COURT ORDERED, Motion GRANTED. 2. Hypothetical Medical Questions Designed to Confuse Jury: Court advised that before counsel ask a hypothetical question, they must clear it with the Court outside the presence of the Jury. COURT ORDERED, Motion GRANTED, in part, and DENIED, in part. 3. Suggesting to Jury that there Might be Related Medical Records Prior to the Crash that have not been Disclosed to Defendants: COURT ORDERED, Motion GRANTED. 4. Precluding Defendant from Referring to Case as "Attorney-Driven Litigation" or a Medical Buildup" Case and Precluding any Statements Insinuating that Plaintiffs Sought Treatment at the Direction of Attorneys, or because of this Litigation: COURT ORDERED, Motion GRANTED. 5. Precluding Defendants from Referring to any Ongoing or Past Federal Investigation or Allegations of Conspiracy Between Doctors and Plaintiffs' Attorneys (Defendant has Agreed to the Relief Requesting in Motion): Pursuant to the stipulation of counsel, COURT ORDERED, Motion GRANTED. 6. Precluding Reference to Plaintiffs' Retention of Counsel: COURT ORDERED, Motion GRANTED. 7. Precluding Reference as to Plaintiffs' Counsel Working with Plaintiffs' Treating Physicians on Other Unrelated Cases: COURT ORDERED, Motion GRANTED. 8. Precluding Negative References to Attorney Advertising (Defendant has Agreed to the Relief Requested in this Motion): Pursuant to the stipulation of counsel, COURT ORDERED, Motion GRANTED. 9. Closing Arguments Must be Limited to Evidence Presented at Trial: COURT ORDERED, Motion GRANTED. 10. Precluding Reference to Recent Allegations Against Plaintiffs' Counsel Relating to the BP Oil Spill Cases ((Defendant has Agreed to the Relief Requested in this Motion): Pursuant to the stipulation of counsel, COURT ORDERED, Motion GRANTED. PLAINTIFF'S MOTION IN LIMINE 11 THROUGH 26: 11. Allowing Voir Dire Questions Regarding Relationship to Any Insurance Company: COURT ORDERED, Motion GRANTED. 12. Allowing Voir Dire Questioning Regarding Tort Reform Exposure: COURT ORDERED, Motion GRANTED. 13. Allowing Voir Dire Questioning Regarding Verdict Amounts: COURT ORDERED, Motion GRANTED. 14. Permitting Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment, and Extent of Disability - Without a Formal Expert Report: Court noted that treating physicians are not experts and they can testify to future treatment without a formal report; therefore, COURT ORDERED, Motion GRANTED. 15. Exclusion of Non-Party Witnesses from Courtroom: COURT ORDERED, Motion GRANTED. 16. Precluding Evidence Regarding how a Judgment will be Paid: COURT ORDERED, Motion GRANTED. 17. Precluding Negative Inference for Failing to Call Cumulative Witness: COURT ORDERED, Motion GRANTED. 18. Precluding Reference to Filing Motions in Limine: COURT ORDERED, Motion GRANTED. 19. Precluding References to Taxation: COURT ORDERED, Motion GRANTED. 20. Precluding Evidence of Offers of Settlement or Compromise: COURT ORDERED, Motion GRANTED. 21. Precluding Reference to Collateral Sources: COURT ORDERED, decision DEFERRED; the Court will review Khoury v. Seastrand. 22. Exclude Evidence Regarding Injuries Other than Plaintiffs': COURT ORDERED, Motion GRANTED. 23. Admitting Plaintiffs' Treating Providers' Medical Bills and

CASE SUMMARY

CASE NO. A-13-691887-C

Medical Records into Evidence: COURT ORDERED, Motion GRANTED as long as the documents are certified. 24. Precluding References to Giann's Felony Conviction: Pursuant to stipulation of counsel, COURT ORDERED, Motion GRANTED. 25. Exclude Surveillance Video of Plaintiffs: if the proper foundation can be laid, the surveillance videos can be presented. COURT ORDERED, Motion DENIED, in part, and GRANTED, in part. 26. Exclude Evidence of Dr. Mark Kabins' Conviction: Mr. Orr advised that the Plaintiffs are seeking to exclude the conviction in its entirety; however, the Defendants would like to limit it to the date of the conviction and the name of the conviction; colloquy. COURT ORDERED, decision DEFERRED. Court advised counsel that they may renew any of their motions prior to trial. PLAINTIFFS' MOTION IN LIMINE NUMBER 27 TO PRECLUDE DEFENDANT JAMES MCNAMEE FROM TESTIFYING AT TRIAL AND TO PRECLUDE MCNAMEE FROM CONTESTING LIABILITY AT TRIAL: COURT ORDERED, Motion GRANTED. PLAINTIFFS' MOTION IN LIMINE NUMBER 28 TO PRECLUDE DEFENDANT FROM ARGUING APPORTIONMENT OF PLAINTIFF DARA DEL PRIORE'S LUMBAR SPINE PAIN: if the proper foundation can be laid, it will be allowed. Therefore, COURT ORDERED, Motion DENIED, in part, and GRANTED, in part. DEFENDANT JAMES MCNAMEE'S MOTION IN LIMINE TO LIMIT THE TESTIMONY OF PLAINTIFFS' EXPERT, STAN SMITH: Mr. Orr advised that Stan Smith is the Plaintiffs' economic expert. Counsel will not contest this witness's testimony regarding lost wages; however, he would like to preclude him from talking about hedonic damages and lost value of services; colloquy. COURT ORDERED, decision DEFERRED. ;

06/19/2017



Motion (3:00 AM) (Judicial Officer: Smith, Douglas E.)

Defendant James McNamee's Motion to Preclude Evidence or Argument Regarding "Reptile" Tactics

Denied; Defendant James McNamee's Motion to Preclude Evidence or Argument Regarding "Reptile" Tactics

Journal Entry Details:

The Defendant's Motion to Preclude Evidence or Argument Regarding "Reptile" Tactics came before the Court on the June 19, 2017, Chamber Calendar. Having reviewed the Motion, as well as the Opposition and Reply thereto, COURT ORDERED, the Motion is DENIED as overbroad. The Defendant is welcome to submit multiple Motions In Limine that deal with and argue against specific and individual Reptile tactics, which the Court could then rule upon.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Jeffrey J. Orr, Esq., (Pyatt Silvestri).;

06/26/2017

CANCELED Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.)

Vacated - per Judge

08/22/2017



Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Matter Heard;

Journal Entry Details:

This is the time set for Calendar Call; counsel announced ready. Upon Court's inquiry, Mr. Eschweiler advised Plaintiff has nine (9) witnesses and the Defendant has three (3); the trial is expected to take two (2) weeks. COURT ORDERED, matter set for trial. 09/05/17 8:00 AM JURY TRIAL (FIRM);

08/29/2017



Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Status Check: Trial

Matter Heard; Trial

Journal Entry Details:

This is the time set the Status Check on Trial. Court noted that although this was a FIRM setting, the Court is going to have to reschedule the trial in this matter due to a scheduling issue. Colloquy regarding a new date for the trial; counsel expect the trial to take two (2) weeks. The Plaintiff has ten (10) witnesses and the Defense has four (4). COURT ORDERED, trial date VACATED and RESET. 09/25/17 9:30 AM JURY TRIAL ;

09/21/2017



Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Status Check: Trial Setting

Matter Heard; Trial Setting

Journal Entry Details:

This is the time set for the Status Check on the Trial Setting. Court noted that this Court's staff

CASE SUMMARY


CASE NO. A-13-691887-C


was notified yesterday (September 20), that the Defendant had passed away; therefore, this Court is not sure if this matter can proceed to trial on Monday (September 25). If the Plaintiff is satisfied with the amount of insurance; however, perhaps the trial could proceed as scheduled. Mr. Roberts advised that the policy is a \$60,000 policy but they contend that policy is now open to any excess verdict based on the rejection of the Offer of Judgment of policy limits. Plaintiffs will be seeking a judgment in excess of the policy but counsel contends that the decedent's insurance will have to answer for the entire verdict; colloquy. Mr. Silvestri advised that his office was informed about the Defendant's death on Friday (September 15) and since he was out of the office, he was not informed until Monday (September 18); the Suggestion of Death Upon the Record was filed on September 20, 2017, and a petition to have a special administrator named has been filed. Mr. Silvestri advised that after he learned of the Defendant's death he notified counsel and this Court's Chamber. Since there is no party at this time, he does not believe the trial can go forward but they are trying to move the case forward; the probate hearing date is October 8, 2017. Colloquy as to whether or not the trial should proceed as scheduled and NRCP 25(a)(1)(2). COURT ORDERED, trial date VACATED; the hearing on the Motion in Limine currently set for September 25, 2017, is VACATED as well. COURT FURTHER ORDERED, matter set for status check on the decision from probate. Mr. Roberts requested costs in preparing for trial; the Defendant's death occurred on August 12, 2017, and Plaintiff's counsel was not timely informed of said death. They paid non-refundable deposits to experts which cannot be refunded and would not have been paid if they had been timely notified. Court directed Mr. Roberts to put his request in writing for the Court to consider. COURT ORDERED, the Court will hear Mr. Roberts Motion on the status check date. 10/10/178:00 AM STATUS CHECK: DECISION FROM PROBATE COURT/RESET TRIAL DATE AND MR. ROBERT'S MOTION FOR COSTS ;

09/25/2017 CANCELED Motion in Limine (9:00 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Judge
Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions From Defendant's Medical Experts on Order Shortening Time

09/25/2017 CANCELED Motion in Limine (9:00 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Judge
Plaintiffs Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs Vehicle on Order Shortening Time

09/25/2017 CANCELED Jury Trial - FIRM (9:30 AM) (Judicial Officer: Smith, Douglas E.)
Vacated - per Judge

10/31/2017  Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Status Check: Decision from Probate Court/Reset Trial and Mr. Robert's Motion for Costs Trial Date Set; Status Check: Decision from Probate Court/Reset Trial and Mr. Robert's Motion for Costs
Journal Entry Details:
Mr. Silvestri informed the Court the order has been submitted and shall be approved. Mr. Silvestri further advised they have not substituted in the Special Administrator as of yet, as soon as they have the order that will be done. The Court inquired with counsel scheduling regarding setting trial. Counsel advised the Court the next available stack can accommodate parties. COURT SO ORDERED. 4-03-18 8:00 AM CALENDAR CALL (DEPT. VIII) 4-16-18 9:30 AM JURY TRIAL (DEPT. VIII);

01/22/2018  Motion (3:00 AM) (Judicial Officer: Smith, Douglas E.)
Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption
Denied; Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption
Journal Entry Details:
Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption came before the Court on the January 22, 2018, Chamber Calendar. Having reviewed the Motion, its Opposition, and Reply thereto, COURT ORDERED, this Motion is DENIED. Court directed the parties to submit three (3) proposed names to the Court for consideration as to who they want to serve as Administrator of the Estate. CLERK'S NOTE: A copy of this minute order was placed in the attorney folders of Jeffrey Orr, Esq., (Pyatt Silvestri) and Craig A. Henderson, Esq., (Glen Lerner Injury

CASE SUMMARY

CASE NO. A-13-691887-C

Attorneys).;

02/13/2018



Motion for Appointment of Attorney (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time

Deferred Ruling; Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time

Journal Entry Details:

Alexander LeVeque, Esq., Probate Counsel for GEICO and the Special Administrator present. This is the time set for hearing on the Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time. Court noted that Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption came before the Court on the January 22, 2018, Chamber Calendar. The Motion was DENIED and the Court directed both counsel to submit three (3) proposed names to the Court for consideration. Mr. Eschweiler advised that his office received a call from this Court's staff requesting that we confer with opposing counsel on names for a new administrator; he believes Frederick Waid, Esq., from Hutchison & Steffen or Robert Morris, Esq., from Grant Morris Dobbs would be acceptable. Mr. Silvestri advised that he does not have any names to present at this time but would request briefing on this matter; his firm's position is that only the Probate Court has the jurisdiction to appoint an administrator. Mr. Silvestri requested that a briefing schedule be set. COURT ORDERED, request GRANTED; counsel will have ten (10) days to file a brief; thereafter, Plaintiffs may respond. The Court will now hear argument on the Motion for Appointment of Cumis Counsel. Mr. Carley advised that he is counsel for GEICO and is present today for the limited purpose of addressing Plaintiffs' Cumis Counsel motion. Argument by Mr. Roberts; Cumis Counsel is only required to the extent there is an actual conflict and, pursuant to the briefings in the case, it appears there is a conflict in this case. First, GEICO failed to settle Plaintiffs' claim for the policy limits demand but then later offered to settle the claims in excess of the policy limits. Therefore, GEICO has created a situation where they have admitted that the value of the claims exceed the insurance coverage and Defendant McNamee and the Estate will be exposed to an excess judgment as a result of their bad faith refusal to compromise; a conflict of interest has been created. At this point, there is no one free of a conflict of interest representing the Estate and because the Estate now possesses bad faith claims against GEICO, GEICO's counsel cannot advise the Estate of its rights against GEICO. Argument by Mr. Carley; there is a standing problem. The Estate is not requesting independent counsel, the Plaintiffs' counsel is making that request saying GEICO should hire its insured an additional attorney. Mr. Carley believes Plaintiffs' counsel is trying to drive a wedge between the insured and the insurer. Mr. Carley discussed State Farm v. Hansen; in order to grant a Motion for Cumis Counsel an actual conflict must exist under the Rule of Professional Conduct. The Plaintiffs' counsel is speculating that there is a conflict of interest but has presented no evidence of that. Neither the insured's nor the insurer's Estate has ever demanded its own independent counsel. Therefore, in addition to the standing problem, Plaintiffs' counsel has not satisfied the Cumis counsel case; the Motion should be DENIED. COURT ORDERED, decision DEFERRED; Court directed both counsel to provide proposed Findings of Fact and Conclusions of Law consistent with their arguments. Thereafter, the Court will make a decision. ;

03/12/2018



Decision (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Decision: Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee
Decision Made; Plaintiffs' Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time

Journal Entry Details:

The Court heard oral argument on Plaintiffs' Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time on February 13, 2018, but DEFERRED its ruling. The Court's ruling is as set forth in the Order Denying Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee filed on March 12, 2018. ;

04/03/2018



Calendar Call (9:00 AM) (Judicial Officer: Adair, Valerie)

Matter Heard;


Journal Entry Details:

This is the time set for Calendar Call. Upon Court's inquiry, Mr. Silvestri advised that this matter is not ready for trial; there are Motions in Limine, a Motion to Dismiss, a Motion to Continue Trial, and a Motion to Modify an Order set for hearing on April 10, 2018. Additionally, Defendant, James McNamee, is deceased and the substitution of the

CASE SUMMARY

CASE NO. A-13-691887-C

Administrator has not been formalized. COURT ORDERED, trial date VACATED; matter set for status check. 04/10/18 8:00 AM STATUS CHECK: RESET TRIAL DATE;

- 04/10/2018 **Motion in Limine** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts on Order Shortening Time
Deferred Ruling;
- 04/10/2018 **Motion in Limine** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Plaintiffs Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs Vehicle
Deferred Ruling;
- 04/10/2018 **Motion to Amend** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Defendant James McNamee's Motion to Amend Order on Order Shortening Time
Granted in Part;
- 04/10/2018 **Motion to Continue Trial** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Defendant James McNamee's Motion to Continue Trial on Order Shortening Time
Withdrawn;
- 04/10/2018 **Motion to Dismiss** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Defendant James McNamee's Motion to Dismiss on Order Shortening Time
Denied;
- 04/10/2018 **Status Check** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Status Check: Reset Trial Date
Matter Heard;
- 04/10/2018  **All Pending Motions** (8:00 AM) (Judicial Officer: Smith, Douglas E.)
Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts on Order Shortening Time . . . Plaintiffs Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs Vehicle . . . Defendant James McNamee's Motion to Amend Order on Order Shortening Time . . . Defendant James McNamee's Motion to Continue Trial on Order Shortening Time . . . Defendant James McNamee's Motion to Dismiss on Order Shortening Time . . . Status Check: Reset Trial Date
Matter Heard;
Journal Entry Details:


Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendants' Medical Experts: Upon Court's inquiry, Mr. Roberts advised that although the opinions were properly disclosed in discovery, a proper foundation cannot be laid. Defendants want to offer opinions on the forces involved in the collision. There is no accident reconstruction or biomechanical expert who has laid a proper foundation. Defendants have a doctor who wants to opine that this is a low to moderate impact and the impact was not sufficient to cause the injuries to the Defendant's spine. Mr. Roberts discussed the Rish and Hallmark cases. Argument by Mr. Orr. It appears to the Court that the medical experts cannot give biomechanical or reconstruction opinions because they are not experts in that area; however, if the medical experts want to testify and say that it does not appear from the evidence that the injuries are consistent with the accident that would be allowed but since the Court has not had an opportunity to review Plaintiff's Reply, COURT ORDERED, decision DEFERRED. Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle. Mr. Roberts advised that the Defendants failed to produce any repair estimate or photographs of the damage to their vehicle even though that information was specifically requested in discovery. Argument; Plaintiffs have no way of knowing how much damage there was to the Defendant's vehicle and without that, it is misleading and prejudicial for them to show the jury just the pictures of the Plaintiffs' vehicle and, because it appears the damage was minor, argue that the forces of the collision were low and that his was a low impact collision. Argument by Mr. Orr; he discussed the Rish case. COURT ORDERED, decision DEFERRED. Defendant James McNamee's Motion to Dismiss and Motion to Amend Order: Mr. Silvestri advised that Defendant, James McNamee, died on August 12, 2017; thereafter, a Suggestion of Death was filed. As of today, there is no party substituted in for Defendant McNamee; once a Suggestion of Death is provided, there is a ninety (90)-day deadline and the deadline was December 19, 2017. The only motion filed


CASE SUMMARY

CASE NO. A-13-691887-C

before that date was the Defense Motion to name a Special Administrator; the Statute says that if the only asset available is an insurance policy a Special Administrator should be named. Mr. Silvestri discussed the Special Administrator vs. General Administrator issues. Pursuant to the Order filed March 27, 2018, Fred Waid was named as the General Administrator. Colloquy; the Court is contemplating appointing Fred Waid as the General and Special Administrator as the Court wants the case to go forward and be decided on the merits and not on procedural issues. There being no objection by counsel, **COURT ORDERED**, the Motion to Amend Order is **GRANTED** in part and **DENIED** in part; Fred Waid is **APPOINTED** as both General and Special Administrator. Additionally, Fred Waid shall be substituted in as a party Defendant for James McNamee. **COURT FURTHER ORDERED**, the Motion to Dismiss is **DENIED**. Mr. Silvestri to prepare the Order approved as to form and content by Mr. Roberts. Defendant James McNamee's Motion to Continue Trial: Court noted that it appears this Motion was **WITHDRAWN** on April 4, 2018; however, this matter is also set for a Status Check to Reset the Trial date. Mr. Silvestri advised that the Five (5)-Year Rule will run in November 19, 2018, but he is working with his carrier on a stipulation because he is not sure this matter will be ready for trial by then. Mr. Roberts advised that it is his preference to try this matter in November but if that is not possible, he will stipulate to an extension of the rule. Colloquy regarding possible trial dates, counsel believe the trial will take two (2) weeks. The November Civil trial stack begins on November 13, 2018, and the next Civil stack begins on February 11, 2019. Court directed counsel to meet and confer and let the Court know whether they intend to set the matter for trial on the November stack, it will be a **FIRM** setting, or whether they intend to stipulate to an extension of the Five (5)-Year Rule; if so, a Stipulation and Order will need to be prepared. ;




04/16/2018 **CANCELED Jury Trial (9:30 AM)** (Judicial Officer: Smith, Douglas E.)
Vacated - per Judge

08/14/2018  **Motion (8:00 AM)** (Judicial Officer: Smith, Douglas E.)
Plaintiffs' Motion for Trial Setting
Granted; Plaintiffs' Motion for Trial Setting
Journal Entry Details:
*This is the time set for hearing on Plaintiffs' Motion for Trial Setting. The Court noted that the five (5)-year rule in this case runs on November 18, 2018; therefore, counsel is requesting that the matter be set or trial prior to that date. Mr. Roberts advised that he would like is a **FIRM SETTING** on the first day of the November Civil Trial Stack; i.e., November 13, 2018, that way Voir Dire can be completed and the first witness can be sworn before November 18. Counsel believe the trial will take approximately three (3) weeks. **COURT ORDERED**, Motion **GRANTED**; matter set for trial. 10/30/18 8:00 AM **CALENDAR CALL** 11/13/18 9:30 AM **JURY TRIAL - FIRM** ;*

10/09/2018  **Motion For Stay (8:00 AM)** (Judicial Officer: Smith, Douglas E.)
Defendant's Motion for Stay Pending Writ of Mandamus on Order Shortening Time
Granted; Defendant's Motion for Stay Pending Writ of Mandamus on Order Shortening Time
Journal Entry Details:
*This is the time set for hearing on Defendant's Motion to Stay Pending Writ of Mandamus on Order Shortening Time. Court advised that it is inclined to grant the Defendant's motion but asked if counsel wanted to place anything on the record. Mr. Molina advised that he would like to address a comment made by Plaintiffs in their Opposition. Plaintiffs' counsel stated that the Defendant never filed a brief within ten (10) days after the February 13, 2018, hearing regarding the issue of whether or not only the Probate Commissioner has jurisdiction to appoint a General Administrator. The Defendant filed their brief on February 23, 2018, and the Plaintiffs responded to on March 12, 2018; therefore, the argument that Defendant did not file a brief in response to the Court's request is, at this time, undisputed. Mr. Molina submitted on the Motion. Mr. Benson advised that in determining whether to issue a stay, the Court should consider the Mikohn factors; Plaintiffs believe that they have not been satisfied. Additionally, if Defendant wishes to challenge the Motion to Dismiss they have an adequate remedy of law and that is to file an appeal afterwards. Mr. Benson believes the Defendant will suffer no harm in moving forward. The Court pointed out that the Plaintiffs will not suffer any harm from the **STAY** pending the Writ of Mandamus either. Therefore, **COURT ORDERED**, the Motion is **GRANTED** and this matter is **STAYED**. **COURT FURTHER ORDERED**, matter set for status check in ninety (90) days. Colloquy regarding the trial date and the Five (5)-Year Rule. Although there is no formal stipulation as to the Five (5)-Year Rule, Mr. Orr believes that the **STAY** also takes care of that issue. Court **CONCURRED** and **ORDERED**, trial date **VACATED**. 01/08/19 8:00 AM **STATUS CHECK: MOTION FOR STAY GRANTED***

CASE SUMMARY


CASE NO. A-13-691887-C

	(10/09/018) ;
10/30/2018	<p>CANCELED Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.)</p> <p><i>Vacated</i></p> <p><i>Calendar Call: Five (5)-Year Rule (11/18/18)</i></p>
11/13/2018	<p>CANCELED Jury Trial - FIRM (9:30 AM) (Judicial Officer: Smith, Douglas E.)</p> <p><i>Vacated</i></p>
01/08/2019	<p> Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)</p> <p><i>Status Check: Motion for Stay GRANTED 10/09/18</i></p> <p><i>Matter Continued; Motion to Stay GRANTED 10/09/18</i></p> <p><i>At Request of the Court</i></p> <p><i>Journal Entry Details:</i></p> <p><i>This is the time set for the Status Check on the Motion to Stay GRANTED on 10/09/18. Mr. Orr advised that the Writ of Mandamus has been filed and all briefing is complete; he is unsure as to when this matter will be resolved. Mr. Orr believes the Supreme Court will ask for oral argument. COURT ORDERED, status check CONTINUED for ninety (90) days. If the matter has not been decided by then the matter can be taken off calendar; counsel should notify this Court's staff. CONTINUED TO: 04/09/19 8:00 AM ;</i></p>
06/25/2019	<p> Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.)</p> <p><i>Status Check: Motion for Stay GRANTED 10/09/18</i></p> <p><i>Matter Continued; Motion for Stay GRANTED 10/09/18</i></p> <p><i>Journal Entry Details:</i></p> <p><i>This is the time set for the Status Check on the Motion for Stay GRANTED on 10/09/18. Court noted that Defendant's Motion for Stay Pending Writ of Mandamus was granted on October 9, 2018, and the Order was filed on October 29, 2018. It appears that the Supreme Court has not made a decision yet. Counsel CONCURRED. Mr. Silva advised that this matter has been pending since September; the Reply brief was filed in December. The Supreme Court will either assign a hearing date or issue an order but, at this time, counsel is not certain of what is going to happen. Colloquy regarding setting another status check date; Mr. Silva advised that the Complaint was filed in November 2013 so the five (5)-year rule is close to running as soon as the Supreme Court remands the case, unless counsel can Stipulate to WAIVING that rule. Therefore, Mr. Silva would prefer setting a status check every thirty (30) days; if the Supreme Court decision is still pending, counsel could notify the Court and the matter could then be continued for another thirty (30) days. COURT ORDERED, matter set for status check; counsel do not need to appear unless there is a decision from the Supreme Court. 07/23/19 8:30 AM STATUS CHECK: SUPREME COURT DECISION ;</i></p>
11/19/2019	<p>CANCELED Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.)</p> <p><i>Vacated - per Secretary</i></p> <p><i>Status Check: Supreme Court Decision</i></p>
12/03/2019	<p> Motion for Substitution (8:30 AM) (Judicial Officer: Silva, Cristina D.)</p> <p><i>Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ</i></p> <p><i>Matter Heard; Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ</i></p> <p><i>Journal Entry Details:</i></p> <p><i>This is the time set for hearing on Defendant James McNamee's Motion to Substitute Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ. Court noted that it reviewed the Nevada Supreme Court's opinion which GRANTED, in part, counsel's Writ of Mandamus, Defendant's Motion, the Plaintiffs' Opposition, and the Defendant's Reply. Mr. Sampson discussed the incident; the issue is this case is that there was an accident and during the pending litigation, Defendant, James McNamee, passed away. At the time of the accident, Mr. McNamee had a \$30,000/\$60,000 policy so \$60,000 total for the two (2) Plaintiffs was involved in this case. The Plaintiffs' position is that the policy was demanded to be paid and should have been paid; however, although it was a reasonable settlement offer, the insurance company choose not to accept it. With regard to the procedural history, Mr. Sampson advised that the Special Administrator was appointed on the representation that the only asset that Mr. McNamee had at the time he passed away was the</i></p>

CASE SUMMARY

CASE NO. A-13-691887-C

insurance policy. Plaintiffs' position is that omits the potential bad faith claim. Colloquy with regard to a potential trial; Mr. Sampson advised that at trial, the Plaintiff would be proceeding against whoever is appointed in Mr. McNamee's stead. If \$100,000 were awarded, for example, that would expose the Estate to an additional amount over the insurance policy. The issue is that a Special Administrator, prior to trial, has no ability to use the bad faith claim; the only thing the Special Administrator can control is the insurance policy itself. Therefore, by having a Special Administrator appointed and limited to the insurance proceeds only, the potential bad faith claim of the estate disappears and because the estate is being represented by the same attorneys that are being paid for by the insurance company, that is in the insurance company's interest because the insurance company's exposure is limited to the policy limits only. Argument by Mr. Silvestri; the trial that would occur here would be a trial between Plaintiffs and Defendant and the question would be what the Jury would decide to award. The bad faith claim would not be a part of the trial; it would somehow have to be brought in a separate action against GEICO. Additionally, Mr. Silvestri advised that the only Motion before the Court today is to substitute in the only administrator that has been appointed for Mr. McNamee and that is the Special Administer. The Supreme Court issued a Writ ORDERING this Court to vacate two (2) orders, the one dated March 27, 2018, and the other dated May 14, 2018. NRS Chapter 140 states that the Special Administrator is subject only to the payment of what is the only known asset and that is the insurance policy and NRS 41.100 allows an Estate and Administrator or Executor to pursue only those claims that existed at the time of death. Mr. Sampson believes that a bad faith claim is an asset to the estate; argument. Additionally, Mr. Silvestri advised that fact that Plaintiffs want to claim there is a bad faith claim is fictitious. The only thing before the Court is who substitutes in for the decedent and the only thing there is, is the order from the Probate Court appointing a special administrator for the purposes of this lawsuit. The idea that there is a conflict of interest, this is in the insured/estates best interest because the estate, according to Nevada law, is limited to available insurance money. The law is we have a decedent with no assets, a Special Administrator has been appointed, and we have an order from this District Court that spells it out. The Supreme Court did not like what Judge Smith did so we are here to get an appointment made for Mr. McNamee and the only available appointment is the Special Administrator. The Court noted that the Supreme Court was clear as to what this Court was supposed to do and this Court does not have a basis in law to do what Mr. Sampson has asked the Court to do. Therefore, based on the relevant case law and the directions issued by the Supreme Court, COURT ORDERED, the Motion is GRANTED; Susan Clokey will represent Mr. McNamee for purposes of this action. With regard to the bad faith claim and the Plaintiffs' concerns, that can be raised in a separate motion. Colloquy regarding the future motion to determine the bad faith; Mr. Sampson suggested that this hearing be continued, thereby giving him an opportunity to file a motion to get a general administrator, which he believes would alleviate the problem and put this matter to rest. COURT ORDERED, the request is DENIED. Mr. Silvestri to prepare a proposed order. ;


- 02/04/2020 **CANCELED Motion for Appointment** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Vacated - per Stipulation and Order
Plaintiffs' Motion for Appointment of a General Administrator on an Order Shortening Time
- 03/10/2020 **Motion for Appointment** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Plaintiffs' Motion for Appointment of a General Administrator on Order Shortening Time
Deferred Ruling;
- 03/10/2020 **Opposition and Countermotion** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Defendant's Opposition to Plaintiffs' Motion for Appointment of a General Administrator -and-
Countermotion to Join GEICO as a Required Party
Deferred Ruling;
- 03/10/2020  **All Pending Motions** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Plaintiffs' Motion for Appointment of a General Administrator on Order Shortening Time . . .
Defendant's Opposition to Plaintiffs' Motion for Appointment of a General Administrator -and-
Countermotion to Join GEICO as a Required Party
Matter Heard;
Journal Entry Details:
PLAINTIFFS' MOTION FOR APPOINTMENT OF A GENERAL ADMINISTRATOR ON
ORDER SHORTENING TIME . . . DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION
FOR APPOINTMENT OF A GENERAL ADMINISTRATOR -AND- COUNTERMOTION TO
JOIN GEICO AS A REQUIRED PARTY This is the time set for hearing on above-named
Motions. The Court has reviewed the Motion and the Opposition. In this case, James


CASE SUMMARY

CASE NO. A-13-691887-C

McNamee rear-ended the Plaintiffs' vehicle. The damages exceeded the limits of Mr. McNamee's GEICO policy; in lieu of tendering the policy limits, GEICO refused to pay thereby exposing Mr. McNamee to a judgment in excess of his policy limits. Argument by Mr. Eschweiler regarding the potential bad-faith claim; a bad faith award can only happen after a trial. As the Court is aware, Mr. McNamee passed away so his estate has assumed all the liability that he created in his lifetime. Mr. McNamee's potential bad-faith claim is an assignable asset which can be used to protect him from GEICO's bad-faith conduct. A General Administrator is necessary to administer the estate's bad-faith claim. Argument by Mr. Silvestri; he represented that the Plaintiffs have a major procedural and substantive issue. With regard to the procedural issue, the Plaintiffs are requesting to have a General Administrator named, presently they have a Special Administrator. The Special Administrator needs to be removed by the Probate Court; argument. Substantively, Mr. McNamee died in Arizona, he had no assets in Nevada so without assets a general administration cannot be opened; there is only a potential bad-faith claim and judgment. Mr. Silvestri discussed NRS 41.100; actions cease to exist upon the death of someone. Rebuttal by Mr. Eschweiler; his request is clear, they want to appoint someone within the Court's discretion under Rule 25 to look after the potential bad-faith claim and to make sure the estate's interests are represented. Defendants' Countermotion to Join GEICO as a Required Party; Mr. Eschweiler advised that since GEICO has counsel to protect its interests, the estate's interests should be protected as well. Mr. Carlson advised that if Plaintiff's Motion is DENIED then the Countermotion would be MOOT. To the extent that the Court believes that any of these issues should be entertained at this time, he would request that GEICO not be named as a party to this action; they would rather address these issues before the Probate Court. COURT ORDERED, decision DEFERRED; matter set for decision on this Court's Chamber calendar. 04/13/20 CHAMBER CALENDAR: DECISION ;

04/07/2020 CANCELED Calendar Call (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Vacated - per Stipulation and Order

 **Motion For Reconsideration** (3:00 AM) (Judicial Officer: Silva, Cristina D.)
Special Administrator's Motion for Reconsideration on Order Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. Parker M.D. and Hugh Selznick M.D. Denied; Special Administrator's Motion for Reconsideration on Order Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. Parker M.D. and Hugh Selznick M.D. Journal Entry Details:
The Special Administrator's Motion for Reconsideration on Order Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. Parker M.D., and Hugh Selznick M.D. came before the Court on April 13, 2020, Chamber Calendar. Having reviewed the Motion and Opposition thereto, the COURT FINDS that the Motion fails to comply with Court Rules. Pursuant to EDCR 2.24, Defendant had fourteen (14) days to file a Motion for Reconsideration from the respective dates that the Court entered its orders granting: (1) Plaintiff's Motion to Strike Untimely Supplemental Expert Report From Defendant's Rebuttal Expert Mark Erwin on Order Shortening Time; (2) Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendant's Medical Expert Edson O. Parker; and, (3) Plaintiff's Motion to Strike Defendant's Seventh Supplemental Expert Witness Disclosure. The Court entered its Orders regarding the three aforementioned Motions on May 24, 2017, and June 15, 2017, respectively. As a result, the latest date that Defendant could have filed a Motion for Reconsideration would have been June 29, 2017; however, Defendant did not file the Motion until March 7, 2020. Therefore, COURT ORDERED, the Special Administrator's Motion for Reconsideration is DENIED. CLERK S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system;

04/13/2020  **Decision** (3:00 AM) (Judicial Officer: Silva, Cristina D.)
Decision: Motion for Appointment of a General Administrator on Order Shortening Time . . . Defendant's Opposition to Plaintiff's Motion for Appointment of a General Administrator -and- Countermotion to Join GEICO as a Required Party
Decision Made;
Journal Entry Details:

The Court heard oral argument on Plaintiff's Motion for Appointment of a General Administrator and Defendant's Opposition to Plaintiff's Motion for Appointment of a General Administrator -and- Countermotion to Join GEICO as a Required Party on March 10, 2020, but DEFERRED its ruling. The Court's ruling is as set forth in the Decision filed on April 16,

CASE SUMMARY**CASE NO. A-13-691887-C**

	2020. ;
04/13/2020	CANCELED All Pending Motions (3:00 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated</i>
05/11/2020	CANCELED Jury Trial - FIRM (9:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Stipulation and Order</i>
05/11/2020	CANCELED Jury Trial (9:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated</i>
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Motion in Limine Regarding Testimony and Employment of Special Administrator, Susan Clokey</i> Granted;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Motion in Limine to Exclude Plaintiffs' Improperly Disclosed Non-Retained Experts</i> Denied Without Prejudice;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Motion in Limine to Preclude Stan Smith PH.D. from Testifying on Medical Issues and Causation</i> Denied;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Motion in Limine to Preclude Information or Testimony on Lost Income or Wage Loss</i> Granted in Part;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Motion in Limine to Preclude Evidence or Testimony Regarding Medical Damages or Providers not Contained in Plaintiffs' Verified Interrogatory Answers</i> Denied;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Motion In Limine to Exclude Expert Opinions from Lay Witnesses</i> Denied;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle</i> Deferred Ruling;
05/13/2020	Motion in Limine (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions From Defendant's Medical Experts</i> Granted in Part;
05/13/2020	Motion (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Plaintiffs' Motion to Exclude Defendant's' 8th Supplemental Expert Witness Disclosure on Order Shortening Time</i> AO 20-01, 20-02 Denied;
05/13/2020	 All Pending Motions (11:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Plaintiffs' Motion to Exclude Defendant's' 8th Supplemental Expert Witness Disclosure on Order Shortening Time . . . Plaintiffs' and Defendant's Motions in Limine</i> Matter Heard;

CASE SUMMARY**CASE NO. A-13-691887-C****Journal Entry Details:**

Mr. Sampson and Mr. Molina appearing via BlueJeans; Mr. Eschweiler appearing via CourtCall. This is the time set for hearing on Plaintiffs' Motion to Exclude; Plaintiffs' Motion in Limine; and Defendant's Motions in Limine. Plaintiffs' Motions: Plaintiffs' Motion to Exclude Defendant's 8th Supplemental Expert Witness Disclosure: The Court has reviewed the Motion and the Opposition. Arguments by counsel. COURT ORDERED, the Motion is GRANTED to the extent that this Supplement Expert Disclosure relies on reports and documentation that was in existence years ago and was for the purpose of strengthening the previously disclosed records and determinations. However, if the 8th Supplemental Disclosure contains new opinions regarding records that did not exist in the interim time then it is DENIED as to those records. Additional argument; COURT advised that this Court's current ruling is not meant to circumvent the Court's prior ruling regarding supplemental disclosures that came in after discovery closed but for which he had access to but did not produce opinions to. Whether or not a door has or has not been opened; that will be part of a motions practice. Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimates Regarding Plaintiffs' Vehicle: The Court has reviewed the Motion, the Opposition and the JAVS recording from April 10, 2018, argument. The Court noted that it appears that the Defendant's vehicle was sold before any pictures were taken but it is not clear based on the arguments presented at that time. The Court inquired as to whether either counsel knew if the vehicle was sold before or after there was a request for preservation or a request for photographs; neither the Mr. Sampson nor Mr. Molina have the answer to the Court's inquiry. Therefore, COURT ORDERED, decision DEFERRED as it would like an answer to the prior inquiry. COURT FURTHER ORDERED, counsel shall file a Joint Supplemental Brief less than five (5) pages answering that question. The brief will be due on June 17, 2020. This Motion shall be placed on this Court's Chamber Calendar for decision. Plaintiff's Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts: The Court noted that Defendant's experts have indicated that they need photographs from both vehicles in order to render a biomechanical opinion; therefore, the Court inquired as to whether Defendant planned on eliciting a biomechanical opinion from their experts in light of that concession. Argument by Mr. Molina; he discussed Rish v. Simao. Argument by Mr. Sampson. COURT ORDERED, the Motion is GRANTED in part and DENIED in part. The Motion is GRANTED to preclude testimony regarding any accident reconstruction; the exclusion of any engineering testimony regarding the accident itself is also GRANTED. The Motion is DENIED to the extent that the experts, as long as a sufficient foundation is laid at trial, that they can testify to the fact that whatever they reviewed and based on that and based on their training and experience they can testify regarding injuries and what they think happened here. As a caveat, the Court is very concerned about the lack of photographs of the Defendant's vehicle. Defendant's Motions: Defendant's Motion in Limine to Preclude Evidence or Testimony Regarding Medical Damages or Providers not Contained in Plaintiffs' Verified Interrogatory Answers: the Court advised that it has reviewed the Motion and the Opposition. COURT ORDERED, the Motion is DENIED. Defendant's Motion in Limine to Exclude Expert Opinions from Lay Witnesses: Court noted that the Defendant has requested that lay witnesses not be able to offer opinions regarding causation. The Court has reviewed NRS 50.265; the Court will allow the witnesses to testify as to what happened to them. COURT ORDERED, the Motion is DENIED without prejudice. Defendant's Motion in Limine regarding Testimony and Employment of Special Administrator, Susan Clokey: COURT ORDERED, the Motion is GRANTED. Defendant's Motion in Limine to Exclude Plaintiffs' Improperly Disclosed Non-Retained Experts: Arguments by counsel. COURT ORDERED, the Motion is DENIED without prejudice. Defendant's Motion in Limine to Preclude Stan Smith, Ph.D., from Testifying on Medical Issue and Causation: COURT ORDERED, the Motion is DENIED. Defendant's Motion in Limine to Preclude Information or Testimony on Lost Income or Wage Loss: COURT ORDERED, the Motion is GRANTED in part and DENIED in part. The Motion is GRANTED as to Gianni Bianchi and DENIED as to Dara Delpriore. Court directed the parties to meet and confer as to a proposed order. The Order shall be submitted within the next thirty (30) days (June 10, 2020). 06/29/20 CHAMBER CALENDAR DECISION ;

06/29/2020

**Decision (3:00 AM)** (Judicial Officer: Silva, Cristina D.)

Decision: Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimates Regarding Plaintiffs' Vehicle

Granted; Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimates Regarding Plaintiffs' Vehicle

Journal Entry Details:

The Decision on Plaintiff's Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiff's Vehicle came before the Court on the June 29, 2020, Chamber Calendar. The Court heard oral argument on this Motion on May 13, 2020, but DEFERRED its ruling.

CASE SUMMARY

CASE NO. A-13-691887-C

The Court now rules as follows: Having reviewed: (1) the moving papers; (2) the separately filed briefs regarding the timing of when copies of photographs were requested as well as when Defendant McNamee sold the van involved in the instant accident; and (3) the arguments of counsel (to include reviewing argument presented to the Court in 2018), the Court hereby GRANTS Plaintiff's Motion. NRS 48.035(1) provides that relevant evidence is admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury. See NRS 48.035(1). The Court has discretion to admit photographs where the probative value outweighs any prejudicial effect the photographs might have on the jury. See Allen v. State, 91 Nev. 78, 530 P.2d 1195 (1975); Ybarra v. State, 100 Nev. 167, 679 P.2d 797 (1984). Here, there are only photographs of the plaintiff's vehicle. There are no photographs of the defendant's vehicle and the vehicle was sold several years ago, making it impossible to obtain photographs or even some sort of inspection to determine any repairs to the vehicle that may have been caused by the accident. Without the ability to compare photographs of both vehicles involved in this accident, a jury could potentially be misled regarding the extent of damage caused as a result of the accident. Photographs can be powerful type of evidence. See State v. Eighth Judicial Dist. Court (Armstrong), 127 Nev. 927, 933, 267 P.3d 777, 781 (2011) (recognizing that evidence can be unfairly prejudicial when it appeals to the emotional and sympathetic tendencies of a jury (internal quotation marks omitted)). Likewise, presenting information regarding damage estimate for repairs to Plaintiff's vehicle only could also be unfairly prejudicial, as it does not provide a complete picture of what occurred during this car accident and the potential damage caused to the vehicles involved. Compare Hall v. Ortiz, 129 Nev. 1120 (2013) (concluding that the photographs and video of the accident in question were just one piece of evidence that the district court had discretion to allow the jury to weigh in determining Ortiz's damages and the probative value of such evidence was not substantially outweighed by the danger of unfair prejudice (citing NRS 48.035)). Accordingly, COURT ORDERED, Plaintiff's Motion is GRANTED. Plaintiff shall draft a Findings of Fact and Conclusions of Law, then meet and confer with Defendant prior to submitting it to the Court for review. The draft should be submitted to DC9Inbox@clarkcountycourts.us, include electronic signatures, and be consistent with this Order. CLERK'S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system. ;

03/02/2021



Request (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Plaintiffs' Request for Status Check

Matter Heard;

Journal Entry Details:

MR. Samson stated this matter was set for trial before the pandemic; additionally, everything was done and the motions in limine were done; therefore, requested the earliest trial setting. Mr. Molina stated he agreed this case was ready to proceed to trial; however, noted it would be a long trial setting, there were out of state witnesses, and the Defendant would like the trial to be done in person and in a normal fashion; therefore, they just needed to figure out when to set the trial. COURT ADVISED, it could reach out to the civil presiding chief and determine when a firm trial setting could be set at the convention center; however, if counsel wanted the matter to proceed at the Regional Justice Center (RJC) it would have to be a bench or short trial setting. Mr. Samson requested the court reach out to the presiding chief. COURT ORDERED, matter SET for a telephonic hearing on the trial setting. Colloquy regarding whether there was a waitlist for cases to be tried at the convention center. Mr. Samson anticipated 7-10 days for trial if given 9:00 AM - 5:00 PM timeframes for the trial days. Mr. Molina agreed. 3/4/21 - 10:00 AM - TELEPHONIC HEARING - CONVENTION CENTER TRIAL SETTING AVAILABILITY ;

03/04/2021



Status Conference (10:00 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Telephonic Hearing - Convention Center Trial Setting Availability

Trial Date Set;

Journal Entry Details:

COURT ADVISED, it had reached out the chief civil presiding judge in regarding to the trial setting. Mr. Samson stated the parties had discussed potential trial setting dates. Mr. Molina stated the parties were not willing to forego a jury trial and it was too complex for a short trial setting. COURT ADVISED, the only option was to do a jury trial at the convention center, and they only had access to the convention center March through April, but it was not sure whether they would have that location in May; therefore, offered a 3/15/21 through 3/19/21 (a five day) trial setting; however, if counsel needed 7-10 days it could not go past that timeframe as there was another case set for four weeks starting 3/22/21. Mr. Molina stated the lead counsel on the case was away in Winnemucca and he anticipated the trial would go over 5 days. Mr. Samson

CASE SUMMARY**CASE NO. A-13-691887-C**

suggested a status check setting in May and advised they would prepare for trial. Mr. Molina requested a firm setting within the May stack on 6/14/21. Mr. Samson requested to be set on the stack. Following colloquy regarding counsel and the Court's availability, COURT ORDERED, matter SET for trial on its stack and ADVISED, it would take note of counsel's request for a firm trial setting on 6/14/21. 5/11/21 - 9:30 AM - CALENDAR CALL 5/24/21 - 9:00 AM - JURY TRIAL;

05/11/2021

**Calendar Call** (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Trial Date Set;

Journal Entry Details:

Court noted there was already a Stipulation and Order to extend the five year rule. Colloquy regarding scheduling. Counsel estimated 7-10 days for trial. COURT ORDERED, trial date RESET; Counsel to advise Court at calendar call approximately how many days the trial is going to take.;

05/24/2021

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Vacated

05/25/2021

CANCELED Motion to Exclude (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Vacated

Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure.

06/08/2021

**Motion to Exclude** (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)**06/08/2021, 06/22/2021, 07/06/2021**

Plaintiffs' Motion to Exclude Defendants' Ninth Supplemental Expert Witness Disclosure on Order Shortening Time

Matter Continued;

Continued;

Denied in Part;

Matter Continued;

Continued;

Denied in Part;

Journal Entry Details:

Mr. Ellis argued to exclude the expert disclosure as there was no reason for the untimely delay. Furthermore, there was not a new opinion or evidence. Opposition by Mr. Molina. Argument that Plaintiff had produced several supplements since close of Discovery September 2016 and Defendant's did not oppose. Court finds an overlap issue of reports being admitted versus expert testimony. COURT ORDERED, matter UNDER ADVISEMENT and will issue a decision from Chambers. Matter set for Decision 7/6/21 in Chambers.;

Matter Continued;

Continued;

Denied in Part;

Journal Entry Details:

COURT ORDERED, matter CONTINUED. Replies due by end of business day on 6/16/21.

CONTINUED TO: 6/22/21 9:30 AM;

07/06/2021

Countermotion (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Defendant's Opposition to Plaintiff's Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure and Defendant's Counter-Motion

Denied;

07/06/2021

**All Pending Motions** (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)



Matter Heard;

Journal Entry Details:

Defendant's Opposition to Plaintiff's Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure and Defendant's Counter-Motion Plaintiff's Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure and Defendant's Counter-Motion Matter submitted on the pleadings. COURT ORDERED motion DENIED IN PART; The Court will not change it's prior orders. If an expert is discussing medical treatment or about an area previously excluded through a prior order, it is GRANTED. If the disclosure discusses topics not previously excluded, it is DENIED. COURT FURTHER ORDERED, countermotion DENIED. ;

CASE SUMMARY

CASE NO. A-13-691887-C

07/20/2021	Calendar Call (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin) Matter Heard;
07/20/2021	Motion (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin) <i>Plaintiff's MIL to Exclude Evidence</i> Denied;
07/20/2021	 All Pending Motions (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin) Matter Heard; Journal Entry Details: <i>CALENDAR CALL PLTF'S MOTION IN LIMINE TO EXCLUDE Counsel anticipated 10 days for trial with 13 experts. Court advised that jury selection would commence 8/5/21. Mr. Molina argued the Indictment was filed in 2018; the witness was a felon; and wanted the evidence to be used for impeachment and creditability Mr. Samson argued the conviction did not happen until 2021 and requested to exclude expert Dr. Gross's criminal case in California. Furthermore, there was no lien on this case by Dr. Gross. COURT ORDERED, motion to exclude DENIED. Court finds conviction goes to credibility.;</i>
08/02/2021	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Lilly-Spells, Jasmin) <i>Vacated</i>
08/02/2021	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Lilly-Spells, Jasmin) <i>Vacated - Duplicate Entry</i>
08/05/2021	 Jury Trial - FIRM (10:00 AM) (Judicial Officer: Lilly-Spells, Jasmin) 08/05/2021-08/06/2021, 08/09/2021-08/13/2021, 08/16/2021-08/18/2021 Trial Continues; Trial Continues; Continued; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Verdict; Journal Entry Details: <i>PRESENCE OF THE JURY: Closing statements by counsel. Alternate jurors thanked and excused. Jury retired to deliberate at 9:40am. Jury returned at 3:26pm with a Verdict. TRIAL ENDS.;</i> Trial Continues; Trial Continues; Continued; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Trial Continues; Verdict; Journal Entry Details: <i>OUTSIDE THE PRESENCE: Colloquy between the Court and counsel regarding a Direct Verdict on policy limits. Court finds a ruling premature and instructed further briefing. Mr. Silvestri moved for Direct Verdict on abuse of 16.1 and for case ending sanctions. Opposition by Mr. Samson. Court finds there was a failure to turn over Dr. Sharma and Desert Radiology, request DENIED as to future damages and case ending sanctions; GRANTED as the Court will impose a limited instruction. Mr. Silvestri moved for Direct Verdict on exclusion of medical bills. Opposition by Mr. Sampson. COURT GRANTED striking of the medical bills. Mr. Silvestri moved for Direct Verdict regarding Carpel Tunnel. COURT DENIED. Jury Instructions settled on the record. PRESENCE OF THE JURY: Court instructed the jury. Closing statements by counsel. COURT ADMONISHED and EXCUSED the jury for the evening. Trial CONTINUED 8/18/21 9:00am.;</i> Trial Continues;

CASE SUMMARY

CASE NO. A-13-691887-C

Trial Continues;

Continued;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Trial Continues;

Trial Continues;

Continued;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

PRESENCE OF THE JURY: Dara Delpriore sworn and testified. Exhibits admitted. OUTSIDE THE PRESENCE: Objections put on the record. PRESENCE OF THE JURY: Thomas Dunn and Mark Winker sworn and testified. Exhibits admitted. COURT ADMONISHED and EXCUSED the jury for the evening. Trial CONTINUED 8/13/21 9:00AM. ;

Trial Continues;

Trial Continues;

Continued;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Colloquy between the Court and counsel regarding the scope of exclusions of Dr. Edson Parker. PRESENCE OF THE JURY: Edson Parker and Walter Kidwell sworn and testified. Exhibits admitted. COURT ADMONISHED and EXCUSED the Jury for the evening. Trial CONTINUED 8/12/21 9:00AM. OUTSIDE THE PRESENCE OF THE JURY: Juror interviewed individually on possible recognizer of the witness. Juror excused. Objections put on the record regarding bills and cumulative testimony. ;

Trial Continues;

Trial Continues;

Continued;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Juror questioned individually. PRESENCE OF THE JURY: Jury selected and sworn. OUTSIDE THE PRESENCE OF THE JURY: Objections by counsel regarding future care of the Plaintiffs. Dr. Stuart Kaplan interviewed. Mr. Molina requested to exclude the witness. Objection by Mr. Samson. Court over ruled and finds he is a treating physician ant there was proper notice and opinions were formed in his treatment. PRESENCE OF THE JURY: Stuart Kaplan sworn and testified. Exhibits admitted. OUTSIDE THE PRESENCE OF THE JURY: Objections by counsel regarding Dr. Kabins. PRESENCE OF THE JURY: Mark Kabins sworn and testified. Exhibits admitted. COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED 8/11/21 9:00am.;

Trial Continues;

Trial Continues;

Continued;

Trial Continues;

CASE SUMMARY

CASE NO. A-13-691887-C

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Daniel Polsenberg, present for the Defendant, also present. THE PRESENCE OF THE PROSPECTIVE JURY : Voir dire continued. OUTSIDE THE PROSPECTIVE JURY PANEL: Challenges for cause put on the record. Court noted for the record juror in seat #6 was taking notes during voir dire and was instructed to stop. THE PRESENCE OF THE PROSPECTIVE JURY: Voir dire continued. OUTSIDE THE PROSPECTIVE JURY PANEL: Court noted it reviewed the Pre-Trial Motion and ORDERED as to Plaintiff's objections to the Defendant's pre-trial disclosures rulings as follows: tab 1 - sustained tab 2 as to the accident report of 6/6/2006 - sustained, tab 3 recorded statement of Mr. McNamee - sustained, tab 4 - sustained, tab 5 as to the declaration bates pages 44-310 - sustained, tab 6 records from Dr. Kenneth Grant - arguments by Mr. Molina and Mr. Samson - overruled, tab 9 records from the paris hotel- Redact employee ID numbers prior to admission, can be objected to at the time of offer otherwise overruled, tab 10 - moot, tab 11 - same as tab 9, tab 18 - moot, tab 21 - Mr. Samson stated they were not offering - sustained, tab 27 - overruled consistent with prior ruling, tab 39/116 - Mr. Samson stated they were not offering, tab 40 - previously sustained, tab 42-44 moot, tab 45 - arguments by Mr. Molina and Mr. Samson - overruled, tab 55 - overruled, tab 47 - sustained, with Plaintiff's signature deferred for impeachment tab 53 - repeat tab 55 - repeat tab 61 - moot tab 65 - arguments by Mr. Molina and Mr. Samson - deferred tab 68 - arguments by Mr. Molina and Mr. Samson - sustained, can use for impeachment not admitted, tab 69 - stipulate same as tab 68, COURT FURTHER ORDERED, as to Defendant's objections to evidence offered by Plaintiff as followings: As to Plaintiff's Bianchi documents # 1-12 - Mr. Silvestri stated they would stipulate to authenticity of the medical records of Mr. Bianchi and Ms. Del Priore, however, they object to the order allowing medical records being pre-admitted without witnesses testifying. Mr. Samson advised that order has been an order for over 4 years and there was no reason to not admit them. Discussion regarding some records missing from this trial packet. As to Plaintiff's documents 13 - As to future costs - overruled pursuant to order of 7/19/17. Arguments by Mr. Molina and Mr. Samson. Court stated it would continue to review these documents and allow counsel additional time to argue at a later time. As to Plaintiff's documents 14-27 - Mr. Silverti he believed the parties would work that out. As to the accident report - sustained. As to documents 30 - photos had been dealt with As to the Stan Smith Report - sustained. Colloquy regarding releasing current juror #12, Bailey. Further arguments by Mr. Molina and Mr. Samson as to Defense's objection to Plaintiff's #13. MATTER TRAILED for Court to review information provided. MATTER RECALLED, all parties present as before. OUTSIDE PRESENCE OF THE PROSPECTIVE JURY: As to Plaintiff's #13 - Court stated it FINDINGS and overruled Defense's objections as to Dr. Kabin and Dr. Kaplan if the opinons were formed during the course of treatment as they were designated as expert witnesses; if the opinons were formed after treatment was concluded then testimony would be excluded, therefore; prior to Dr. Kabin and Dr. kaplan testifying the Court would allow them to be voir dire outside the presence. As to juror #12, Bailey, counsel decided to release her and proceed with the remaining jurors. Court released juror Bailey. THE PRESENCE OF THE PROSPECTIVE JURY: Court read pretrial instructions. Jury panel selected. EXCLUSIONARY RULE INVOKED as to lay witnesses only. Jury panel sworn in. Opening statements by Mr. Samson and Mr. Silvestri. COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED. CONTINUED TO:

08/10/2021 9:15 AM;

Trial Continues;

Trial Continues;

Continued;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;




Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record. Juror questioned individually. PRESENCE OF THE PROSPECTIVE JURY: General Voir Dire conducted. OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record. PRESENCE OF THE PROSPECTIVE JURY: General Voir Dire conducted. PRESENCE OF THE PROSPECTIVE JURY, COURT ADMONISHED and EXCUSED the jury

CASE SUMMARY

CASE NO. A-13-691887-C

	<p>for the evening. COURT ORDERED, trial CONTINUED. OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record. CONTINUED....8/10/21 9:00AM ;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Continued;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Trial Continues;</p> <p>Verdict;</p> <p>Journal Entry Details:</p> <p><i>PRESENCE OF THE PROSPECTIVE JURY: Role Call. Clerk swore prospective jury panel. General Voir Dire conducted. OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record. Juror questioned individually. PRESENCE OF THE PROSPECTIVE JURY, COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED. CONTINUED....8/6/21 10:00AM ;</i></p>
08/18/2021	<p>CANCELED Jury Trial (9:00 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p> <p><i>Vacated - On in Error</i></p>
08/31/2021	<p> Show Cause Hearing (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p> <p>Events: 08/17/2021 Order to Show Cause</p> <p><i>Failure to Appear for Jury Service on August 9, 2021 [Ilene Garcia]</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Ilene Garcia sworn and testified. Ms. Garcia indicated there was a family emergency and she called the Court and left messages.. Court advised that it would not imposed a fine however she must be excused officially otherwise she could be held in contempt of the Court for not returning to jury duty.;</i></p>
08/31/2021	<p> Show Cause Hearing (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p> <p><i>Re: Contempt- Mary Moses</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Mary Moses sworn and testified. Ms. Moses indicated that she kept trying to tell the Court she could not serve as a juror. Court advised that it would not imposed a fine however she must be excused officially otherwise she could be held in contempt of the Court for not returning to jury duty.;</i></p>
10/12/2021	<p>CANCELED Hearing (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p> <p><i>Vacated</i></p>
11/16/2021	<p> Motion for Judgment Notwithstanding the Verdict (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p> <p>Events: 09/13/2021 Motion for Judgment Notwithstanding Verdict</p> <p><i>Defendant's Motion for Judgment Notwithstanding the Verdict (NRCP 50(b)) and/or Motion to Alter or Amend Jury Verdict (NRCP 59(e)) in Accordance with NRS 140.040</i></p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>Mr. Silvestri requested to reduce the verdict to \$30,000.00 per Plaintiff per Geico's limits. Statement regarding Special Administrator being substituted in as the Defendant. Mr. Silvestri stated the facts were different 8 years ago and that Plaintiff never quit treating. Opposition by Mr. Samson. Argument to keep the verdict in place; a bad faith claim existed; and requested the matter be heard in Probate Court. Colloquy between Court and counsel regarding if a new trial would be required, police limits exceeding the verdict amount; and Probate Court to make the determination. COURT ORDERED, motion GRANTED pursuant to NRCP 50; Request for a new trial DENIED. Mr. Silvestri to prepare the order. ;</i></p>
01/25/2022	<p>Motion to Retax (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p> <p>Events: 12/17/2021 Motion to Retax</p>

CASE NO. A-13-691887-C

Opposition and Countermotion (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)
Opposition to Motion to Retax and Countermotion for Award of Costs, Interest, and Entry of Judgment

Printed on 01/07/2022 at 9:59 AM

CIVIL COVER SHEET A-13-691887-C

Clark County, Nevada

Case No. _____

(Assigned by Clerk's Office)

VIII

I. Party InformationPlaintiff(s) (name/address/phone): GIANN BIANCHI; and
DARA DELPRIORE

c/o Glen Lerner Injury Attorneys

Attorney (name/address/phone):

Adam D. Smith, Esq., Glen Lerner Injury Attorneys

4795 South Durango Drive; Las Vegas, Nevada 89147

Defendant(s) (name/address/phone):

JAMES McNAMEE

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ Arbitration Requested**Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input checked="" type="checkbox"/> Negligence <input checked="" type="checkbox"/> Negligence -- Auto <input type="checkbox"/> Negligence -- Medical/Dental <input type="checkbox"/> Negligence -- Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence -- Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
<input type="checkbox"/> Probate <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Other Civil Filing Types <input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Agmt/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

11-19-13

Date

Signature of initiating party or representative

Heather S. Linn

CLERK OF THE COURT

ORDER

JAMES P.C. SILVESTRI, ESQ.

Nevada Bar No. 3603

ROBERT P. MOLINA, ESQ.

Nevada Bar No. 6422

PYATT SILVESTRI

701 Bridger Avenue, Suite 600

Las Vegas, Nevada 89101

(702) 383-6000

(702) 477-0088 (Fax)

jsilvestri@pyattsilvestri.com

rmolina@pyattsilvestri.com

Attorneys for Susan Clokey
Special Administrator for the
Estate of James McNamee

DISTRICT COURT

CLARK COUNTY, NEVADA

GIANN BIANCHI, individually, DARA
DELPRIORE, individually,

Plaintiffs,

vs.

SUSAN CLOKEY, Special Administrator for the
ESTATE OF JAMES MCNAMEE, DOES I-X,
and ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No.: A-13-691887-C

Dept. No.: XXIII

**ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING
THE VERDICT (NRCF 50(b)) AND/OR MOTION TO ALTER OR AMEND JURY
VERDICT (NRCF 59(e)) IN ACCORDANCE WITH NRS 140.040**

Defendant's Motion For Judgment Notwithstanding the Verdict (NRCF 50(b)) and/or
Motion to Alter or Amend Jury Verdict (NRCF 59(c)) in accordance with NRS 140.040, having
come on for hearing on the 16th day of November, 2021, in Department XXIII, the Honorable
Jasmin Lilly Spells presiding, Defendant Susan Clokey, Special Administrator for the Estate of
James McNamee, being represented by James P.C. Silvestri, Esq. of Pyatt Silvestri, Daniel F.
Polsenberg, Esq. and Joel D. Henriod, Esq. of Lewis Roca Rothgerber Christie LLP, and Alex
LeVeque, Esq. of Solomon Dwiggin Freer & Steadman, Ltd., and Plaintiffs Giann Bianchi and
Dara Del Priore, being represented by Ian Samson, Esq. of Panish Shea & Boyle, having
considered the same and the papers and pleadings on file herein as well as the oral argument from

counsel, having deferred its decision, the Court now rules as follows:

ORDER

b

1. Defendants Motion is GRANTED under NRCP 50, subsection ~~6~~. The Court has the authority to the grant the relief requested. The Motion for Judgment as a Matter of Law may be made at any time before the case is submitted to the jury. The Court finds that the Motion was made prior to the case being submitted to the jury. The Court deferred ruling, waiting until after the jury had rendered a verdict, allowing the subject matter to be tried on its merits.

2. NRCP 50(b) states in relevant part:

If the Court does not grant a Motion for Judgment as a matter of law made under Rule 50(a), the Court is considered to have submitted the action to the jury subject to the Court's later deciding the legal questions raised by the Motion. Not later than 28 days after service of written notice of the entry of Judgment, the movant may file a renewed motion.

The 28-day deadline was met in this case.

3. A motion for judgment under NRCP 50(b) presents solely a question of law to be determined by the Court. *Dudley v. Prima*, 84 Nev. 549, 445 P.2d 31 (1968).

4. In ruling on the renewed motion for judgment under NRCP 50(b), the Court may allow the judgment on the verdict, order a new trial, or direct entry of judgment as a matter of law. If the Court grants the renewed motion for judgment as a matter of law, it must also conditionally rule on any motion for a new trial under NRCP 50(c).

5. NRS 140.040(3) limits the liability of a special administrator to the limits available under a liability insurance policy. In this case, the Defendant Special Administrator is only liable to Plaintiffs for the amount available under the automobile liability policy issued by GEICO insurance, *i.e.*, \$30,000 for each Plaintiff for a total amount of \$60,000.

6. The Court finds that *Zhang v. Barnes*, 132 Nev. 1049 (2016) (unpublished), and *Las Vegas Metropolitan Police Department v. Yeghiazarian*, 129 Nev. 760 (2013), to be instructive. In both of those cases, the Court reduced jury verdicts and jury judgments based upon statutory

caps. Here, NRS 140.040 caps the Special Administrator's liability to the insurance policy limits. Therefore, it is appropriate to cap the Judgment pursuant to NRS 140.040.

7. Under NRCP 50(c), the Court hereby entertains the possibility of a new trial. The rule likely does not apply to circumstances where a statute or rule requires a particular result as a matter of law, rather than a Rule 50(b) motion premised on an insufficiency of evidence to support a claim. Nevertheless, here, Plaintiffs have not made any conditional motion for new trial and the Court does not find, *sua sponte*, any grounds for a new trial.

8. The Court finds that the judgment reduction is based solely on the statutory liability cap. This case has been fully tried as to all relevant facts with the exception of the legal question posed by NRS 140.040.

9. Judgment may now be entered accordingly based upon the above stated findings of facts and conclusions of law.

DATED this ____ day of _____, 2021.

Dated this 7th day of December, 2021


DISTRICT COURT JUDGE

4A9 16F BB02 C108

Jasmin Lilly Spells

Appellate Court Judge

Submitted by:

PYATT SILVESTRI

PANISH SHEA & BOYLE

/s/ James P. C. Silvestri, Esq.
JAMES P. C. SILVESTRI, ESQ.
Nevada Bar No. 3603
ROBERT P. MOLINA, ESQ.
Nevada Bar No. 6422
701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
Attorneys for Defendant Susan Clokey
Special Administrator for the
Estate of James McNamee

/s/ Ian Samson
IAN SAMSON, ESQ.
Nevada Bar No. 15089
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiffs

Barbara Abbott

From: Ian Samson <samson@psblaw.com>
Sent: Wednesday, December 01, 2021 4:28 PM
To: James Silvestri; Adam Ellis; corey@erinjuryattorneys.com
Cc: Robert Molina; Polsenberg, Daniel F.; Henriod, Joel D.; Alexander LeVeque; Barbara Abbott
Subject: RE: 2021.11.29 Order.revised

Caution! This message was sent from outside your organization.

[Block sender](#)

You may include my signature.

From: James Silvestri <jsilvestri@pyattsilvestri.com>
Sent: Wednesday, December 1, 2021 4:25 PM
To: Ian Samson <samson@psblaw.com>; Adam Ellis <ellis@psblaw.com>; corey@erinjuryattorneys.com
Cc: Robert Molina <rmolina@pyattsilvestri.com>; Polsenberg, Daniel F. <DPolsenberg@lewisroca.com>; Henriod, Joel D. <JHenriod@lewisroca.com>; Alexander LeVeque <aleveque@sdfnlaw.com>; Barbara Abbott <babbott@pyattsilvestri.com>
Subject: RE: 2021.11.29 Order.revised

CAUTION: External Email

Ian
Any word on the proposed Order?

Jim

James P.C. Silvestri



701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
Telephone: (702) 383-6000
Facsimile: (702) 477-0088
jsilvestri@pyattsilvestri.com
www.pyattsilvestri.com



1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Gianni Bianchi, Plaintiff(s)

CASE NO: A-13-691887-C

7 vs.

DEPT. NO. Department 23

8 Susan Clokey, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/7/2021

15 Jonathan Carlson

jonathan.carlson@mccormickbarstow.com

16 Cheryl Schneider

cheryl.schneider@mccormickbarstow.com

17 Wade Hansard

wade.hansard@mccormickbarstow.com

18 Alexander LeVeque

aleveque@sdfnvlaw.com

19 Brian Eagan

beagan@sdfnvlaw.com

20 "Brittany Jones, Paralegal" .

bjones@glenlerner.com

21 "Craig Henderson, Esq." .

chenderson@glenlerner.com

22 "Lisa Titolo, Paralegal" .

ltitolo@glenlerner.com

23 "Miriam Alvarez, Paralegal" .

ma@glenlerner.com

24 Barbara Abbott .

babbott@pyattsilvestri.com

25 James Silvestri .

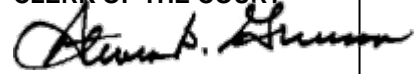
jsilvestri@pyattsilvestri.com

26
27
28

1	Susan Clokey .	sclokey@pyattsilvestri.com
2	Audra Bonney	abonney@wwhgd.com
3	D. Lee Roberts	lroberts@wwhgd.com
4	Kelly Pierce	kpierce@wwhgd.com
5	Janine Prupas	jprupas@swlaw.com
6	Docket Docket	docket_las@swlaw.com
7	Robert Molina	rmolina@pyattsilvestri.com
8	Rahul Ravipudi	ravipudi@psblaw.com
9	Jake Douglass	Douglass@psblaw.com
10	Jaqueline Lucio	Lucio@psblaw.com
11	Adam Ellis	ellis@psblaw.com
12	Christiane Smith	csmith@pyattsilvestri.com
13	Janice Parker	parker@psblaw.com
14	Debbie DeArmond (Paralegal)	ddearmond@mbswc.com
15	Gregorio Silva	gsilva@psblaw.com
16	Corey Eschweiler	ceschweiler@glenlerner.com
17	Rahul Ravipudi	ravipudi@psblaw.com
18	Claudia Lomeli	lomeli@psblaw.com
19	Jaqueline Lucio	lucio@psblaw.com
20	Paul Traina	traina@psblaw.com
21	Ian Samson	samson@psblaw.com
22	Isolde Parr	parr@psblaw.com
23	Craig Henderson	chenderson@lernerandrowe.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Miriam Alvarez	Miriam@erinjuryattorneys.com
Craig Henderson	Craig@erinjuryattorneys.com
Corey Eschweiler	Corey@erinjuryattorneys.com
Maxine Rosenberg	Mrosenberg@wwhgd.com
Lourdes Chappell	chappell@psblaw.com



1 **NEOJ**
2 JAMES P.C. SILVESTRI, ESQ.
3 Nevada Bar No. 3603
4 ROBERT P. MILONA, ESQ.
5 Nevada Bar No. 6422
6 PYATT SILVESTRI
7 701 Bridger Avenue, Suite 600
8 Las Vegas, Nevada 89101
9 Tel. (702) 383-6000
10 Fax: (702) 477-0088
11 jsilvestri@pyattsilvestri.com
12 rmolina@pyattsilvestri.com
13 Attorneys for SUSAN CLOKEY,
14 Special Administrator for the
15 ESTATE OF JAMES MCNAMEE

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 GIANN BIANCHI, individually, DARA
12 DELPRIORE, individually,

13 Plaintiffs,

14 vs.

15 SUSAN CLOKEY, Special Administrator for
16 the ESTATE OF JAMES MCNAMEE, DOES
17 I-X, and ROE CORPORATIONS I-X,
18 inclusive,

19 Defendants.

Case No.: A-13-691887-C
Dept. No.: IX

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANT'S MOTION
FOR JUDGMENT NOTWITHSTANDING
THE VERDICT (NRCp 50(b)) AND/OR
MOTION TO ALTER OR AMEND JURY
VERDICT (NRCp 59(e)) IN
ACCORDANCE WITH NRS 140.040**

19 NOTICE IS HEREBY GIVEN that the Stipulation and Order for Briefing Schedule
20 Concerning Defendant's Motion for Application of NRS 140.040 was entered with the Court on
21 September 8, 2021, a copy of which is attached hereto.

22 DATED this 10th day of December, 2021.

23 PYATT SILVESTRI

24 /s/ James P. C. Silvestri
25 JAMES P.C. SILVESTRI, ESQ.
26 Nevada Bar No. 3603
27 701 Bridger Avenue, Suite 600
28 Las Vegas, Nevada 89101
Attorneys for Defendant
JAMES MCNAMEE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Pyatt Silvestri and that on the 7th day of December, 2021, I caused the above and foregoing document **NOTICE OF ENTRY OF NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT (NRCP 50(b)) AND/OR MOTION TO ALTER OR AMEND JURY VERDICT (NRCP 59(e)) IN ACCORDANCE WITH NRS 140.040**, to be served as follows: Pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to the attorney(s) listed below:

Corey M. Eschweiler, Esq.
LERNER & ROWE
4795 S. Durango Drive
Las Vegas, NV 89147
ceschweiler@glenlerner.com

Attorney for Plaintiffs
GIANN BIANCHI and
DARA DELPRIORE

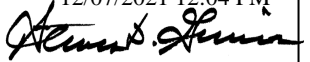
Rahul Ravipudi, Esq.
Ian Samson, Esq.
Adam R. Ellis, Esq.
PANISH SHEA & BOYLE LLP
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
ravipudi@psblaw.com
samson@psblaw.com
ellis@psblaw.com

Co-Counsel for Plaintiffs
GIANN BIANCHI and
DARA DELPRIORE

Alexander G. LeVeque, Esq.
Brian P. Eagan, Esq.
SOLOMON DWIGGINS & FREER, LTD.
9060 W. Cheyenne Avenue
Las Vegas, Nevada 89129
aleveque@sdfnvlaw.com
beagan@sdfnvlaw.com

Attorneys for SUSAN CLOKEY
Special Administrator for the
Estate of James McNamee

/s/ Barbara Abbott
An Employee of PYATT SILVESTRI


CLERK OF THE COURT

ORDER

JAMES P.C. SILVESTRI, ESQ.
Nevada Bar No. 3603

ROBERT P. MOLINA, ESQ.
Nevada Bar No. 6422

PYATT SILVESTRI
701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
(702) 383-6000
(702) 477-0088 (Fax)

jsilvestri@pyattsilvestri.com
rmolina@pyattsilvestri.com

Attorneys for Susan Clokey
Special Administrator for the
Estate of James McNamee

DISTRICT COURT

CLARK COUNTY, NEVADA

GIANN BIANCHI, individually, DARA
DELPRIORE, individually,

Plaintiffs,

vs.

SUSAN CLOKEY, Special Administrator for the
ESTATE OF JAMES MCNAMEE, DOES I-X,
and ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No.: A-13-691887-C
Dept. No.: XXIII

**ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING
THE VERDICT (NRCF 50(b)) AND/OR MOTION TO ALTER OR AMEND JURY
VERDICT (NRCF 59(e)) IN ACCORDANCE WITH NRS 140.040**

Defendant's Motion For Judgment Notwithstanding the Verdict (NRCF 50(b)) and/or
Motion to Alter or Amend Jury Verdict (NRCF 59(c)) in accordance with NRS 140.040, having
come on for hearing on the 16th day of November, 2021, in Department XXIII, the Honorable
Jasmin Lilly Spells presiding, Defendant Susan Clokey, Special Administrator for the Estate of
James McNamee, being represented by James P.C. Silvestri, Esq. of Pyatt Silvestri, Daniel F.
Polsenberg, Esq. and Joel D. Henriod, Esq. of Lewis Roca Rothgerber Christie LLP, and Alex
LeVeque, Esq. of Solomon Dwiggin Freer & Steadman, Ltd., and Plaintiffs Giann Bianchi and
Dara Del Priore, being represented by Ian Samson, Esq. of Panish Shea & Boyle, having
considered the same and the papers and pleadings on file herein as well as the oral argument from

counsel, having deferred its decision, the Court now rules as follows:

ORDER

b

1. Defendants Motion is GRANTED under NRCP 50, subsection ~~6~~. The Court has the authority to the grant the relief requested. The Motion for Judgment as a Matter of Law may be made at any time before the case is submitted to the jury. The Court finds that the Motion was made prior to the case being submitted to the jury. The Court deferred ruling, waiting until after the jury had rendered a verdict, allowing the subject matter to be tried on its merits.
2. NRCP 50(b) states in relevant part:

If the Court does not grant a Motion for Judgment as a matter of law made under Rule 50(a), the Court is considered to have submitted the action to the jury subject to the Court's later deciding the legal questions raised by the Motion. Not later than 28 days after service of written notice of the entry of Judgment, the movant may file a renewed motion.

The 28-day deadline was met in this case.
3. A motion for judgment under NRCP 50(b) presents solely a question of law to be determined by the Court. *Dudley v. Prima*, 84 Nev. 549, 445 P.2d 31 (1968).
4. In ruling on the renewed motion for judgment under NRCP 50(b), the Court may allow the judgment on the verdict, order a new trial, or direct entry of judgment as a matter of law. If the Court grants the renewed motion for judgment as a matter of law, it must also conditionally rule on any motion for a new trial under NRCP 50(c).
5. NRS 140.040(3) limits the liability of a special administrator to the limits available under a liability insurance policy. In this case, the Defendant Special Administrator is only liable to Plaintiffs for the amount available under the automobile liability policy issued by GEICO insurance, *i.e.*, \$30,000 for each Plaintiff for a total amount of \$60,000.
6. The Court finds that *Zhang v. Barnes*, 132 Nev. 1049 (2016) (unpublished), and *Las Vegas Metropolitan Police Department v. Yeghiazarian*, 129 Nev. 760 (2013), to be instructive. In both of those cases, the Court reduced jury verdicts and jury judgments based upon statutory

caps. Here, NRS 140.040 caps the Special Administrator's liability to the insurance policy limits. Therefore, it is appropriate to cap the Judgment pursuant to NRS 140.040.

7. Under NRCP 50(c), the Court hereby entertains the possibility of a new trial. The rule likely does not apply to circumstances where a statute or rule requires a particular result as a matter of law, rather than a Rule 50(b) motion premised on an insufficiency of evidence to support a claim. Nevertheless, here, Plaintiffs have not made any conditional motion for new trial and the Court does not find, *sua sponte*, any grounds for a new trial.

8. The Court finds that the judgment reduction is based solely on the statutory liability cap. This case has been fully tried as to all relevant facts with the exception of the legal question posed by NRS 140.040.

9. Judgment may now be entered accordingly based upon the above stated findings of facts and conclusions of law.

DATED this ____ day of _____, 2021.

Dated this 7th day of December, 2021


DISTRICT COURT JUDGE

4A9 16F BB02 C108

Jasmin Lilly Spells

Appellate Court Judge

Submitted by:

PYATT SILVESTRI

PANISH SHEA & BOYLE

/s/ James P. C. Silvestri, Esq.
JAMES P. C. SILVESTRI, ESQ.
Nevada Bar No. 3603
ROBERT P. MOLINA, ESQ.
Nevada Bar No. 6422
701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
Attorneys for Defendant Susan Clokey
Special Administrator for the
Estate of James McNamee

/s/ Ian Samson
IAN SAMSON, ESQ.
Nevada Bar No. 15089
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiffs

Barbara Abbott

From: Ian Samson <samson@psblaw.com>
Sent: Wednesday, December 01, 2021 4:28 PM
To: James Silvestri; Adam Ellis; corey@erinjuryattorneys.com
Cc: Robert Molina; Polsenberg, Daniel F.; Henriod, Joel D.; Alexander LeVeque; Barbara Abbott
Subject: RE: 2021.11.29 Order.revised

Caution! This message was sent from outside your organization.

[Block sender](#)

You may include my signature.

From: James Silvestri <jsilvestri@pyattsilvestri.com>
Sent: Wednesday, December 1, 2021 4:25 PM
To: Ian Samson <samson@psblaw.com>; Adam Ellis <ellis@psblaw.com>; corey@erinjuryattorneys.com
Cc: Robert Molina <rmolina@pyattsilvestri.com>; Polsenberg, Daniel F. <DPolsenberg@lewisroca.com>; Henriod, Joel D. <JHenriod@lewisroca.com>; Alexander LeVeque <aleveque@sdfnlaw.com>; Barbara Abbott <babbott@pyattsilvestri.com>
Subject: RE: 2021.11.29 Order.revised

CAUTION: External Email

Ian
Any word on the proposed Order?

Jim

James P.C. Silvestri



701 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
Telephone: (702) 383-6000
Facsimile: (702) 477-0088
jsilvestri@pyattsilvestri.com
www.pyattsilvestri.com



1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Gianni Bianchi, Plaintiff(s)

CASE NO: A-13-691887-C

7 vs.

DEPT. NO. Department 23

8 Susan Clokey, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/7/2021

15 Jonathan Carlson

jonathan.carlson@mccormickbarstow.com

16 Cheryl Schneider

cheryl.schneider@mccormickbarstow.com

17 Wade Hansard

wade.hansard@mccormickbarstow.com

18 Alexander LeVeque

aleveque@sdfnvlaw.com

19 Brian Eagan

beagan@sdfnvlaw.com

20 "Brittany Jones, Paralegal" .

bjones@glenlerner.com

21 "Craig Henderson, Esq." .

chenderson@glenlerner.com

22 "Lisa Titolo, Paralegal" .

ltitolo@glenlerner.com

23 "Miriam Alvarez, Paralegal" .

ma@glenlerner.com

24 Barbara Abbott .

babbott@pyattsilvestri.com

25 James Silvestri .

jsilvestri@pyattsilvestri.com

26
27
28

1	Susan Clokey .	sclokey@pyattsilvestri.com
2	Audra Bonney	abonney@wwhgd.com
3	D. Lee Roberts	lroberts@wwhgd.com
4	Kelly Pierce	kpierce@wwhgd.com
5	Janine Prupas	jprupas@swlaw.com
6	Docket Docket	docket_las@swlaw.com
7	Robert Molina	rmolina@pyattsilvestri.com
8	Rahul Ravipudi	ravipudi@psblaw.com
9	Jake Douglass	Douglass@psblaw.com
10	Jaqueline Lucio	Lucio@psblaw.com
11	Adam Ellis	ellis@psblaw.com
12	Christiane Smith	csmith@pyattsilvestri.com
13	Janice Parker	parker@psblaw.com
14	Debbie DeArmond (Paralegal)	ddearmond@mbswc.com
15	Gregorio Silva	gsilva@psblaw.com
16	Corey Eschweiler	ceschweiler@glenlerner.com
17	Rahul Ravipudi	ravipudi@psblaw.com
18	Claudia Lomeli	lomeli@psblaw.com
19	Jaqueline Lucio	lucio@psblaw.com
20	Paul Traina	traina@psblaw.com
21	Ian Samson	samson@psblaw.com
22	Isolde Parr	parr@psblaw.com
23	Craig Henderson	chenderson@lernerandrowe.com
24		
25		
26		
27		
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Miriam Alvarez	Miriam@erinjuryattorneys.com
Craig Henderson	Craig@erinjuryattorneys.com
Corey Eschweiler	Corey@erinjuryattorneys.com
Maxine Rosenberg	Mrosenberg@wwhgd.com
Lourdes Chappell	chappell@psblaw.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 03, 2015

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

March 03, 2015 8:00 AM Motion to Strike

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Louisa Garcia

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT: Benson, Joshua Attorney
Orr, Jeffrey J. Attorney

JOURNAL ENTRIES

- Following arguments by counsel regarding Dr. Parker's testimony, COURT ADVISED it was inclined to grant the motion; however, continued to allow further disclosure of discovery for Defendant to refine argument and opposition.

4/21/15 8:00 AM PLTF'S MOTION TO STRIKE DEFTS' MEDICAL EXPERT DR. EDSON PARKER ON ORDER SHORTENING TIME.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 01, 2016

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

November 01, 2016	8:00 AM	Motion to Strike	Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time
--------------------------	----------------	-------------------------	--

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Jill Jacoby

REPORTER:

PARTIES

PRESENT:	Benson, Joshua	Attorney
	Orr, Jeffrey J.	Attorney

JOURNAL ENTRIES

- This is the time set for hearing on Plaintiffs' Motion to Strike Defendants' Medical Expert Dr. Edson Parker on Order Shortening Time.

Mr. Benson advised that the parties were before the Court on the same Motion back in March 2015. The Medical Expert, Dr. Edson Parker, intends to come in and testify that the reasonable value of Plaintiffs' medical care is what insurance will pay; that is collateral source. Dr. Parker has said the medical bills were customary for Nevada but the reasonable expectation of the doctors is to receive what insurance will pay. Mr. Benson discussed *Khoury v. Seastrand*. For the reasons stated on the record, Mr. Benson would request that the Court STRIKE Dr. Parker and not allow him to testify that the reasonable value of medical care is what insurance will pay.

Mr. Orr advised that although Mr. Benson entitled his Motion as a Motion to Strike, he believes it is

actually a Motion to Limit Dr. Parker from talking about the reasonable and customary value of the services; Mr. Benson CONCURRED. Argument by Mr. Orr; if Plaintiff is allowed to put a doctor on the stand to say, "Yes, this charge is reasonable and customary." Defendant should be allowed to put someone on the stand to say the opposite.

COURT ORDERED, Dr. Parker will be allowed to testify; however, if he goes into anything about insurance, the Court will accept a Motion for a New Trial and Defendant will have to pay all the costs.

Mr. Orr to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 05, 2016

A-13-691887-C	Giann Bianchi, Plaintiff(s) vs. Susan Clokey, Defendant(s)
---------------	--

December 05, 2016	3:00 AM	Motion to Strike	Plaintiffs' Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin
--------------------------	----------------	-------------------------	---

HEARD BY: Smith, Douglas E.

COURTROOM: Chambers

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Plaintiffs' Motion to Strike Defendant's Rebuttal Expert Witness Mark W. Erwin came before this Court on the December 5, 2016, Chambers Calendar. Having reviewed the Motion, as well as the Opposition and Reply thereto, COURT ORDERED, Motion DENIED.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Corey M. Eschweiler, Esq., (Glen J. Lerner & Associates) and Jeffrey J. Orr, Esq., (Pyatt Silvestri).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 27, 2017

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

February 27, 2017 3:00 AM All Pending Motions

HEARD BY: Smith, Douglas E.

COURTROOM: Chambers

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Plaintiffs' Motions to Allow Presentation of a Jury Questionnaire and Motion to Strike Defendant's Expert Witness Mark Winkler came before the Court on the February 27, 2017, Chamber Calendar. Having reviewed the Motions, as well as the Oppositions thereto, COURT ORDERED, the Plaintiffs' Motion to Allow Presentation of a Jury Questionnaire Prior to Voir Dire is DENIED and Plaintiffs' Motion to Strike Defendant's Expert Witness Mark Winkler is also DENIED.

Jeffrey J. Orr, Esq., to prepare an Order reflecting the Court's decision.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Jeffrey J. Orr, Esq., (Pyatt Silvestri).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****May 23, 2017**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

May 23, 2017	8:00 AM	Motion to Strike	Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time
---------------------	----------------	-------------------------	--

HEARD BY: Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES**

PRESENT:	Benson, Joshua	Attorney
	Orr, Jeffrey J.	Attorney

JOURNAL ENTRIES

- This is the time set for hearing on Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendant's Rebuttal Expert Mark Erwin on Order Shortening Time.

Mr. Benson advised that the Expert Report includes new opinions in the form of a supplemental opinion based on documentation and reports Defendant received over two (2) years ago. The discovery deadlines were extended four times before closing, then Defendants provided the Plaintiffs with a whole new report discussing various topics and new opinions. Additionally, on May 19, Plaintiffs received a new supplemental report from another one of Defendant's experts who completely changed the foundation and the basis of his opinions. Mr. Benson discussed Rule 26; he is requesting that Mark Erwin's supplemental report be stricken.

Additionally, with regard to the report, the Plaintiffs' expert had the recently disclosed information since the summer of 2015 and now two (2) years later, he is giving up new opinions and providing assumptions that the Plaintiffs were not aware of and so the assumptions is what will prejudice them at trial; i.e., not knowing what assumptions were made, why they were made, and what the basis for those assumptions were.

Mr. Orr advised there is no prejudice alleged here; Mark Erwin is a rebuttal economic expert. The new information he received is documentation from the Plaintiff's employer which shows her wage loss, the main issue in this case. Colloquy as to when the information was disclosed; trial is set for June 26, 2017, and the information was disclosed on March 23, 2017. COURT ORDERED, decision DEFERRED, the Court will prepare a written decision.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 24, 2017

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

May 24, 2017	8:00 AM	Decision	Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time
---------------------	----------------	-----------------	--

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court heard oral argument on Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendants' Rebuttal Expert Mark Erwin on Order Shortening Time on May 23, 2017, but DEFERRED its ruling.

The Court's ruling is as set forth in the Order filed on May 24, 2017.

Therefore, Mr. Benson is requesting that the Seventh Supplement be stricken as well as Dr. Parker's new opinions that address the surgery; they reformulate the foundation of what his report is all about.

Mr. Orr advised the Supplements were done thirty (30) days before trial, which is currently set for June 26 but it going to be continued to September 5. This is not the eve of trial; there is no prejudice, and none of the experts' opinions have changed. The experts are entitled to supplement their reports; argument. Rebuttal by Mr. Benson; he discussed Khoury v. Seastrand. For the reasons stated on the record, the reports of Dr. Parker, Mr. Selznick, and Mr. Erwin should be struck. COURT ORDERED, decision on the above-named motions are DEFERRED; the Court would like to review the Seastrand case.

PLAINTIFF'S MOTION IN LIMINE 1 THROUGH 10:

1. Preclude Closing Argument that Plaintiff Asked for a Greater Amount of Money Than was Expected: COURT ORDERED, Motion GRANTED.
2. Hypothetical Medical Questions Designed to Confuse Jury: Court advised that before counsel ask a hypothetical question, they must clear it with the Court outside the presence of the Jury. COURT ORDERED, Motion GRANTED, in part, and DENIED, in part.
3. Suggesting to Jury that there Might be Related Medical Records Prior to the Crash that have not been Disclosed to Defendants: COURT ORDERED, Motion GRANTED.
4. Precluding Defendant from Referring to Case as "Attorney-Driven Litigation" or a Medical Buildup" Case and Precluding any Statements Insinuating that Plaintiffs Sought Treatment at the Direction of Attorneys, or because of this Litigation: COURT ORDERED, Motion GRANTED.
5. Precluding Defendants from Referring to any Ongoing or Past Federal Investigation or Allegations of Conspiracy Between Doctors and Plaintiffs' Attorneys (Defendant has Agreed to the Relief Requesting in Motion): Pursuant to the stipulation of counsel, COURT ORDERED, Motion GRANTED.
6. Precluding Reference to Plaintiffs' Retention of Counsel: COURT ORDERED, Motion GRANTED.
7. Precluding Reference as to Plaintiffs' Counsel Working with Plaintiffs' Treating Physicians on Other Unrelated Cases: COURT ORDERED, Motion GRANTED.
8. Precluding Negative References to Attorney Advertising (Defendant has Agreed to the Relief Requested in this Motion): Pursuant to the stipulation of counsel, COURT ORDERED, Motion GRANTED.
9. Closing Arguments Must be Limited to Evidence Presented at Trial: COURT ORDERED, Motion

GRANTED.

10. Precluding Reference to Recent Allegations Against Plaintiffs' Counsel Relating to the BP Oil Spill Cases ((Defendant has Agreed to the Relief Requested in this Motion): Pursuant to the stipulation of counsel, COURT ORDERED, Motion GRANTED.

PLAINTIFF'S MOTION IN LIMINE 11 THROUGH 26:

11. Allowing Voir Dire Questions Regarding Relationship to Any Insurance Company: COURT ORDERED, Motion GRANTED.

12. Allowing Voir Dire Questioning Regarding Tort Reform Exposure: COURT ORDERED, Motion GRANTED.

13. Allowing Voir Dire Questioning Regarding Verdict Amounts: COURT ORDERED, Motion GRANTED.

14. Permitting Treating Physicians to Testify as to Causation, Diagnosis, Prognosis, Future Treatment, and Extent of Disability - Without a Formal Expert Report: Court noted that treating physicians are not experts and they can testify to future treatment without a formal report; therefore, COURT ORDERED, Motion GRANTED.

15. Exclusion of Non-Party Witnesses from Courtroom: COURT ORDERED, Motion GRANTED.

16. Precluding Evidence Regarding how a Judgment will be Paid: COURT ORDERED, Motion GRANTED.

17. Precluding Negative Inference for Failing to Call Cumulative Witness: COURT ORDERED, Motion GRANTED.

18. Precluding Reference to Filing Motions in Limine: COURT ORDERED, Motion GRANTED.

19. Precluding References to Taxation: COURT ORDERED, Motion GRANTED.

20. Precluding Evidence of Offers of Settlement or Compromise: COURT ORDERED, Motion GRANTED.

21. Precluding Reference to Collateral Sources: COURT ORDERED, decision DEFERRED; the Court will review *Khoury v. Seastrand*.

22. Exclude Evidence Regarding Injuries Other than Plaintiffs': COURT ORDERED, Motion GRANTED.

23. Admitting Plaintiffs' Treating Providers' Medical Bills and Medical Records into Evidence: COURT ORDERED, Motion GRANTED as long as the documents are certified.

24. Precluding References to Giann's Felony Conviction: Pursuant to stipulation of counsel, COURT ORDERED, Motion GRANTED.

25. Exclude Surveillance Video of Plaintiffs: if the proper foundation can be laid, the surveillance videos can be presented. COURT ORDERED, Motion DENIED, in part, and GRANTED, in part.

26. Exclude Evidence of Dr. Mark Kabins' Conviction: Mr. Orr advised that the Plaintiffs are seeking to exclude the conviction in its entirety; however, the Defendants would like to limit it to the date of the conviction and the name of the conviction; colloquy. COURT ORDERED, decision DEFERRED.

Court advised counsel that they may renew any of their motions prior to trial.

PLAINTIFFS' MOTION IN LIMINE NUMBER 27 TO PRECLUDE DEFENDANT JAMES MCNAMEE FROM TESTIFYING AT TRIAL AND TO PRECLUDE MCNAMEE FROM CONTESTING LIABILITY AT TRIAL: COURT ORDERED, Motion GRANTED.

PLAINTIFFS' MOTION IN LIMINE NUMBER 28 TO PRECLUDE DEFENDANT FROM ARGUING APPORTIONMENT OF PLAINTIFF DARA DEL PRIORE'S LUMBAR SPINE PAIN: if the proper foundation can be laid, it will be allowed. Therefore, COURT ORDERED, Motion DENIED, in part, and GRANTED, in part.

DEFENDANT JAMES MCNAMEE'S MOTION IN LIMINE TO LIMIT THE TESTIMONY OF PLAINTIFFS' EXPERT, STAN SMITH: Mr. Orr advised that Stan Smith is the Plaintiffs' economic expert. Counsel will not contest this witness's testimony regarding lost wages; however, he would like to preclude him from talking about hedonic damages and lost value of services; colloquy. COURT ORDERED, decision DEFERRED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 19, 2017

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

June 19, 2017	3:00 AM	Motion	Defendant James McNamee's Motion to Preclude Evidence or Argument Regarding "Reptile" Tactics
----------------------	----------------	---------------	--

HEARD BY: Smith, Douglas E.

COURTROOM: Chambers

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Defendant's Motion to Preclude Evidence or Argument Regarding "Reptile" Tactics came before the Court on the June 19, 2017, Chamber Calendar. Having reviewed the Motion, as well as the Opposition and Reply thereto, COURT ORDERED, the Motion is DENIED as overbroad.

The Defendant is welcome to submit multiple Motions In Limine that deal with and argue against specific and individual Reptile tactics, which the Court could then rule upon.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Jeffrey J. Orr, Esq., (Pyatt Silvestri).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 22, 2017

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 22, 2017 8:00 AM Calendar Call

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Eschweiler, Corey M. Attorney
Orr, Jeffrey J. Attorney

JOURNAL ENTRIES

- This is the time set for Calendar Call; counsel announced ready. Upon Court's inquiry, Mr. Eschweiler advised Plaintiff has nine (9) witnesses and the Defendant has three (3); the trial is expected to take two (2) weeks. COURT ORDERED, matter set for trial.

09/05/17 8:00 AM JURY TRIAL (FIRM)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****August 29, 2017**

A-13-691887-C Giann Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

August 29, 2017 8:00 AM Status Check Trial

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Eschweiler, Corey M. Attorney
 Orr, Jeffrey J. Attorney
 Roberts, D Lee, Jr. Attorney
 Silvestri, James P. C. Attorney

JOURNAL ENTRIES

- This is the time set the Status Check on Trial. Court noted that although this was a FIRM setting, the Court is going to have to reschedule the trial in this matter due to a scheduling issue.

Colloquy regarding a new date for the trial; counsel expect the trial to take two (2) weeks. The Plaintiff has ten (10) witnesses and the Defense has four (4). COURT ORDERED, trial date VACATED and RESET.

09/25/17 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****September 21, 2017**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

September 21, 2017 8:00 AM Status Check Trial Setting

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Eschweiler, Corey M.	Attorney
	Orr, Jeffrey J.	Attorney
	Roberts, D Lee, Jr.	Attorney
	Silvestri, James P. C.	Attorney

JOURNAL ENTRIES

- This is the time set for the Status Check on the Trial Setting.

Court noted that this Court's staff was notified yesterday (September 20), that the Defendant had passed away; therefore, this Court is not sure if this matter can proceed to trial on Monday (September 25). If the Plaintiff is satisfied with the amount of insurance; however, perhaps the trial could proceed as scheduled.

Mr. Roberts advised that the policy is a \$60,000 policy but they contend that policy is now open to any excess verdict based on the rejection of the Offer of Judgment of policy limits. Plaintiffs will be seeking a judgment in excess of the policy but counsel contends that the decedent's insurance will have to answer for the entire verdict; colloquy.

Mr. Silvestri advised that his office was informed about the Defendant's death on Friday (September 15) and since he was out of the office, he was not informed until Monday (September 18); the Suggestion of Death Upon the Record was filed on September 20, 2017, and a petition to have a

special administrator named has been filed. Mr. Silvestri advised that after he learned of the Defendant's death he notified counsel and this Court's Chamber. Since there is no party at this time, he does not believe the trial can go forward but they are trying to move the case forward; the probate hearing date is October 8, 2017.

Colloquy as to whether or not the trial should proceed as scheduled and NRCP 25(a)(1)(2). COURT ORDERED, trial date VACATED; the hearing on the Motion in Limine currently set for September 25, 2017, is VACATED as well. COURT FURTHER ORDERED, matter set for status check on the decision from probate.

Mr. Roberts requested costs in preparing for trial; the Defendant's death occurred on August 12, 2017, and Plaintiff's counsel was not timely informed of said death. They paid non-refundable deposits to experts which cannot be refunded and would not have been paid if they had been timely notified. Court directed Mr. Roberts to put his request in writing for the Court to consider. COURT ORDERED, the Court will hear Mr. Roberts Motion on the status check date.

10/10/178:00 AM STATUS CHECK: DECISION FROM PROBATE COURT/RESET TRIAL DATE AND MR. ROBERT'S MOTION FOR COSTS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****October 31, 2017**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

October 31, 2017	8:00 AM	Status Check	Status Check: Decision from Probate Court/Reset Trial and Mr. Robert's Motion for Costs
-------------------------	----------------	---------------------	--

HEARD BY: Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Phyllis Irby**RECORDER:** Gina Villani**REPORTER:****PARTIES**

PRESENT:	Eschweiler, Corey M.	Attorney
	Orr, Jeffrey J.	Attorney
	Roberts, D Lee, Jr.	Attorney
	Silvestri, James P. C.	Attorney

JOURNAL ENTRIES

- Mr. Silvestri informed the Court the order has been submitted and shall be approved. Mr. Silvestri further advised they have not substituted in the Special Administrator as of yet, as soon as they have the order that will be done. The Court inquired with counsel scheduling regarding setting trial. Counsel advised the Court the next available stack can accommodate parties. COURT SO ORDERED.

4-03-18 8:00 AM CALENDAR CALL (DEPT. VIII)

4-16-18 9:30 AM JURY TRIAL (DEPT. VIII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 22, 2018

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

January 22, 2018	3:00 AM	Motion	Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption
-------------------------	----------------	---------------	--

HEARD BY: Smith, Douglas E.

COURTROOM: Chambers

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption came before the Court on the January 22, 2018, Chamber Calendar. Having reviewed the Motion, its Opposition, and Reply thereto, COURT ORDERED, this Motion is DENIED. Court directed the parties to submit three (3) proposed names to the Court for consideration as to who they want to serve as Administrator of the Estate.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folders of Jeffrey Orr, Esq., (Pyatt Silvestri) and Craig A. Henderson, Esq., (Glen Lerner Injury Attorneys).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****February 13, 2018**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

February 13, 2018	8:00 AM	Motion for Appointment of Attorney	Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time
--------------------------	----------------	---	---

HEARD BY: Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES**

PRESENT:	Carley, Justin L.	Attorney
	Eschweiler, Corey M.	Attorney
	Orr, Jeffrey J.	Attorney
	Roberts, D Lee, Jr.	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- Alexander LeVeque, Esq., Probate Counsel for GEICO and the Special Administrator present. This is the time set for hearing on the Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time.

Court noted that Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee and to Amend Caption came before the Court on the January 22, 2018, Chamber Calendar. The Motion was DENIED and the Court directed both counsel to submit three (3) proposed names to the Court for consideration.

Mr. Eschweiler advised that his office received a call from this Court's staff requesting that we confer with opposing counsel on names for a new administrator; he believes Frederick Waid, Esq., from Hutchison & Steffen or Robert Morris, Esq., from Grant Morris Dobbs would be acceptable. Mr. Silvestri advised that he does not have any names to present at this time but would request briefing on this matter; his firm's position is that only the Probate Court has the jurisdiction to appoint an administrator. Mr. Silvestri requested that a briefing schedule be set. COURT ORDERED, request GRANTED; counsel will have ten (10) days to file a brief; thereafter, Plaintiffs may respond.

The Court will now hear argument on the Motion for Appointment of Cumis Counsel. Mr. Carley advised that he is counsel for GEICO and is present today for the limited purpose of addressing Plaintiffs' Cumis Counsel motion.

Argument by Mr. Roberts; Cumis Counsel is only required to the extent there is an actual conflict and, pursuant to the briefings in the case, it appears there is a conflict in this case. First, GEICO failed to settle Plaintiffs' claim for the policy limits demand but then later offered to settle the claims in excess of the policy limits. Therefore, GEICO has created a situation where they have admitted that the value of the claims exceed the insurance coverage and Defendant McNamee and the Estate will be exposed to an excess judgment as a result of their bad faith refusal to compromise; a conflict of interest has been created. At this point, there is no one free of a conflict of interest representing the Estate and because the Estate now possesses bad faith claims against GEICO, GEICO's counsel cannot advise the Estate of its rights against GEICO.

Argument by Mr. Carley; there is a standing problem. The Estate is not requesting independent counsel, the Plaintiffs' counsel is making that request saying GEICO should hire its insured an additional attorney. Mr. Carley believes Plaintiffs' counsel is trying to drive a wedge between the insured and the insurer. Mr. Carley discussed State Farm v. Hansen; in order to grant a Motion for Cumis Counsel an actual conflict must exist under the Rule of Professional Conduct. The Plaintiffs' counsel is speculating that there is a conflict of interest but has presented no evidence of that. Neither the insured's nor the insurer's Estate has ever demanded its own independent counsel. Therefore, in addition to the standing problem, Plaintiffs' counsel has not satisfied the Cumis counsel case; the Motion should be DENIED.

COURT ORDERED, decision DEFERRED; Court directed both counsel to provide proposed Findings of Fact and Conclusions of Law consistent with their arguments. Thereafter, the Court will make a decision.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 12, 2018

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

March 12, 2018	8:00 AM	Decision	Plaintiffs' Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time
-----------------------	----------------	-----------------	---

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court heard oral argument on Plaintiffs' Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee on Order Shortening Time on February 13, 2018, but DEFERRED its ruling.

The Court's ruling is as set forth in the Order Denying Motion for Appointment of Cumis Counsel for the Estate of James Allen McNamee filed on March 12, 2018.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 03, 2018

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

April 03, 2018 9:00 AM Calendar Call

HEARD BY: Adair, Valerie **COURTROOM:** RJC Courtroom 11C

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Eschweiler, Corey M. Attorney
Geist, Russel J, ESQ Attorney
Orr, Jeffrey J. Attorney
Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- This is the time set for Calendar Call. Upon Court's inquiry, Mr. Silvestri advised that this matter is not ready for trial; there are Motions in Limine, a Motion to Dismiss, a Motion to Continue Trial, and a Motion to Modify an Order set for hearing on April 10, 2018. Additionally, Defendant, James McNamee, is deceased and the substitution of the Administrator has not been formalized. COURT ORDERED, trial date VACATED; matter set for status check.

04/10/18 8:00 AM STATUS CHECK: RESET TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****April 10, 2018**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

April 10, 2018 8:00 AM All Pending Motions

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Eschweiler, Corey M.	Attorney
	Geist, Russel J, ESQ	Attorney
	LeVeque, Alex G.	Attorney
	Orr, Jeffrey J.	Attorney
	Roberts, D Lee, Jr.	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- Plaintiffs' Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendants' Medical Experts: Upon Court's inquiry, Mr. Roberts advised that although the opinions were properly disclosed in discovery, a proper foundation cannot be laid. Defendants want to offer opinions on the forces involved in the collision. There is no accident reconstruction or biomechanical expert who has laid a proper foundation. Defendants have a doctor who wants to opine that this is a low to moderate impact and the impact was not sufficient to cause the injuries to the Defendant's spine. Mr. Roberts discussed the Rish and Hallmark cases. Argument by Mr. Orr.

It appears to the Court that the medical experts cannot give biomechanical or reconstruction opinions because they are not experts in that area; however, if the medical experts want to testify and say that it does not appear from the evidence that the injuries are consistent with the accident that would be allowed but since the Court has not had an opportunity to review Plaintiff's Reply, COURT ORDERED, decision DEFERRED.

Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiffs' Vehicle. Mr. Roberts advised that the Defendants failed to produce any repair estimate or photographs of the damage to their vehicle even though that information was specifically requested in discovery. Argument; Plaintiffs have no way of knowing how much damage there was to the Defendant's vehicle and without that, it is misleading and prejudicial for them to show the jury just the pictures of the Plaintiffs' vehicle and, because it appears the damage was minor, argue that the forces of the collision were low and that his was a low impact collision. Argument by Mr. Orr; he discussed the Rish case. COURT ORDERED, decision DEFERRED.

Defendant James McNamee's Motion to Dismiss and Motion to Amend Order: Mr. Silvestri advised that Defendant, James McNamee, died on August 12, 2017; thereafter, a Suggestion of Death was filed. As of today, there is no party substituted in for Defendant McNamee; once a Suggestion of Death is provided, there is a ninety (90)-day deadline and the deadline was December 19, 2017. The only motion filed before that date was the Defense Motion to name a Special Administrator; the Statute says that if the only asset available is an insurance policy a Special Administrator should be named. Mr. Silvestri discussed the Special Administrator vs. General Administrator issues. Pursuant to the Order filed March 27, 2018, Fred Waid was named as the General Administrator.

Colloquy; the Court is contemplating appointing Fred Waid as the General and Special Administrator as the Court wants the case to go forward and be decided on the merits and not on procedural issues. There being no objection by counsel, COURT ORDERED, the Motion to Amend Order is GRANTED in part and DENIED in part; Fred Waid is APPOINTED as both General and Special Administrator. Additionally, Fred Waid shall be substituted in as a party Defendant for James McNamee. COURT FURTHER ORDERED, the Motion to Dismiss is DENIED. Mr. Silvestri to prepare the Order approved as to form and content by Mr. Roberts.

Defendant James McNamee's Motion to Continue Trial: Court noted that it appears this Motion was WITHDRAWN on April 4, 2018; however, this matter is also set for a Status Check to Reset the Trial date. Mr. Silvestri advised that the Five (5)-Year Rule will run in November 19, 2018, but he is working with his carrier on a stipulation because he is not sure this matter will be ready for trial by then. Mr. Roberts advised that it is his preference to try this matter in November but if that is not possible, he will stipulate to an extension of the rule.

Colloquy regarding possible trial dates, counsel believe the trial will take two (2) weeks. The November Civil trial stack begins on November 13, 2018, and the next Civil stack begins on February 11, 2019. Court directed counsel to meet and confer and let the Court know whether they intend to set the matter for trial on the November stack, it will be a FIRM setting, or whether they intend to stipulate to an extension of the Five (5)-Year Rule; if so, a Stipulation and Order will need to be prepared.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 14, 2018

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

**August 14, 2018 8:00 AM Motion Plaintiffs' Motion for
Trial Setting**

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Orr, Jeffrey J. Attorney
 Roberts, D Lee, Jr. Attorney

JOURNAL ENTRIES

- This is the time set for hearing on Plaintiffs' Motion for Trial Setting. The Court noted that the five (5)-year rule in this case runs on November 18, 2018; therefore, counsel is requesting that the matter be set or trial prior to that date.

Mr. Roberts advised that he would like is a FIRM SETTING on the first day of the November Civil Trial Stack; i.e., November 13, 2018, that way Voir Dire can be completed and the first witness can be sworn before November 18. Counsel believe the trial will take approximately three (3) weeks.
COURT ORDERED, Motion GRANTED; matter set for trial.

10/30/18 8:00 AM CALENDAR CALL

11/13/18 9:30 AM JURY TRIAL - FIRM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****October 09, 2018**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

October 09, 2018	8:00 AM	Motion For Stay	Defendant's Motion for Stay Pending Writ of Mandamus on Order Shortening Time
-------------------------	----------------	------------------------	--

HEARD BY: Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES**

PRESENT:	Benson, Joshua	Attorney
	Molina, Robert P.	Attorney
	Orr, Jeffrey J.	Attorney

JOURNAL ENTRIES

- This is the time set for hearing on Defendant's Motion to Stay Pending Writ of Mandamus on Order Shortening Time. Court advised that it is inclined to grant the Defendant's motion but asked if counsel wanted to place anything on the record.

Mr. Molina advised that he would like to address a comment made by Plaintiffs in their Opposition. Plaintiffs' counsel stated that the Defendant never filed a brief within ten (10) days after the February 13, 2018, hearing regarding the issue of whether or not only the Probate Commissioner has jurisdiction to appoint a General Administrator. The Defendant filed their brief on February 23, 2018, and the Plaintiffs responded to on March 12, 2018; therefore, the argument that Defendant did not file a brief in response to the Court's request is, at this time, undisputed. Mr. Molina submitted on the Motion.

Mr. Benson advised that in determining whether to issue a stay, the Court should consider the Mikohn factors; Plaintiffs believe that they have not been satisfied. Additionally, if Defendant wishes to challenge the Motion to Dismiss they have an adequate remedy of law and that is to file an appeal afterwards. Mr. Benson believes the Defendant will suffer no harm in moving forward.

The Court pointed out that the Plaintiffs will not suffer any harm from the STAY pending the Writ of Mandamus either. Therefore, COURT ORDERED, the Motion is GRANTED and this matter is STAYED. COURT FURTHER ORDERED, matter set for status check in ninety (90) days.

Colloquy regarding the trial date and the Five (5)-Year Rule. Although there is no formal stipulation as to the Five (5)-Year Rule, Mr. Orr believes that the STAY also takes care of that issue. Court CONCURRED and ORDERED, trial date VACATED.

01/08/19 8:00 AM STATUS CHECK: MOTION FOR STAY GRANTED (10/09/018)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 08, 2019

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

January 08, 2019

8:00 AM

Status Check

Motion to Stay
GRANTED 10/09/18

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Johnson, Tess E.	Attorney
	Orr, Jeffrey J.	Attorney
	Randall, Justin G	Attorney
	Silva, Gregorio, ESQ	Attorney

JOURNAL ENTRIES

- This is the time set for the Status Check on the Motion to Stay GRANTED on 10/09/18. Mr. Orr advised that the Writ of Mandamas has been filed and all briefing is complete; he is unsure as to when this matter will be resolved. Mr. Orr believes the Supreme Court will ask for oral argument. COURT ORDERED, status check CONTINUED for ninety (90) days. If the matter has not been decided by then the matter can be taken off calendar; counsel should notify this Court's staff.

CONTINUED TO: 04/09/19 8:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****June 25, 2019**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

**June 25, 2019 8:30 AM Status Check Motion for Stay
 GRANTED 10/09/18**

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Randall, Justin G Attorney
 Silva, Gregorio, ESQ Attorney
 Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- This is the time set for the Status Check on the Motion for Stay GRANTED on 10/09/18. Court noted that Defendant's Motion for Stay Pending Writ of Mandamus was granted on October 9, 2018, and the Order was filed on October 29, 2018. It appears that the Supreme Court has not made a decision yet. Counsel CONCURRED.

Mr. Silva advised that this matter has been pending since September; the Reply brief was filed in December. The Supreme Court will either assign a hearing date or issue an order but, at this time, counsel is not certain of what is going to happen.

Colloquy regarding setting another status check date; Mr. Silva advised that the Complaint was filed in November 2013 so the five (5)-year rule is close to running as soon as the Supreme Court remands the case, unless counsel can Stipulate to WAIVING that rule. Therefore, Mr. Silva would prefer setting a status check every thirty (30) days; if the Supreme Court decision is still pending, counsel could notify the Court and the matter could then be continued for another thirty (30) days. COURT ORDERED, matter set for status check; counsel do not need to appear unless there is a decision from

the Supreme Court.

07/23/19 8:30 AM STATUS CHECK: SUPREME COURT DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 03, 2019

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

December 03, 2019	8:30 AM	Motion for Substitution	Defendant James McNamee's Motion to Substitute Special Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ
--------------------------	----------------	--------------------------------	--

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	LeVeque, Alex G.	Attorney
	Samson, Ian	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- This is the time set for hearing on Defendant James McNamee's Motion to Substitute Administrator in Place and Stead of Defendant James McNamee Pursuant to Writ.

Court noted that it reviewed the Nevada Supreme Court's opinion which GRANTED, in part, counsel's Writ of Mandamus, Defendant's Motion, the Plaintiffs' Opposition, and the Defendant's Reply. Mr. Sampson discussed the incident; the issue in this case is that there was an accident and during the pending litigation, Defendant, James McNamee, passed away. At the time of the accident, Mr. McNamee had a \$30,000/\$60,000 policy so \$60,000 total for the two (2) Plaintiffs was involved in this case. The Plaintiffs' position is that the policy was demanded to be paid and should have been

paid; however, although it was a reasonable settlement offer, the insurance company choose not to accept it. With regard to the procedural history, Mr. Sampson advised that the Special Administrator was appointed on the representation that the only asset that Mr. McNamee had at the time he passed away was the insurance policy. Plaintiffs' position is that omits the potential bad faith claim.

Colloquy with regard to a potential trial; Mr. Sampson advised that at trial, the Plaintiff would be proceeding against whoever is appointed in Mr. McNamee's stead. If \$100,000 were awarded, for example, that would expose the Estate to an additional amount over the insurance policy. The issue is that a Special Administrator, prior to trial, has no ability to use the bad faith claim; the only thing the Special Administrator can control is the insurance policy itself. Therefore, by having a Special Administrator appointed and limited to the insurance proceeds only, the potential bad faith claim of the estate disappears and because the estate is being represented by the same attorneys that are being paid for by for the insurance company, that is in the insurance company's interest because the insurance company's exposure is limited to the policy limits only.

Argument by Mr. Silvestri; the trial that would occur here would be a trial between Plaintiffs and Defendant and the question would be what the Jury would decide to award. The bad faith claim would not be a part of the trial; it would somehow have to be brought in a separate action against GEICO. Additionally, Mr. Silvestri advised that the only Motion before the Court today is to substitute in the only administrator that has been appointed for Mr. McNamee and that is the Special Administer. The Supreme Court issued a Writ ORDERING this Court to vacate two (2) orders, the one dated March 27, 2018, and the other dated May 14, 2018. NRS Chapter 140 states that the Special Administrator is subject only to the payment of what is the only known asset and that is the insurance policy and NRS 41.100 allows an Estate and Administrator or Executor to pursue only those claims that existed at the time of death. Mr. Sampson believes that a bad faith claim is an asset to the estate; argument. Additionally, Mr. Silvestri advised that fact that Plaintiffs want to claim there is a bad faith claim is fictitious. The only thing before the Court is who substitutes in for the decedent and the only thing there is, is the order from the Probate Court appointing a special administrator for the purposes of this lawsuit. The idea that there is a conflict of interest, this is in the insured/estates best interest because the estate, according to Nevada law, is limited to available insurance money. The law is we have a decedent with no assets, a Special Administrator has been appointed, and we have an order from this District Court that spells it out. The Supreme Court did not like what Judge Smith did so we are here to get an appointment made for Mr. McNamee and the only available appointment is the Special Administrator.

The Court noted that the Supreme Court was clear as to what this Court was supposed to do and this Court does not have a basis in law to do what Mr. Sampson has asked the Court to do. Therefore, based on the relevant case law and the directions issued by the Supreme Court, COURT ORDERED, the Motion is GRANTED; Susan Clokey will represent Mr. McNamee for purposes of this action. With regard to the bad faith claim and the Plaintiffs' concerns, that can be raised in a separate motion.

Colloquy regarding the future motion to determine the bad faith; Mr. Sampson suggested that this hearing be continued, thereby giving him an opportunity to file a motion to get a general

administrator, which he believes would alleviate the problem and put this matter to rest. COURT ORDERED, the request is DENIED.

Mr. Silvestri to prepare a proposed order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 10, 2020**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

March 10, 2020 8:30 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Carlson, Jonathan W.	Attorney
	Eschweiler, Corey M.	Attorney
	Samson, Ian	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- PLAINTIFFS' MOTION FOR APPOINTMENT OF A GENERAL ADMINISTRATOR ON ORDER SHORTENING TIME . . . DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION FOR APPOINTMENT OF A GENERAL ADMINISTRATOR -AND- COUNTERMOTION TO JOIN GEICO AS A REQUIRED PARTY

This is the time set for hearing on above-named Motions. The Court has reviewed the Motion and the Opposition. In this case, James McNamee rear-ended the Plaintiffs' vehicle. The damages exceeded the limits of Mr. McNamee's GEICO policy; in lieu of tendering the policy limits, GEICO refused to pay thereby exposing Mr. McNamee to a judgment in excess of his policy limits.

Argument by Mr. Eschweiler regarding the potential bad-faith claim; a bad faith award can only happen after a trial. As the Court is aware, Mr. McNamee passed away so his estate has assumed all the liability that he created in his lifetime. Mr. McNamee's potential bad-faith claim is an assignable asset which can be used to protect him from GEICO's bad-faith conduct. A General Administrator is necessary to administer the estate's bad-faith claim.

Argument by Mr. Silvestri; he represented that the Plaintiffs have a major procedural and substantive issue. With regard to the procedural issue, the Plaintiffs are requesting to have a General Administrator named, presently they have a Special Administrator. The Special Administrator needs to be removed by the Probate Court; argument. Substantively, Mr. McNamee died in Arizona, he had no assets in Nevada so without assets a general administration cannot be opened; there is only a potential bad-faith claim and judgment. Mr. Silvestri discussed NRS 41.100; actions cease to exist upon the death of someone. Rebuttal by Mr. Eschweiler; his request is clear, they want to appoint someone within the Court's discretion under Rule 25 to look after the potential bad-faith claim and to make sure the estate's interests are represented.

Defendants' Countermotion to Join GEICO as a Required Party: Mr. Eschweiler advised that since GEICO has counsel to protect its interests, the estate's interests should be protected as well. Mr. Carlson advised that if Plaintiff's Motion is DENIED then the Countermotion would be MOOT. To the extent that the Court believes that any of these issues should be entertained at this time, he would request that GEICO not be named as a party to this action; they would rather address these issues before the Probate Court. COURT ORDERED, decision DEFERRED; matter set for decision on this Court's Chamber calendar.

04/13/20 CHAMBER CALENDAR: DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 13, 2020

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

April 13, 2020	3:00 AM	Motion For Reconsideration	Special Administrator's Motion for Reconsideration on Order Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. Parker M.D. and Hugh Selznick M.D.
-----------------------	----------------	---------------------------------------	--

HEARD BY: Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Special Administrator's Motion for Reconsideration on Order Striking Defendant's Supplemental Expert Reports of Mark Erwin, Edson O. Parker M.D., and Hugh Selznick M.D. came before the Court on April 13, 2020, Chamber Calendar. Having reviewed the Motion and Opposition thereto, the COURT FINDS that the Motion fails to comply with Court Rules. Pursuant to EDCR 2.24, Defendant had fourteen (14) days to file a Motion for Reconsideration from the respective dates that the Court entered its orders granting: (1) Plaintiff's Motion to Strike Untimely Supplemental Expert Report From Defendant's Rebuttal Expert Mark Erwin on Order Shortening Time; (2) Plaintiff's Motion to Strike Untimely Supplemental Expert Report from Defendant's Medical Expert Edson O. Parker; and, (3) Plaintiff's Motion to Strike Defendant's Seventh Supplemental Expert Witness

PRINT DATE: 01/07/2022

Page 37 of 68

Minutes Date: March 03, 2015

Disclosure. The Court entered its Orders regarding the three aforementioned Motions on May 24, 2017, and June 15, 2017, respectively. As a result, the latest date that Defendant could have filed a Motion for Reconsideration would have been June 29, 2017; however, Defendant did not file the Motion until March 7, 2020. Therefore, COURT ORDERED, the Special Administrator's Motion for Reconsideration is DENIED.

CLERK S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 13, 2020

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

April 13, 2020 3:00 AM Decision

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court heard oral argument on Plaintiff's Motion for Appointment of a General Administrator and Defendant's Opposition to Plaintiff's Motion for Appointment of a General Administrator -and- Countermotion to Join GEICO as a Required Party on March 10, 2020, but DEFERRED its ruling.

The Court's ruling is as set forth in the Decision filed on April 16, 2020.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 13, 2020

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

May 13, 2020 11:30 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Eschweiler, Corey M.	Attorney
	Molina, Robert P.	Attorney
	Samson, Ian	Attorney

JOURNAL ENTRIES

- Mr. Samson and Mr. Molina appearing via BlueJeans; Mr. Eschweiler appearing via CourtCall.

This is the time set for hearing on Plaintiffs' Motion to Exclude; Plaintiffs' Motion in Limine; and Defendant's Motions in Limine.

Plaintiffs' Motions:

Plaintiffs' Motion to Exclude Defendant's 8th Supplemental Expert Witness Disclosure: The Court has reviewed the Motion and the Opposition. Arguments by counsel. COURT ORDERED, the Motion is GRANTED to the extent that this Supplement Expert Disclosure relies on reports and documentation that was in existence years ago and was for the purpose of strengthening the previously disclosed records and determinations. However, if the 8th Supplemental Disclosure contains new opinions regarding records that did not exist in the interim time then it is DENIED as to those records.

Additional argument; COURT advised that this Court's current ruling is not meant to circumvent the Court's prior ruling regarding supplemental disclosures that came in after discovery closed but for

which he had access to but did not produce opinions to. Whether or not a door has or has not been opened; that will be part of a motions practice.

Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimates Regarding Plaintiffs' Vehicle: The Court has reviewed the Motion, the Opposition and the JAVS recording from April 10, 2018, argument. The Court noted that it appears that the Defendant's vehicle was sold before any pictures were taken but it is not clear based on the arguments presented at that time. The Court inquired as to whether either counsel knew if the vehicle was sold before or after there was a request for preservation or a request for photographs; neither the Mr. Sampson nor Mr. Molina have the answer to the Court's inquiry. Therefore, COURT ORDERED, decision DEFERRED as it would like an answer to the prior inquiry. COURT FURTHER ORDERED, counsel shall file a Joint Supplemental Brief less than five (5) pages answering that question. The brief will be due on June 17, 2020. This Motion shall be placed on this Court's Chamber Calendar for decision.

Plaintiff's Motion in Limine to Preclude Accident Reconstruction and Biomechanical Opinions from Defendant's Medical Experts: The Court noted that Defendant's experts have indicated that they need photographs from both vehicles in order to render a biomechanical opinion; therefore, the Court inquired as to whether Defendant planned on eliciting a biomechanical opinion from their experts in light of that concession. Argument by Mr. Molina; he discussed Rish v. Simao. Argument by Mr. Sampson. COURT ORDERED, the Motion is GRANTED in part and DENIED in part. The Motion is GRANTED to preclude testimony regarding any accident reconstruction; the exclusion of any engineering testimony regarding the accident itself is also GRANTED. The Motion is DENIED to the extent that the experts, as long as a sufficient foundation is laid at trial, that they can testify to the fact that whatever they reviewed and based on that and based on their training and experience they can testify regarding injuries and what they think happened here. As a caveat, the Court is very concerned about the lack of photographs of the Defendant's vehicle.

Defendant's Motions:

Defendant's Motion in Limine to Preclude Evidence or Testimony Regarding Medical Damages or Providers not Contained in Plaintiffs' Verified Interrogatory Answers: the Court advised that it has reviewed the Motion and the Opposition. COURT ORDERED, the Motion is DENIED.

Defendant's Motion in Limine to Exclude Expert Opinions from Lay Witnesses: Court noted that the Defendant has requested that lay witnesses not be able to offer opinions regarding causation. The Court has reviewed NRS 50.265; the Court will allow the witnesses to testify as to what happened to them. COURT ORDERED, the Motion is DENIED without prejudice.

Defendant's Motion in Limine regarding Testimony and Employment of Special Administrator, Susan Clokey: COURT ORDERED, the Motion is GRANTED.

Defendant's Motion in Limine to Exclude Plaintiffs' Improperly Disclosed Non-Retained Experts: Arguments by counsel. COURT ORDERED, the Motion is DENIED without prejudice.

Defendant's Motion in Limine to Preclude Stan Smith, Ph.D., from Testifying on Medical Issue and Causation: COURT ORDERED, the Motion is DENIED.

Defendant's Motion in Limine to Preclude Information or Testimony on Lost Income or Wage Loss: COURT ORDERED, the Motion is GRANTED in part and DENIED in part. The Motion is GRANTED as to Gianni Bianchi and DENIED as to Dara Delpriore.

Court directed the parties to meet and confer as to a proposed order. The Order shall be submitted within the next thirty (30) days (June 10, 2020).

06/29/20 CHAMBER CALENDAR DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****June 29, 2020**

A-13-691887-C Giann Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

June 29, 2020	3:00 AM	Decision	Plaintiffs' Motion in Limine to Preclude Photographs and Repair Estimates Regarding Plaintiffs' Vehicle
----------------------	----------------	-----------------	--

HEARD BY: Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Decision on Plaintiff's Motion in Limine to Preclude Photographs and Repair Estimate Regarding Plaintiff's Vehicle came before the Court on the June 29, 2020, Chamber Calendar. The Court heard oral argument on this Motion on May 13, 2020, but DEFERRED its ruling. The Court now rules as follows: Having reviewed: (1) the moving papers; (2) the separately filed briefs regarding the timing of when copies of photographs were requested as well as when Defendant McNamee sold the van involved in the instant accident; and (3) the arguments of counsel (to include reviewing argument presented to the Court in 2018), the Court hereby GRANTS Plaintiff's Motion.

NRS 48.035(1) provides that relevant evidence is admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury. See NRS 48.035(1). The Court has discretion to admit photographs where the probative value outweighs any prejudicial effect the photographs might have on the jury. See *Allen v. State*, 91 Nev. 78, 530 P.2d 1195 (1975); *Ybarra v. State*, 100 Nev. 167, 679 P.2d 797 (1984). Here, there are only photographs of the

plaintiff's vehicle. There are no photographs of the defendant's vehicle and the vehicle was sold several years ago, making it impossible to obtain photographs or even some sort of inspection to determine any repairs to the vehicle that may have been caused by the accident. Without the ability to compare photographs of both vehicles involved in this accident, a jury could potentially be misled regarding the extent of damage caused as a result of the accident. Photographs can be powerful type of evidence. See *State v. Eighth Judicial Dist. Court (Armstrong)*, 127 Nev. 927, 933, 267 P.3d 777, 781 (2011) (recognizing that evidence can be unfairly prejudicial when it appeals to the emotional and sympathetic tendencies of a jury (internal quotation marks omitted)).

Likewise, presenting information regarding damage estimate for repairs to Plaintiff's vehicle only could also be unfairly prejudicial, as it does not provide a complete picture of what occurred during this car accident and the potential damage caused to the vehicles involved. Compare *Hall v. Ortiz*, 129 Nev. 1120 (2013) (concluding that the photographs and video of the accident in question were just one piece of evidence that the district court had discretion to allow the jury to weigh in determining Ortiz's damages and the probative value of such evidence was not substantially outweighed by the danger of unfair prejudice (citing NRS 48.035)).

Accordingly, COURT ORDERED, Plaintiff's Motion is GRANTED. Plaintiff shall draft a Findings of Fact and Conclusions of Law, then meet and confer with Defendant prior to submitting it to the Court for review. The draft should be submitted to DC9Inbox@clarkcountycourts.us, include electronic signatures, and be consistent with this Order.

CLERK'S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 02, 2021**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

March 02, 2021 9:30 AM Request

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Andrea Natali

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Molina, Robert P.	Attorney
	Roberts, D Lee, Jr.	Attorney
	Samson, Ian	Attorney

JOURNAL ENTRIES

- MR. Samson stated this matter was set for trial before the pandemic; additionally, everything was done and the motions in limine were done; therefore, requested the earliest trial setting. Mr. Molina stated he agreed this case was ready to proceed to trial; however, noted it would be a long trial setting, there were out of state witnesses, and the Defendant would like the trial to be done in person and in a normal fashion; therefore, they just needed to figure out when to set the trial. COURT ADVISED, it could reach out to the civil presiding chief and determine when a firm trial setting could be set at the convention center; however, if counsel wanted the matter to proceed at the Regional Justice Center (RJC) it would have to be a bench or short trial setting. Mr. Samson requested the court reach out to the presiding chief. COURT ORDERED, matter SET for a telephonic hearing on the trial setting. Colloquy regarding whether there was a waitlist for cases to be tried at the convention center. Mr. Samson anticipated 7-10 days for trial if given 9:00 AM - 5:00 PM timeframes for the trial days. Mr. Molina agreed.

3/4/21 - 10:00 AM - TELEPHONIC HEARING - CONVENTION CENTER TRIAL SETTING
 AVAILABILITY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 04, 2021**

A-13-691887-C Gianni Bianchi, Plaintiff(s)
 vs.
 Susan Clokey, Defendant(s)

March 04, 2021 10:00 AM Status Conference

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Andrea Natali

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Molina, Robert P. Attorney
 Samson, Ian Attorney

JOURNAL ENTRIES

- COURT ADVISED, it had reached out the chief civil presiding judge in regarding to the trial setting. Mr. Samson stated the parties had discussed potential trial setting dates. Mr. Molina stated the parties were not willing to forego a jury trial and it was too complex for a short trial setting. COURT ADVISED, the only option was to do a jury trial at the convention center, and they only had access to the convention center March through April, but it was not sure whether they would have that location in May; therefore, offered a 3/15/21 through 3/19/21 (a five day) trial setting; however, if counsel needed 7-10 days it could not go past that timeframe as there was another case set for four weeks starting 3/22/21. Mr. Molina stated the lead counsel on the case was away in Winnemucca and he anticipated the trial would go over 5 days. Mr. Samson suggested a status check setting in May and advised they would prepare for trial. Mr. Molina requested a firm setting within the May stack on 6/14/21. Mr. Samson requested to be set on the stack. Following colloquy regarding counsel and the Court's availability, COURT ORDERED, matter SET for trial on its stack and ADVISED, it would take note of counsel's request for a firm trial setting on 6/14/21.

5/11/21 - 9:30 AM - CALENDAR CALL

5/24/21 - 9:00 AM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 11, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

May 11, 2021 9:30 AM Calendar Call

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Louisa Garcia

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Samson, Ian Attorney
 Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- Court noted there was already a Stipulation and Order to extend the five year rule. Colloquy regarding scheduling. Counsel estimated 7-10 days for trial. COURT ORDERED, trial date RESET; Counsel to advise Court at calendar call approximately how many days the trial is going to take.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 08, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

June 08, 2021 9:30 AM Motion to Exclude

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Michaela Tapia

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Molina, Robert P. Attorney
 Samson, Ian Attorney
 Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED. Replies due by end of business day on 6/16/21.

CONTINUED TO: 6/22/21 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 22, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

June 22, 2021 9:30 AM Motion to Exclude

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Ellis, Adam R. Attorney
Molina, Robert P. Attorney

JOURNAL ENTRIES

- Mr. Ellis argued to exclude the expert disclosure as there was no reason for the untimely delay. Furthermore, there was not a new opinion or evidence.

Opposition by Mr. Molina. Argument that Plaintiff had produced several supplements since close of Discovery September 2016 and Defendant's did not oppose.

Court finds an overlap issue of reports being admitted versus expert testimony.

COURT ORDERED, matter UNDER ADVISEMENT and will issue a decision from Chambers. Matter set for Decision 7/6/21 in Chambers.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 06, 2021

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

July 06, 2021 9:30 AM All Pending Motions

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- Defendant's Opposition to Plaintiff's Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure and Defendant's Counter-Motion

Plaintiff's Motion to Exclude Defendant's 9th Supplemental Expert Witness Disclosure and Defendant's Counter-Motion

Matter submitted on the pleadings. COURT ORDERED motion DENIED IN PART; The Court will not change it's prior orders. If an expert is discussing medical treatment or about an area previous excluded through a prior order, it is GRANTED. If the disclosure discusses topics not previously excluded, it is DENIED. COURT FURTHER ORDERED, countermotion DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 20, 2021

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

July 20, 2021 9:30 AM All Pending Motions

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Molina, Robert P. Attorney
 Samson, Ian Attorney
 Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- CALENDAR CALL

PLTF'S MOTION IN LIMINE TO EXCLUDE

Counsel anticipated 10 days for trial with 13 experts. Court advised that jury selection would commence 8/5/21.

Mr. Molina argued the Indictment was filed in 2018; the witness was a felon; and wanted the evidence to be used for impeachment and creditability Mr. Samson argued the conviction did not happen until 2021 and requested to exclude expert Dr. Gross's criminal case in California. Furthermore, there was no lien on this case by Dr. Gross. COURT ORDERED, motion to exclude DENIED. Court finds conviction goes to credibility.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 05, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 05, 2021 10:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Delpriore, Dara	Plaintiff
	Ellis, Adam R.	Attorney
	Eschweiler, Corey M.	Attorney
	Molina, Robert P.	Attorney
	Samson, Ian	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- PRESENCE OF THE PROSPECTIVE JURY: Role Call. Clerk swore prospective jury panel. General Voir Dire conducted.

OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record. Juror questioned individually.

PRESENCE OF THE PROSPECTIVE JURY, COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED....8/6/21 10:00AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 06, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 06, 2021 10:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Ellis, Adam R. Attorney
Molina, Robert P. Attorney
Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record. Juror questioned individually.

PRESENCE OF THE PROSPECTIVE JURY: General Voir Dire conducted.

OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record.

PRESENCE OF THE PROSPECTIVE JURY: General Voir Dire conducted.

PRESENCE OF THE PROSPECTIVE JURY, COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY: Challenges for cause put on the record.

CONTINUED....8/10/21 9:00AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 09, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 09, 2021 9:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Ellis, Adam R. Attorney
Molina, Robert P. Attorney
Samson, Ian Attorney
Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- Daniel Polsenberg, present for the Defendant, also present.

THE PRESENCE OF THE PROSPECTIVE JURY : Voir dire continued.

OUTSIDE THE PROSPECTIVE JURY PANEL: Challenges for cause put on the record. Court noted for the record juror in seat #6 was taking notes during voir dire and was instructed to stop.

THE PRESENCE OF THE PROSPECTIVE JURY: Voir dire continued.

OUTSIDE THE PROSPECTIVE JURY PANEL: Court noted it reviewed the Pre-Trial Motion and ORDERED as to Plaintiff's objections to the Defendant's pre-trial disclosures rulings as follows:

tab 1 - sustained
tab 2 as to the accident report of 6/6/2006 - sustained,
tab 3 recorded statement of Mr. McNamee - sustained,
tab 4 - sustained,

tab 5 as to the declaration bates pages 44-310 - sustained,
tab 6 records from Dr. Kenneth Grant -arguments by Mr. Molina and Mr. Samson - overruled,
tab 9 records from the paris hotel- Redact employee ID numbers prior to admission, can be objected to at the time of offer otherwise overruled,
tab 10 - moot,
tab 11 - same as tab 9,
tab 18 - moot,
tab 21 - Mr. Samson stated they were not offering - sustained,
tab 27 - overruled consistent with prior ruling,
tab 39/116 - Mr. Samson stated they were not offering,
tab 40 - previously sustained,
tab 42-44 moot,
tab 45 - arguments by Mr. Molina and Mr. Samson - overruled,
tab 55 - overruled,
tab 47 - sustained, with Plaintiff's signature deferred for impeachment
tab 53 - repeat
tab 55 - repeat
tab 61 - moot
tab 65 - arguments by Mr. Molina and Mr. Samson - deferred
tab 68 - arguments by Mr. Molina and Mr. Samson - sustained, can use for impeachment not admitted,
tab 69 - stipulate same as tab 68,

COURT FURTHER ORDERED, as to Defendant's objections to evidence offered by Plaintiff as followings:

As to Plaintiff's Bianchi documents # 1-12 - Mr. Silvestri stated they would stipulate to authenticity of the medical records of Mr. Bianchi and Ms. Del Priore, however, they object to the order allowing medical records being pre-admitted without witnesses testifying. Mr. Samson advised that order has been an order for over 4 years and there was no reason to not admit them. Discussion regarding some records missing from this trial packet.

As to Plaintiff's documents 13 - As to future costs - overruled pursuant to order of 7/19/17. Arguments by Mr. Molina and Mr. Samson. Court stated it would continue to review these documents and allow counsel additional time to argue at a later time.

As to Plaintiff's documents 14-27 - Mr. Silverti he believed the parties would work that out.

As to the accident report - sustained.

As to documents 30 - photos had been dealt with

As to the Stan Smith Report - sustained.

Colloquy regarding releasing current juror #12, Bailey. Further arguments by Mr. Molina and Mr. Samson as to Defense's objection to Plaintiff's #13. MATTER TRAILED for Court to review information provided.

MATTER RECALLED, all parties present as before.

OUTSIDE PRESENCE OF THE PROSPECTIVE JURY: As to Plaintiff's #13 - Court stated it FINDINGS and overruled Defense's objections as to Dr. Kabin and Dr. Kaplan if the opinions were formed during the course of treatment as they were designated as expert witnesses; if the opinions were formed after treatment was concluded then testimony would be excluded, therefore; prior to Dr. Kabin and Dr. Kaplan testifying the Court would allow them to be voir dire outside the presence.

As to juror #12, Bailey, counsel decided to release her and proceed with the remaining jurors. Court released juror Bailey.

THE PRESENCE OF THE PROSPECTIVE JURY: Court read pretrial instructions. Jury panel selected. EXCLUSIONARY RULE INVOKED as to lay witnesses only. Jury panel sworn in. Opening statements by Mr. Samson and Mr. Silvestri. COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED.

CONTINUED TO: 08/10/2021 9:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 10, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 10, 2021 9:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Ellis, Adam R. Attorney
Molina, Robert P. Attorney
Samson, Ian Attorney
Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Juror questioned individually.

PRESENCE OF THE JURY: Jury selected and sworn.

OUTSIDE THE PRESENCE OF THE JURY: Objections by counsel regarding future care of the Plaintiffs. Dr. Stuart Kaplan interviewed. Mr. Molina requested to exclude the witness. Objection by Mr. Samson. Court over ruled and finds he is a treating physician and there was proper notice and opinions were formed in his treatment.

PRESENCE OF THE JURY: Stuart Kaplan sworn and testified. Exhibits admitted.

OUTSIDE THE PRESENCE OF THE JURY: Objections by counsel regarding Dr. Kabins.

PRESENCE OF THE JURY: Mark Kabins sworn and testified. Exhibits admitted.

COURT ADMONISHED and EXCUSED the jury for the evening. COURT ORDERED, trial CONTINUED 8/11/21 9:00am.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 11, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 11, 2021 9:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Ellis, Adam R. Attorney
Molina, Robert P. Attorney
Samson, Ian Attorney
Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Colloquy between the Court and counsel regarding the scope of exclusions of Dr. Edson Parker.

PRESENCE OF THE JURY: Edson Parker and Walter Kidwell sworn and testified. Exhibits admitted.

COURT ADMONISHED and EXCUSED the Jury for the evening. Trial CONTINUED 8/12/21 9:00AM.

OUTSIDE THE PRESENCE OF THE JURY: Juror interviewed individually on possible recognizer of the witness. Juror excused. Objections put on the record regarding bills and cumulative testimony.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 12, 2021

A-13-691887-C Giann Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 12, 2021 9:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Ellis, Adam R. Attorney
Molina, Robert P. Attorney
Samson, Ian Attorney
Silvestri, James P.C. Attorney

JOURNAL ENTRIES

- PRESENCE OF THE JURY: Dara Delpriore sworn and testified. Exhibits admitted.

OUTSIDE THE PRESENCE: Objections put on the record.

PRESENCE OF THE JURY: Thomas Dunn and Mark Winker sworn and testified. Exhibits admitted.

COURT ADMONISHED and EXCUSED the jury for the evening. Trial CONTINUED 8/13/21
9:00AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 17, 2021

A-13-691887-C	Giann Bianchi, Plaintiff(s) vs. Susan Clokey, Defendant(s)
---------------	--

August 17, 2021 11:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Ellis, Adam R.	Attorney
	Molina, Robert P.	Attorney
	Samson, Ian	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE: Colloquy between the Court and counsel regarding a Direct Verdict on policy limits. Court finds a ruling premature and instructed further briefing. Mr. Silvestri moved for Direct Verdict on abuse of 16.1 and for case ending sanctions. Opposition by Mr. Samson. Court finds there was a failure to turn over Dr. Sharma and Desert Radiology, request DENIED as to future damages and case ending sanctions; GRANTED as the Court will impose a limited instruction. Mr. Silvestri moved for Direct Verdict on exclusion of medical bills. Opposition by Mr. Sampson. COURT GRANTED striking of the medical bills. Mr. Silvestri moved for Direct Verdict regarding Carpel Tunnel. COURT DENIED.

Jury Instructions settled on the record.

PRESENCE OF THE JURY: Court instructed the jury. Closing statements by counsel.

COURT ADMONISHED and EXCUSED the jury for the evening. Trial CONTINUED 8/18/21 9:00am.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 18, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 18, 2021 9:00 AM Jury Trial - FIRM

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Ellis, Adam R.	Attorney
	Molina, Robert P.	Attorney
	Samson, Ian	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- PRESENCE OF THE JURY: Closing statements by counsel. Alternate jurors thanked and excused.
Jury retired to deliberate at 9:40am. Jury returned at 3:26pm with a Verdict.

TRIAL ENDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 31, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 31, 2021 9:30 AM Show Cause Hearing

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Ilene Garcia sworn and testified.

Ms. Garcia indicated there was a family emergency and she called the Court and left messages..
Court advised that it would not imposed a fine however she must be excused officially otherwise she
could be held in contempt of the Court for not returning to jury duty.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 31, 2021

A-13-691887-C Gianni Bianchi, Plaintiff(s)
vs.
Susan Clokey, Defendant(s)

August 31, 2021 9:30 AM Show Cause Hearing

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Mary Moses sworn and testified.

Ms. Moses indicated that she kept trying to tell the Court she could not serve as a juror. Court advised that it would not imposed a fine however she must be excused officially otherwise she could be held in contempt of the Court for not returning to jury duty.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 16, 2021

A-13-691887-C	Giann Bianchi, Plaintiff(s)
	vs.
	Susan Clokey, Defendant(s)

November 16, 2021	9:30 AM	Motion for Judgment Notwithstanding the Verdict
--------------------------	----------------	--

HEARD BY: Lilly-Spells, Jasmin

COURTROOM: RJC Courtroom 12D

COURT CLERK: Alice Jacobson

RECORDER: Angelica Michaux

REPORTER:

PARTIES

PRESENT:	LeVeque, Alex G.	Attorney
	Samson, Ian	Attorney
	Silvestri, James P.C.	Attorney

JOURNAL ENTRIES

- Mr. Silvestri requested to reduce the verdict to \$30,000.00 per Plaintiff per Geico's limits. Statement regarding Special Administrator being substituted in as the Defendant. Mr. Silvestri stated the facts were different 8 years ago and that Plaintiff never quit treating.

Opposition by Mr. Samson. Argument to keep the verdict in place; a bad faith claim existed; and requested the matter be heard in Probate Court.

Colloquy between Court and counsel regarding if a new trial would be required, police limits exceeding the verdict amount; and Probate Court to make the determination.

COURT ORDERED, motion GRANTED pursuant to NRCP 50; Request for a new trial DENIED.

Mr. Silvestri to prepare the order.

EXHIBIT(S) LIST

#2

Case No.: **A-13-691887-C**

Trial Date:

August 5, 2021

Dept. No.: **23**

Judge: Hon. Jasmin Lilly-Spells

Court Clerk:

Alice Jackson

GIANN BIANCHI, ET AL.

Counsel for Plaintiff: Ian Samson; Adam Ellis; Cory

Eschweiler

v.

SUSAN CLOKEY

Counsel for Defendant: Jim Silvestri; Robert Molina

PLAINTIFFS' EXHIBIT LIST

EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	Spinal Rehabilitation Center (Giann)	8-12-21	yes	8-12-21	us
2	Strehlow Radiology (Giann)				us
3	Sunset Clinic (Giann)				us
4	Las Vegas Radiology (Giann)				us
5	Pain Institute of Nevada (Giann)				us
6	Wellcare Pharmacy (Giann)				
7	Partell Pharmacy (Giann)				
8	Innovative Healing (Giann)	8-12	yes	8-12	us
9	Kidwell Future Cost (Giann)				
10	Valley View Surgery (Giann)	8-12	yes	8-12	us
11	Family Docs of Green Valley (Giann)	8-12	yes	8-12	us
12	Las Vegas Neurosurgery and Orthopedics (Giann)	8-10	no	8-10	us
13	Mark. B. Kabins, MD's Future Cost Letter (Giann)				
14	Las Vegas Radiology (Giann)	8-12	yes	8-12	us
15	Matt Smith Physical Therapy (Giann)				us
16	Radar Medical Group (Giann)				us
17	Desert Orthopedic Center (Giann)				us

EXHIBIT(S) LIST

Case No. A-13-691887-C

GIANN BIANCHI, ET AL.

VS.

SUSAN CLOKEY

PLAINTIFFS' EXHIBITS

Exhibit #	Exhibit Description	Date Offered	Objection	Date Admitted	
18	Summerlin Hospital Medical Center (Giann)	8.12	YES	8.12.21	us
19	Thomas Barson, MD (Giann)				us
20	Monitoring Associates (Giann)				us
21	Neuromonitoring Associates (Giann)				us
22	General Vascular Specialists (Giann)				us
23	Wolfson and Wolfson (Eric Wolfson, M.D.) (Giann)				us
24	Pulmonary Associates (Giann)				us
25	Comprehensive Injury Institute (Giann)				
26	Millennium Health, LLC (Giann)				
	Exhibit 27 and 28 -not included				
29	Traffic Accident Report				
	Exhibit 30 and 31- not included				
32	Documents from Hugh Selznick (Giann)				
33	(1) One CD-rom containing Walter M. Kidwell, M.D.'s complete file of Plaintiff Giann Bianchi	8.12	NO	8.12.21	us
	Exhibit 34 and 35 – not included				
36	Spinal Rehabilitation Center (Dara)	8.10	NO	8.10	us
37	Strehlow Radiology (Dara)	8.12	8/10	8.12.21	us
38	Sunset Clinic (Dara)				us
39	Las Vegas Radiology (Dara)				us
40	Pain Institute of Nevada (Dara)				us
41	Well Care Pharmacy (Dara)				
42	Partell Pharmacy (Dara)	8.12	NO	8.12	us
43	Innovative Healing (Dara)				us
44	Valley View Surgery Center (Dara)				us
45	Advanced Orthopedic Center (Dara)				

EXHIBIT(S) LIST

46	Western Regional Medical Center (Dara)	8.10	NO	8.10.24	us
47	Neurology Center of Las Vegas (Dara)	8.12	YES	8.12	us
48	Future Cost Estimate from Advanced Orthopedic Center (Dara)				
49	Las Vegas Neurosurgery, Orthopaedics and Rehabilitation (Dara)	8.10	NO	8.10.24	us
50	Certificate of Custodian of Records and Medical Bill from Surgical Anesthesia Services (dara)	8.12	YES	8.12	us
51	Mountainview Hospital (Dara)	8.12	YES	8.12	us
52	2011 Tax Returns (Dara)				
53	2012 Tax Returns (Dara)				
54	2013 Tax Returns (Dara)				
55	Documents regarding Plaintiff Dara DelPriore, Produced by Hugh Selznick, M.D.				
56	Future Cost Estimate prepared by Walter M. Kidwell, M.D.				
57	(1) One CD-rom containing Walter M. Kidwell, M.D.'s complete file of Plaintiff Dara DelPriore	8.12	NO	8.12	us

All exhibits
not proposed
returned
by the clerk
to counsel

EXHIBIT(S) LIST

Case No.: **A-13-691887-C**

Trial Date:

August 5, 2021

Expt. No.: **23**

Judge: Hon. Jasmin Lilly-Spells

Court Clerk:

Carolyn Jackson

GIANN BIANCHI, ET AL.

Counsel for Plaintiff: Ian Samson; Adam Ellis; Cory

Eschweiler

v.

SUSAN CLOKEY

Counsel for Defendant: Jim Silvestri; Robert Molina

PLAINTIFFS' EXHIBIT LIST

EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Spinal Rehabilitation Center (Giann)	8-12-21	yes	8-12-21
2	Strehlow Radiology (Giann)			
3	Sunset Clinic (Giann)			
4	Las Vegas Radiology (Giann)			
5	Pain Institute of Nevada (Giann)			
6	Wellcare Pharmacy (Giann)	Not admitted 8-17-21		Not admitted
7	Partell Pharmacy (Giann)	Not admitted 8-17-21		Not admitted
8	Innovative Healing (Giann)			
9	Kidwell Future Cost (Giann)	Not admitted 8-17-21		Not admitted
10	Valley View Surgery (Giann)			
11	Family Docs of Green Valley (Giann)			
12	Las Vegas Neurosurgery and Orthopedics (Giann)	8-10	NO	8-10-21
13	Mark. B. Kabins, MD's Future Cost Letter (Giann)	Redacted	NOT ADMITTED	
14	Las Vegas Radiology (Giann)	8-12	yes	8-12-21
15	Matt Smith Physical Therapy (Giann)			
16	Radar Medical Group (Giann)			
17	Desert Orthopedic Center (Giann)			

EXHIBIT(S) LIST

Case No. A-13-691887-C

GIANN BIANCHI, ET AL.

VS.

SUSAN CLOKEY

PLAINTIFFS' EXHIBITS

Exhibit #	Exhibit Description	Date Offered	Objection	Date Admitted
18	Summerlin Hospital Medical Center (Giann)	8.12	yes	8.12.21
19	Thomas Barson, MD (Giann)			
20	Monitoring Associates (Giann)			
21	Neuromonitoring Associates (Giann)			
22	General Vascular Specialists (Giann)			
23	Wolfson and Wolfson (Eric Wolfson, M.D.) (Giann)			
24	Pulmonary Associates (Giann)			
25	Comprehensive Injury Institute (Giann)	NOT	ADMITTED	
26	Millennium Health, LLC (Giann)	8.12	yes	8.12.21
	Exhibit 27 and 28 -not included	NOT	ADMITTED	
29	Traffic Accident Report			
	Exhibit 30 and 31- not included			
32	Documents from Hugh Selznick (Giann)			
33	(1) One CD-rom containing Walter M. Kidwell, M.D.'s complete file of Plaintiff Giann Bianchi	8.12	NO	8.12.21
	Exhibit 34 and 35 – not included	NOT	ADMITTED	
36	Spinal Rehabilitation Center (Dara)	8.10	NO	8.10.21
37	Strehlow Radiology (Dara)	8.12.21	8.12.21	8.12.21
38	Sunset Clinic (Dara)			
39	Las Vegas Radiology (Dara)			
40	Pain Institute of Nevada (Dara)			
41	Well Care Pharmacy (Dara)			
42	Partell Pharmacy (Dara)			
43	Innovative Healing (Dara)			
44	Valley View Surgery Center (Dara)			
45	Advanced Orthopedic Center (Dara)	NOT	ADMITTED	

EXHIBIT(S) LIST

46	Western Regional Medical Center (Dara)	8-10	NO	8-10-21
47	Neurology Center of Las Vegas (Dara)	8-12	YES	8-12-21
48	Future Cost Estimate from Advanced Orthopedic Center (Dara)	NOT	ADMITTED	
49	Las Vegas Neurosurgery, Orthopaedics and Rehabilitation (Dara) <i>redacted</i>	8-10	NO	8-10-21
50	Certificate of Custodian of Records and Medical Bill from Surgical Anesthesia Services (dara)	8-12	YES	8-12
51	Mountainview Hospital (Dara)	8-12	YES	8-12
52	2011 Tax Returns (Dara)	NO ADMITTED		
53	2012 Tax Returns (Dara)	I	I	
54	2013 Tax Returns (Dara)			
55	Documents regarding Plaintiff Dara DelPriore, Produced by Hugh Selznick, M.D.	I	I	
56	Future Cost Estimate prepared by Walter M. Kidwell, M.D.	I	I	
57	(1) One CD-rom containing Walter M. Kidwell, M.D.'s complete file of Plaintiff Dara DelPriore	8-12	NO	8-12-21

Exhibits for Giann Bianchi

1. Spinal Rehab Center (Chiropractor Kevin Bahooora) [GJL-GJL3]
2. Strehlow Radiology Consulting (imaging for chiropractor Kevin Bahooora) [GJL 23]
3. Sunset Clinic 2 (primary care) [GJL 25 - GJL27]
4. Las Vegas Radiology [GJL 37]
5. ~~Pain Institute of Nevada (Kidwell) - No bills~~ *not*
6. WellCare Pharmacy [GJL 49] - All
7. Partell Pharmacy GJL 3239 - 3242] - All
8. Innovative Healing, LLC (additional chiropractic visit) [GJL 51]
9. Future Cost Estimate by Walter Kidwell, M.D. [GJL 53]
10. ~~Valley View Surgery Center - No bills~~
11. Family Doctors of Green Valley (primary care doctor) [GJL 276, 437, -438, GJL 544 -545, GJL 579 - 580, GJL 0624 - 0625, GJL 0656, GJL 0661, GJL 0681 - 0682, GJL 1002 -1003, GJL 1061 - 1062, GJL 1143]
12. ~~Las Vegas Neurosurgery & Orthopedics & Rehabilitation (Mark Kabins) - No Bills~~
13. Mark Kabins - Future Costs - No bills *not admitted*
14. Las Vegas Cardiology - [GJL 0687, GJL 1013, GJL 1017, GJL 3123]
15. Matt Smith Physical Therapy - [GJL 0765]
16. ~~Radar Medical Group (neurologist Russell Shah, M.D.) [GJL 1040, GJL 1117]~~
17. ~~Desert Orthopedic Center (Thomas Dunn, M.D.) No bills~~
18. ~~Summerlin Hospital Medical Center (surgery by Dr. Kabins) [GJL 1528 - 1617]~~
19. ~~Thomas Barson, M.D. (anesthesia for surgery by Dr. Kabins) - None~~
20. ~~Monitoring Associates (surgery neuromonitoring by Dr. Hyson) None~~
21. ~~Neuromonitoring Associates (surgery neuromonitoring by Dr. Hyson) None~~
22. ~~General Vascular Specialists (vascular surgeon re: surgery by Dr. Hyson) [GJL 1510 - GJL 1512, GJL 1598 - 1601, GJL 1651, GJL 2181, GJL 2183, GJL 3199 - 3577]~~
23. ~~Wolfson & Wolfson, LLP (care in hospital post-surgery by Dr. Kabins) [GJL 1900 -1901]~~
24. ~~Pulmonary Associates [GJL 1949, GJL 2187 - 2188]~~
25. ~~Comprehensive Injury Institute - GJL 2206]~~
26. Millennium Laboratories - All bills *All*
27. State of NV Traffic Accident Report *not admitted*
28. Docs Produced by Hugh Selznick *not admitted*
29. Dr. M. Kidwell's Complete file. *not admitted*

pull out
↓

(8-17-21)
pages to be removed
from exhibits
provided
by TT
counsel

Exhibits for Dara Del Priore

- ~~36. Spinal Rehab Center - Kevin Bahora [GJL 66-68, GJL 2259 -2262]~~ *STRT*
37. Strehlow Radiology Consulting LLC [GJL 92 -93]
38. Sunset Clinic 2 [GJL 96 - 98]
39. Las Vegas Radiology - [GJL 111, GJL 550, GJL 0617, GJL 0662, GJL 0666, GJL 2207]
~~40. Pain Institute of Nevada - No Bills~~
41. Well Care Pharmacy [GJL 122] All
42. Partell Pharmacy [GJL 123, GJL 287]
43. Innovative Healing, LLC [GJL 124]
~~44. Valley View Surgery Center [GJL 143, GJL 225, GJL 288, GJL 0594-0595, GJL 0610, GJL 1888, GJL 1931]~~
45. Advanced Orthopedic & Sports Medicine *not admitted*
~~46. Western Regional Center for Brain and Spine Surgery - No bills~~
47. Neurology Center of Las Vegas [GJL 1022-1023]
48. Future Cost Estimate - Advanced Orthopedics & Sports Medicine *not admitted*
49. Las Vegas Neurosurgery, Orthopedics & Rehabilitation, LLP *not admitted*
~~50. Surgical Anesthesia Services - [GJL 2896]~~
~~51. Mountainview Hospital [GJL 3177-3181]~~
52. 2011 Tax Return
53. 2012 Tax Return
54. 2013 Tax Return
55. Docs Produced by Hugh Selznick - No bills
56. Future Cost Estimate from Walter M. Kidwell, M.D. - All
~~57. Walter Kidwell, M.D.'s Complete file - No bills~~
58. Future Cost Estimate by Walter Kidwell All *not admitted*
59. Color Photos
60. (xxx) Matt Smith Physical Therapy - No Bills

8:18:21

Redacted:

JAMES P. C. SILVESTRI, ESQ.
Nevada Bar No. 3603
ROBERT P. MOLINA, ESQ.
Nevada Bar No. 6422
PYATT SILVESTRI
701 Bridger Ave., Suite 600
Las Vegas, NV 89101
Tel: (702) 383-6000
Fax: (702) 477-0088
jsilvestri@pyattsilvestri.com
rmolina@pyattsilvestri.com

Attorneys for Defendant,
SUSAN CLOKEY, Special Administrator
for the Estate of JAMES McNAMEE

DISTRICT COURT

CLARK COUNTY, NEVADA

GIANN BIANCHI, individually, DARA
DELPRIORE, individually,

Plaintiffs,

vs.

SUSAN CLOKEY, Special Administrator for
the ESTATE OF JAMES McNAMEE, DOES
I-X, and ROE CORPORATIONS I-X,
inclusive,

Defendants.

Case No.: A-13-691887-C
Dept. No.: **XXIII**

Judge: Jasmin Lily - Spells
Clerk: Alice Jacobson
Carolyn Jackson
Recorder: Maria Garibay

DEFENDANT'S PROPOSED TRIAL EXHIBITS

NO.	DESCRIPTION	PROPOSED	OBJECTED	ADMITTED
101.	Answer to Complaint; Bates Stamped DEF000001-DEF000005	<i>Not Admitted</i>		
102.	Traffic Accident Report, Bates Stamped DEF000006-DEF000011			
103.	Recorded Statement of James McNamee, taken July 24, 2013; Bates Stamped DEF000012-DEF000016			
104.	Certified Copy of Policy; Bates Stamped DEF000017-DEF000043			
105.	Declarations Page and Claim Notes; Bates Stamped DEF000044-DEF0000310			

NO.	DESCRIPTION	PROPOSED	OBJECTED	ADMITTED
106.	Records from Dr. Kenneth Grant re: Dara Delpriore; Bates Stamped DEF000311- <i>redacted</i> DEF000316 <i>pgs 313-314</i>	8.12	NO	8.12.21 <i>wt</i>
107.	Records from WellCare Pharmacy re: Dara Delpriore; Bates Stamped DEF000243; DEF000317-DEF000324	<i>Not</i>	<i>Admitted</i>	
108.	Records from Spinal Rehabilitation Center re: Dara Delpriore; Bates Stamped DEF000180-DEF000183; DEF000231-DEF000233; DEF000325-DEF000369; DEF000466	<i>I</i>		<i>I</i>
109.	Records from Sunset Clinic re: Dara Delpriore; Bates Stamped DEF000207-DEF000215; DEF000236-DEF000238; DEF001148-DEF001180	<i>I</i>		<i>I</i>
110.	Employment records from Caesars Entertainment re: Dara Delpriore; Bates Stamped DEF000370-DEF000372; DEF000515-DEF000516; DEF000863-DEF000867; DEF001764-DEF001806; DEF002313-DEF002407 <i>Redacted pgs 1777-1795 + 1764</i>	8.12.21	yes	8.12.21 <i>wt</i>
111.	Records from the Social Security Administration re: Dara Delpriore; Bates Stamped DEF001807-DEF001961 <i>Redacted pgs 1851-1857, 1829</i>	8.12.21	yes	8.12.21 <i>wt</i>
112.	Records from Sunset Clinic re: Giann Bianchi; Bates Stamped DEF001181-DEF001216	<i>Not</i>	<i>Admitted</i>	
113.	Records from Caesars Entertainment re: Giann Bianchi; Bates Stamped DEF000475-DEF000489	<i>I</i>		<i>I</i>
114.	Employment records from Caesar's Entertainment re: Giann Bianchi; Bates Stamped DEF000693-DEF000706	<i>I</i>		<i>I</i>
115.	Records from the Social Security Administration re: Giann Bianchi; Bates Stamped DEF001962-DEF002129 <i>Redacted pulled out pgs 2079-2129</i>	8-13-21	NO	8-13-21 <i>wt</i>
116.	Damage Estimate dated July 23, 2013; Bates Stamped DEF001224-DEF001227	<i>Not</i>	<i>Admitted</i>	

NO.	DESCRIPTION	PROPOSED	OBJECTED	ADMITTED
117.	Five color photographs of Plaintiffs vehicle; Bates Stamped DEF001228-DEF001232		Not	Admitted
118.	Collective Bargaining Agreement between Parbal Corporation dba Paris Las Vegas and Local Joint Executive Board of Las Vegas, 2007 — 2012; Bates Stamped DEF001239-DEF001352	I		I
119.	Collective Bargaining Agreement between Paris CERP Manager, LLC on behalf of Paris Las Vegas Operating Company, LLC dba Paris Las Vegas and Local Joint 1 Executive Board of Las Vegas, 2013 — 2018; Bates Stamped DEF001353-DEF001447	I		I
120.	Pages 23 — 52 of the 2013 Culinary Union Contract; Bates Stamped DEF001448-DEF001477	I		I
121.	Thumb drive from Horseman Investigations depicting footage of Plaintiffs from March 3, 15 & 22, 2015; Bates Stamped DEF002609	8-13-21	yes	8-13-21
122.	Order Regarding Defendant's Motion in Limine to Exclude Expert Stan Smith in the civil case of <i>William A. Price v. Casey Folks, et al.</i> , Case No. A-13-680895-C, dated June 27, 2016; Bates Stamped DEF002636-DEF002649	Not		Admitted
123.	Order Granting Motion in Limine No. 3 to Exclude Reports and Testimony of Plaintiff Retained Expert Economist Dr. Stan Smith in the civil case of <i>Angela Byers v. The Home Depot, et al.</i> , Case No. A-13-682404-C, dated December 23, 2015; Bates Stamped DEF002650-DEF002652	I		I
124.	A disc of films from Las Vegas Radiology re: Dara Delpriore DEF001147	8.10	NO	8.10.21
125.	A disc of films from Las Vegas Radiology re: Giann Bianchi DEF001223	8-17	NO	8.17.21
126.	A disc of films from Desert Radiologists re: Dara Delpriore DEF002459	8.10	NO	8.10.21
127.	Records from University Medical Center re: Dara Delpriore DEF001478-DEF001763 redacted	8.12	NO	8.12.21
128.	Drawings (pages 1478-1727)	8.12	NO	8.12.21

W2

W2

W2

W2

W2

W2

EXHIBIT(S) LIST

Case No.: A691887

Giann Bianchi

Plaintiff

VS.

Susan Clokey

Defendant

Court EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	PITF's 111 Supplemental List of Witnesses + Documents Pursuant to PREP 11.1			8/9/21	wa
2	PITF's 20th Supplemental Definition of expert witnesses and reports			8.10.21	wa
3	Juror Question Badge 155			8.10.21	wa
4	Juror Question Badge 549			8.11.21	wa
5	Juror Question 102			8.11.21	wa
6	Juror Question 155			8/12/21	wa
7	Juror Question 309			8.12.21	wa
8	Juror Question 120			8.12.21	wa
9	Juror Question			8.12.21	wa
10	Juror Question				wa
11	Juror Question				wa
12	Reports re: Giann Bianchi + Lara Delprione			8.12.21	wa
13	Juror Question 155			8-13-21	wa
14	Juror Question 456			8-13-21	wa
15	Juror Question 339			8-13-21	wa
16	Juror Question 102			8-13-21	wa
17	Juror Question 102	8-13-21	Yes	Not Admitted	wa
18	Juror Question 102	8-16-21	Yes	Not Admitted	wa
19	Plaintiff Offered - Not Given	8-16-21	Yes	Not Admitted	wa
20	Defense Offered - Not Given	8-16-21	Yes	Not Admitted	wa
21	exhibits sheet / Motion to Strike	8-17-21	yes	8-17-21	wa
22	closing statement powerpoint	8/18/21	no	8/18/21	wa
23	opening statement powerpoint	8/18/21	no	8/18/21	wa
24	Juror Questions 456	8/18/21	no	8/18/21	wa
25	Power Point	8.18.21	no	8.18.21	wa



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

COREY M. ESCHWEILER, ESQ.
4795 S. DURANGO DR.
LAS VEGAS, NV 89147

DATE: January 7, 2022
CASE: A-13-691887-C

RE CASE: GIANN BIANCHI; DARA DELPRIORE vs. SUSAN CLOKEY, as Special Administrator for the
ESTATE OF JAMES MCNAMEE, Deceased

NOTICE OF APPEAL FILED: January 5, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT (NRCP 50(B)) AND/OR MOTION TO ALTER OR AMEND JURY VERDICT (NRCP (59(E)) IN ACCORDANCE WITH NRS 140.040; NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT (NRCP 50(B)) AND/OR MOTION TO ALTER OR AMEND JURY VERDICT (NRCP 59(E)) IN ACCORDANCE WITH NRS 140.040; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

GIANN BIANCHI; DARA DELPRIORE,

Plaintiff(s),

vs.

SUSAN CLOKEY, as Special Administrator for
the ESTATE OF JAMES MCNAMEE,
Deceased,

Defendant(s),


Case No: A-13-691887-C

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 7 day of January 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

January 7, 2022

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: GIANN BIANCHI; DARA DELPRIORE vs. SUSAN CLOKEY, as Special Administrator for the
ESTATE OF JAMES MCNAMEE, Deceased
D.C. CASE: A-13-691887-C

Dear Ms. Brown:

Please find enclosed a Notice of Appeal packet, filed January 7, 2022. Due to extenuating circumstances minutes from the date(s) listed below have not been included:

August 13, 2021
August 16, 2021

We do not currently have a time frame for when these minutes will be available.

If you have any questions regarding this matter, please contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk