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Clerk of Supreme Court

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14 *LLC dba Centennial Hills Hospital Medical*  
15 *Center*

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 ESTATE OF REBECCA POWELL, through  
12 BRIAN POWELL, as Special Administrator;  
13 DARCI CREECY, individually and as Heir;  
14 TARYN CREECY, individually and as an  
15 Heir; ISAAH KHOSROF, individually and as  
16 an Heir; LLOYD CREECY, individually;

17 Plaintiffs,

18 vs.

19 VALLEY HEALTH SYSTEM, LLC (doing  
20 business as "Centennial Hills Hospital Medical  
21 Center"), a foreign limited liability company;  
22 UNIVERSAL HEALTH SERVICES, INC., a  
foreign corporation; DR. DIONICE S.  
JULIANO, M.D., an individual; DR.  
CONRADO C.D. CONCIO, M.D., an  
individual; DR. VISHAL S. SHAH, M.D., an  
individual; DOES 1-10; and ROES A-Z;

23 Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**DEFENDANT VALLEY HEALTH  
SYSTEM, LLC DBA CENTENNIAL  
HILLS HOSPITAL MEDICAL CENTER'S  
NOTICE OF APPEAL**

24 Notice is hereby given that Defendant VALLEY HEALTH SYSTEM, LLC, through its  
25 counsel, Lewis Brisbois Bisgaard & Smith LLP, hereby appeals to the Supreme Court of Nevada  
26 from the following District Court, Clark County, Nevada order in this matter:

27 The District Court's Order denying Defendant Valley Health System, LLC's Motion For  
28 Attorneys' Fees Pursuant To N.R.C.P. 68, N.R.S. §§ 17.117, 7.085, 18.010(2), and EDCR 7.60,

1 entered February 16, 2022, attached hereto as Exhibit A.

2 DATED this 14<sup>th</sup> day of March, 2022

3

4

LEWIS BRISBOIS BISGAARD & SMITH LLP

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6

By /s/ Adam Garth

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S. BRENT VOGEL

Nevada Bar No. 6858

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ADAM GARTH

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*Attorneys for Attorneys for Defendant Valley*

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*Health System, LLC dba Centennial Hills Hospital*

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*Medical Center*

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1 **CERTIFICATE OF SERVICE**

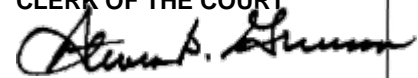
2 I hereby certify that on this 14<sup>th</sup> day of March, 2022, a true and correct copy  
3 of **DEFENDANT VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS**  
4 **HOSPITAL MEDICAL CENTER'S NOTICE OF APPEAL** was served by electronically filing  
5 with the Clerk of the Court using the Odyssey E-File & Serve system and serving all parties with an  
6 email-address on record, who have agreed to receive electronic service in this action.

7 Paul S. Padda, Esq.  
8 PAUL PADDA LAW, PLLC  
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*Shah, M.D.*

15 By /s/ Heidi Brown  
16 An Employee of  
17 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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# EXHIBIT A



NOED

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Attorneys for Plaintiffs

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

ESTATE OF REBECCA POWELL, through  
BRIAN POWELL, as Special Administrator;  
DARCI CREECY, individually and as an Heir;  
TARYN CREECY, individually and as an  
Heir; ISAAH KHOSROF, individually and as  
an Heir; LLOYD CREECY, individually;

Plaintiffs,

vs.

VALLEY HEALTH SYSTEM, LLC (doing  
business as "Centennial Hills Hospital Medical  
Center"), a foreign limited liability company;  
UNIVERSAL HEALTH SERVICES, INC., a  
foreign corporation; DR. DIONICE S.  
JULIANO, M.D., an individual; DR.  
CONRADO C.D. CONCIO, M.D., an  
individual; DR. VISHAL S. SHAH, M.D., an  
individual; DOES 1-10; and ROES A-Z;

Defendants.

Case No. A-19-788787-C

Dept. No. XXX (30)

**NOTICE OF ENTRY OF ORDER AND  
DECISION REGARDING VALLEY  
HEALTH SYSTEM'S MOTION FOR  
FEES AND COUNTERMOTION FOR  
FEES AND COSTS**

PAUL PADDA LAW, PLLC  
4560 South Decatur Boulevard, Suite 300  
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Tele: (702) 366-1888 • Fax (702) 366-1940

1 Notice is hereby provided that the Court filed an Order and Decision pertaining to  
2 Valley Health System's Motion for Fees and the Countermotion for Fees and Costs. A copy of  
3 that Order and Decision is attached hereto as Exhibit A.  
4

5 Respectfully submitted,  
6

7 /s/ Paul S. Padda  
8

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Counsel for Plaintiffs

Dated: February 16, 2022

PAUL PADDA LAW, PLLC  
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Tele: (702) 366-1888 • Fax (702) 366-1940

**CERTIFICATE OF SERVICE**

Pursuant to the Nevada Rules of Civil Procedure, the undersigned hereby certifies that on this day, February 16, 2022, a copy of the foregoing **NOTICE OF ENTRY OF ORDER AND DECISION REGARDING VALLEY HEALTH SYSTEM'S MOTION FOR FEES AND COUNTERMOTION FOR FEES AND COSTS** was filed and served through the Court's electronic filing system upon all parties and counsel identified on the Court's master e-service list.

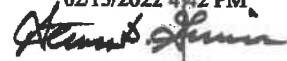
/s/ *Shelbi Schram*

Shelbi Schram, Litigation Assistant  
PAUL PADDA LAW

**EXHIBIT A**

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CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA  
-oOo-**

ESTATE OF REBECCA POWELL, through )  
BRIAN POWELL, as Special Administrator; )  
DARCI CREECY, individually and as an Heir; )  
TARYN CREECY, individually and as an Heir; )  
ISALAH KHOSROF, individually and as an )  
Heir; LLOYD CREECY, individually, )

Plaintiffs,

vs.

VALLEY HEALTH SYSTEM, LLC (doing )  
Business as "Centennial Hills Hospital )  
Medical Center"), a foreign limited liability )  
Company; UNIVERSAL HEALTH SERVICES, )  
INC., a foreign corporation; DR. DIONICE )  
S. JULIANO, M.D., an individual; DR. )  
CONRADO C.D. CONCIO, M.D., an individual; )  
DR. VISHAL S. SHAH, M.D., an individual; )  
DOES 1-10; and ROES A-Z, )

Defendants.

CASE NO.: A-19-788787-C  
DEPT. NO.: XXX

**ORDER RE: VALLEY  
HEALTH SYSTEM'S  
MOTION FOR FEES  
AND COUNTERMOTION  
FOR FEES AND COSTS**

**INTRODUCTION**

The above-referenced matter is scheduled for a hearing on 2/18/22, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Attorneys' Fees and Countermotion for Fees and Costs. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, these matters may be decided with or without oral argument. This Court has determined that it would be appropriate to decide these matters on the pleadings, and consequently, this Order issues.

**FACTUAL AND PROCEDURAL HISTORY**

On May 3, 2017, Rebecca Powell ("Plaintiff") was taken to Centennial Hills Hospital, a hospital owned and operated by Valley Health System, LLC ("Defendant") by EMS services after she was discovered with labored breathing and vomit on her face. Plaintiff remained in Defendant's care for a week, and her condition improved.

1 However, on May 10, 2017, her condition began to deteriorate and on May 11, 2017, she  
2 suffered an acute respiratory failure, resulting in her death.

3 Plaintiffs brought suit on February 4, 2019 alleging negligence/medical  
4 malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of  
5 emotional distress. Defendants filed Motions to Dismiss and for Summary Judgment,  
6 which this Court denied. After a recent remand from the Nevada Supreme Court, on  
7 11/19/21, the Court entered an Order Vacating Prior Order Denying Defendant Valley  
8 Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for  
9 Summary Judgment and Granting Said Defendant's Motion for Summary Judgment  
10 Per Mandamus of Nevada Supreme Court. A Notice of Entry of Order was entered that  
11 same day. On 11/22/21, Defendant Valley Health Systems filed a Motion for Attorneys  
12 Fee and Verified Memorandum of Costs. On 12/3/21, Plaintiffs filed a Motion to  
13 Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano,  
14 Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs. Plaintiffs received  
15 an Order Shortening Time on 12/10/21. Following briefing, the Court entered an Order  
16 denying Plaintiffs' Motion to Extend Time to Respond, because of a lack of diligence on  
17 part of the Plaintiffs. On 12/20/21, Valley filed an Opposition to Plaintiff's Motion to  
18 Extend Time to Retax Costs, and Countermotion for Fees and Costs.

#### 19 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

20 Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical  
21 Center (CHH) seeks attorneys' fees pursuant to NRCP 68(f) and NRS 17.117(10). CHH  
22 argues that it is entitled to an award of attorneys' fees because Plaintiffs rejected CHH's  
23 Offer of Judgment and then failed to obtain a more favorable judgment. See *Albios v.*  
24 *Horizon Cmty., Inc.*, 122 Nev. 409, 417, 132 P.3d 1022 (2006); *Logan v. Abe*, 131 Nev.  
25 260, 268, 350 P.3d 1139 (2015).

26 CHH states that it served an Offer of Judgment on Plaintiffs for a waiver of any  
27 presently or potentially recoverable costs, in full and final settlement of the Plaintiff's  
28 claims. Plaintiffs rejected this Offer of Judgment by failing to accept it within 14 days.  
N.R.C.P. 68(e) and N.R.S. 17.117(6). As this Court was directed by the Supreme Court to  
vacate its order denying summary judgment to CHH and instead issue an order  
granting CHH's summary judgment motion, Plaintiffs failed to obtain more a favorable  
judgment than the one offered to them in CHH's Offer of Judgment. Thus, pursuant to

1 N.R.C.P. 68 and N.R.S. 17.117, this Court has discretion to award CHH its attorneys'  
2 fees.

3 CHH cites to *Schouweiler v. Yancey Co.*, for the proposition that a Court must  
4 consider the following factors in exercising its discretion to award fees: (1) whether  
5 the offeree brought his claims in good faith; (2) whether the offeror's offer of judgment  
6 was also brought in good faith in both timing and amount; (3) whether the offeree's  
7 decision to reject the offer of judgment was in bad faith or grossly unreasonable; and  
8 (4) whether the amount of offeror's requested fees is reasonable and justified.

9 *Schouweiler*, 101 Nev. 827, 833, 917 P.2d 786 (1985). CHH argues that all of the  
10 *Schouweiler* factors weigh in favor of CHH.

11 As to the first factor, CHH notes that the Supreme Court determined Plaintiffs  
12 were on notice of any alleged malpractice in this case, in possession of records long  
13 before the statute of limitations expired, and knowingly initiated complaints to State  
14 agencies manifesting definitive knowledge and belief of malpractice. Nevertheless,  
15 CHH argues, Plaintiffs chose to initiate a lawsuit "which was dead on arrival,  
16 continued to maintain it even after irrefutable evidence demonstrated its untenability,  
17 and then used every opportunity to prevent the expenditure of additional resources in  
18 order to prove the impropriety of the lawsuit." Accordingly, Plaintiffs' claims were not  
19 brought in good faith.

20 With regard to the second factor, CHH argues that its Offer of Judgment was  
21 brought in good faith in both timing and amount. At the time of the Offer, CHH had  
22 incurred over \$58,000.00 in costs defending Plaintiffs' claims. The Offer was served  
23 several days prior to CHH's Motion for Summary Judgment and about one and a half  
24 years after the lawsuit's commencement. Before the Motion for Summary Judgment  
25 was filed, Plaintiffs were in possession of documents that demonstrated irrefutable  
26 evidence of inquiry notice. Plaintiffs were on notice of the statute of limitations issues  
27 as early as July 2019 when CHH's prior counsel filed a Motion to Dismiss. Therefore,  
28 given Plaintiffs' likelihood of losing on merits, the offered waiver of the right to seek  
reimbursement of costs was reasonable in both timing and amount.

For similar reasons, CHH argues that Plaintiffs' decision to reject the offer of  
judgment was in bad faith and grossly unreasonable. Instead of abandoning their

1 untimely filed action, Plaintiffs' decision to pursue an untenable case caused CHH to  
2 incur substantial legal costs and expenses to seek dismissal.

3 CHH argues that the fourth factor regarding the reasonableness of CHH's  
4 requested attorneys' fees also weighs in favor of CHH. Pursuant to NRCP 68, CHH may  
5 recover their attorneys' fees from the date of service of the Offer of Judgment to the end  
6 of the matter. In this case, CHH served an Offer of Judgment on 8/28/20 that expired  
7 on 9/11/20. CHH states it incurred a total of \$110,930.85 in attorneys' fees alone (not  
8 inclusive of expenses) from 8/28/20 to the present billing cycle (which does not  
9 include all fees incurred in October 2021). Additionally, CHH incurred \$31,401.10 in  
10 disbursements including expert fees and other expenses since 8/28/20.

11 CHH argues that the amount of its bills is reasonable, given the amount of time  
12 and energy needed to defend this case, engage in extensive written discovery, extensive  
13 motions and appeals practice, and, expert time and expenses, due to Plaintiffs' refusal  
14 to stipulate to stay the litigation while the summary judgment issue made its way  
15 through the court system. Additionally, medical malpractice cases are complex, involve  
16 substantial amounts of expert testimony, and require a great deal of preparation. CHH  
17 states that documents are available for in camera review by this Court, but were not  
18 attached to the Motion in order to preserve attorney-client privilege and protect  
19 information contained within the descriptions of the attorney billing.

20 With regard to the *Brunzell vs. Golden Gate* analysis, CHH indicates that  
21 attorneys Mr. Garth and Mr. Vogel are experienced litigators that focus exclusively on  
22 medical malpractice. Both have practiced many years and are partners at Lewis  
23 Brisbois. They both billed \$225/hour on this matter. Where appropriate, work was also  
24 assigned to associate attorneys (\$193.50/hour) and paralegals (\$90/hour).

25 CHH notes that medical malpractice cases are complex and require an in-depth  
26 understanding of both unique legal issues as well as the medical care and course that is  
27 at issue. Plaintiffs claimed that they were entitled to \$105,000,000.00 in damages  
28 including \$172,728.04 billed by CHH as a recoverable expense, plus a loss of earning  
capacity of \$1,348,596.

There were multiple highly skilled expert witnesses presented by both parties.  
Further, nearly 14 months have passed since CHH's Offer of Judgment expired,  
including the participation in motion practice regarding a motion for summary

1 judgment, two motions to stay proceedings (one in this Court and one in Supreme  
2 Court), a writ petition to the Nevada Supreme Court, as well as extensive written  
3 discovery. CHH argues that its requested attorneys' fees are well below the amounts  
4 Nevada courts have found reasonable. Defendants are only requesting attorneys' fees at  
5 a rate of \$225 and \$193.50 per hour, and a paralegal rate of \$90 per hour. CHH argues  
6 that a consideration of the *Brunzell* factors shows that the recovery of the entire billed  
7 amount of fees from August 28, 2020 to present is entirely appropriate. *Brunzell*, 85  
8 Nev. 345, 455 P.2d 31 (1969).

9 In addition to all NRCP Rule 68 post offer fees and costs, CHH requests that  
10 sanctions be imposed against Plaintiffs' counsel for all pre-NRCP Rule 68 costs and fees  
11 totaling \$58,514.36 in accordance with NRS 7.085. CHH cites to EDCR 7.60, which  
12 provides a further avenue of deterrence to attorneys, like Plaintiffs' counsel who engage  
13 in these unnecessary and flagrantly frivolous lawsuits, which are dead before they are  
14 even filed. Accordingly, CHH argues that an award of \$110,930.85 in attorneys' fees per  
15 N.R.C.P. 68 and N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and  
16 expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60, is justified. CHH  
17 argues that it is entitled to an award of his attorney's fees and costs under NRS  
18 §18.010(2)(b), as Plaintiffs maintained the lawsuit without reasonable grounds or to  
19 harass the Defendants.

20 CHH's separately filed a Verified Memorandum of Costs indicates that it seeks  
21 costs, pursuant to NRS 18.005 and 18.020, as well as NRCP 68 and NRS 17.117, in the  
22 amount of \$42,492.03. A majority of the costs requested (\$41,724.10) are for expert  
23 fees. CHH argues that the experts all meet the factors set forth in *Frazier v. Drake*.

24 In Opposition, Plaintiffs argue that the medical malpractice, wrongful death, and  
25 negligent infliction of emotional distress claims on behalf of the estate and surviving  
26 children of Rebecca Powell were not frivolous, and the claims for wrongful  
27 death/medical malpractice and negligent infliction of emotional distress were brought  
28 in good faith. Because this Court denied several dispositive motions before the Nevada  
Supreme Court ultimately directed this Court to vacate its Order denying CHH's  
Motion for Summary Judgment and enter judgment in favor of all the Defendants,  
CHH did not "win" this matter on the merits.

1 Plaintiffs argue that the dismissal of the case on an incorrect interpretation of  
2 the facts and application of inquiry notice to all the named Plaintiffs by the Supreme  
3 Court does not make the claims of Plaintiffs any less meritorious. Further, pursuant to  
4 NRCP 68, and NRS 17.117(10), a party is not entitled to attorney's fees simply because it  
5 served an offer of judgment on the opposing party and that party failed to achieve a  
6 more favorable verdict. The purpose of NRCP 68 is to encourage settlement; it is not to  
7 force Plaintiffs' unfairly to forego legitimate claims. See *Beattie v. Thomas*, 99 Nev.  
8 579, 668 P.2d 268 (1983).

9 Plaintiffs argue that their claims were brought in good faith, as HHS determined  
10 that there were deficiencies in Ms. Powell's care and the death certificate was  
11 inaccurate. Additionally, this Court repeatedly found merit in Plaintiffs' Complaint and  
12 their causes of action for wrongful death, medical malpractice, and negligent infliction  
13 of emotional harm.

14 Plaintiffs argue that Defendant's Offer of Judgment, to waive costs and fees, of  
15 \$58,514.36 was not reasonable and nor was it in good faith considering Plaintiffs'  
16 causes of action for medical malpractice, wrongful death, and negligent infliction of  
17 emotional harm. Plaintiffs lost their mother, who was only 41 years old at the time of  
18 her death. It was reasonable for Plaintiffs to reject Defendants' Offer of Judgment, as  
19 the terms of the Offer of Judgment did not provide for any monetary recovery to  
20 Plaintiffs to compensate them for the loss of their mother. CHH indicated at the time it  
21 had incurred \$53,389.90 in fees and \$5,124.46 in costs, but no supporting documents  
22 were provided. Moreover, this Court denied the Motion for Summary Judgment.  
23 Therefore, CHH incorrectly states that given the likelihood of losing on this issue, the  
24 offered waiver of right to seek reimbursement of costs was reasonable in both timing  
25 and amount. Further, Plaintiffs contend that their decision to reject the Offer of  
26 Judgment was not grossly unreasonable nor in bad faith because no amount was being  
27 offered in damages to the Plaintiffs.

28 With regard to the fees sought, Plaintiffs argue that CHH won on a technicality  
at the Supreme Court, and not on the merits or by way of a jury verdict in favor of  
Defendants. Plaintiffs argue that CHH incurred so much in fees because it continued  
filing motions based on the same statute of limitations theory. Thus, CHH's fees are  
unreasonable and unjustified. Plaintiffs also claim they are unable to properly evaluate

1 the reasonableness of CHH's attorney's fees because Defendant only presented a  
2 summary of the fees that were incurred.

3 Plaintiffs argue that it is absurd for CHH to suggest that the provisions of NRS  
4 7.085 even apply to the facts of this case, and that Plaintiffs' attorneys violated NRS  
5 18.010(2), NRCP 11 or EDCR 7.60. Plaintiffs further argue that CHH has not provided  
6 factual support to support the request for pre-NRCP 68 costs and fees pursuant to NRS  
7 7.085. Plaintiffs ask that this Court deny the application for fees and costs as the  
8 Plaintiffs did not submit frivolous or vexatious claims and did not over burden the  
9 limited judicial resources nor did it hinder the timely resolution of meritorious claims.  
10 Similarly, Plaintiffs contend that CHH has not provided any factual support for its  
11 request for attorneys' fees pursuant to EDCR 7.60 or 18.010(2).

12 In Reply, CHH argues that Plaintiffs' entire opposition is predicated on the false  
13 assertion that they possessed a viable case in the first instance. CHH argues that,  
14 "Plaintiffs' entire argument is that because this Court repeatedly denied dismissal  
15 attempts by the respective defendants despite clear, convincing, and irrefutable  
16 evidence of inquiry notice which each and every plaintiff possessed, they are somehow  
17 absolved from either their malpractice or unethical practice of pursuing a case which  
18 was dead on arrival when filed."

19 CHH argues that the Nevada Supreme Court held that the "district court  
20 manifestly abused its discretion when it denied summary judgment." CHH argues that  
21 this matter should have been dismissed a year ago at the latest.

#### 22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 With regard to the requested costs, in *Frazier v. Drake*, 131 Nev. 632, 357 P.3d  
24 365 (NV.Ct.of App., 2015), the Court noted that NRS 18.005(5) provides for the  
25 recovery of "reasonable fees of not more than five expert witnesses in an amount of not  
26 more than \$1,500 for each witness unless the court allows a larger fee after  
27 determining that the circumstances surrounding the expert's testimony were of such  
28 necessity as to require the larger fee." *Id.*, at 644. The Court went on to state the  
following:

... we conclude that any award of expert witness fees in excess of \$1,500  
per expert under NRS 18.005(5) must be supported by an express,  
careful, and preferably written explanation of the court's analysis of  
factors pertinent to determining the reasonableness of the requested fees  
and whether "the circumstances surrounding the expert's testimony were

1 of such necessity as to require the larger fee." See NRS 18.005(5); cf.  
2 *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780  
3 (1990) (requiring an "express, careful and preferably written explanation"  
4 of the district court's analysis of factors pertinent to determining whether  
5 a dismissal with prejudice is an appropriate discovery sanction). ***In***  
6 ***evaluating requests for such awards, district courts should***  
7 ***consider the importance of the expert's testimony to the***  
8 ***party's case; the degree to which the expert's opinion aided***  
9 ***the trier of fact in deciding the case; whether the expert's***  
10 ***reports or testimony were repetitive of other expert witnesses;***  
11 ***the extent and nature of the work performed by the expert;***  
12 ***whether the expert had to conduct independent investigations***  
13 ***or testing; the amount of time the expert spent in court,***  
14 ***preparing a report, and preparing for trial; the expert's area***  
15 ***of expertise; the expert's education and training; the fee***  
16 ***actually charged to the party who retained the expert; the fees***  
17 ***traditionally charged by the expert on related matters;***  
18 ***comparable experts' fees charged in similar cases; and, if an***  
19 ***expert is retained from outside the area where the trial is held,***  
20 ***the fees and costs that would have been incurred to hire a***  
21 ***comparable expert where the trial was held.***

22 *Id.*, at 650-651.

23 The Defendant, CHH, argues the importance of the testimony of each of the  
24 witnesses, and how their respective opinions were necessary for the Defendant's case.  
25 CHH argues that the medical experts expended "many hours," and "prepared two  
26 written reports." There was no discussion in the briefing about repetitiveness, whether  
27 they had to conduct independent investigations or testing, the amount of time spent in  
28 court, preparing reports, or preparing for trial, the fees charged to the Defendant, and  
the fees traditionally charged, and what they charge compared to other experts, etc.  
Consequently, the Court could allow the expert fee of \$1,500.00, for up to 5 expert  
witnesses, if the Court were able to find that the experts were relevant and the fees  
incurred, but the Court cannot allow expert fees in excess of \$1,500.00 without a  
*Frazier* analysis.

Additionally, the Court notes that any costs awarded need to be itemized and  
documented. The Nevada Supreme Court has stated that without "itemization or  
justifying documentation," the Court is "unable to ascertain whether such costs were  
accurately assessed." *Bobby Berosini, Ltd. V. People for the Ethical Treatment of*  
*Animals*, 114 Nev. 1348, 1353, 971 P.2d 383 (1998). Further, when the "memorandum



1 of costs is completely void of any specific itemization,” and a “lack of supporting  
2 documentation,” it is an abuse of discretion on the part of the Court if it awards the  
3 requested costs. *Id.* The Supreme Court has further indicated that “‘justifying  
4 documentation’ must mean something more than a memorandum of costs.” *Cadle Co.*  
5 *v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015). The Court has  
6 further indicated that “Without evidence to determine whether a cost was reasonable  
7 and necessary, a district court may not award costs.” *Id.*, citing *Peta*, 114 Nev. at 1353,  
8 971 P.2d at 386. In this case, Defendant produced a “Disbursement Diary,” but based  
9 on the above-referenced cases, this is insufficient to support the requested costs. There  
10 is insufficient evidence submitted for the Court to determine whether the requested  
11 costs were reasonable and necessary, there was no specific itemization, other than the  
12 Disbursement Diary, and there were no supporting documents.

13 Based upon the foregoing, the Court cannot award costs.

14 NRCP 68 provides in pertinent part as follows:

15 **Rule 68. Offers of Judgment**

16 (a) The Offer. At any time more than 21 days before trial, any party  
17 may serve an offer in writing to allow judgment to be taken in accordance  
18 with its terms and conditions. Unless otherwise specified, an offer made  
19 under this rule is an offer to resolve all claims in the action between the  
20 parties to the date of the offer, including costs, expenses, interest, and if  
21 attorney fees are permitted by law or contract, attorney fees.

22 . . . .

23 (d) Acceptance of the Offer and Dismissal or Entry of Judgment.

24 (1) Within 14 days after service of the offer, the offeree may accept  
25 the offer by serving written notice that the offer is accepted.

26 (2) Within 21 days after service of written notice that the offer is  
27 accepted, the obligated party may pay the amount of the offer and obtain  
28 dismissal of the claims, rather than entry of a judgment.

(3) If the claims are not dismissed, at any time after 21 days after  
service of written notice that the offer is accepted, either party may file  
the offer and notice of acceptance together with proof of service. The clerk  
must then enter judgment accordingly. The court must allow costs in  
accordance with NRS 18.110 unless the terms of the offer preclude a  
separate award of costs. Any judgment entered under this section must be  
expressly designated a compromise settlement.

(e) Failure to Accept Offer. If the offer is not accepted within 14  
days after service, it will be considered rejected by the offeree and deemed  
withdrawn by the offeror. . . . Any offeree who fails to accept the offer  
may be subject to the penalties of this rule.

(f) Penalties for Rejection of Offer.

1 (1) In General. If the offeree rejects an offer and fails to obtain a  
2 more favorable judgment:

3 (A) the offeree cannot recover any costs, expenses, or attorney  
4 fees and may not recover interest for the period after the service of the  
5 offer and before the judgment; and

6 (B) the offeree must pay the offeror's post-offer costs and  
7 expenses, including a reasonable sum to cover any expenses incurred by  
8 the offeror for each expert witness whose services were reasonably  
9 necessary to prepare for and conduct the trial of the case, applicable  
10 interest on the judgment from the time of the offer to the time of entry of  
11 the judgment and reasonable attorney fees, if any be allowed, actually  
12 incurred by the offeror from the time of the offer. If the offeror's attorney  
13 is collecting a contingent fee, the amount of any attorney fees awarded to  
14 the party for whom the offer is made must be deducted from that  
15 contingent fee.

16 . . . .

17 NRCP 68.

18 NRCP 68 provides that the Defendant would be entitled to "reasonable attorney  
19 fees, if any be allowed." The language of the Rule specifically provides that Court with  
20 "discretion," as it relates to attorney's fees, and the Court's discretion will not be  
21 disturbed absent a clear abuse of such discretion. *Armstrong v. Riggi*, 92 Nev. 280,  
22 549 P.2d 753 (1976); *Schouweiler v. Yancey Co.*, 101 Nev. 827, 712 P.2d 786 (1985);  
23 *Bidart v. American Title Ins. Co.*, 103 Nev. 175, 734 P.3d 732 (1987).

24 In evaluating whether to grant an award of attorney's fees, pursuant to  
25 *Schouweiler v. Yancey Co.*, 101 Nev. 827, 712 P.2d 786 (1985), the Court must  
26 consider: "(1) whether plaintiff's claim was brought in good faith; (2) whether  
27 defendant's offer of judgment was brought in good faith in both its timing and amount;  
28 (3) whether plaintiff's decision to reject the offer and proceed to trial was grossly  
unreasonable or in bad faith; and (4) whether fees sought by the offeror are reasonable  
and justified in amount." *Schouweiler* at 833, citing *Beattie v. Thomas*, 99 Nev. 579,  
588, 668 P.2d 268 (1983)(the "Beattie Factors").

In analyzing whether to award attorneys' fees, the factors which need to be  
considered pursuant to *Brunzell*, include the following: (1) the qualities of the advocate:  
his ability, training, education, experience, professional standing and skill; (2) the  
character of the work to be done: its difficulty, intricacy, importance, the time and skill  
required, the responsibility imposed and the prominence and character of the parties  
when they affect the importance of the litigation; (3) the work actually performed by  
the lawyer: the skill, time and attention given to the work; and (4) the result: whether

1 the attorney was successful and what benefits were derived. *Schouweiler* at 833-834,  
2 citing to *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969)  
3 (quoting *Schwartz v. Schwerin*, 85 Ariz. 242, 336 P.2d 144, 146 (1959)).

4 With regard to the attorney's fees requested, this Motion is different from the  
5 Motion for Fees filed by Drs. Concio and Shaw, in that CHH contends that it incurred  
6 \$110,930.85 in attorney's fees since 8/28/20 (roughly twice the fees incurred by Drs.  
7 Concio and Shaw). In considering the *Beattie* factors, the Court finds and concludes  
8 that the plaintiff's claim was brought in good faith. The Court finds and concludes that  
9 Defendant's offer of judgment, in the amount of \$0.00, (offering to waive  
10 approximately \$58,500.00 in fees and costs), was brought in good faith in both its  
11 timing and amount. The Court acknowledges that the parties disagree about this issue,  
12 but as much as the Plaintiffs believed they had a valid case, the Defendants disputed  
13 any liability. The Court further finds and concludes that Plaintiff's decision to reject the  
14 offer and proceed to trial was not grossly unreasonable or in bad faith. Plaintiffs  
15 believed they had a valid claim, and the Court cannot find that wanting some recovery,  
16 as opposed to \$0.00, to be "grossly unreasonable" or in "bad faith. With regard to a  
17 determination of whether the fees sought by the Defendants are reasonable and  
18 justified in amount, a *Brunzell* analysis is required. *Beattie v. Thomas*, 99 Nev. 579,  
19 588, 668 P.2d 268 (1983).

20 In determining the reasonableness of the fees requested, the Court has analyzed  
21 the *Brunzell* factors, as follows: The Court finds that the qualities of defense counsel,  
22 his ability, training, education, experience, professional standing and skill, favor an  
23 award of fees. When considering the character of the work to be done - its difficulty,  
24 intricacy, importance, the time and skill required, (when dealing with a professional  
25 negligence/medical malpractice case), and finding that the character or prominence of  
26 the parties was unremarkable, the complexity of the case warrants an award of fees.  
27 The Court cannot evaluate the work actually performed by the lawyers, in this case, and  
28 the skill, time and attention given to the work, without a detailed billing statement.  
Although the Defendant has offered to submit a billing ledger to the Court in camera, it  
would have been necessary for the Defendant to have submitted such ledger, and  
disclosed it to the Plaintiff so that the reasonableness could have been addressed by all  
parties, and by the Court. Finally, in considering the result, the Court notes that

1 although the Court found insufficient evidence to establish irrefutably that the statute  
2 of limitations had expired, Defense counsel was successful in convincing the Supreme  
3 Court of that, and consequently, Defendants prevailed. *Brunzell v. Golden Gate Nat'l*  
4 *Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969). Based upon this NRCP 68 analysis, with  
5 the exception of being able to analyze the reasonableness of the fees allegedly incurred,  
6 the Court would likely have awarded at least some fees to the Defendant, at least for the  
7 period of time after rejection of the Offer of Judgment. Without any evidence of the  
8 fees actually accrued, and based on the amount requested, the Court cannot make a  
9 finding as to the reasonableness of such fees, and consequently, the Court has no choice  
under *Brunzell* and *Beattie*, to deny the request for Fees.

10 **CONCLUSION/ORDER**

11 Based upon the foregoing, and good cause appearing,

12 **IT IS HEREBY ORDERED** that the Defendants' Motion for Fees and Costs is  
13 **DENIED.**

14 The Court requests that Plaintiff's counsel prepare and process a Notice of Entry  
15 with regard to this Order.

16 Because this matter has been decided on the pleadings, the hearing scheduled  
17 for 2/18/22 will be taken off calendar, and consequently, there is no need for any  
18 parties or attorneys to appear.

19 Dated this 15th day of February, 2022

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22  
23 **99B B52 25DC 68DD**  
24 **Jerry A. Wiese**  
25 **District Court Judge**  
26  
27  
28

1 **CSERV**

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

5  
6 **Estate of Rebecca Powell,**  
7 **Plaintiff(s)**

**CASE NO: A-19-788787-C**

8 **vs.**

**DEPT. NO. Department 30**

9 **Valley Health System, LLC,**  
10 **Defendant(s)**

11 **AUTOMATED CERTIFICATE OF SERVICE**

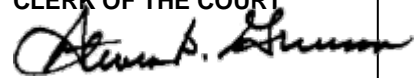
12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
recipients registered for e-Service on the above entitled case as listed below:

15 **Service Date: 2/15/2022**

16 <b>Paul Padda</b>	<b>psp@paulpaddalaw.com</b>
17 <b>S. Vogel</b>	<b>brent.vogel@lewisbrisbois.com</b>
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19 <b>Jessica Pincombe</b>	<b>jpinnacle@jhcottonlaw.com</b>
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12 Facsimile: 702.893.3789  
13 *Attorneys for Defendant Valley Health System,*  
14 *LLC dba Centennial Hills Hospital Medical*  
15 *Center*

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 ESTATE OF REBECCA POWELL, through  
12 BRIAN POWELL, as Special Administrator;  
13 DARCI CREECY, individually and as Heir;  
14 TARYN CREECY, individually and as an  
15 Heir; ISIAH KHOSROF, individually and as  
16 an Heir; LLOYD CREECY, individually;

17 Plaintiffs,

18 vs.

19 VALLEY HEALTH SYSTEM, LLC (doing  
20 business as "Centennial Hills Hospital Medical  
21 Center"), a foreign limited liability company;  
22 UNIVERSAL HEALTH SERVICES, INC., a  
23 foreign corporation; DR. DIONICE S.  
24 JULIANO, M.D., an individual; DR.  
25 CONRADO C.D. CONCIO, M.D., an  
26 individual; DR. VISHAL S. SHAH, M.D., an  
27 individual; DOES 1-10; and ROES A-Z;

28 Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**DEFENDANT VALLEY HEALTH  
SYSTEM, LLC DBA CENTENNIAL  
HILLS HOSPITAL MEDICAL CENTER'S  
CASE APPEAL STATEMENT**

**CASE APPEAL STATEMENT**

1. Name of appellant filing this case appeal statement:

**Valley Health System, LLC**

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

**Hon. Jerry Wiese, District Court Judge**

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

1 VALLEY HEALTH SYSTEM, LLC (doing business as "Centennial Hills Hospital  
2 Medical Center"), a foreign limited liability company, Appellant.

3 S. Brent Vogel, Esq.  
4 Adam Garth, Esq.  
5 LEWIS BRISBOIS BISGAARD & SMITH LLP  
6 6385 S. Rainbow Blvd.  
7 Las Vegas, NV 89118  
8 Tel: 702-893-3383  
9 Attorneys for Appellant Valley Health System, LLC

10 4. Identify each respondent and the name and address of appellate counsel, if  
11 known, for each respondent (if the name of a respondent's appellate counsel is unknown,  
12 indicate as much and provide the name and address of that respondent's trial counsel):

13 ESTATE OF REBECCA POWELL, through BRIAN POWELL, as Special  
14 Administrator; DARCI CREECY, individually and as Heir; TARYN CREECY, individually  
15 and as an Heir; ISAIAH KHOSROF, individually and as an Heir; LLOYD CREECY,

16 Paul S. Padda, Esq.  
17 PAUL PADDA LAW, PLLC  
18 4560 S. Decatur Blvd., Suite 300  
19 Las Vegas, NV 89103  
20 Tel: 702.366.1888  
21 Attorneys for Respondents

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

26 No.

27 6. Indicate whether appellant was represented by appointed or retained counsel in the  
28 district court:

Retained counsel.

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



1           **Retained counsel.**

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

4           **Appellant was not granted leave to proceed in forma pauperis.**

5           9.       Indicate the date the proceedings commenced in the district court (e.g., date  
6 complaint, indictment, information, or petition was filed):

7           **The Complaint was filed on February 4, 2019.**

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

10           **This is a professional negligence case that arises out of the care and treatment**  
11 **Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center**  
12 **(“Defendant” or “CHH”) as well as co-defendant physicians provided to decedent Rebecca**  
13 **Powell from May 3-11, 2017.**

14           **Plaintiffs commenced their action in this matter on February 4, 2019 alleging**  
15 **professional negligence. NRS 41A.097(2) imposes a statute of limitations of 3 years after the**  
16 **date of injury or 1 year after the plaintiff discovers or through the use of reasonable diligence**  
17 **should have discovered the injury, whichever occurs first.**

18           **CHH moved for summary judgment on September 2, 2020, which motion was denied**  
19 **by the District Court on October 29, 2020. By way of writ petition to the Nevada Supreme**  
20 **Court, the Supreme Court agreed to hear the writ petition. On October 18, 2021, the Nevada**  
21 **Supreme Court issued an order granting the CHH’s writ petition and directing the Supreme**  
22 **Court Clerk to issue a writ of mandamus directing this Court to vacate is order denying**  
23 **CHH’s motion for summary judgment and enter summary judgment in favor of all**  
24 **defendants. The District Court entered judgment in favor of Defendants on November 19,**  
25  
26  
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28

1 2021, and the Notice of Entry of Judgement was filed the same day.

2       Summary judgment in favor of Defendants entitles them to an award of attorneys' fees  
3 pursuant to N.R.C.P. 68, N.R.S. 17.117, and interpreting case authority. Moreover, NRS §§  
4 7.085 and 18.010(2) along with EDCR 7.60 entitle CHH to costs and attorney fees due to the  
5 Plaintiffs' frivolous filing of a lawsuit 8 months after the statute of limitations expired, with  
6 proof the exclusively provided, demonstrating that they possessed inquiry notice of the alleged  
7 malpractice as early as the date of decedent's death, but no later than June 11, 2017; however,  
8 they chose to file a lawsuit in February, 2019, long after the one year statute of limitations  
9 expired. Those statutes and rules, along with the cases interpreting them justify the requested  
10 costs and fees. and Plaintiffs' claims sounded in professional negligence, which subjected the  
11 claims to NRS 41A.097(2)'s one-year statute of limitations requirement. Since Plaintiffs failed  
12 to file their Complaint within one-year after they discovered or through the use of reasonable  
13 diligence should have discovered the injury, CHH's Motion for Summary Judgment was  
14 eventually granted after a writ of mandamus petition was filed, accepted and ruled upon by  
15 the Nevada Supreme Court.

16       Pursuant to N.R.C.P. 68, CHH served Plaintiff with an Offer of Judgment on August  
17 28, 2020. In that Offer of Judgment, Defendants offered to waive any presently or potentially  
18 recoverable costs in full and final settlement of the claims. At the time of the Offer,  
19 Defendants' incurred costs were \$58,514.36. The Offer was not accepted by Plaintiff and  
20 expired on September 11, 2020.

21       During the pendency of the District Court action, the parties engaged in extensive  
22 written discovery. Discovery disputes emerged during that time necessitating conferences  
23 pursuant to EDCR 2.34 and supplements to previously provided requests for production and  
24 interrogatories. Moreover, due to the wide ranging allegations in this matter and considering  
25

1 CHH's potential liability not only as a direct defendant, but also under the concept of  
2 ostensible agency, CHH engaged three medical experts to address the issues raised by  
3 Plaintiffs, namely a pharmacologist, a hospitalist and an intensivist. In response to Plaintiffs'  
4 expert disclosure, CHH engaged in an economist to rebut the Plaintiffs' economist's report  
5 which was predicated on not one shred of evidence, but based upon a supplemental  
6 interrogatory response from the decedent's ex-husband (dated one day before the economist's  
7 report), who provided no basis for his guess about his ex-wife's prior earnings.  
8

9       During discovery, Plaintiffs produced records demonstrating that Plaintiffs specifically  
10 notified two State agencies of their concerns about the decedent's treatment at CHH. They  
11 specifically alleged malpractice on CHH's part, and requested investigations by those agencies  
12 into their allegations of malpractice by CHH, both of which were initiated just days after the  
13 decedent's death. Moreover, Plaintiffs did not deny obtaining the decedent's medical records  
14 from CHH in June, 2017, several weeks after the decedent's death, but their counsel attempted  
15 to impose an improper burden on CHH to prove Plaintiffs received the medical records which  
16 were sent, in derogation of the statutory presumption that documents mailed are presumed  
17 received unless sufficient evidence of non-receipt is demonstrated. No such demonstration  
18 occurred. Moreover, Plaintiffs obtained the medical affidavit of a physician to support their  
19 Complaint who based his opinions on the very medical records Plaintiffs obtained from CHH  
20 (since the case had not yet been filed and there was no other avenue for Plaintiffs to have  
21 obtained said records).  
22  
23

24       CHH thereafter moved the District Court for a stay pending the filing of a writ petition  
25 to the Nevada Supreme Court predicated on the denial of CHH's motion for summary  
26 judgment. Plaintiffs vehemently opposed CHH's stay motion, and the District Court denied  
27 the stay motion on December 17, 2020.  
28

1           On December 22, 2020, CHH filed its writ petition with the Nevada Supreme Court.  
2           The Supreme Court requested answering and reply briefs on the aforesaid petition. Upon  
3           receipt of said order, CHH moved this Court to reconsider its decision to stay the proceedings  
4           in an effort to avoid future litigation costs. Again, Plaintiffs' vehemently opposed the stay.  
5           This District Court entered an order on April 28, 2021 denying CHH's motion to reconsider  
6           the stay. On April 22, 2021, CHH moved in Supreme Court for a stay. Once again, Plaintiffs  
7           opposed the motion and the Supreme Court denied the stay motion. Litigation proceeded with  
8           greatly increased costs for things such as expert exchanges, leaving only depositions of the  
9           parties and experts to be conducted.  
10

11           CHH moved the District Court on November 22, 2021 for \$110,930.85 in attorneys'  
12           fees per N.R.C.P. 68 and N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and  
13           expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60. Plaintiffs opposed said  
14           motion, with a reply by CHH interposed in further support of its motion.  
15

16           By order of the District Court dated February 15, 2022 and served with notice of entry  
17           on February 16, 2022, the District Court denied CHH's motion, claiming that it was not  
18           sufficiently supported with invoices and billing statements reflecting every moment of work  
19           performed on this case, that somehow the declaration of an officer of the Court attesting to  
20           the hours spent by all timekeepers on this case was insufficient. Additionally, the District  
21           Court denied the request to conduct an in camera hearing at which time any supporting  
22           evidence could be presented before opposing counsel and the Court without having to publicly  
23           trot out CHH's private bills and expenses related hereto. Such findings by the District Court  
24           were manifest abuses of discretion.  
25

26           Additionally, the District Court conflated multiple issues, namely the memorandum of  
27           costs and disbursements previously submitted totaling \$42,492.03, an amount which was  
28

1 undisputed, and for which the District Court refused to sign a judgment, and the additional  
2 costs, disbursements and attorneys' fees addressed by CHH's motion which sought  
3 \$110,930.85 in attorneys' fees per N.R.C.P. 68 and N.R.S. §§ 17.117, plus \$58,514.36 in pre-  
4 NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

5  
6 The District Court previously denied Plaintiffs' motion to extend time to retax costs  
7 attendant to the memorandum of costs for the aforementioned \$42,492.03, an amount which itself  
8 is undisputed and for which a judgment must be signed and entered. The failure to sign said  
9 judgment in light of the undisputed memorandum of costs was a manifest abuse of discretion  
10 by the District Court.

11 Additionally, the Court implied that the amount of attorneys' fees specified in CHH's  
12 motion is somehow excessive, by asserting that it far exceeded those of co-defense counsel is  
13 concerning. CHH's counsel spearheaded considerable motions and engaged in extensive  
14 appellate practice due to the District Court's refusal to either dismiss this case from its  
15 inception, or at the very least, grant summary judgment when the uncontroverted evidence  
16 necessitated that result. These extraordinary legal fees resulted from having to engage in  
17 extensive discovery, engaging multiple experts due to the Plaintiffs' blunderbuss of  
18 allegations, the law of ostensible agency which implicated CHH in any alleged negligence of  
19 any physician credentialed at its hospital, the multiple stays the District Court denied while  
20 the appeal was pending, coupled with Plaintiffs' counsel's refusal to consent to a stay of  
21 proceedings while the appeal was pending. All of these actions combined with the finding of  
22 the Supreme Court that the District Court manifestly abused its discretion in failing to grant  
23 summary judgment in the wake of the overwhelming evidence requiring dismissal is what  
24 brought us to this place. Plaintiffs' counsel and his clients cost CHH over \$200,000.

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27 Additionally, the District Court improperly found that "the Court notes that although  
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1 the Court found insufficient evidence to establish irrefutably that the statute of limitations had  
2 expired, Defense counsel was successful in convincing the Supreme Court of that, and  
3 consequently, Defendants prevailed.” By so finding, the District Court improperly implied  
4 that its findings on summary judgment were correct, but CHH somehow convinced the  
5 Supreme Court otherwise. Such an improper finding formed the basis for the District Court’s  
6 denial of the motion for costs and fees since it formed the basis for the District Court’s finding  
7 that the underlying action was brought and maintained in good faith. Such a finding was  
8 wholly improper.

10 The District Court manifestly abused its discretion in not awarding costs and fees in  
11 this matter by refusing to accept the holding of the Nevada Supreme Court that the District  
12 Court manifestly abused its discretion in failing to granting CHH’s motion for summary  
13 judgment in the wake of overwhelming evidence of inquiry notice by Plaintiffs commencing  
14 only one month after the decedent’s death, for which an action was untimely commenced by  
15 Plaintiffs. The District Court’s finding that the matter was both brought and maintained in  
16 good faith by Plaintiffs continued the pattern of manifestly abusing its discretion in denying  
17 the costs and fees the law permits in light of the circumstances of this case.

19 11. Indicate whether the case has previously been the subject of an appeal to or original  
20 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of  
21 the prior proceeding:  
22

23 Yes. Supreme Court Case No. 82250

24 VALLEY HEALTH SYSTEM, LLC (doing business as “Centennial Hills Hospital  
25 Medical Center”), a foreign limited liability company,  
26 Petitioner,

26 vs.

27 THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA ex rel.  
28 THE COUNTY OF CLARK, AND THE HONORABLE JUDGE JERRY A. WIESE II,

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 14<sup>th</sup> day of March, 2022, a true and correct copy  
3 of **DEFENDANT VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS**  
4 **HOSPITAL MEDICAL CENTER'S CASE APPEAL STATEMENT** was served by  
5 electronically filing with the Clerk of the Court using the Odyssey E-File & Serve system and serving  
6 all parties with an email-address on record, who have agreed to receive electronic service in this  
7 action.

8 Paul S. Padda, Esq.  
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*Shah, M.D.*

16 By /s/ Heidi Brown  
17 An Employee of  
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19  
20  
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## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. A-19-788787-C**

**Estate of Rebecca Powell, Plaintiff(s)**  
**vs.**  
**Valley Health System, LLC, Defendant(s)**

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§

Location: **Department 30**  
 Judicial Officer: **Wiese, Jerry A.**  
 Filed on: **02/04/2019**  
 Case Number History:  
 Cross-Reference Case Number: **A788787**

**CASE INFORMATION****Statistical Closures**

11/19/2021 Other Manner of Disposition

Case Type: **Malpractice - Medical/Dental**

Case Status: **11/19/2021 Closed**

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

Case Number A-19-788787-C  
 Court Department 30  
 Date Assigned 06/28/2019  
 Judicial Officer Wiese, Jerry A.






**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Creecy, Darci</b>	<b>Padda, Paul S.</b> <i>Retained</i> 702-366-1888(W)
	<b>Creecy, Lloyd</b>	<b>Padda, Paul S.</b> <i>Retained</i> 702-366-1888(W)
	<b>Creecy, Taryn</b>	<b>Padda, Paul S.</b> <i>Retained</i> 702-366-1888(W)
	<b>Estate of Rebecca Powell</b>	<b>Padda, Paul S.</b> <i>Retained</i> 702-366-1888(W)
	<b>Khosrof, Isaiah</b>	<b>Padda, Paul S.</b> <i>Retained</i> 702-366-1888(W)
<b>Defendant</b>	<b>Concio, Conrado C.D., M.D.</b>	<b>Cotton, John H</b> <i>Retained</i> 702-832-5909(W)
	<b>Juliano, Dionice S., M.D.</b> Removed: 10/29/2020 Dismissed	<b>Cotton, John H</b> <i>Retained</i> 702-832-5909(W)
	<b>Shah, Vishal S., M.D.</b>	<b>Cotton, John H</b> <i>Retained</i> 702-832-5909(W)
	<b>Universal Health Services, Inc.</b> Removed: 12/05/2019 Dismissed	<b>Prangle, Michael E.</b> <i>Retained</i> 7028896400(W)
	<b>Valley Health System, LLC</b>	<b>Vogel, Stephen B.</b> <i>Retained</i>

**CASE SUMMARY****CASE NO. A-19-788787-C**















702-893-3383(W)

**Special  
Administrator****Powell, Brian**

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<b><u>EVENTS</u></b>	
02/04/2019	 Initial Appearance Fee Disclosure Filed By: Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[1] Initial Appearance Fee Disclosure</i>	
02/04/2019	 Complaint Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[2] Complaint</i>	
05/30/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Rebecca Powell <i>[3] Summons - Valley Health System, LLC</i>	
05/30/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Rebecca Powell <i>[4] Summons - Valley Health System, LLC (1)</i>	
05/30/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Rebecca Powell <i>[5] Summons - Dr. Dionice S. Juliano, M.D.</i>	
05/30/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Estate of Rebecca Powell <i>[6] Summons- Dr. Conrad C.D. Concio, M.D.</i>	
05/30/2019	 Summons Electronically Issued - Service Pending <i>[7] Summons- Dr. Vishal S. Shah M.D.</i>	
06/03/2019	 Ex Parte Motion Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian <i>[8] Plaintiffs' ExParte Motion To Extend Time To Serve</i>	
06/04/2019	 Affidavit of Service Filed By: Plaintiff Estate of Rebecca Powell <i>[9] Affidavit of Service - Universal Health Services, Inc.</i>	
06/04/2019	 Affidavit of Service Filed By: Plaintiff Estate of Rebecca Powell <i>[10] AOS - Dr. Canrado C.D. Concio, MD</i>	
06/04/2019	 Affidavit of Service Filed By: Plaintiff Estate of Rebecca Powell <i>[11] AOS -Valley Health System, LLC</i>	
06/11/2019		

# CASE SUMMARY

CASE NO. A-19-788787-C

	 Order Filed By: Plaintiff Estate of Rebecca Powell <i>[12] Order Granting Plaintiffs' Exparte Motion to Extend Time For Service</i>
06/11/2019	 Notice of Entry of Order Filed By: Plaintiff Estate of Rebecca Powell <i>[13] Notice of Entry of Order Granting Plaintiffs' Exparte Motion to Extend Time For Service</i>
06/12/2019	 Motion to Dismiss Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D. <i>[14] Defendant Conrado Concio, M.D. and Dionice Juliano, M.D's Motion to Dismiss</i>
06/12/2019	 Initial Appearance Fee Disclosure Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D. <i>[15] Initial Appearance Fee Disclosure</i>
06/12/2019	 Clerk's Notice of Hearing <i>[16] Notice of Hearing</i>
06/13/2019	 Joinder Filed By: Defendant Shah, Vishal S., M.D. <i>[17] Defendant Vishal Shah, M.D.'s Joinder to Defendants Concio and Juliano's Motion to Dismiss</i>
06/13/2019	 Initial Appearance Fee Disclosure Filed By: Defendant Shah, Vishal S., M.D. <i>[18] Initial Appearance Fee Disclosure</i>
06/19/2019	 Motion to Dismiss Filed By: Defendant Valley Health System, LLC <i>[19] Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint</i>
06/19/2019	 Initial Appearance Fee Disclosure <i>[20] Defendant Centennial Hills Hospital's Initial Appearance Fee Disclosure</i>
06/20/2019	 Clerk's Notice of Hearing <i>[21] Notice of Hearing</i>
06/25/2019	 Waiver Filed by: Plaintiff Estate of Rebecca Powell <i>[22] Waiver of Service of Summons Under Rule 4.1 of the Nevada Rules of Civil Procedure As To Dr. Dionice S. Juliano, M.D.</i>
06/25/2019	 Waiver <i>[23] Waiver of Service of Summons Under Rule 4.1 of the Nevada Rules of Civil Procedure As To Dr. Vishal S. Shah, M.D.</i>
06/26/2019	 Joinder Filed By: Defendant Valley Health System, LLC <i>[24] DEFENDANT CENTENNIAL HILLS HOSPITAL S JOINDER TO DEFENDANTS CONRADO CONCIO, MD, AND DIONICE JULIANO, MD S MOTION TO DISMISS</i>
06/28/2019	 Notice of Department Reassignment <i>[25] Notice of Department Reassignment</i>

# CASE SUMMARY

CASE NO. A-19-788787-C

07/08/2019



Stipulation and Order

Filed by: Plaintiff Estate of Rebecca Powell

*[26] Stipulation and Order To Reset Hearing And Briefing Schedule For Defendants' Motions To Dismiss*

07/08/2019



Notice of Entry of Order

Filed By: Plaintiff Estate of Rebecca Powell

*[27] Notice of Entry of Order re Stipulation and Order to Reset Hearing and Briefing Schedule For Defendants Motions To Dismiss*

07/22/2019



Stipulation and Order

Filed by: Plaintiff Estate of Rebecca Powell

*[28] Stipulation and Order to Reset Hearing and Briefing Schedule for Defendants' Motion to Dismiss and Related Joinders*

07/22/2019



Notice of Entry of Order

Filed By: Plaintiff Estate of Rebecca Powell

*[29] Notice of Entry of Order - Stipulation and Order to Reset Hearing and Briefing Schedule for Defendants' Motion to Dismiss and Related Joinders*

08/13/2019



Notice of Appearance

Party: Plaintiff Estate of Rebecca Powell

*[30] Notice of Appearance*

08/13/2019



Opposition to Motion to Dismiss

Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci

*[31] Plaintiffs' Opposition to Motion to Dismiss Filed by Defendants Dr. Conrado C.D. Concio, M.D. and Dr. Dionice S. Juliano, M.D.*

09/17/2019



Reply

Filed by: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D.

*[32] Defendant Conrado Concio, MD, Vishal Shah, MD, and Dionice Juliano, MD's Reply in Support of Motion to Dismiss and Joinder thereto*

09/18/2019



Reply in Support

Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D.

*[33] Defendant Centennial Hills Hospital's Reply in Support of Motion to Dismiss Plaintiff's Complaint*

09/23/2019



Motion to Dismiss

Filed By: Defendant Universal Health Services, Inc.

*[34] Defendant Universal Health Services, Inc.'s Motion to Dismiss or, Alternatively, Motion for Summary Judgment for Lack of Jurisdiction*

09/23/2019



Joinder To Motion

Filed By: Defendant Universal Health Services, Inc.

*[35] Defendant Universal Health Services, Inc.'s Joinder to Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint and Joinder to Defendants Conrado Concio, MD, and Dionice Juliano, MD's Motion to Dismiss*

09/24/2019



Clerk's Notice of Hearing

*[36] Notice of Hearing*

# CASE SUMMARY

CASE NO. A-19-788787-C

10/01/2019	 Notice of Change of Address <i>[37] Notice of Change of Address</i>
10/02/2019	 Answer to Complaint Filed by: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[38] Defendants Conrado Concio, MD, Dionice Juliano, MD, and Vishal Shah, MD's Answer to Plaintiffs' Complaint</i>
10/02/2019	 Demand for Jury Trial Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[39] Defendants Donice S. Juliano, MD, Contrado Concio, MD and Vishal Shah, MD's Demand for Jury Trial</i>
10/30/2019	 Opposition to Motion to Dismiss <i>[40] Plaintiffs' Opposition To Defendant Universal Health Services, INC.'s, Motion to Dismiss Or, In The Alternative, For Summary Judgment</i>
10/30/2019	 Motion to Withdraw As Counsel <i>[41] Plaintiffs' Motion For Withdrawal of Suneel Nelson, Esq., Joshua Y. Ang, Esq., And Michael Lafia, Esq., As Retained Counsel</i>
10/31/2019	 Clerk's Notice of Nonconforming Document <i>[42] Clerk's Notice of Nonconforming Document</i>
11/18/2019	 Disclosure Statement <i>[43] DEFENDANT VALLEY HEALTH SYSTEM, LLC, dba CENTENNIAL HILLS HOSPITAL MEDICAL CENTER S NRCP 7.1 DISCLOSURE STATEMENT</i>
12/05/2019	 Stipulation and Order <i>[44] Stipulation and Order to Dismiss Universal Health Services, Inc. without Prejudice</i>
12/05/2019	 Notice of Entry <i>[45] Notice of Entry of Stipulation and Order to Dismiss Universal Health Services, Inc. without Prejudice</i>
02/21/2020	 Notice of Appearance Party: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian <i>[46] Notice of Appearance By Brandon C. Verde, Esq.</i>
03/10/2020	 Substitution of Attorney Filed by: Defendant Valley Health System, LLC <i>[47] Substitution of Counsel</i>
03/16/2020	 Order to Show Cause <i>[48] Order to Show Cause</i>
03/16/2020	 Notice of Early Case Conference Filed By: Plaintiff Estate of Rebecca Powell <i>[49] Notice of NRCP 16.1(b) (1) Early Case Conference_Estate of Rebecca Powell, et. al., v. Valley Health System, et. al.</i>









# CASE SUMMARY

CASE NO. A-19-788787-C

03/20/2020	 Joint Case Conference Report Filed By: Attorney Padda, Paul S.; Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[50] Joint Case Conference Report</i>
03/23/2020	 Mandatory Rule 16 Conference Order <i>[51] Mandatory Rule 16 Conference Order</i>
04/13/2020	 Notice of Association of Counsel Filed By: Defendant Valley Health System, LLC; Defendant Universal Health Services, Inc. <i>[52] Notice of Association of Counsel</i>
04/15/2020	 Answer to Complaint Filed by: Defendant Valley Health System, LLC <i>[53] Defendant Valley Health System, Llc, Db a Centennial Hills Hospital Medical Center s Answer To Plaintiffs Complaint</i>
04/15/2020	 Demand for Jury Trial Filed By: Defendant Valley Health System, LLC <i>[54] Demand for Jury Trial</i>
04/29/2020	 Motion to Associate Counsel Filed By: Defendant Valley Health System, LLC <i>[55] Defendant Valley Health System, Llc Db a Centennial Hills Hospital Medical Center's Motion to Associate Richard Douglas Carroll as Counsel</i>
04/29/2020	 Clerk's Notice of Hearing <i>[56] Notice of Hearing</i>
05/05/2020	 Substitution of Attorney Filed by: Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[57] Substitution of Attorneys</i>
05/06/2020	 Scheduling and Trial Order <i>[58] Scheduling Order and Order Setting</i>
06/02/2020	 Order Admitting to Practice <i>[59] Order Admitting to Practice</i>
06/08/2020	 Substitution of Attorney Filed by: Defendant Valley Health System, LLC <i>[60] Substitution Of Attorney For Defendant Valley Health System, LLC db a Centennial Hills Hospital Medical Center</i>
08/07/2020	 Motion for Summary Judgment Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[61] Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims</i>
08/10/2020	 Non Opposition Filed By: Defendant Valley Health System, LLC <i>[62] Defendants Valley Health Systems' Non-Opposition to Defendant Juliano's Motion for</i>

# CASE SUMMARY

CASE NO. A-19-788787-C

	<i>Summary Judgment and Joinder to Defendant Concio and Shah's Motion for Partial Summary Judgment</i>
08/24/2020	 Clerk's Notice of Hearing <i>[63] Notice of Hearing</i>
08/24/2020	 Stipulation and Order Filed by: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[64] Stipulation and Order Regarding Plaintiffs' Responses to Defendants Juliano, Concio and Shah's Interrogatories and Requests for Production</i>
08/24/2020	 Stipulation and Order Filed by: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[65] Stipulation and Order Regarding Defendant Juliano's Motion for Summary Judgment and Defendant Concio And Shah's Motion for Partial Summary Judgment on Emotional Distress Claims</i>
09/02/2020	Motion for Summary Judgment Filed By: Defendant Valley Health System, LLC <i>[66] Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations</i>
09/02/2020	 Clerk's Notice of Hearing <i>[67] Notice of Hearing</i>
09/02/2020	 Redacted Version <i>[83] Redacted version of Motion for Summary Judgment per Order 10/28/20</i>
09/03/2020	 Joinder to Motion For Summary Judgment Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[68] Defendants Dionice Juliano, MD, Conrado Concio, MD and Vishal Shah, MD's Joinder to Defendant's Motion for Summary Judgment on the Statute of Limitations</i>
09/04/2020	 Filing Fee Remittance Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[69] Filing Fee Remittance</i>
09/16/2020	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Estate of Rebecca Powell <i>[70] Plaintiffs Opposition to Valley Health System, LLC s Motion For Summary Judgment Seeking Dismissal on Statute of Limitations Grounds</i>
10/13/2020	 Opposition and Countermotion Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian <i>[71] Plaintiffs' Opposition to Defendant Juliano's Motion for Summary Judgment, And Defendants' Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims and Counter-Motion to Amend or Withdraw Plaintiffs' Responses to Defendants' Request for Admissions</i>
10/21/2020	 Reply to Opposition Filed by: Defendant Valley Health System, LLC

# CASE SUMMARY

CASE NO. A-19-788787-C

*[72] Defendants Valley Health System, LLC and Universal Health Services, Inc. s Reply To Plaintiffs Opposition To Defendants Motion For Summary Judgment Based Upon The Expiration Of The Statute Of Limitations*

10/21/2020



Reply in Support

Filed By: Defendant Valley Health System, LLC

*[73] Defendants Valley Health Systems, LLC d/b/a Centennial Hills Hospital Medical Center and Universal Health Systems, Inc. s Reply To Plaintiffs Opposition To Defendant Juliano s Motion For Summary Judgment, Reply To Plaintiffs Opposition To Valley Health s Joinder Of Defendants Concio and Shah s Motion For Partial Summary Judgment On Emotional Distress Claims, and Opposition To Plaintiffs Countermotion To Amend Or Withdraw Plaintiffs Responses To Defendants Requests For Admission*

10/21/2020



Joinder

Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D.

*[74] Joinder to Defendants Valley Health System, LLC and Universal Health Services, Inc.'s Reply to Plaintiffs' Opposition to Defendants' Motion for Summary Judgment Based Upon the Expiration of the Statute of Limitations*

10/21/2020



Joinder

Filed By: Defendant Juliano, Dionice S., M.D.; Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D.

*[75] Joinder to Defendant Valley Health System's Reply in Support of Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotion Distress Claims*

10/21/2020



Reply in Support

*[76] Reply in Support of Defendant Julano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims*

10/26/2020



Ex Parte Application

Party: Defendant Valley Health System, LLC

*[77] Defendants' Application to Strike Non-Conforming Document Pursuant to EDCR 8.03 and Replace Non-Conforming Document on Defendants' Motion for Summary Judgment Based Upon Expiration of Statute of Limitations*

10/26/2020



Ex Parte

Filed By: Defendant Valley Health System, LLC

*[78] Defendants Valley Health System, LLC And Universal Health Services, Inc. s Amended Ex Parte Application To Strike Non-Conforming Document Pursuant To EDCR 8.03 And Replace Non-Conforming Pages With Conforming Document On Defendants Motion For Summary Judgment Based Upon Expiration Of Statute Of Limitations*

10/28/2020



Order

Filed By: Defendant Valley Health System, LLC

*[79] ORDER GRANTING DEFENDANTS VALLEY HEALTH SYSTEM, LLC AND UNIVERSAL HEALTH SERVICES, INC.'S EX PARTE APPLICATION TO STRIKE NON-CONFORMING DOCUMENT PURSUANT TO EDCR 8.03 AND REPLACE NON CONFORMING PAGES WITH CONFORMING DOCUMENT ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT BASED UPON EXPIRATION OF STATUTE OF LIMITATIONS*

10/28/2020



Notice of Entry of Order

Filed By: Defendant Valley Health System, LLC

*[80] Notice of Entry of Order*

10/29/2020




Order



# CASE SUMMARY

CASE NO. A-19-788787-C

	<i>[81] Order</i>
11/02/2020	 Notice of Entry of Order Filed By: Defendant Valley Health System, LLC <i>[82] Notice of Entry of Order</i>
11/03/2020	 Order Shortening Time <i>[84] Powell v Valley - Motion for Stay Pending Writ (continued revisions #2)</i>
11/05/2020	 Motion Filed By: Defendant Valley Health System, LLC <i>[85] Defendant Valley Health System LLC's Motion for Stay on Order Shortening Time</i>
11/19/2020	 Opposition to Motion Filed By: Plaintiff Estate of Rebecca Powell <i>[86] Plaintiffs' Opposition to Defendant Valley Health System LLC's Motion for Stay of Proceedings</i>
11/20/2020	 Reply to Opposition Filed by: Defendant Valley Health System, LLC <i>[87] Defendant Valley Health System LLC s Reply To Plaintiff s Opposition To Motion For Stay On Order Shortening Time</i>
12/17/2020	 Order Filed By: Attorney Padda, Paul S.; Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[88] Order Denying Defendant Valley Health System, LLC's Motion to Stay on Order Shortening Time</i>
12/17/2020	 Notice of Entry of Order Filed By: Defendant Valley Health System, LLC <i>[89] Notice of Entry of Order</i>
01/01/2021	 Recorders Transcript of Hearing <i>[90] Recorders Transcript of Hearing: All Pending Motions</i>
01/21/2021	 Stipulation and Order Filed by: Defendant Valley Health System, LLC <i>[91] Stipulation and Order to Continue Status Check Hearing</i>
01/21/2021	 Notice of Entry of Order Filed By: Defendant Valley Health System, LLC <i>[92] Notice of Entry of Order</i>
02/04/2021	 Order <i>[93] ORDER RESETTING STATUS CHECK HEARING AS TELECONFERENCE</i>
02/06/2021	 Order Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[94] Order Denying Defendants Conrado Concio, M.D. and Dionice Juliano, M.D.'s Motion to Dismiss Plaintiff's Complaint</i>
02/06/2021	 Order

# CASE SUMMARY

CASE NO. A-19-788787-C

	<p>Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci  <i>[95] Order Denying Defendant Centennial Hills Hospital Medical Center's Motion to Dismiss Plaintiff's Complaint</i></p>
03/10/2021	<p> Notice</p> <p>Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian  <i>[96] Notice of Appearance</i></p>
04/06/2021	<p> Motion to Reconsider</p> <p>Filed By: Defendant Valley Health System, LLC  <i>[97] Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus</i></p>
04/06/2021	<p> Exhibits</p> <p>Filed By: Defendant Valley Health System, LLC  <i>[98] Exhibits G-M to Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus</i></p>
04/06/2021	<p> Clerk's Notice of Hearing</p> <p><i>[99] Notice of Hearing</i></p>
04/07/2021	<p> Notice of Entry</p> <p>Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian  <i>[100] Notice of Entry of Order Denying Defendant Centennial Hills Hospital Medical Center's Motion to Dismiss Plaintiffs' Complaint</i></p>
04/07/2021	<p> Notice of Entry of Order</p> <p>Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian  <i>[101] Notice of Entry of Order Denying Defendants Conrado Concio M.D. and Dionice Juilano, M.D.'s Motion to Dismiss Plaintiffs' Complaint</i></p>
04/09/2021	<p> Order Shortening Time</p> <p><i>[102] Order Shortening Time to Hear Motion to Reconsider Stay Pending Writ of Mandamus</i></p>
04/09/2021	<p> Notice of Entry of Order</p> <p>Filed By: Defendant Valley Health System, LLC  <i>[103] Notice of Entry of Order</i></p>
04/15/2021	<p> Opposition</p> <p>Filed By: Plaintiff Estate of Rebecca Powell  <i>[104] Plaintiffs' Opposition to Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus</i></p>
04/16/2021	<p> Reply in Support</p> <p>Filed By: Defendant Valley Health System, LLC  <i>[105] Defendant Valley Health System LLC's Reply In Further Support Of Its Motion To Reconsider Motion For Stay Pending Petition For Writ Of Mandamus And In Reply To Plaintiffs Opposition</i></p>
04/28/2021	

# CASE SUMMARY

CASE NO. A-19-788787-C

	 Order Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci <i>[106] Order Denying Defendant Valley Health System, LLC's Motion to Reconsider Motion to Stay Pending Petition for Writ of Mandamus on Order Shortening Time</i>
04/28/2021	 Notice of Entry Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian <i>[107] Notice of Entry of Order Denying Defendant Valley Health System, Llc's Motion to Stay Pending Petition for Writ of Mandamus on Order Shortening Time</i>
06/04/2021	 Order Filed By: Defendant Valley Health System, LLC <i>[108] Confidentiality Agreement and Protective Order</i>
06/04/2021	 Notice of Entry of Order Filed By: Defendant Valley Health System, LLC <i>[109] Notice of Entry of Order</i>
06/18/2021	 Initial Expert Disclosure Filed By: Defendant Valley Health System, LLC <i>[110] Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center s Initial Expert Disclosure</i>
08/18/2021	 Status Report Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian <i>[111] Joint Status Report</i>
10/05/2021	 Notice Filed By: Defendant Valley Health System, LLC <i>[112] Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center's Notice of Trial Conflict</i>
11/03/2021	 Order <i>[113] Order Setting Further Proceedings Re: Supreme Court Order</i>
11/19/2021	 Order <i>[114] Order Vacating Prior Order Denying Valley Health System, LLC dba Centennial Hills Hospital Medical Center's Motion for Summary Judgment and Granting Said Defendant's Motion for Summary Judgment Per Mandamus of Nevada Supreme Court</i>
11/19/2021	 Notice of Entry of Order Filed By: Defendant Valley Health System, LLC <i>[115] Notice of Entry of Order</i>
11/22/2021	 Memorandum Filed By: Defendant Valley Health System, LLC <i>[116] Defendant Valley Health System LLC's Verified Memorandum of Costs</i>
11/22/2021	 Motion for Attorney Fees Filed By: Defendant Valley Health System, LLC <i>[117] Defendant Valley Health System, LLC DBA Centennial Hills Hospital Medical Center's</i>

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*Motion for Attorneys' Fees Pursuant to N.R.C.P. 68, N.R.S. 17.117, 7.085, 18.010(2), and EDCR 7.60*

11/23/2021	 Clerk's Notice of Hearing <i>[118] Notice of Hearing</i>
11/23/2021	 Memorandum of Costs and Disbursements Filed By: Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[119] Defendants Conrado Concio, MD and Vishal Shah, MD's Memorandum of Costs and Disbursements</i>
12/03/2021	 Motion to Extend Party: Plaintiff Estate of Rebecca Powell <i>[120] Plaintiffs' Motion to Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano, Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs</i>
12/06/2021	 Clerk's Notice of Hearing <i>[121] Notice of Hearing</i>
12/06/2021	 Application Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Special Administrator Powell, Brian <i>[122] Plaintiffs Application for Order Shortening Time on Plaintiffs Motion to Extend Time to Respond to Defendant's Memorandum for Costs</i>
12/10/2021	 Order <i>[123] Order Shortening Time Regarding Plaintiff's Motion to Extend Time to Respond to Defendant's Memorandums of Costs</i>
12/10/2021	 Motion for Attorney Fees and Costs Filed By: Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[124] Defendants Conrado Concio, MD and Vishal Shah, MD's Motion for Attorneys' Fees and Costs</i>
12/11/2021	 Order Setting Medical/Dental Malpractice Status Check <i>[125] Order Setting Medical/Dental Malpractice Status Check and Trial Setting Conference</i>
12/13/2021	 Clerk's Notice of Hearing <i>[126] Notice of Hearing</i>
12/16/2021	 Opposition Filed By: Plaintiff Estate of Rebecca Powell; Plaintiff Khosrof, Isaiah; Plaintiff Creecy, Lloyd; Plaintiff Creecy, Taryn; Plaintiff Creecy, Darci; Special Administrator Powell, Brian <i>[127] Plaintiff's Opposition to Defendant Valley Health System LLC'S Motion for Attorney's Fees</i>
12/20/2021	 Opposition and Counter-motion Filed By: Defendant Valley Health System, LLC <i>[128] Defendant Valley Health System, LLC dba Centennial Hills Hospital's Opposition to Plaintiff's Motion to Retax Costs and Counter-motion for Costs and Fees Pursuant to EDCR 7.60</i>
12/21/2021	 Opposition to Motion Filed By: Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[129] Defendants Conrado Concio, MD and Vishal Shah, MD's Opposition to Plaintiff's</i>

# CASE SUMMARY

CASE NO. A-19-788787-C

*Motion to Extend Time*

12/23/2021	 Opposition to Motion Filed By: Plaintiff Estate of Rebecca Powell <i>[130] Plaintiffs' Opposition to Defendants aConrado Concio, M.D. and Vishal Sha, M.D.'s Motion for Attorneys' Fee and Costs</i>
12/27/2021	 Reply to Opposition Filed by: Plaintiff Estate of Rebecca Powell <i>[131] Plaintiffs' Reply to Defendant Valley Health System, LLC DBA Centennial Hills Hospital's Opposition to Plaintiffs' Motion to Extend Time to Retax Costs and Opposition to Countermotion for Costs and Fees Pursuant to EDCR 7.60</i>
12/27/2021	 Reply to Opposition Filed by: Plaintiff Estate of Rebecca Powell <i>[132] Plaintiffs Reply to Defendant Conrado Concio, M.D. and Vishal Shah, M.D.'s Opposition to Plaintiffs Motion to Extend Time to Retax Cost</i>
01/24/2022	 Order <i>[133] Order Re: Plaintiffs' Motion to Extend Time to Respond To Defendants' Valley Health Systems, Dr. Dionice S. Juliano, Dr. Conrado Concio, and Dr. Fishal S. Shah's Memoranda of Costs</i>
01/25/2022	 Notice of Entry Filed By: Defendant Valley Health System, LLC <i>[134] NOTICE OF ENTRY OF ORDER</i>
02/02/2022	 Reply in Support Filed By: Defendant Valley Health System, LLC <i>[135] DEFENDANT VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER S REPLY IN FURTHER SUPPORT OF MOTION FOR ATTORNEYS FEES PURSUANT TO N.R.C.P. 68, N.R.S. 17.117, 7.085, 18.010(2), AND EDCR 7.60</i>
02/02/2022	 Reply in Support Filed By: Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[136] Defendants Conrado Concio, MD and Vishal Shah, MD's Reply in Support of Their Motion for Fees and Costs</i>
02/15/2022	 Order <i>[137] ORDER RE: CONCIO'S AND SHAH'S MOTION FOR FEES AND COSTS</i>
02/15/2022	 Order <i>[138] ORDER RE: VALLEY HEALTH SYSTEM'S MOTION FOR FEES AND COUNTERMOTION FOR FEES AND COSTS</i>
02/16/2022	 Notice of Entry of Decision and Order Filed By: Plaintiff Estate of Rebecca Powell <i>[139] Notice of Entry of Order and Decision Regarding Valley Health System's Motion for Fees and Countermotion for Fees and Costs</i>
02/16/2022	 Notice of Entry of Order Filed By: Defendant Concio, Conrado C.D., M.D.; Defendant Shah, Vishal S., M.D. <i>[140] Notice of Entry of Order Re: Concio's and Shah's Motion for Fees and Costs</i>
02/23/2022	 Motion to Reconsider

# CASE SUMMARY

CASE NO. A-19-788787-C

Filed By: Defendant Valley Health System, LLC

*[141] Defendant Valley Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for Reconsideration Regarding its Motion for Attorneys' Fees Pursuant to N.R.C.P. 6, N.R.S. 17.117, 7.085, 18.010(2), and EDCR 7.60*

02/23/2022



Clerk's Notice of Hearing

*[142] Notice of Hearing*

03/09/2022



Opposition to Motion

Filed By: Plaintiff Estate of Rebecca Powell

*[143] Plaintiffs' Opposition to Defendant Valley Health System LLC's Motion For Reconsideration of the Court's Denial of its Application for Fees and Costs*

03/14/2022



Notice of Appeal

Filed By: Defendant Valley Health System, LLC

*[144] Defendant Valley Health System LLC DBA Centennial Hills Hospital Medical Center's Notice of Appeal*

03/14/2022



Case Appeal Statement

Filed By: Defendant Valley Health System, LLC

*[145] DEFENDANT VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER S CASE APPEAL STATEMENT*

## DISPOSITIONS

12/05/2019

**Order of Dismissal Without Prejudice** (Judicial Officer: Wiese, Jerry A.)

Debtors: Estate of Rebecca Powell (Plaintiff), Isaiah Khosrof (Plaintiff), Lloyd Creecy (Plaintiff), Taryn Creecy (Plaintiff), Darci Creecy (Plaintiff)

Creditors: Universal Health Services, Inc. (Defendant)

Judgment: 12/05/2019, Docketed: 12/05/2019

10/29/2020

**Summary Judgment** (Judicial Officer: Wiese, Jerry A.)

Debtors: Estate of Rebecca Powell (Plaintiff), Isaiah Khosrof (Plaintiff), Lloyd Creecy (Plaintiff), Taryn Creecy (Plaintiff), Darci Creecy (Plaintiff)

Creditors: Dr. Dionice S. Juliano, MD. (Defendant)

Judgment: 10/29/2020, Docketed: 11/04/2020

10/29/2020

**Order of Dismissal Without Prejudice** (Judicial Officer: Wiese, Jerry A.)

Debtors: Estate of Rebecca Powell (Plaintiff), Isaiah Khosrof (Plaintiff), Lloyd Creecy (Plaintiff), Taryn Creecy (Plaintiff), Darci Creecy (Plaintiff)

Creditors: Dr. Dionice S. Juliano, MD. (Defendant)

Judgment: 10/29/2020, Docketed: 11/04/2020

02/15/2022

**Order** (Judicial Officer: Wiese, Jerry A.)

Debtors: Estate of Rebecca Powell (Plaintiff), Isaiah Khosrof (Plaintiff), Lloyd Creecy (Plaintiff), Taryn Creecy (Plaintiff), Darci Creecy (Plaintiff)

Creditors: Dr. Conrado C.D. Concio, MD. (Defendant), Dr. Vishal S. Shah, MD. (Defendant)

Judgment: 02/15/2022, Docketed: 02/16/2022

Total Judgment: 21,057.28

## HEARINGS

06/28/2019



**Minute Order** (7:30 AM) (Judicial Officer: Escobar, Adriana)

*Recusal*

Recused;

Journal Entry Details:

*-No Parties present. Pursuant to NCIC Canon 2.11(A), to avoid the appearance of impropriety and implied bias as to VALLEY HEALTH SYSTEM, LLC d/b/a CENTENIAL HILLS HOSPITAL MEDICAL CENTER only, this Court hereby disqualifies itself and ORDERS, this case to be REASSIGNED at random. Defendant Centennial Hills Hospital s Motion to Dismiss,*

# CASE SUMMARY

CASE NO. A-19-788787-C

*Joinder(s), and Defendant Conrado Concio, MD and Dionice Juliano, MD s Motion to Dismiss, set for July 30, 2019 and August 1, 2019, will be vacated and reset in the new department. CLERK'S NOTE: Counsel notified via e-mail: Paul S. Padda (psp@paulpaddalaw.com) Joshua Y. Ang (ja@paulpaddalaw.com) John H. Cotton (JHCotton@jhcottonlaw.com) Brad Shipley (BShipley@jhcottonlaw.com) Michael E. Prangle (mprangle@hpslaw.com) Zachary J. Thompson (zthompson@hpslaw.com) Hall Prangle & Schoonveld, LLC (efile@hpslaw.com) ;*

09/25/2019	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Defendant Conrado Concio, MD, and Dionice Juliano, MD's Motion to Dismiss</i></p> <p>Minute Order Dated 06-28-19</p> <p>Denied;</p>
09/25/2019	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Defendant Vishal Shah, M.D. Joinder to Defendant's Concio and Juliano's Motion to dismiss</i></p> <p>Minute Order Dated 06-28-19</p> <p>Denied;</p>
09/25/2019	<p><b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint</i></p> <p>Minute Order Dated 06-28-19</p> <p>Denied;</p>
09/25/2019	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Defendant Centennial Hills Hospital's Joinder to Defendants Conrado Concio, MD and Dionice Juliano, MD's Motion to Dismiss</i></p> <p>Minute Order Dated 06-28-19</p> <p>Denied;</p>
09/25/2019	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Defendant Universal Health Services, Inc.'s Joinder to Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint and Joinder to Defendants Conrado Concio, MD, and Dionice Juliano, MD's Motion to Dismiss</i></p> <p>Denied;</p>
09/25/2019	<p><b>Joinder</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Defendant Universal Health Services, Inc.'s Joinder to Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint and Joinder to Defendants Conrado Concio, MD, and Dionice Juliano, MD's Motion to Dismiss</i></p> <p>Denied;</p>
09/25/2019	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Zachary Thompson, Esq. present on behalf of Valley Health System. DEFENDANT CENTENNIAL HILLS HOSPITAL'S JOINDER TO DEFENDANTS CONRADO CONCIO, MD AND DIONICE JULIANO, MD'S MOTION TO DISMISS...DEFENDANT CONRADO CONCIO, MD, AND DIONICE JULIANO, MD'S MOTION TO DISMISS... DEFENDANT VISHAL SHAH, M.D. JOINDER TO DEFENDANT'S CONCIO AND JULIANO'S MOTION TO DISMISS...DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT...DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S JOINDER TO DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT AND JOINDER TO DEFENDANTS CONRADO CONCIO, MD, AND DIONICE JULIANO, MD'S MOTION TO DISMISS...DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S JOINDER TO DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT AND JOINDER TO DEFENDANTS CONRADO CONCIO, MD, AND DIONICE JULIANO, MD'S MOTION TO DISMISS... Mr. Shipley argued the Statute of Limitations has passed with respect to all three physicians, and the complaint was filed approximately 8 months too late. Mr. Shipley further argued there aren't any allegations these Doctors were in possession of the records or that these physicians did anything to conceal. Further arguments by Mr. Shipley. Mr. Thompson agreed with Mr. Shipley in regards to the Statute of Limitations and argued the one year Statute is applicable to all claims because all claims arise out of the alleged professional</i></p>



# CASE SUMMARY

CASE NO. A-19-788787-C

negligence which are related to medical decision making, judgment, and diagnosis of the subject providers. Mr. Thompson further argued in regards to tolling, Plaintiff is required to show that documents were intentionally withheld, however; plaintiff has not pled any documents were intentionally withheld and has not offered any evidence at this point. Further, Plaintiff would have to show the withholding would have precluded a reasonably prudent person from pursuing and being able to offer an expert affidavit, however; in Dr. Hashim's statements where he stated the additional records had reinforced it he clearly had enough information to offer some opinion of breaches of the standard of care. Further arguments by Mr. Thompson. Mr. Suneel argued in regards to Rule 12 (b)(5) evidence is not the standard now. Further, the complaint and Dr. Hashim's affidavit adequately plead the issue that they are taking exception to which is the Statue of Limitations and Plaintiff has shown several instances where concealment is stated and alleged explicitly. Further, in Dr. Hashim's affidavit he has identified all three doctors and to the things that they failed to do and with respect to Dr. Julianio; that is sufficient. Further arguments by Mr. Suneel. Mr. Shipley argued in rebuttal and stated there is no concealment alleged with respect to all three defendants and therefore the Statute of Limitations cannot be tolled. Further arguments by Mr. Shipley. Mr. Thompson indicated he is only moving on the pleadings based on the information Plaintiff's pled and what was included in the expert affidavit. Further statements by Mr. Thompson. Court stated in regards tot he Statute of Limitations the Supreme Court has been clear that knew or reasonably should have known is generally an issue of fact or for the Jury to decide, however; in this case it does seem like it is substantially after the date of death therefore some arguments can be brought up in a motion for Summary Judgment the Court may consider. Court further stated there is at least an insinuation that there was concealment and the Court understands the argument that you cant hold a Defendant responsible for another Defendants concealment, however; if there is concealment, it arguably prevents the plaintiff from having the inquiry notice they need in order for the Statue of Limitations to run. Court further stated the issue of fact is determining when that inquiry notice starts and arguably the inquiry notice may not start until they receive records. Court further stated its findings and ORDERED, motions DENIED. Plaintiff's counsel to prepare and submit order to counsel for approval of form and content. CLERK'S NOTE: This minute order was updated. (10-27-20 np).;

10/30/2019



**Motion to Dismiss** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

**10/30/2019, 12/04/2019**

*Defendant Universal Health Services, Inc.'s Motion to Dismiss or, Alternatively, Motion for Summary Judgment for Lack of Jurisdiction*

Matter Continued;

Vacate;

Journal Entry Details:

*No parties present. Court indicated the Court received a Stipulation and Order to dismiss the present motion; therefore, COURT ORDERED hearing VACATED.;*

Matter Continued;

Vacate;

Journal Entry Details:

*Plaintiff's counsel not present. Mr. Thompson noted the Motion to Dismiss was unopposed until this morning. Mr. Thompson advised he spoke with opposing counsel and parties requested the matter be continued for 30 days to allow them to file a Stipulation and Order to Dismiss Without Prejudice in alternative to granting the subject motion. COURT SO ORDERED. In the event the Stipulation and Order is filed prior to the hearing, the same will be vacated. CONTINUED TO: 12/4/19 9:00 AM CLERK'S NOTE: Subsequent to the hearing the date continuance date was changed to accommodate the Court's calendar. The correct date is reflected in the above minutes which were distributed to: Paul Padda, Esq.*

*(psp@paulpaddalaw.com), John Cotton, Esq. (jhcotton@jhcottonlaw.com) and Zachary Thompson, Esq. (efile@hpslaw.com)./lk;*

03/24/2020



**Minute Order** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;

Journal Entry Details:




*The Court notes that a Joint Case Conference Report was filed in the above case on 3/20/20. Thereafter, a Mandatory Rule 16 Conference Order issued scheduling the Rule 16 Conference for 05/05/20 at 12:00 p.m. Accordingly, the Show Cause Hearing scheduled for 4/1/20 at 9:00 a.m. shall be vacated. CLERK'S NOTE: A copy of the above minute order was distributed to Paul Padda, Esq. (psp@paulpaddalaw.com); John Cotton, Esq. (jhcotton@jhcottonlaw.com); and Michael Prangle, Esq. (mprangle@hpslaw.com)./03-24-20.lk;*



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**


**CASE NO. A-19-788787-C**

04/01/2020	<p><b>CANCELED Show Cause Hearing (9:00 AM)</b> (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Vacated</i></p> <p><i>Show Cause Hearing - Failure to Conduct Rule 16.1 ECC and/or file JCCR</i></p>
05/05/2020	<p> <b>Mandatory Rule 16 Conference (12:00 PM)</b> (Judicial Officer: Wiese, Jerry A.)</p> <p>Trial Date Set;</p> <p>Journal Entry Details:</p> <p><i>This Mandatory Rule 16 Conference was conducted via teleconference, in light of COVID-19 measures taken by the Court. Present via teleconference: Paul S. Padda, Esq. for Plaintiffs; Brad Shipley, Esq. for Defendants Drs. Shah, Concio and Dionice; and Chelsea R. Hueth, Esq. for Defendant Valley Health System, LLC. The Court explained the goal of the Rule 16 Conference being the maintenance of the calendar and the participation in a meaningful settlement conference and/or mediation to move the cases forward; and, should the settlement fail, the setting of realistic discovery deadlines to avoid the submission of stipulation and order to continue trial later, which the Court stated, it will not be inclined to sign. The Court acknowledged concern regarding the ability to conduct business amidst directives associated with the COVID-19 virus and agreed with the discovery dates set forth in the Joint Case Conference Report filed in this matter. The parties agreed upon conducting a Private Mediation in this case. Counsel for Plaintiff suggested the trial of the matter could take 4-6 weeks despite the fact the JCCR approximated a 3-4 week jury trial. Thereafter, the Court ORDERED the following: Parties agree to conduct a Private Mediation in July, 2021. A Status Check: Settlement/Trial Setting is set for June 2, 2021, at 9:00 AM in Dept. 30. Final Day to Amend Pleadings/Add Parties: 6/18/2021 Initial Expert Disclosure Deadline: 6/18/2021 Rebuttal Expert Disclosure Deadline: 8/27/2021 Final Day to Complete Discovery: 10/28/2021 Deadline for filing Dispositive Motion: 11/30/2021 The Malpractice Medical/Dental case is set for a FIRM 5-week JURY TRIAL commencing on 5/23/22 through 6/24/2022. Scheduling Order and Order Setting Civil Jury Trial to follow. THERAFTER, Counsel brought to the attention of the Court a pending unopposed Motion to Associate Counsel scheduled on the Court's docket for 6/3/2020 at 9AM. All parties stated NO OPPOSITION to the pending motion. The Court ORDERED Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center's Motion to Associate Richard Douglas Carroll as Counsel advanced without hearing and GRANTED and the matter taken off calendar for 6/3/2020. Counsel to submit an appropriate Order within ten (10) days pursuant to EDCR 7.21.;</i></p>
06/03/2020	<p><b>CANCELED Motion to Associate Counsel (9:00 AM)</b> (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Vacated</i></p> <p><i>Defendant Valley Health System, Llc Dba Centennial Hills Hospital Medical Center's Motion to Associate Richard Douglas Carroll as Counsel</i></p>
10/21/2020	<p> <b>Minute Order (3:00 AM)</b> (Judicial Officer: Wiese, Jerry A.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>Upon further review of the instant case, it has come to the Court's attention that an Order was not submitted regarding the hearing on Defendants' Motions to Dismiss from September 25, 2019. Therefore, COURT ORDERED, matter SET for Status Check regarding submission and filing of the Order. Should the Order be received prior to the hearing, the same will be vacated. 12/09/20 9:00 AM STATUS CHECK: SUBMISSION/FILING OF ORDER CLERK'S NOTE: A copy of the above minute order was distributed to all parties 10-21-20.//lk;</i></p>
10/26/2020	<p> <b>Minute Order (3:00 AM)</b> (Judicial Officer: Wiese, Jerry A.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>For purposes of judicial economy, the Court hereby ORDERS the hearings currently scheduled on October 28, 2020, at 9:00 AM on Defendant Julianio's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims; Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations; Defendants Dionice Julianio, MD, Conrado Concio, MD and Vishal Shah, MD's Joinder to Defendant's Motion for Summary Judgment on the Statute of Limitations; and Plaintiffs' Opposition to Defendant Julianio's Motion for Summary Judgment, And Defendants' Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims and Counter-Motion to Amend or Withdraw Plaintiffs' Responses to Defendants' Request for Admissions RESCHEDULED to</i></p>

# CASE SUMMARY

CASE NO. A-19-788787-C

November 4, 2020, at 9:00AM. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 10-26-20./lk;

- 11/04/2020 **CANCELED Motion for Summary Judgment** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)  
*Vacated*  
*Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims*
- 11/04/2020 **CANCELED Motion for Summary Judgment** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)  
*Vacated*  
*Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations*
- 11/04/2020 **CANCELED Joinder** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)  
*Vacated*  
*Defendants Dionice Juliano, MD, Conrado Concio, MD and Vishal Shah, MD's Joinder to Defendant's Motion for Summary Judgment on the Statute of Limitations*
- 11/04/2020 **CANCELED Opposition and Countermotion** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)  
*Vacated*  
*Plaintiffs' Opposition to Defendant Juliano's Motion for Summary Judgment, And Defendants' Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims and Counter-Motion to Amend or Withdraw Plaintiffs' Responses to Defendants' Request for Admissions*
- 11/23/2020  **Minute Order** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)  
 Minute Order - No Hearing Held;  
 Journal Entry Details:

*The above-referenced matter is scheduled for a hearing on 11/25/20 with regard to the Defendant, Valley Health System's Motion for Stay. Pursuant to A.O. 20-01 and subsequent administrative orders, this matter is deemed "non-essential," and may be decided after a hearing, decided on the papers, or continued. This Court has determined that it would be appropriate to decide this matter on the papers, and consequently, this minute order issues. On May 3, 2017, Plaintiff was found by EMS at her home. She was unconscious, labored in her breathing, and had vomit on her face. EMS provided emergency care and transported her to Defendant Hospital, and she was admitted. Plaintiff continued to improve while she was admitted. However, on May 10, 2017 Plaintiff complained of shortness of breath, weakness, and a "drowning feeling." One of her doctors ordered Ativan to be administered via an IV push. On May 11, another doctor ordered two more doses of Ativan and ordered several tests, including a chest CT to be performed. However, the CT could not be performed due to Plaintiff's inability to remain still during the test. She was returned to her room where she was monitored by a camera to ensure she kept her oxygen mask on. Plaintiffs, in their complaint, alleged the monitoring was substandard and Defendant should have used a better camera or in person monitoring, among other theories of substandard care. Another dose of Ativan was ordered at 3:27 AM and Plaintiff entered into acute respiratory failure, which resulted in her death. The other named Plaintiffs claimed they were in Decedent's hospital room and observed Defendant's negligence. Plaintiffs ordered Decedent's medical records on May 25, 2017; however, there were issues with delivery, and it is unclear exactly when Plaintiffs received them. Decedent's husband, a named Plaintiff, filed a complaint with the State of Nevada Department of Health and Human Services ("HHS") sometime before May 23, 2017. Approximately six weeks after the death of Decedent, Plaintiffs received the death certificate which listed the cause of death as a suicide from Cymbalta Intoxication. On February 5, 2018 HHS responded to Plaintiff's complaint. The letter said that after an investigation, HHS concluded that the facility had committed violations by not following rules and/or regulations as well as finding there were deficiencies in the medical care provided to Decedent. On February 4, 2019, Plaintiff's filed suit alleging negligence/medical malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of emotional distress. Defendant did not file an answer but filed a Motion to Dismiss on June 19, 2020 alleging the statute of limitations had tolled. Plaintiff answered the motion. The court denied the Motion to Dismiss on September 25, 2019. Defendant filed an Answer to Plaintiff's complaint on April 15, 2020. Defendants Valley Health System, LLC and Universal Health Services, Inc. then filed a 'Motion for Summary Judgment Based Upon the Expiration of the Statute of Limitations.' Defendants Dionice Juliano, M.D., Conrado Concio, M.D., and Vishal Shah, M.D. joined the Motion for Summary Judgment. Additionally, Defendant Juliano filed a Motion for Summary Judgment,*

## CASE SUMMARY

CASE NO. A-19-788787-C

and Defendants Concio and Shaw filed a Motion for Partial Summary Judgment on Emotional Distress Claims. Plaintiffs filed a Counter-Motion to Amend or Withdraw Plaintiffs Responses to Defendants Requests for Admissions. All of these items were on the November 04, 2020 calendar. An Order deciding these motions was filed on October 29, 2020. The Order denied Defendants, Valley Health System and Universal's Motion for Summary Judgment and related Joinders; granted Defendant Julianos Motion for Summary Judgment, and dismissed Dr. Julianos Motion from the case without prejudice; and denied Defendants Concio and Shaw's Motion for Partial Summary Judgment on the Emotional Distress Claims. Now, Defendant Valley Health System, LLC (VHS) seeks an order staying the case pending an appeal of the October 29, 2020, Order denying its Motion for Summary Judgment Based Upon the Expiration of the Statute of Limitations. Defendant VHS alleges that it may be irreparably prejudiced by having to continue defending this action and potentially being forced to try all issues when the matter raised by the aforesaid Motion is case dispositive. This matter has been pending since February, 2019. It is currently set for trial on May 23, 2022. Initial expert disclosures are to be made on or before June 18, 2021, rebuttal expert disclosures are due on August 27, 2021, and discovery is to be completed on or before October 28, 2021. Valley argues that it is currently preparing a Petition for Writ of Mandamus, and is first seeking a stay with the district Court pursuant to NRAP 8(a)(1)(A). The decision whether to grant a motion for a stay in proceedings is left to the sound discretion of the Court. Nevada Tax Commission v. Brent Mackie, 74 Nev. 273, 276 (1958). The factors to be considered by the Court when considering whether to issue a stay in the proceedings when an appellate issue is pending before the Nevada Supreme Court are (1) whether the object of the writ petition will be defeated if the stay is denied; (2) whether the petitioner will suffer irreparable or serious injury if the stay is denied; (3) whether the real party in interest will suffer irreparable or serious injury if the stay is granted; and (4) whether petitioner is likely to prevail on the merits in the writ petition. NRAP 8(c); Fritz Hansen A/S v. Eighth Judicial District Court, 116 Nev. 650, 657 (2000). Defendant, VHS argues that each of the 4 factors weigh in favor of granting a stay. The Plaintiffs, on the other hand, argue that none of the factors weigh in favor of the Defendant. This Court finds and concludes as follows: 1) Trial is currently not scheduled until May of 2022, and consequently, even if a stay is denied, it is likely that the Supreme Court would rule on the "potential" Writ of Mandamus, prior to the parties going to Trial. Consequently, the Court does not find that the purpose of the writ petition would be defeated if the stay were denied. 2) The only injury or damage that the Petitioner would suffer if the stay were denied, would be continued litigations and the costs associated therewith. The Court has consistently held that ongoing litigation and the expenses associated therewith do not cause "irreparable harm." Consequently, the Court does not find that the Petitioner would suffer irreparable harm or serious injury if the stay were denied. 3) Although the Plaintiffs are correct that memories dim as time passes, such a fact applies to all witnesses equally Plaintiff's witnesses as well as Defendants' witnesses. Consequently, the Court does not find that the Plaintiffs would suffer irreparable or serious injury if the stay were granted. 4) The Court cannot find that the Petitioners are likely to prevail on the merits, as this Court previously found, and continues to believe, that the Death Certificate identifying Ms. Powell's cause of death as a "suicide," may have tolled the statute of limitations, in that such a conclusion or determination by the Medical Examiner, would clearly not suggest "negligence" on the part of any medical care provider. Although the Defendants suggest that the Plaintiffs possessed inquiry notice much earlier, the Court could not find that the families questioning of the cause of death equated with inquiry notice of negligence. Consequently, this Court concluded that when the Plaintiffs knew or should have known, of the alleged negligence of the Defendants, was an issue of fact which overcame the Defendants' Motion for Summary Judgment. Consequently, the Court cannot find that there is a likelihood of success on the merits. Another issue which is important in this Court's analysis, is the fact that a Writ has apparently not yet been filed. If the Court were to grant the Stay as requested, it is possible that 6 months, or even a year from now, the Writ may still not be filed, so the Court would have stayed the case for no reason. Based upon all these reasons, considering the relevant factors set forth above, finding that they weigh in favor of the non-moving party, and good cause appearing, IT IS HEREBY ORDERED that the Defendant's Motion for Stay is hereby DENIED. The Court requests that Plaintiff's counsel prepare an Order consistent with the foregoing, have it approved as to form and content by opposing counsel, and submit it to the Court within 10 days. Because this matter has been decided on the papers, the hearing scheduled for 11/25/20 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 11-24-20./lk ;

11/25/2020

CANCELED Motion to Stay (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated - Previously Decided

Defendant VHS's Motion for Stay on OST

# CASE SUMMARY

CASE NO. A-19-788787-C

02/10/2021	<p><b>CANCELED Status Check</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Vacated</i></p> <p><i>Status Check: Submission/Filing of Order from 09/25/19 hearing</i></p>
04/20/2021	<p> <b>Minute Order</b> (3:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>The above-referenced matter is scheduled for a hearing on 4/21/21 with regard to Defendant, Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus. Pursuant to the administrative orders of the Court, including A.O. 21-03, this matter may be decided after a hearing, decided on the pleadings, or continued. Additionally, EDCR 2.23 provides that any matter may be decided with or without oral argument. This Court has determined that this matter may be decided on the pleadings, and consequently, this minute order issues. This matter has been pending since February, 2019. It is currently set for trial on May 23, 2022. Initial expert disclosures are to be made on or before June 18, 2021, rebuttal expert disclosures are due on August 27, 2021, and discovery is to be completed on or before October 28, 2021. Defendant Valley Health System LLC (aka CHH; doing business as "Centennial Hills Hospital Medical Center") moved this Court for summary judgment based upon an alleged expiration of the statute of limitations. CHH argued that Plaintiffs sought and received Ms. Powell's complete medical records from CHH just weeks after her death demonstrating their suspicion of alleged malpractice, and that Plaintiffs were therefore on inquiry notice when they received the medical records in June, 2017 since their own expert testified that he had sufficient evidence therein to allege malpractice. CHH also argued that Plaintiffs failed to submit any admissible evidence whatsoever in opposition to that motion. The Court issued an order denying CHH's motion on October 29, 2020. CHH then moved this Court for a stay of all proceedings prior to filing a Petition for a Writ of Mandamus. On December 17, 2020, this Court issued an order denying CHH's motion for a stay, due in part to the lack of likelihood that CHH would prevail on the merits, and the fact that a writ petition had not been filed. CHH has since filed its petition with the Nevada Supreme Court. In an order dated March 9, 2021, the Nevada Supreme Court issued an order directing an answer to CHH's writ petition, setting a briefing schedule of Plaintiffs' opposition by March 30, 2021 and CHH's reply by April 13, 2021. In its order, the Court stated "Having reviewed the petition, it appears that an answer may assist this court in resolving this matter." Defendant Valley Health System LLC's instant Motion to Reconsider the decision on the Motion for Stay Pending PWM was filed on 04/06/21 on OST. Defendant CHH now argues that the Supreme Court's request for an Answer suggests a likelihood of success on the merits, and the Writ Petition has now been filed, so the Court should now grant the stay that was previously requested. In opposition, the Plaintiff argues that the Motion is procedurally defective because a Motion for Reconsideration needs to be filed within 14 days from the 12/17/20 Notice of Entry of Order, which was filed by the Defendant. (See EDCR 2.24) EDCR 2.24 states in pertinent part as follows: EDCR 2.24 Rehearing of motions. . . . (b) A party seeking reconsideration of a ruling of the court, other than any order that may be addressed by motion pursuant to NRCP 50(b), 52(b), 59 or 60, must file a motion for such relief within 14 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the period for filing a notice of appeal from a final order or judgment. Based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED that Defendant's Motion for Reconsideration is hereby DENIED as untimely. The Court notes that this decision does not preclude the filing of a Motion to Stay with the Supreme Court. The Court requests that counsel for the Plaintiff prepare an Order consistent with the foregoing, have it approved as to form and content by opposing counsel, and submit it to the Court for signature within 10 days. Because this matter has been decided on the pleadings, the hearing scheduled for 4/21/21 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 4-20-21./lk;</i></p>
04/21/2021	<p><b>CANCELED Motion to Reconsider</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p><i>Vacated - Previously Decided</i></p> <p><i>Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus</i></p>
09/07/2021	<p> <b>Minute Order</b> (3:00 AM) (Judicial Officer: Wiese, Jerry A.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p>

# CASE SUMMARY

CASE NO. A-19-788787-C

The above-referenced matter is scheduled for a Status Check: Settlement/Trial Setting hearing on 9/8/21. The Court notes the Joint Status Report filed 8/18/21, indicates that a Petition for Writ of Mandamus is pending decision by the Supreme Court and accordingly the parties believe a sixty (60) day extension of discovery will be necessary. However, the extension of discovery should not impact the FIRM Jury Trial setting in this matter. The Court further notes that a Mediation has been scheduled to take place on November 16, 2021. The Court appreciates the parties filing the Joint Status Report and keeping the court apprised of the progress of the case. There have been no subsequent filings in this matter and based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED that the Status Check: Settlement/Trial Setting in this case is hereby CONTINUED to December 1, 2021 at 9:00 a.m. IT IS FURTHER ORDERED that Counsel shall submit an appropriate Stipulation and Order to Extend Discovery Deadlines, consistent with the dates indicated in the Joint Status Report, for the Court's consideration. If the Mediation is successful in resolving the matter, Counsel are FURTHER ORDERED to immediately advise the Court of the change of status. As a result of the continuance, there is no need for any parties or attorneys to appear on 9/8/21 with regard to this matter. CLERK'S NOTE: A copy of the above minute order was distributed to all parties 09-07-21//lk ;

11/18/2021



**Further Proceedings** (10:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Further Proceedings: Writ of Mandamus*

Matter Heard;

Journal Entry Details:

*Brad Shipley, Esq. and Counsel on behalf of Centennial Hills Hospital present via Bluejeans video conference. Court noted the instant matter came back on a Writ Of Mandamus and counsel submitted a proposed Order; however, it didn't know if it was approved. Counsel indicated Mr. Padda had not approved the Order and was still waiting on a hearing. Following colloquy, Court advised parties it would sign the Order and the instant matter would be done. Parties concurred. CLERK'S NOTE: Minute Order prepared using JAVS recording. // 3-10-22/ dy CLERK'S NOTE: Counsel present on behalf of Centennial Hills Hospital announcement of appearance was unclear due to being present via Bluejeans video conference. // 3-10-22/ dy ;*

12/01/2021

**CANCELED Status Check: Settlement/Trial Setting** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated - Case Closed*

01/11/2022

**CANCELED Status Check: Medical/Dental Malpractice** (8:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated - Case Closed*

01/26/2022

**CANCELED Motion** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated*

*Plaintiffs' Motion to Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano, Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs*

02/09/2022

**CANCELED Opposition and Countermotion** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated - per Order*

*Defendant Valley Health System, LLC dba Centennial Hills Hospital's Opposition to Plaintiff's Motion to Retax Costs and Countermotion for Costs and Fees Pursuant to EDCR 7.60*

02/18/2022

**CANCELED Motion for Attorney Fees** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated - per Order*

*Defendant Valley Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for Attorneys' Fees Pursuant to N.R.C.P. 68, N.R.S. 17.117, 7.085, 18.010(2), and EDCR 7.60*

02/18/2022

**CANCELED Motion for Attorney Fees and Costs** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated - per Order*

*Defendants Conrado Concio, MD and Vishal Shah, MD's Motion for Attorneys' Fees and Costs*

03/30/2022

**Motion For Reconsideration** (9:00 AM) (Judicial Officer: Wiese, Jerry A.)



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-788787-C**

	<i>Defendant Valley Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for Reconsideration Regarding its Motion for Attorneys' Fees Pursuant to N.R.C.P. 6, N.R.S. 17.117, 7.085, 18.010(2), and EDCR 7.60</i>
04/25/2022	<b>CANCELED Pre Trial Conference</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Case Closed</i>
05/16/2022	<b>CANCELED Calendar Call</b> (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Case Closed</i>
05/23/2022	<b>CANCELED Jury Trial - FIRM</b> (10:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Case Closed</i>

DATE	FINANCIAL INFORMATION
	<b>Defendant</b> Juliano, Dionice S., M.D. Total Charges 200.00 Total Payments and Credits 200.00 <b>Balance Due as of 3/16/2022 0.00</b>
	<b>Defendant</b> Universal Health Services, Inc. Total Charges 423.00 Total Payments and Credits 423.00 <b>Balance Due as of 3/16/2022 0.00</b>
	<b>Defendant</b> Concio, Conrado C.D., M.D. Total Charges 453.00 Total Payments and Credits 453.00 <b>Balance Due as of 3/16/2022 0.00</b>
	<b>Defendant</b> Shah, Vishal S., M.D. Total Charges 223.00 Total Payments and Credits 223.00 <b>Balance Due as of 3/16/2022 0.00</b>
	<b>Defendant</b> Valley Health System, LLC Total Charges 694.00 Total Payments and Credits 694.00 <b>Balance Due as of 3/16/2022 0.00</b>
	<b>Plaintiff</b> Estate of Rebecca Powell Total Charges 390.00 Total Payments and Credits 390.00 <b>Balance Due as of 3/16/2022 0.00</b>

## DISTRICT COURT CIVIL COVER SHEET

A-19-788787-C

County, Nevada

Department 14

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): Estate of Rebecca Powell (through Brian Powell, Special Administrator); Darci Creecy; Taryn Creecy; Isaiah Khosrof; Lloyd Creecy	Defendant(s) (name/address/phone): VALLEY HEALTH SYSTEM, LLC; UNIVERSAL HEALTH SERVICES, INC.; DR. DIONICE S. JULIANO, M.D.; CONRADO C.D. CONCIO, M.D.; DR. VISHAL S. SHAH, M.D.; Defendants
Attorney (name/address/phone): Paul S. Padda, Esq./Joshua Y. Ang, Esq. Paul Padda Law, PLLC 4560 South Decatur Road, Suite 300, Las Vegas, Nevada 89103 (702) 366-1888	Attorney (name/address/phone): N/A

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input checked="" type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

02/04/2019

Date

Signature of initiating party or representative

See other side for family-related case filings.

*Heather S. Shuman*

CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA  
-oOo-**

ESTATE OF REBECCA POWELL, through )  
BRIAN POWELL, as Special Administrator; )  
DARCI CREECY, individually and as an Heir; )  
TARYN CREECY, individually and as an Heir; )  
ISAIAH KHOSROF, individually and as an )  
Heir; LLOYD CREECY, individually, )

Plaintiffs, )

vs. )

VALLEY HEALTH SYSTEM, LLC (doing )  
Business as "Centennial Hills Hospital )  
Medical Center"), a foreign limited liability )  
Company; UNIVERSAL HEALTH SERVICES, )  
INC., a foreign corporation; DR. DIONICE )  
S. JULIANO, M.D., an individual; DR. )  
CONRADO C.D. CONCIO, M.D., an individual; )  
DR. VISHAL S. SHAH, M.D., an individual; )  
DOES 1-10; and ROES A-Z, )

Defendants. )

CASE NO.: A-19-788787-C  
DEPT. NO.: XXX

**ORDER RE: VALLEY  
HEALTH SYSTEM'S  
MOTION FOR FEES  
AND COUNTERMOTION  
FOR FEES AND COSTS**

**INTRODUCTION**

The above-referenced matter is scheduled for a hearing on 2/18/22, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Attorneys' Fees and Countermotion for Fees and Costs. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, these matters may be decided with or without oral argument. This Court has determined that it would be appropriate to decide these matters on the pleadings, and consequently, this Order issues.

**FACTUAL AND PROCEDURAL HISTORY**

On May 3, 2017, Rebecca Powell ("Plaintiff") was taken to Centennial Hills Hospital, a hospital owned and operated by Valley Health System, LLC ("Defendant") by EMS services after she was discovered with labored breathing and vomit on her face. Plaintiff remained in Defendant's care for a week, and her condition improved.



1 However, on May 10, 2017, her condition began to deteriorate and on May 11, 2017, she  
2 suffered an acute respiratory failure, resulting in her death.

3 Plaintiffs brought suit on February 4, 2019 alleging negligence/medical  
4 malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of  
5 emotional distress. Defendants filed Motions to Dismiss and for Summary Judgment,  
6 which this Court denied. After a recent remand from the Nevada Supreme Court, on  
7 11/19/21, the Court entered an Order Vacating Prior Order Denying Defendant Valley  
8 Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for  
9 Summary Judgment and Granting Said Defendant's Motion for Summary Judgment  
10 Per Mandamus of Nevada Supreme Court. A Notice of Entry of Order was entered that  
11 same day. On 11/22/21, Defendant Valley Health Systems filed a Motion for Attorneys  
12 Fee and Verified Memorandum of Costs. On 12/3/21, Plaintiffs filed a Motion to  
13 Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano,  
14 Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs. Plaintiffs received  
15 an Order Shortening Time on 12/10/21. Following briefing, the Court entered an Order  
16 denying Plaintiffs' Motion to Extend Time to Respond, because of a lack of diligence on  
17 part of the Plaintiffs. On 12/20/21, Valley filed an Opposition to Plaintiff's Motion to  
18 Extend Time to Retax Costs, and Countermotion for Fees and Costs.

### 19 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

20 Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical  
21 Center (CHH) seeks attorneys' fees pursuant to NRCP 68(f) and NRS 17.117(10). CHH  
22 argues that it is entitled to an award of attorneys' fees because Plaintiffs rejected CHH's  
23 Offer of Judgment and then failed to obtain a more favorable judgment. See *Albios v.*  
24 *Horizon Cmtys., Inc.*, 122 Nev. 409, 417, 132 P.3d 1022 (2006); *Logan v. Abe*, 131 Nev.  
25 260, 268, 350 P.3d 1139 (2015).

26 CHH states that it served an Offer of Judgment on Plaintiffs for a waiver of any  
27 presently or potentially recoverable costs, in full and final settlement of the Plaintiff's  
28 claims. Plaintiffs rejected this Offer of Judgment by failing to accept it within 14 days.  
N.R.C.P. 68(e) and N.R.S. 17.117(6). As this Court was directed by the Supreme Court to  
vacate its order denying summary judgment to CHH and instead issue an order  
granting CHH's summary judgment motion, Plaintiffs failed to obtain more a favorable  
judgment than the one offered to them in CHH's Offer of Judgment. Thus, pursuant to

1 N.R.C.P. 68 and N.R.S. 17.117, this Court has discretion to award CHH its attorneys'  
2 fees.

3 CHH cites to *Schouweiler v. Yancey Co.*, for the proposition that a Court must  
4 consider the following factors in exercising its discretion to award fees: (1) whether  
5 the offeree brought his claims in good faith; (2) whether the offeror's offer of judgment  
6 was also brought in good faith in both timing and amount; (3) whether the offeree's  
7 decision to reject the offer of judgment was in bad faith or grossly unreasonable; and  
8 (4) whether the amount of offeror's requested fees is reasonable and justified.

9 *Schouweiler*, 101 Nev. 827, 833, 917 P.2d 786 (1985). CHH argues that all of the  
10 Schouweiler factors weigh in favor of CHH.

11 As to the first factor, CHH notes that the Supreme Court determined Plaintiffs  
12 were on notice of any alleged malpractice in this case, in possession of records long  
13 before the statute of limitations expired, and knowingly initiated complaints to State  
14 agencies manifesting definitive knowledge and belief of malpractice. Nevertheless,  
15 CHH argues, Plaintiffs chose to initiate a lawsuit "which was dead on arrival,  
16 continued to maintain it even after irrefutable evidence demonstrated its untenability,  
17 and then used every opportunity to prevent the expenditure of additional resources in  
18 order to prove the impropriety of the lawsuit." Accordingly, Plaintiffs' claims were not  
19 brought in good faith.

20 With regard to the second factor, CHH argues that its Offer of Judgment was  
21 brought in good faith in both timing and amount. At the time of the Offer, CHH had  
22 incurred over \$58,000.00 in costs defending Plaintiffs' claims. The Offer was served  
23 several days prior to CHH's Motion for Summary Judgment and about one and a half  
24 years after the lawsuit's commencement. Before the Motion for Summary Judgment  
25 was filed, Plaintiffs were in possession of documents that demonstrated irrefutable  
26 evidence of inquiry notice. Plaintiffs were on notice of the statute of limitations issues  
27 as early as July 2019 when CHH's prior counsel filed a Motion to Dismiss. Therefore,  
28 given Plaintiffs' likelihood of losing on merits, the offered waiver of the right to seek  
reimbursement of costs was reasonable in both timing and amount.

For similar reasons, CHH argues that Plaintiffs' decision to reject the offer of  
judgment was in bad faith and grossly unreasonable. Instead of abandoning their

1 untimely filed action, Plaintiffs' decision to pursue an untenable case caused CHH to  
2 incur substantial legal costs and expenses to seek dismissal.

3 CHH argues that the fourth factor regarding the reasonableness of CHH's  
4 requested attorneys' fees also weighs in favor of CHH. Pursuant to NRCP 68, CHH may  
5 recover their attorneys' fees from the date of service of the Offer of Judgment to the end  
6 of the matter. In this case, CHH served an Offer of Judgment on 8/28/20 that expired  
7 on 9/11/20. CHH states it incurred a total of \$110,930.85 in attorneys' fees alone (not  
8 inclusive of expenses) from 8/28/20 to the present billing cycle (which does not  
9 include all fees incurred in October 2021). Additionally, CHH incurred \$31,401.10 in  
disbursements including expert fees and other expenses since 8/28/20.

10 CHH argues that the amount of its bills is reasonable, given the amount of time  
11 and energy needed to defend this case, engage in extensive written discovery, extensive  
12 motions and appeals practice, and, expert time and expenses, due to Plaintiffs' refusal  
13 to stipulate to stay the litigation while the summary judgment issue made its way  
14 through the court system. Additionally, medical malpractice cases are complex, involve  
15 substantial amounts of expert testimony, and require a great deal of preparation. CHH  
16 states that documents are available for in camera review by this Court, but were not  
17 attached to the Motion in order to preserve attorney-client privilege and protect  
information contained within the descriptions of the attorney billing.

18 With regard to the *Brunzell vs. Golden Gate* analysis, CHH indicates that  
19 attorneys Mr. Garth and Mr. Vogel are experienced litigators that focus exclusively on  
20 medical malpractice. Both have practiced many years and are partners at Lewis  
21 Brisbois. They both billed \$225/hour on this matter. Where appropriate, work was also  
22 assigned to associate attorneys (\$193.50/hour) and paralegals (\$90/hour).

23 CHH notes that medical malpractice cases are complex and require an in-depth  
24 understanding of both unique legal issues as well as the medical care and course that is  
25 at issue. Plaintiffs claimed that they were entitled to \$105,000,000.00 in damages  
26 including \$172,728.04 billed by CHH as a recoverable expense, plus a loss of earning  
capacity of \$1,348,596.

27 There were multiple highly skilled expert witnesses presented by both parties.  
28 Further, nearly 14 months have passed since CHH's Offer of Judgment expired,  
including the participation in motion practice regarding a motion for summary

1 judgment, two motions to stay proceedings (one in this Court and one in Supreme  
2 Court), a writ petition to the Nevada Supreme Court, as well as extensive written  
3 discovery. CHH argues that its requested attorneys' fees are well below the amounts  
4 Nevada courts have found reasonable. Defendants are only requesting attorneys' fees at  
5 a rate of \$225 and \$193.50 per hour, and a paralegal rate of \$90 per hour. CHH argues  
6 that a consideration of the *Brunzell* factors shows that the recovery of the entire billed  
7 amount of fees from August 28, 2020 to present is entirely appropriate. *Brunzell*, 85  
8 Nev. 345, 455 P.2d 31 (1969).

9 In addition to all NRCP Rule 68 post offer fees and costs, CHH requests that  
10 sanctions be imposed against Plaintiffs' counsel for all pre-NRCP Rule 68 costs and fees  
11 totaling \$58,514.36 in accordance with NRS 7.085. CHH cites to EDCR 7.60, which  
12 provides a further avenue of deterrence to attorneys, like Plaintiffs' counsel who engage  
13 in these unnecessary and flagrantly frivolous lawsuits, which are dead before they are  
14 even filed. Accordingly, CHH argues that an award of \$110,930.85 in attorneys' fees per  
15 N.R.C.P. 68 and N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and  
16 expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60, is justified. CHH  
17 argues that it is entitled to an award of his attorney's fees and costs under NRS  
18 §18.010(2)(b), as Plaintiffs maintained the lawsuit without reasonable grounds or to  
19 harass the Defendants.

20 CHH's separately filed a Verified Memorandum of Costs indicates that it seeks  
21 costs, pursuant to NRS 18.005 and 18.020, as well as NRCP 68 and NRS 17.117, in the  
22 amount of \$42,492.03. A majority of the costs requested (\$41,724.10) are for expert  
23 fees. CHH argues that the experts all meet the factors set forth in *Frazier v. Drake*.

24 In Opposition, Plaintiffs argue that the medical malpractice, wrongful death, and  
25 negligent infliction of emotional distress claims on behalf of the estate and surviving  
26 children of Rebecca Powell were not frivolous, and the claims for wrongful  
27 death/medical malpractice and negligent infliction of emotional distress were brought  
28 in good faith. Because this Court denied several dispositive motions before the Nevada  
Supreme Court ultimately directed this Court to vacate its Order denying CHH's  
Motion for Summary Judgment and enter judgment in favor of all the Defendants,  
CHH did not "win" this matter on the merits.

1 Plaintiffs argue that the dismissal of the case on an incorrect interpretation of  
2 the facts and application of inquiry notice to all the named Plaintiffs by the Supreme  
3 Court does not make the claims of Plaintiffs any less meritorious. Further, pursuant to  
4 NRCP 68, and NRS 17.117(10), a party is not entitled to attorney's fees simply because it  
5 served an offer of judgment on the opposing party and that party failed to achieve a  
6 more favorable verdict. The purpose of NRCP 68 is to encourage settlement; it is not to  
7 force Plaintiffs' unfairly to forego legitimate claims. See *Beattie v. Thomas*, 99 Nev.  
8 579, 668 P.2d 268 (1983).

9 Plaintiffs argue that their claims were brought in good faith, as HHS determined  
10 that there were deficiencies in Ms. Powell's care and the death certificate was  
11 inaccurate. Additionally, this Court repeatedly found merit in Plaintiffs' Complaint and  
12 their causes of action for wrongful death, medical malpractice, and negligent infliction  
13 of emotional harm.

14 Plaintiffs argue that Defendant's Offer of Judgment, to waive costs and fees, of  
15 \$58,514.36 was not reasonable and nor was it in good faith considering Plaintiffs'  
16 causes of action for medical malpractice, wrongful death, and negligent infliction of  
17 emotional harm. Plaintiffs lost their mother, who was only 41 years old at the time of  
18 her death. It was reasonable for Plaintiffs to reject Defendants' Offer of Judgment, as  
19 the terms of the Offer of Judgment did not provide for any monetary recovery to  
20 Plaintiffs to compensate them for the loss of their mother. CHH indicated at the time it  
21 had incurred \$53,389.90 in fees and \$5,124.46 in costs, but no supporting documents  
22 were provided. Moreover, this Court denied the Motion for Summary Judgment.  
23 Therefore, CHH incorrectly states that given the likelihood of losing on this issue, the  
24 offered waiver of right to seek reimbursement of costs was reasonable in both timing  
25 and amount. Further, Plaintiffs contend that their decision to reject the Offer of  
26 Judgment was not grossly unreasonable nor in bad faith because no amount was being  
27 offered in damages to the Plaintiffs.

28 With regard to the fees sought, Plaintiffs argue that CHH won on a technicality  
at the Supreme Court, and not on the merits or by way of a jury verdict in favor of  
Defendants. Plaintiffs argue that CHH incurred so much in fees because it continued  
filing motions based on the same statute of limitations theory. Thus, CHH's fees are  
unreasonable and unjustified. Plaintiffs also claim they are unable to properly evaluate

1 the reasonableness of CHH's attorney's fees because Defendant only presented a  
2 summary of the fees that were incurred.

3 Plaintiffs argue that it is absurd for CHH to suggest that the provisions of NRS  
4 7.085 even apply to the facts of this case, and that Plaintiffs' attorneys violated NRS  
5 18.010(2), NRCP 11 or EDCR 7.60. Plaintiffs further argue that CHH has not provided  
6 factual support to support the request for pre-NRCP 68 costs and fees pursuant to NRS  
7 7.085. Plaintiffs ask that this Court deny the application for fees and costs as the  
8 Plaintiffs did not submit frivolous or vexatious claims and did not over burden the  
9 limited judicial resources nor did it hinder the timely resolution of meritorious claims.  
10 Similarly, Plaintiffs contend that CHH has not provided any factual support for its  
11 request for attorneys' fees pursuant to EDCR 7.60 or 18.010(2).

12 In Reply, CHH argues that Plaintiffs' entire opposition is predicated on the false  
13 assertion that they possessed a viable case in the first instance. CHH argues that,  
14 "Plaintiffs' entire argument is that because this Court repeatedly denied dismissal  
15 attempts by the respective defendants despite clear, convincing, and irrefutable  
16 evidence of inquiry notice which each and every plaintiff possessed, they are somehow  
17 absolved from either their malpractice or unethical practice of pursuing a case which  
18 was dead on arrival when filed."

19 CHH argues that the Nevada Supreme Court held that the "district court  
20 manifestly abused its discretion when it denied summary judgment." CHH argues that  
21 this matter should have been dismissed a year ago at the latest.

## 22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 With regard to the requested costs, in *Frazier v. Drake*, 131 Nev. 632, 357 P.3d  
24 365 (NV.Ct.of App., 2015), the Court noted that NRS 18.005(5) provides for the  
25 recovery of "reasonable fees of not more than five expert witnesses in an amount of not  
26 more than \$1,500 for each witness unless the court allows a larger fee after  
27 determining that the circumstances surrounding the expert's testimony were of such  
28 necessity as to require the larger fee." *Id.*, at 644. The Court went on to state the  
following:

. . . . we conclude that any award of expert witness fees in excess of \$1,500  
per expert under NRS 18.005(5) must be supported by an express,  
careful, and preferably written explanation of the court's analysis of  
factors pertinent to determining the reasonableness of the requested fees  
and whether "the circumstances surrounding the expert's testimony were

of such necessity as to require the larger fee.” See NRS 18.005(5); cf. *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780 (1990) (requiring an “express, careful and preferably written explanation” of the district court’s analysis of factors pertinent to determining whether a dismissal with prejudice is an appropriate discovery sanction). ***In evaluating requests for such awards, district courts should consider the importance of the expert’s testimony to the party’s case; the degree to which the expert’s opinion aided the trier of fact in deciding the case; whether the expert’s reports or testimony were repetitive of other expert witnesses; the extent and nature of the work performed by the expert; whether the expert had to conduct independent investigations or testing; the amount of time the expert spent in court, preparing a report, and preparing for trial; the expert’s area of expertise; the expert’s education and training; the fee actually charged to the party who retained the expert; the fees traditionally charged by the expert on related matters; comparable experts’ fees charged in similar cases; and, if an expert is retained from outside the area where the trial is held, the fees and costs that would have been incurred to hire a comparable expert where the trial was held.***

*Id.*, at 650-651.

The Defendant, CHH, argues the importance of the testimony of each of the witnesses, and how their respective opinions were necessary for the Defendant’s case. CHH argues that the medical experts expended “many hours,” and “prepared two written reports.” There was no discussion in the briefing about repetitiveness, whether they had to conduct independent investigations or testing, the amount of time spent in court, preparing reports, or preparing for trial, the fees charged to the Defendant, and the fees traditionally charged, and what they charge compared to other experts, etc. Consequently, the Court could allow the expert fee of \$1,500.00, for up to 5 expert witnesses, if the Court were able to find that the experts were relevant and the fees incurred, but the Court cannot allow expert fees in excess of \$1,500.00 without a *Frazier* analysis.

Additionally, the Court notes that any costs awarded need to be itemized and documented. The Nevada Supreme Court has stated that without “itemization or justifying documentation,” the Court is “unable to ascertain whether such costs were accurately assessed.” *Bobby Berosini, Ltd. V. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353, 971 P.2d 383 (1998). Further, when the “memorandum

1 of costs is completely void of any specific itemization,” and a “lack of supporting  
2 documentation,” it is an abuse of discretion on the part of the Court if it awards the  
3 requested costs. *Id.* The Supreme Court has further indicated that “‘justifying  
4 documentation’ must mean something more than a memorandum of costs.” *Cadle Co.*  
5 *v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015). The Court has  
6 further indicated that “Without evidence to determine whether a cost was reasonable  
7 and necessary, a district court may not award costs.” *Id.*, citing *Peta*, 114 Nev. at 1353,  
8 971 P.2d at 386. In this case, Defendant produced a “Disbursement Diary,” but based  
9 on the above-referenced cases, this is insufficient to support the requested costs. There  
10 is insufficient evidence submitted for the Court to determine whether the requested  
11 costs were reasonable and necessary, there was no specific itemization, other than the  
12 Disbursement Diary, and there were no supporting documents.

13 Based upon the foregoing, the Court cannot award costs.

14 NRCP 68 provides in pertinent part as follows:

15 **Rule 68. Offers of Judgment**

16 (a) The Offer. At any time more than 21 days before trial, any party  
17 may serve an offer in writing to allow judgment to be taken in accordance  
18 with its terms and conditions. Unless otherwise specified, an offer made  
19 under this rule is an offer to resolve all claims in the action between the  
20 parties to the date of the offer, including costs, expenses, interest, and if  
21 attorney fees are permitted by law or contract, attorney fees.

22 . . . .

23 (d) Acceptance of the Offer and Dismissal or Entry of Judgment.

24 (1) Within 14 days after service of the offer, the offeree may accept  
25 the offer by serving written notice that the offer is accepted.

26 (2) Within 21 days after service of written notice that the offer is  
27 accepted, the obligated party may pay the amount of the offer and obtain  
28 dismissal of the claims, rather than entry of a judgment.

(3) If the claims are not dismissed, at any time after 21 days after  
service of written notice that the offer is accepted, either party may file  
the offer and notice of acceptance together with proof of service. The clerk  
must then enter judgment accordingly. The court must allow costs in  
accordance with NRS 18.110 unless the terms of the offer preclude a  
separate award of costs. Any judgment entered under this section must be  
expressly designated a compromise settlement.

(e) Failure to Accept Offer. If the offer is not accepted within 14  
days after service, it will be considered rejected by the offeree and deemed  
withdrawn by the offeror. . . . Any offeree who fails to accept the offer  
may be subject to the penalties of this rule.

(f) Penalties for Rejection of Offer.



1 (1) In General. If the offeree rejects an offer and fails to obtain a  
2 more favorable judgment:

3 (A) the offeree cannot recover any costs, expenses, or attorney  
4 fees and may not recover interest for the period after the service of the  
5 offer and before the judgment; and

6 (B) the offeree must pay the offeror's post-offer costs and  
7 expenses, including a reasonable sum to cover any expenses incurred by  
8 the offeror for each expert witness whose services were reasonably  
9 necessary to prepare for and conduct the trial of the case, applicable  
10 interest on the judgment from the time of the offer to the time of entry of  
11 the judgment and reasonable attorney fees, if any be allowed, actually  
12 incurred by the offeror from the time of the offer. If the offeror's attorney  
13 is collecting a contingent fee, the amount of any attorney fees awarded to  
14 the party for whom the offer is made must be deducted from that  
15 contingent fee.

16 . . . .

#### 17 NRCP 68.

18 NRCP 68 provides that the Defendant would be entitled to "reasonable attorney  
19 fees, if any be allowed." The language of the Rule specifically provides that Court with  
20 "discretion," as it relates to attorney's fees, and the Court's discretion will not be  
21 disturbed absent a clear abuse of such discretion. *Armstrong v. Riggi*, 92 Nev. 280,  
22 549 P.2d 753 (1976); *Schouweiler v. Yancey Co.*, 101 Nev. 827, 712 P.2d 786 (1985);  
23 *Bidart v. American Title Ins. Co.*, 103 Nev. 175, 734 P.3d 732 (1987).

24 In evaluating whether to grant an award of attorney's fees, pursuant to  
25 *Schouweiler v. Yancey Co.*, 101 Nev. 827, 712 P.2d 786 (1985), the Court must  
26 consider: "(1) whether plaintiff's claim was brought in good faith; (2) whether  
27 defendant's offer of judgment was brought in good faith in both its timing and amount;  
28 (3) whether plaintiff's decision to reject the offer and proceed to trial was grossly  
unreasonable or in bad faith; and (4) whether fees sought by the offeror are reasonable  
and justified in amount." *Schouweiler* at 833, citing *Beattie v. Thomas*, 99 Nev. 579,  
588, 668 P.2d 268 (1983)(the "Beattie Factors").

In analyzing whether to award attorneys' fees, the factors which need to be  
considered pursuant to *Brunzell*, include the following: (1) the qualities of the advocate:  
his ability, training, education, experience, professional standing and skill; (2) the  
character of the work to be done: its difficulty, intricacy, importance, the time and skill  
required, the responsibility imposed and the prominence and character of the parties  
when they affect the importance of the litigation; (3) the work actually performed by  
the lawyer: the skill, time and attention given to the work; and (4) the result: whether

1 the attorney was successful and what benefits were derived. *Schouweiler* at 833-834,  
2 citing to *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969)  
3 (quoting *Schwartz v. Schwerin*, 85 Ariz. 242, 336 P.2d 144, 146 (1959)).

4 With regard to the attorney's fees requested, this Motion is different from the  
5 Motion for Fees filed by Drs. Concio and Shaw, in that CHH contends that it incurred  
6 \$110,930.85 in attorney's fees since 8/28/20 (roughly twice the fees incurred by Drs.  
7 Concio and Shaw). In considering the *Beattie* factors, the Court finds and concludes  
8 that the plaintiff's claim was brought in good faith. The Court finds and concludes that  
9 Defendant's offer of judgment, in the amount of \$0.00, (offering to waive  
10 approximately \$58,500.00 in fees and costs), was brought in good faith in both its  
11 timing and amount. The Court acknowledges that the parties disagree about this issue,  
12 but as much as the Plaintiffs believed they had a valid case, the Defendants disputed  
13 any liability. The Court further finds and concludes that Plaintiff's decision to reject the  
14 offer and proceed to trial was not grossly unreasonable or in bad faith. Plaintiffs  
15 believed they had a valid claim, and the Court cannot find that wanting some recovery,  
16 as opposed to \$0.00, to be "grossly unreasonable" or in "bad faith. With regard to a  
17 determination of whether the fees sought by the Defendants are reasonable and  
18 justified in amount, a *Brunzell* analysis is required. *Beattie v. Thomas*, 99 Nev. 579,  
19 588, 668 P.2d 268 (1983).

20 In determining the reasonableness of the fees requested, the Court has analyzed  
21 the *Brunzell* factors, as follows: The Court finds that the qualities of defense counsel,  
22 his ability, training, education, experience, professional standing and skill, favor an  
23 award of fees. When considering the character of the work to be done - its difficulty,  
24 intricacy, importance, the time and skill required, (when dealing with a professional  
25 negligence/medical malpractice case), and finding that the character or prominence of  
26 the parties was unremarkable, the complexity of the case warrants an award of fees.  
27 The Court cannot evaluate the work actually performed by the lawyers, in this case, and  
28 the skill, time and attention given to the work, without a detailed billing statement.  
Although the Defendant has offered to submit a billing ledger to the Court in camera, it  
would have been necessary for the Defendant to have submitted such ledger, and  
disclosed it to the Plaintiff so that the reasonableness could have been addressed by all  
parties, and by the Court. Finally, in considering the result, the Court notes that

1 although the Court found insufficient evidence to establish irrefutably that the statute  
2 of limitations had expired, Defense counsel was successful in convincing the Supreme  
3 Court of that, and consequently, Defendants prevailed. *Brunzell v. Golden Gate Nat'l*  
4 *Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969). Based upon this NRCP 68 analysis, with  
5 the exception of being able to analyze the reasonableness of the fees allegedly incurred,  
6 the Court would likely have awarded at least some fees to the Defendant, at least for the  
7 period of time after rejection of the Offer of Judgment. Without any evidence of the  
8 fees actually accrued, and based on the amount requested, the Court cannot make a  
9 finding as to the reasonableness of such fees, and consequently, the Court has no choice  
10 under *Brunzell* and *Beattie*, to deny the request for Fees.

11 **CONCLUSION/ORDER**

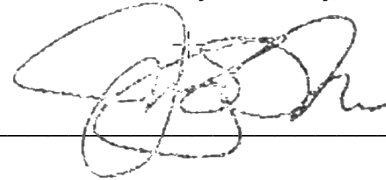
12 Based upon the foregoing, and good cause appearing,

13 **IT IS HEREBY ORDERED** that the Defendants' Motion for Fees and Costs is  
14 **DENIED.**

15 The Court requests that Plaintiff's counsel prepare and process a Notice of Entry  
16 with regard to this Order.

17 Because this matter has been decided on the pleadings, the hearing scheduled  
18 for 2/18/22 will be taken off calendar, and consequently, there is no need for any  
19 parties or attorneys to appear.

20 Dated this 15th day of February, 2022

21 

22  
23 **99B B52 25DC 68DD**  
24 **Jerry A. Wiese**  
25 **District Court Judge**  
26  
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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Estate of Rebecca Powell,  
7 Plaintiff(s)

CASE NO: A-19-788787-C

8 vs.

DEPT. NO. Department 30

9 Valley Health System, LLC,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

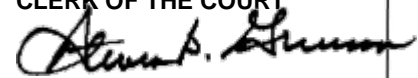
15 Service Date: 2/15/2022

16 Paul Padda	psp@paulpaddalaw.com
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18 Jody Foote	jfoote@jhcottonlaw.com
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22 Tony Abbatangelo	Tony@thevegaslawyers.com
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25 Diana Escobedo	diana@paulpaddalaw.com

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**PAUL PADDA LAW, PLLC**

4560 South Decatur Boulevard, Suite 300

Las Vegas, Nevada 89103

Tele: (702) 366-1888

Fax: (702) 366-1940

Attorneys for Plaintiffs

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

ESTATE OF REBECCA POWELL, through  
BRIAN POWELL, as Special Administrator;  
DARCI CREECY, individually and as an Heir;  
TARYN CREECY, individually and as an  
Heir; ISIAH KHOSROF, individually and as  
an Heir; LLOYD CREECY, individually;

Plaintiffs,

vs.

VALLEY HEALTH SYSTEM, LLC (doing  
business as "Centennial Hills Hospital Medical  
Center"), a foreign limited liability company;  
UNIVERSAL HEALTH SERVICES, INC., a  
foreign corporation; DR. DIONICE S.  
JULIANO, M.D., an individual; DR.  
CONRADO C.D. CONCIO, M.D., an  
individual; DR. VISHAL S. SHAH, M.D., an  
individual; DOES 1-10; and ROES A-Z;

Defendants.

Case No. A-19-788787-C

Dept. No. XXX (30)

**NOTICE OF ENTRY OF ORDER AND  
DECISION REGARDING VALLEY  
HEALTH SYSTEM'S MOTION FOR  
FEES AND COUNTERMOTION FOR  
FEES AND COSTS**

1 Notice is hereby provided that the Court filed an Order and Decision pertaining to  
2 Valley Health System's Motion for Fees and the Countermotion for Fees and Costs. A copy of  
3 that Order and Decision is attached hereto as Exhibit A.  
4

5 Respectfully submitted,

6 /s/ Paul S. Padda  
7

8 Paul S. Padda, Esq.  
9 Srilata Shah, Esq.  
10 PAUL PADDA LAW, PLLC  
11 4560 South Decatur Blvd., #300  
12 Las Vegas, Nevada 89103  
13 Tele: (702) 366-1888

14 Counsel for Plaintiffs

15 Dated: February 16, 2022  
16  
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23  
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25

PAUL PADDA LAW, PLLC  
4560 South Decatur Boulevard, Suite 300  
Las Vegas, Nevada 89103  
Tele: (702) 366-1888 • Fax (702) 366-1940

**CERTIFICATE OF SERVICE**

Pursuant to the Nevada Rules of Civil Procedure, the undersigned hereby certifies that on this day, February 16, 2022, a copy of the foregoing **NOTICE OF ENTRY OF ORDER AND DECISION REGARDING VALLEY HEALTH SYSTEM'S MOTION FOR FEES AND COUNTERMOTION FOR FEES AND COSTS** was filed and served through the Court's electronic filing system upon all parties and counsel identified on the Court's master e-service list.

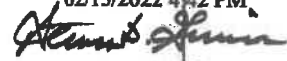
/s/ *Shelbi Schram*

Shelbi Schram, Litigation Assistant  
PAUL PADDA LAW



**EXHIBIT A**

**EXHIBIT A**

  
CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA  
-oOo-**

ESTATE OF REBECCA POWELL, through )  
BRIAN POWELL, as Special Administrator; )  
DARCI CREECY, individually and as an Heir; )  
TARYN CREECY, individually and as an Heir; )  
ISALAH KHOSROF, individually and as an )  
Heir; LLOYD CREECY, individually, )

Plaintiffs, )

vs. )

VALLEY HEALTH SYSTEM, LLC (doing )  
Business as "Centennial Hills Hospital )  
Medical Center"), a foreign limited liability )  
Company; UNIVERSAL HEALTH SERVICES, )  
INC., a foreign corporation; DR. DIONICE )  
S. JULIANO, M.D., an individual; DR. )  
CONRADO C.D. CONCIO, M.D., an individual; )  
DR. VISHAL S. SHAH, M.D., an individual; )  
DOES 1-10; and ROES A-Z, )

Defendants. )

CASE NO.: A-19-788787-C  
DEPT. NO.: XXX

**ORDER RE: VALLEY  
HEALTH SYSTEM'S  
MOTION FOR FEES  
AND COUNTERMOTION  
FOR FEES AND COSTS**

**INTRODUCTION**

The above-referenced matter is scheduled for a hearing on 2/18/22, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Attorneys' Fees and Countermotion for Fees and Costs. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, these matters may be decided with or without oral argument. This Court has determined that it would be appropriate to decide these matters on the pleadings, and consequently, this Order issues.

**FACTUAL AND PROCEDURAL HISTORY**

On May 3, 2017, Rebecca Powell ("Plaintiff") was taken to Centennial Hills Hospital, a hospital owned and operated by Valley Health System, LLC ("Defendant") by EMS services after she was discovered with labored breathing and vomit on her face. Plaintiff remained in Defendant's care for a week, and her condition improved.

1 However, on May 10, 2017, her condition began to deteriorate and on May 11, 2017, she  
2 suffered an acute respiratory failure, resulting in her death.

3 Plaintiffs brought suit on February 4, 2019 alleging negligence/medical  
4 malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of  
5 emotional distress. Defendants filed Motions to Dismiss and for Summary Judgment,  
6 which this Court denied. After a recent remand from the Nevada Supreme Court, on  
7 11/19/21, the Court entered an Order Vacating Prior Order Denying Defendant Valley  
8 Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for  
9 Summary Judgment and Granting Said Defendant's Motion for Summary Judgment  
10 Per Mandamus of Nevada Supreme Court. A Notice of Entry of Order was entered that  
11 same day. On 11/22/21, Defendant Valley Health Systems filed a Motion for Attorneys  
12 Fee and Verified Memorandum of Costs. On 12/3/21, Plaintiffs filed a Motion to  
13 Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano,  
14 Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs. Plaintiffs received  
15 an Order Shortening Time on 12/10/21. Following briefing, the Court entered an Order  
16 denying Plaintiffs' Motion to Extend Time to Respond, because of a lack of diligence on  
17 part of the Plaintiffs. On 12/20/21, Valley filed an Opposition to Plaintiff's Motion to  
18 Extend Time to Retax Costs, and Countermotion for Fees and Costs.

#### 19 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

20 Defendant Valley Health System, LLC d/b/a Centennial Hills Hospital Medical  
21 Center (CHH) seeks attorneys' fees pursuant to NRCP 68(f) and NRS 17.117(10). CHH  
22 argues that it is entitled to an award of attorneys' fees because Plaintiffs rejected CHH's  
23 Offer of Judgment and then failed to obtain a more favorable judgment. See *Albios v.*  
24 *Horizon Cmty., Inc.*, 122 Nev. 409, 417, 132 P.3d 1022 (2006); *Logan v. Abe*, 131 Nev.  
25 260, 268, 350 P.3d 1139 (2015).

26 CHH states that it served an Offer of Judgment on Plaintiffs for a waiver of any  
27 presently or potentially recoverable costs, in full and final settlement of the Plaintiff's  
28 claims. Plaintiffs rejected this Offer of Judgment by failing to accept it within 14 days.  
N.R.C.P. 68(e) and N.R.S. 17.117(6). As this Court was directed by the Supreme Court to  
vacate its order denying summary judgment to CHH and instead issue an order  
granting CHH's summary judgment motion, Plaintiffs failed to obtain more a favorable  
judgment than the one offered to them in CHH's Offer of Judgment. Thus, pursuant to

1 N.R.C.P. 68 and N.R.S. 17.117, this Court has discretion to award CHH its attorneys'  
2 fees.

3 CHH cites to *Schouweiler v. Yancey Co.*, for the proposition that a Court must  
4 consider the following factors in exercising its discretion to award fees: (1) whether  
5 the offeree brought his claims in good faith; (2) whether the offeror's offer of judgment  
6 was also brought in good faith in both timing and amount; (3) whether the offeree's  
7 decision to reject the offer of judgment was in bad faith or grossly unreasonable; and  
8 (4) whether the amount of offeror's requested fees is reasonable and justified.

9 *Schouweiler*, 101 Nev. 827, 833, 917 P.2d 786 (1985). CHH argues that all of the  
10 *Schouweiler* factors weigh in favor of CHH.

11 As to the first factor, CHH notes that the Supreme Court determined Plaintiffs  
12 were on notice of any alleged malpractice in this case, in possession of records long  
13 before the statute of limitations expired, and knowingly initiated complaints to State  
14 agencies manifesting definitive knowledge and belief of malpractice. Nevertheless,  
15 CHH argues, Plaintiffs chose to initiate a lawsuit "which was dead on arrival,  
16 continued to maintain it even after irrefutable evidence demonstrated its untenability,  
17 and then used every opportunity to prevent the expenditure of additional resources in  
18 order to prove the impropriety of the lawsuit." Accordingly, Plaintiffs' claims were not  
19 brought in good faith.

20 With regard to the second factor, CHH argues that its Offer of Judgment was  
21 brought in good faith in both timing and amount. At the time of the Offer, CHH had  
22 incurred over \$58,000.00 in costs defending Plaintiffs' claims. The Offer was served  
23 several days prior to CHH's Motion for Summary Judgment and about one and a half  
24 years after the lawsuit's commencement. Before the Motion for Summary Judgment  
25 was filed, Plaintiffs were in possession of documents that demonstrated irrefutable  
26 evidence of inquiry notice. Plaintiffs were on notice of the statute of limitations issues  
27 as early as July 2019 when CHH's prior counsel filed a Motion to Dismiss. Therefore,  
28 given Plaintiffs' likelihood of losing on merits, the offered waiver of the right to seek  
reimbursement of costs was reasonable in both timing and amount.

For similar reasons, CHH argues that Plaintiffs' decision to reject the offer of  
judgment was in bad faith and grossly unreasonable. Instead of abandoning their

1 untimely filed action, Plaintiffs' decision to pursue an untenable case caused CHH to  
2 incur substantial legal costs and expenses to seek dismissal.

3 CHH argues that the fourth factor regarding the reasonableness of CHH's  
4 requested attorneys' fees also weighs in favor of CHH. Pursuant to NRCP 68, CHH may  
5 recover their attorneys' fees from the date of service of the Offer of Judgment to the end  
6 of the matter. In this case, CHH served an Offer of Judgment on 8/28/20 that expired  
7 on 9/11/20. CHH states it incurred a total of \$110,930.85 in attorneys' fees alone (not  
8 inclusive of expenses) from 8/28/20 to the present billing cycle (which does not  
9 include all fees incurred in October 2021). Additionally, CHH incurred \$31,401.10 in  
10 disbursements including expert fees and other expenses since 8/28/20.

11 CHH argues that the amount of its bills is reasonable, given the amount of time  
12 and energy needed to defend this case, engage in extensive written discovery, extensive  
13 motions and appeals practice, and, expert time and expenses, due to Plaintiffs' refusal  
14 to stipulate to stay the litigation while the summary judgment issue made its way  
15 through the court system. Additionally, medical malpractice cases are complex, involve  
16 substantial amounts of expert testimony, and require a great deal of preparation. CHH  
17 states that documents are available for in camera review by this Court, but were not  
18 attached to the Motion in order to preserve attorney-client privilege and protect  
19 information contained within the descriptions of the attorney billing.

20 With regard to the *Brunzell vs. Golden Gate* analysis, CHH indicates that  
21 attorneys Mr. Garth and Mr. Vogel are experienced litigators that focus exclusively on  
22 medical malpractice. Both have practiced many years and are partners at Lewis  
23 Brisbois. They both billed \$225/hour on this matter. Where appropriate, work was also  
24 assigned to associate attorneys (\$193.50/hour) and paralegals (\$90/hour).

25 CHH notes that medical malpractice cases are complex and require an in-depth  
26 understanding of both unique legal issues as well as the medical care and course that is  
27 at issue. Plaintiffs claimed that they were entitled to \$105,000,000.00 in damages  
28 including \$172,728.04 billed by CHH as a recoverable expense, plus a loss of earning  
capacity of \$1,348,596.

There were multiple highly skilled expert witnesses presented by both parties.  
Further, nearly 14 months have passed since CHH's Offer of Judgment expired,  
including the participation in motion practice regarding a motion for summary

1 judgment, two motions to stay proceedings (one in this Court and one in Supreme  
2 Court), a writ petition to the Nevada Supreme Court, as well as extensive written  
3 discovery. CHH argues that its requested attorneys' fees are well below the amounts  
4 Nevada courts have found reasonable. Defendants are only requesting attorneys' fees at  
5 a rate of \$225 and \$193.50 per hour, and a paralegal rate of \$90 per hour. CHH argues  
6 that a consideration of the *Brunzell* factors shows that the recovery of the entire billed  
7 amount of fees from August 28, 2020 to present is entirely appropriate. *Brunzell*, 85  
8 Nev. 345, 455 P.2d 31 (1969).

9 In addition to all NRCP Rule 68 post offer fees and costs, CHH requests that  
10 sanctions be imposed against Plaintiffs' counsel for all pre-NRCP Rule 68 costs and fees  
11 totaling \$58,514.36 in accordance with NRS 7.085. CHH cites to EDCR 7.60, which  
12 provides a further avenue of deterrence to attorneys, like Plaintiffs' counsel who engage  
13 in these unnecessary and flagrantly frivolous lawsuits, which are dead before they are  
14 even filed. Accordingly, CHH argues that an award of \$110,930.85 in attorneys' fees per  
15 N.R.C.P. 68 and N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and  
16 expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60, is justified. CHH  
17 argues that it is entitled to an award of his attorney's fees and costs under NRS  
18 §18.010(2)(b), as Plaintiffs maintained the lawsuit without reasonable grounds or to  
19 harass the Defendants.

20 CHH's separately filed a Verified Memorandum of Costs indicates that it seeks  
21 costs, pursuant to NRS 18.005 and 18.020, as well as NRCP 68 and NRS 17.117, in the  
22 amount of \$42,492.03. A majority of the costs requested (\$41,724.10) are for expert  
23 fees. CHH argues that the experts all meet the factors set forth in *Frazier v. Drake*.

24 In Opposition, Plaintiffs argue that the medical malpractice, wrongful death, and  
25 negligent infliction of emotional distress claims on behalf of the estate and surviving  
26 children of Rebecca Powell were not frivolous, and the claims for wrongful  
27 death/medical malpractice and negligent infliction of emotional distress were brought  
28 in good faith. Because this Court denied several dispositive motions before the Nevada  
Supreme Court ultimately directed this Court to vacate its Order denying CHH's  
Motion for Summary Judgment and enter judgment in favor of all the Defendants,  
CHH did not "win" this matter on the merits.

1 Plaintiffs argue that the dismissal of the case on an incorrect interpretation of  
2 the facts and application of inquiry notice to all the named Plaintiffs by the Supreme  
3 Court does not make the claims of Plaintiffs any less meritorious. Further, pursuant to  
4 NRCP 68, and NRS 17.117(10), a party is not entitled to attorney's fees simply because it  
5 served an offer of judgment on the opposing party and that party failed to achieve a  
6 more favorable verdict. The purpose of NRCP 68 is to encourage settlement; it is not to  
7 force Plaintiffs' unfairly to forego legitimate claims. See *Beattie v. Thomas*, 99 Nev.  
8 579, 668 P.2d 268 (1983).

9 Plaintiffs argue that their claims were brought in good faith, as HHS determined  
10 that there were deficiencies in Ms. Powell's care and the death certificate was  
11 inaccurate. Additionally, this Court repeatedly found merit in Plaintiffs' Complaint and  
12 their causes of action for wrongful death, medical malpractice, and negligent infliction  
13 of emotional harm.

14 Plaintiffs argue that Defendant's Offer of Judgment, to waive costs and fees, of  
15 \$58,514.36 was not reasonable and nor was it in good faith considering Plaintiffs'  
16 causes of action for medical malpractice, wrongful death, and negligent infliction of  
17 emotional harm. Plaintiffs lost their mother, who was only 41 years old at the time of  
18 her death. It was reasonable for Plaintiffs to reject Defendants' Offer of Judgment, as  
19 the terms of the Offer of Judgment did not provide for any monetary recovery to  
20 Plaintiffs to compensate them for the loss of their mother. CHH indicated at the time it  
21 had incurred \$53,389.90 in fees and \$5,124.46 in costs, but no supporting documents  
22 were provided. Moreover, this Court denied the Motion for Summary Judgment.  
23 Therefore, CHH incorrectly states that given the likelihood of losing on this issue, the  
24 offered waiver of right to seek reimbursement of costs was reasonable in both timing  
25 and amount. Further, Plaintiffs contend that their decision to reject the Offer of  
26 Judgment was not grossly unreasonable nor in bad faith because no amount was being  
27 offered in damages to the Plaintiffs.

28 With regard to the fees sought, Plaintiffs argue that CHH won on a technicality  
at the Supreme Court, and not on the merits or by way of a jury verdict in favor of  
Defendants. Plaintiffs argue that CHH incurred so much in fees because it continued  
filing motions based on the same statute of limitations theory. Thus, CHH's fees are  
unreasonable and unjustified. Plaintiffs also claim they are unable to properly evaluate

1 the reasonableness of CHH's attorney's fees because Defendant only presented a  
2 summary of the fees that were incurred.

3 Plaintiffs argue that it is absurd for CHH to suggest that the provisions of NRS  
4 7.085 even apply to the facts of this case, and that Plaintiffs' attorneys violated NRS  
5 18.010(2), NRCP 11 or EDCR 7.60. Plaintiffs further argue that CHH has not provided  
6 factual support to support the request for pre-NRCP 68 costs and fees pursuant to NRS  
7 7.085. Plaintiffs ask that this Court deny the application for fees and costs as the  
8 Plaintiffs did not submit frivolous or vexatious claims and did not over burden the  
9 limited judicial resources nor did it hinder the timely resolution of meritorious claims.  
10 Similarly, Plaintiffs contend that CHH has not provided any factual support for its  
11 request for attorneys' fees pursuant to EDCR 7.60 or 18.010(2).

12 In Reply, CHH argues that Plaintiffs' entire opposition is predicated on the false  
13 assertion that they possessed a viable case in the first instance. CHH argues that,  
14 "Plaintiffs' entire argument is that because this Court repeatedly denied dismissal  
15 attempts by the respective defendants despite clear, convincing, and irrefutable  
16 evidence of inquiry notice which each and every plaintiff possessed, they are somehow  
17 absolved from either their malpractice or unethical practice of pursuing a case which  
18 was dead on arrival when filed."

19 CHH argues that the Nevada Supreme Court held that the "district court  
20 manifestly abused its discretion when it denied summary judgment." CHH argues that  
21 this matter should have been dismissed a year ago at the latest.

#### 22 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

23 With regard to the requested costs, in *Frazier v. Drake*, 131 Nev. 632, 357 P.3d  
24 365 (NV.Ct.of App., 2015), the Court noted that NRS 18.005(5) provides for the  
25 recovery of "reasonable fees of not more than five expert witnesses in an amount of not  
26 more than \$1,500 for each witness unless the court allows a larger fee after  
27 determining that the circumstances surrounding the expert's testimony were of such  
28 necessity as to require the larger fee." *Id.*, at 644. The Court went on to state the  
following:

... we conclude that any award of expert witness fees in excess of \$1,500  
per expert under NRS 18.005(5) must be supported by an express,  
careful, and preferably written explanation of the court's analysis of  
factors pertinent to determining the reasonableness of the requested fees  
and whether "the circumstances surrounding the expert's testimony were



1 of such necessity as to require the larger fee." See NRS 18.005(5); cf.  
2 *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780  
3 (1990) (requiring an "express, careful and preferably written explanation"  
4 of the district court's analysis of factors pertinent to determining whether  
5 a dismissal with prejudice is an appropriate discovery sanction). *In*  
6 *evaluating requests for such awards, district courts should*  
7 *consider the importance of the expert's testimony to the*  
8 *party's case; the degree to which the expert's opinion aided*  
9 *the trier of fact in deciding the case; whether the expert's*  
10 *reports or testimony were repetitive of other expert witnesses;*  
11 *the extent and nature of the work performed by the expert;*  
12 *whether the expert had to conduct independent investigations*  
13 *or testing; the amount of time the expert spent in court,*  
14 *preparing a report, and preparing for trial; the expert's area*  
15 *of expertise; the expert's education and training; the fee*  
16 *actually charged to the party who retained the expert; the fees*  
17 *traditionally charged by the expert on related matters;*  
18 *comparable experts' fees charged in similar cases; and, if an*  
19 *expert is retained from outside the area where the trial is held,*  
20 *the fees and costs that would have been incurred to hire a*  
21 *comparable expert where the trial was held.*

22 *Id.*, at 650-651.

23 The Defendant, CHH, argues the importance of the testimony of each of the  
24 witnesses, and how their respective opinions were necessary for the Defendant's case.  
25 CHH argues that the medical experts expended "many hours," and "prepared two  
26 written reports." There was no discussion in the briefing about repetitiveness, whether  
27 they had to conduct independent investigations or testing, the amount of time spent in  
28 court, preparing reports, or preparing for trial, the fees charged to the Defendant, and  
the fees traditionally charged, and what they charge compared to other experts, etc.  
Consequently, the Court could allow the expert fee of \$1,500.00, for up to 5 expert  
witnesses, if the Court were able to find that the experts were relevant and the fees  
incurred, but the Court cannot allow expert fees in excess of \$1,500.00 without a  
*Frazier* analysis.

Additionally, the Court notes that any costs awarded need to be itemized and  
documented. The Nevada Supreme Court has stated that without "itemization or  
justifying documentation," the Court is "unable to ascertain whether such costs were  
accurately assessed." *Bobby Berosini, Ltd. V. People for the Ethical Treatment of*  
*Animals*, 114 Nev. 1348, 1353, 971 P.2d 383 (1998). Further, when the "memorandum

1 of costs is completely void of any specific itemization,” and a “lack of supporting  
2 documentation,” it is an abuse of discretion on the part of the Court if it awards the  
3 requested costs. *Id.* The Supreme Court has further indicated that “‘justifying  
4 documentation’ must mean something more than a memorandum of costs.” *Cadle Co.*  
5 *v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015). The Court has  
6 further indicated that “Without evidence to determine whether a cost was reasonable  
7 and necessary, a district court may not award costs.” *Id.*, citing *Peta*, 114 Nev. at 1353,  
8 971 P.2d at 386. In this case, Defendant produced a “Disbursement Diary,” but based  
9 on the above-referenced cases, this is insufficient to support the requested costs. There  
10 is insufficient evidence submitted for the Court to determine whether the requested  
11 costs were reasonable and necessary, there was no specific itemization, other than the  
12 Disbursement Diary, and there were no supporting documents.

13 Based upon the foregoing, the Court cannot award costs.

14 NRCP 68 provides in pertinent part as follows:

15 **Rule 68. Offers of Judgment**

16 (a) The Offer. At any time more than 21 days before trial, any party  
17 may serve an offer in writing to allow judgment to be taken in accordance  
18 with its terms and conditions. Unless otherwise specified, an offer made  
19 under this rule is an offer to resolve all claims in the action between the  
20 parties to the date of the offer, including costs, expenses, interest, and if  
21 attorney fees are permitted by law or contract, attorney fees.

22 . . . .

23 (d) Acceptance of the Offer and Dismissal or Entry of Judgment.

24 (1) Within 14 days after service of the offer, the offeree may accept  
25 the offer by serving written notice that the offer is accepted.

26 (2) Within 21 days after service of written notice that the offer is  
27 accepted, the obligated party may pay the amount of the offer and obtain  
28 dismissal of the claims, rather than entry of a judgment.

(3) If the claims are not dismissed, at any time after 21 days after  
service of written notice that the offer is accepted, either party may file  
the offer and notice of acceptance together with proof of service. The clerk  
must then enter judgment accordingly. The court must allow costs in  
accordance with NRS 18.110 unless the terms of the offer preclude a  
separate award of costs. Any judgment entered under this section must be  
expressly designated a compromise settlement.

(e) Failure to Accept Offer. If the offer is not accepted within 14  
days after service, it will be considered rejected by the offeree and deemed  
withdrawn by the offeror. . . . Any offeree who fails to accept the offer  
may be subject to the penalties of this rule.

(f) Penalties for Rejection of Offer.

1 (1) In General. If the offeree rejects an offer and fails to obtain a  
2 more favorable judgment:

3 (A) the offeree cannot recover any costs, expenses, or attorney  
4 fees and may not recover interest for the period after the service of the  
5 offer and before the judgment; and

6 (B) the offeree must pay the offeror's post-offer costs and  
7 expenses, including a reasonable sum to cover any expenses incurred by  
8 the offeror for each expert witness whose services were reasonably  
9 necessary to prepare for and conduct the trial of the case, applicable  
10 interest on the judgment from the time of the offer to the time of entry of  
11 the judgment and reasonable attorney fees, if any be allowed, actually  
12 incurred by the offeror from the time of the offer. If the offeror's attorney  
13 is collecting a contingent fee, the amount of any attorney fees awarded to  
14 the party for whom the offer is made must be deducted from that  
15 contingent fee.

16 . . . .

17 NRCP 68.

18 NRCP 68 provides that the Defendant would be entitled to "reasonable attorney  
19 fees, if any be allowed." The language of the Rule specifically provides that Court with  
20 "discretion," as it relates to attorney's fees, and the Court's discretion will not be  
21 disturbed absent a clear abuse of such discretion. *Armstrong v. Riggi*, 92 Nev. 280,  
22 549 P.2d 753 (1976); *Schouweiler v. Yancey Co.*, 101 Nev. 827, 712 P.2d 786 (1985);  
23 *Bidart v. American Title Ins. Co.*, 103 Nev. 175, 734 P.3d 732 (1987).

24 In evaluating whether to grant an award of attorney's fees, pursuant to  
25 *Schouweiler v. Yancey Co.*, 101 Nev. 827, 712 P.2d 786 (1985), the Court must  
26 consider: "(1) whether plaintiff's claim was brought in good faith; (2) whether  
27 defendant's offer of judgment was brought in good faith in both its timing and amount;  
28 (3) whether plaintiff's decision to reject the offer and proceed to trial was grossly  
unreasonable or in bad faith; and (4) whether fees sought by the offeror are reasonable  
and justified in amount." *Schouweiler* at 833, citing *Beattie v. Thomas*, 99 Nev. 579,  
588, 668 P.2d 268 (1983)(the "Beattie Factors").

In analyzing whether to award attorneys' fees, the factors which need to be  
considered pursuant to *Brunzell*, include the following: (1) the qualities of the advocate:  
his ability, training, education, experience, professional standing and skill; (2) the  
character of the work to be done: its difficulty, intricacy, importance, the time and skill  
required, the responsibility imposed and the prominence and character of the parties  
when they affect the importance of the litigation; (3) the work actually performed by  
the lawyer: the skill, time and attention given to the work; and (4) the result: whether

1 the attorney was successful and what benefits were derived. *Schouweiler* at 833-834,  
2 citing to *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969)  
3 (quoting *Schwartz v. Schwerin*, 85 Ariz. 242, 336 P.2d 144, 146 (1959)).

4 With regard to the attorney's fees requested, this Motion is different from the  
5 Motion for Fees filed by Drs. Concio and Shaw, in that CHH contends that it incurred  
6 \$110,930.85 in attorney's fees since 8/28/20 (roughly twice the fees incurred by Drs.  
7 Concio and Shaw). In considering the *Beattie* factors, the Court finds and concludes  
8 that the plaintiff's claim was brought in good faith. The Court finds and concludes that  
9 Defendant's offer of judgment, in the amount of \$0.00, (offering to waive  
10 approximately \$58,500.00 in fees and costs), was brought in good faith in both its  
11 timing and amount. The Court acknowledges that the parties disagree about this issue,  
12 but as much as the Plaintiffs believed they had a valid case, the Defendants disputed  
13 any liability. The Court further finds and concludes that Plaintiff's decision to reject the  
14 offer and proceed to trial was not grossly unreasonable or in bad faith. Plaintiffs  
15 believed they had a valid claim, and the Court cannot find that wanting some recovery,  
16 as opposed to \$0.00, to be "grossly unreasonable" or in "bad faith. With regard to a  
17 determination of whether the fees sought by the Defendants are reasonable and  
18 justified in amount, a *Brunzell* analysis is required. *Beattie v. Thomas*, 99 Nev. 579,  
19 588, 668 P.2d 268 (1983).

20 In determining the reasonableness of the fees requested, the Court has analyzed  
21 the *Brunzell* factors, as follows: The Court finds that the qualities of defense counsel,  
22 his ability, training, education, experience, professional standing and skill, favor an  
23 award of fees. When considering the character of the work to be done - its difficulty,  
24 intricacy, importance, the time and skill required, (when dealing with a professional  
25 negligence/medical malpractice case), and finding that the character or prominence of  
26 the parties was unremarkable, the complexity of the case warrants an award of fees.  
27 The Court cannot evaluate the work actually performed by the lawyers, in this case, and  
28 the skill, time and attention given to the work, without a detailed billing statement.  
Although the Defendant has offered to submit a billing ledger to the Court in camera, it  
would have been necessary for the Defendant to have submitted such ledger, and  
disclosed it to the Plaintiff so that the reasonableness could have been addressed by all  
parties, and by the Court. Finally, in considering the result, the Court notes that

1 although the Court found insufficient evidence to establish irrefutably that the statute  
2 of limitations had expired, Defense counsel was successful in convincing the Supreme  
3 Court of that, and consequently, Defendants prevailed. *Brunzell v. Golden Gate Nat'l*  
4 *Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969). Based upon this NRCP 68 analysis, with  
5 the exception of being able to analyze the reasonableness of the fees allegedly incurred,  
6 the Court would likely have awarded at least some fees to the Defendant, at least for the  
7 period of time after rejection of the Offer of Judgment. Without any evidence of the  
8 fees actually accrued, and based on the amount requested, the Court cannot make a  
9 finding as to the reasonableness of such fees, and consequently, the Court has no choice  
under *Brunzell* and *Beattie*, to deny the request for Fees.

10 **CONCLUSION/ORDER**

11 Based upon the foregoing, and good cause appearing,

12 **IT IS HEREBY ORDERED** that the Defendants' Motion for Fees and Costs is  
13 **DENIED.**

14 The Court requests that Plaintiff's counsel prepare and process a Notice of Entry  
15 with regard to this Order.

16 Because this matter has been decided on the pleadings, the hearing scheduled  
17 for 2/18/22 will be taken off calendar, and consequently, there is no need for any  
18 parties or attorneys to appear.

19 Dated this 15th day of February, 2022

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21

22  
23 **99B B52 25DC 68DD**  
24 **Jerry A. Wiese**  
25 **District Court Judge**  
26  
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1 **CSERV**

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

5  
6 **Estate of Rebecca Powell,**  
7 **Plaintiff(s)**

**CASE NO: A-19-788787-C**

8 **vs.**

**DEPT. NO. Department 30**

9 **Valley Health System, LLC,**  
10 **Defendant(s)**

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 **Service Date: 2/15/2022**

16 <b>Paul Padda</b>	<b>psp@paulpaddalaw.com</b>
17 <b>S. Vogel</b>	<b>brent.vogel@lewisbrisbois.com</b>
18 <b>Jody Foote</b>	<b>jfoote@jhcottonlaw.com</b>
19 <b>Jessica Pincombe</b>	<b>jpinnacle@jhcottonlaw.com</b>
20 <b>John Cotton</b>	<b>jhcotton@jhcottonlaw.com</b>
21 <b>Brad Shipley</b>	<b>bshipley@jhcottonlaw.com</b>
22 <b>Tony Abbatangelo</b>	<b>Tony@thevegaslawyers.com</b>
23 <b>Adam Garth</b>	<b>Adam.Garth@lewisbrisbois.com</b>
24 <b>Paul Padda</b>	<b>civil@paulpaddalaw.com</b>
25 <b>Diana Escobedo</b>	<b>diana@paulpaddalaw.com</b>

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27  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Malpractice - Medical/Dental**

**COURT MINUTES**

**June 28, 2019**

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A-19-788787-C	Estate of Rebecca Powell, Plaintiff(s)
	vs.
	Valley Health System, LLC, Defendant(s)

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<b>June 28, 2019</b>	<b>7:30 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Escobar, Adriana	<b>COURTROOM:</b> RJC Courtroom 14C
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**COURT CLERK:** Denise Husted

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

--No Parties present. Pursuant to NCIC Canon 2.11(A), to avoid the appearance of impropriety and implied bias as to VALLEY HEALTH SYSTEM, LLC d/b/a CENTENIAL HILLS HOSPITAL MEDICAL CENTER only, this Court hereby disqualifies itself and ORDERS, this case to be REASSIGNED at random. Defendant Centennial Hills Hospital s Motion to Dismiss, Joinder(s), and Defendant Conrado Concio, MD and Dionice Juliano, MD s Motion to Dismiss, set for July 30, 2019 and August 1, 2019, will be vacated and reset in the new department.

CLERK'S NOTE: Counsel notified via e-mail:

Paul S. Padda (psp@paulpaddalaw.com)  
Joshua Y. Ang (ja@paulpaddalaw.com)  
John H. Cotton (JHCotton@jhcottonlaw.com)  
Brad Shipley (BShipley@jhcottonlaw.com)  
Michael E. Prangle (mprangle@hpslaw.com)  
Zachary J. Thompson (zthompson@hpslaw.com)  
Hall Prangle & Schoonveld, LLC (efile@hpslaw.com)



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

## Malpractice - Medical/Dental

# COURT MINUTES

September 25, 2019

A-19-788787-C      Estate of Rebecca Powell, Plaintiff(s)  
vs.  
Valley Health System, LLC, Defendant(s)

**September 25, 2019      9:00 AM      All Pending Motions**

**HEARD BY:** Wiese, Jerry A.

**COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Nylasia Packer

**RECORDER:** Vanessa Medina

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	Nelson, Suneel J, ESQ	Attorney
	Padma, Paul S.	Attorney
	Shipley, Brad J	Attorney
	Thompson, Zachary J.	Attorney

## JOURNAL ENTRIES

- Zachary Thompson, Esq. present on behalf of Valley Health System.

DEFENDANT CENTENNIAL HILLS HOSPITAL'S JOINDER TO DEFENDANTS CONRADO CONCIO, MD AND DIONICE JULIANO, MD'S MOTION TO DISMISS...DEFENDANT CONRADO CONCIO, MD, AND DIONICE JULIANO, MD'S MOTION TO DISMISS... DEFENDANT VISHAL SHAH, M.D. JOINDER TO DEFENDANT'S CONCIO AND JULIANO'S MOTION TO DISMISS...DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT...DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S JOINDER TO DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT AND JOINDER TO DEFENDANTS CONRADO CONCIO, MD, AND DIONICE JULIANO, MD'S MOTION TO DISMISS...DEFENDANT UNIVERSAL HEALTH SERVICES, INC.'S JOINDER TO DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT AND JOINDER TO DEFENDANTS CONRADO CONCIO, MD, AND

PRINT DATE: 03/16/2022

Page 2 of 20

Minutes Date: June 28, 2019

DIONICE JULIANO, MD'S MOTION TO DISMISS...

Mr. Shipley argued the Statute of Limitations has passed with respect to all three physicians, and the complaint was filed approximately 8 months too late. Mr. Shipley further argued there aren't any allegations these Doctors were in possession of the records or that these physicians did anything to conceal. Further arguments by Mr. Shipley. Mr. Thompson agreed with Mr. Shipley in regards to the Statute of Limitations and argued the one year Statute is applicable to all claims because all claims arise out of the alleged professional negligence which are related to medical decision making, judgment, and diagnosis of the subject providers. Mr. Thompson further argued in regards to tolling, Plaintiff is required to show that documents were intentionally withheld, however; plaintiff has not pled any documents were intentionally withheld and has not offered any evidence at this point. Further, Plaintiff would have to show the withholding would have precluded a reasonably prudent person from pursuing and being able to offer an expert affidavit, however; in Dr. Hashim's statements where he stated the additional records had reinforced it he clearly had enough information to offer some opinion of breaches of the standard of care. Further arguments by Mr. Thompson. Mr. Suneel argued in regards to Rule 12 (b)(5) evidence is not the standard now. Further, the complaint and Dr. Hashim's affidavit adequately plead the issue that they are taking exception to which is the Statue of Limitations and Plaintiff has shown several instances where concealment is stated and alleged explicitly. Further, in Dr. Hashim's affidavit he has identified all three doctors and to the things that they failed to do and with respect to Dr. Juliano; that is sufficient. Further arguments by Mr. Suneel. Mr. Shipley argued in rebuttal and stated there is no concealment alleged with respect to all three defendants and therefore the Statute of Limitations cannot be tolled. Further arguments by Mr. Shipley. Mr. Thompson indicated he is only moving on the pleadings based on the information Plaintiff's pled and what was included in the expert affidavit. Further statements by Mr. Thompson. Court stated in regards tot he Statute of Limitations the Supreme Court has been clear that knew or reasonably should have known is generally an issue of fact or for the Jury to decide, however; in this case it does seem like it is substantially after the date of death therefore some arguments can be brought up in a motion for Summary Judgment the Court may consider. Court further stated there is at least an insinuation that there was concealment and the Court understands the argument that you cant hold a Defendant responsible for another Defendants concealment, however; if there is concealment, it arguably prevents the plaintiff from having the inquiry notice they need in order for the Statue of Limitations to run. Court further stated the issue of fact is determining when that inquiry notice starts and arguably the inquiry notice may not start until they receive records. Court further stated its findings and ORDERED, motions DENIED. Plaintiff's counsel to prepare and submit order to counsel for approval of form and content.

CLERK'S NOTE: This minute order was updated. (10-27-20 np).

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Malpractice - Medical/Dental**

**COURT MINUTES**

**October 30, 2019**

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A-19-788787-C	Estate of Rebecca Powell, Plaintiff(s) vs. Valley Health System, LLC, Defendant(s)
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October 30, 2019	9:00 AM	Motion to Dismiss
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HEARD BY: Wiese, Jerry A.	COURTROOM: RJC Courtroom 14A
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COURT CLERK: Lauren Kidd

RECORDER: Vanessa Medina

REPORTER:

**PARTIES**

PRESENT: Thompson, Zachary J.	Attorney
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**JOURNAL ENTRIES**

- Plaintiff's counsel not present.

Mr. Thompson noted the Motion to Dismiss was unopposed until this morning. Mr. Thompson advised he spoke with opposing counsel and parties requested the matter be continued for 30 days to allow them to file a Stipulation and Order to Dismiss Without Prejudice in alternative to granting the subject motion. COURT SO ORDERED. In the event the Stipulation and Order is filed prior to the hearing, the same will be vacated.

CONTINUED TO: 12/4/19 9:00 AM

CLERK'S NOTE: Subsequent to the hearing the date continuance date was changed to accommodate the Court's calendar. The correct date is reflected in the above minutes which were distributed to: Paul Padda, Esq.([psp@paulpaddalaw.com](mailto:psp@paulpaddalaw.com)), John Cotton, Esq. ([jhcotton@jhcottonlaw.com](mailto:jhcotton@jhcottonlaw.com)) and Zachary Thompson, Esq. ([efile@hpslaw.com](mailto:efile@hpslaw.com))./lk

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Malpractice - Medical/Dental**

**COURT MINUTES**

**December 04, 2019**

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A-19-788787-C	Estate of Rebecca Powell, Plaintiff(s)
	vs.
	Valley Health System, LLC, Defendant(s)

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**December 04, 2019      9:00 AM      Motion to Dismiss**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:** Patti Slattery

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- No parties present.

Court indicated the Court received a Stipulation and Order to dismiss the present motion; therefore, COURT ORDERED hearing VACATED.

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

## Malpractice - Medical/Dental

# COURT MINUTES

**March 24, 2020**

A-19-788787-C      Estate of Rebecca Powell, Plaintiff(s)  
vs.  
Valley Health System, LLC, Defendant(s)

**March 24, 2020                  3:00 AM                  Minute Order**

**HEARD BY:** Wiese, Jerry A. **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDED:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- The Court notes that a Joint Case Conference Report was filed in the above case on 3/20/20. Thereafter, a Mandatory Rule 16 Conference Order issued scheduling the Rule 16 Conference for 05/05/20 at 12:00 p.m. Accordingly, the Show Cause Hearing scheduled for 4/1/20 at 9:00 a.m. shall be vacated.

CLERK'S NOTE: A copy of the above minute order was distributed to Paul Padda, Esq. (psp@paulpaddalaw.com); John Cotton, Esq. (jhcotton@jhcottonlaw.com); and Michael Prangle, Esq. (mprangle@hpslaw.com). // 03-24-20.lk

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Malpractice - Medical/Dental**

**COURT MINUTES**

**May 05, 2020**

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A-19-788787-C	Estate of Rebecca Powell, Plaintiff(s) vs. Valley Health System, LLC, Defendant(s)
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May 05, 2020	12:00 AM	Mandatory Rule 16 Conference
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**HEARD BY:** Wiese, Jerry A.

**COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- This Mandatory Rule 16 Conference was conducted via teleconference, in light of COVID-19 measures taken by the Court. Present via teleconference: Paul S. Padda, Esq. for Plaintiffs; Brad Shipley, Esq. for Defendants Drs. Shah, Concio and Dionice; and Chelsea R. Hueth, Esq. for Defendant Valley Health System, LLC.

The Court explained the goal of the Rule 16 Conference being the maintenance of the calendar and the participation in a meaningful settlement conference and/or mediation to move the cases forward; and, should the settlement fail, the setting of realistic discovery deadlines to avoid the submission of stipulation and order to continue trial later, which the Court stated, it will not be inclined to sign. The Court acknowledged concern regarding the ability to conduct business amidst directives associated with the COVID-19 virus and agreed with the discovery dates set forth in the Joint Case Conference Report filed in this matter. The parties agreed upon conducting a Private Mediation in this case. Counsel for Plaintiff suggested the trial of the matter could take 4-6 weeks despite the fact the JCCR approximated a 3-4 week jury trial. Thereafter, the Court ORDERED the following:

Parties agree to conduct a Private Mediation in July, 2021.

A Status Check: Settlement/Trial Setting is set for June 2, 2021, at 9:00 AM in Dept. 30.

Final Day to Amend Pleadings/Add Parties: 6/18/2021

Initial Expert Disclosure Deadline: 6/18/2021

Rebuttal Expert Disclosure Deadline: 8/27/2021

Final Day to Complete Discovery: 10/28/2021

Deadline for filing Dispositive Motion: 11/30/2021

The Malpractice Medical/Dental case is set for a FIRM 5-week JURY TRIAL commencing on 5/23/22 through 6/24/2022. Scheduling Order and Order Setting Civil Jury Trial to follow.

THEREAFTER, Counsel brought to the attention of the Court a pending unopposed Motion to Associate Counsel scheduled on the Court's docket for 6/3/2020 at 9AM. All parties stated NO OPPOSITION to the pending motion. The Court ORDERED Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center's Motion to Associate Richard Douglas Carroll as Counsel advanced without hearing and GRANTED and the matter taken off calendar for 6/3/2020. Counsel to submit an appropriate Order within ten (10) days pursuant to EDCR 7.21.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Malpractice - Medical/Dental**

**COURT MINUTES**

**October 21, 2020**

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A-19-788787-C	Estate of Rebecca Powell, Plaintiff(s)
	vs.
	Valley Health System, LLC, Defendant(s)

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October 21, 2020	3:00 AM	Minute Order
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HEARD BY: Wiese, Jerry A.	COURTROOM: No Location
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COURT CLERK: Lauren Kidd

RECORDER:

REPORTER:

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Upon further review of the instant case, it has come to the Court's attention that an Order was not submitted regarding the hearing on Defendants' Motions to Dismiss from September 25, 2019. Therefore, COURT ORDERED, matter SET for Status Check regarding submission and filing of the Order. Should the Order be received prior to the hearing, the same will be vacated.

12/09/20 9:00 AM STATUS CHECK: SUBMISSION/FILING OF ORDER

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 10-21-20./ /lk



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Malpractice - Medical/Dental**

**COURT MINUTES**

**October 26, 2020**

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A-19-788787-C	Estate of Rebecca Powell, Plaintiff(s)
	vs.
	Valley Health System, LLC, Defendant(s)

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October 26, 2020	3:00 AM	Minute Order
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HEARD BY: Wiese, Jerry A.	COURTROOM: Chambers
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COURT CLERK: Lauren Kidd

RECORDER:

REPORTER:

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- For purposes of judicial economy, the Court hereby ORDERS the hearings currently scheduled on October 28, 2020, at 9:00 AM on Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims; Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations; Defendants Dionice Juliano, MD, Conrado Concio, MD and Vishal Shah, MD's Joinder to Defendant's Motion for Summary Judgment on the Statute of Limitations; and Plaintiffs' Opposition to Defendant Juliano's Motion for Summary Judgment, And Defendants' Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims and Counter-Motion to Amend or Withdraw Plaintiffs' Responses to Defendants' Request for Admissions RESCHEDULED to November 4, 2020, at 9:00AM.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 10-26-20./ /lk

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

## Malpractice - Medical/Dental

# COURT MINUTES

November 23, 2020

A-19-788787-C      Estate of Rebecca Powell, Plaintiff(s)  
vs.  
Valley Health System, LLC, Defendant(s)

November 23, 2020 3:00 AM Minute Order

**HEARD BY:** Wiese, Jerry A. **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- The above-referenced matter is scheduled for a hearing on 11/25/20 with regard to the Defendant, Valley Health System's Motion for Stay. Pursuant to A.O. 20-01 and subsequent administrative orders, this matter is deemed "non-essential," and may be decided after a hearing, decided on the papers, or continued. This Court has determined that it would be appropriate to decide this matter on the papers, and consequently, this minute order issues.

On May 3, 2017, Plaintiff was found by EMS at her home. She was unconscious, labored in her breathing, and had vomit on her face. EMS provided emergency care and transported her to Defendant Hospital, and she was admitted. Plaintiff continued to improve while she was admitted. However, on May 10, 2017 Plaintiff complained of shortness of breath, weakness, and a "drowning feeling." One of her doctors ordered Ativan to be administered via an IV push. On May 11, another doctor ordered two more doses of Ativan and ordered several tests, including a chest CT to be performed. However, the CT could not be performed due to Plaintiff's inability to remain still during the test. She was returned to her room where she was monitored by a camera to ensure she kept her oxygen mask on. Plaintiffs, in their complaint, alleged the monitoring was substandard and Defendant should have used a better camera or in person monitoring, among other theories of

substandard care. Another dose of Ativan was ordered at 3:27 AM and Plaintiff entered into acute respiratory failure, which resulted in her death. The other named Plaintiffs claimed they were in Decedent's hospital room and observed Defendant's negligence.

Plaintiffs ordered Decedent's medical records on May 25, 2017; however, there were issues with delivery, and it is unclear exactly when Plaintiffs received them. Decedent's husband, a named Plaintiff, filed a complaint with the State of Nevada Department of Health and Human Services ("HHS") sometime before May 23, 2017. Approximately six weeks after the death of Decedent, Plaintiffs received the death certificate which listed the cause of death as a suicide from Cymbalta Intoxication. On February 5, 2018 HHS responded to Plaintiff's complaint. The letter said that after an investigation, HHS concluded that the facility had committed violations by not following rules and/or regulations as well as finding there were deficiencies in the medical care provided to Decedent.

On February 4, 2019, Plaintiff's filed suit alleging negligence/medical malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of emotional distress. Defendant did not file an answer but filed a Motion to Dismiss on June 19, 2020 alleging the statute of limitations had tolled. Plaintiff answered the motion. The court denied the Motion to Dismiss on September 25, 2019. Defendant filed an Answer to Plaintiff's complaint on April 15, 2020.

Defendants Valley Health System, LLC and Universal Health Services, Inc. then filed a 'Motion for Summary Judgment Based Upon the Expiration of the Statute of Limitations.' Defendants Dionice Juliano, M.D., Conrado Concio, M.D., and Vishal Shah, M.D. joined the Motion for Summary Judgment. Additionally, Defendant Juliano filed a Motion for Summary Judgment, and Defendants Concio and Shaw filed a Motion for Partial Summary Judgment on Emotional Distress Claims. Plaintiffs filed a Counter-Motion to Amend or Withdraw Plaintiffs Responses to Defendants Requests for Admissions. All of these items were on the November 04, 2020 calendar. An Order deciding these motions was filed on October 29, 2020. The Order denied Defendants, Valley Health System and Universal's Motion for Summary Judgment and related Joinders; granted Defendant Juliano's Motion for Summary Judgment, and dismissed Dr. Juliano from the case without prejudice; and denied Defendants Concio and Shah's Motion for Partial Summary Judgment on the Emotional Distress Claims.

Now, Defendant Valley Health System, LLC (VHS) seeks an order staying the case pending an appeal of the October 29, 2020, Order denying its Motion for Summary Judgment Based Upon the Expiration of the Statute of Limitations. Defendant VHS alleges that it may be irreparably prejudiced by having to continue defending this action and potentially being forced to try all issues when the matter raised by the aforesaid Motion is case dispositive.

This matter has been pending since February, 2019. It is currently set for trial on May 23, 2022. Initial expert disclosures are to be made on or before June 18, 2021, rebuttal expert disclosures are due on August 27, 2021, and discovery is to be completed on or before October 28, 2021. Valley argues that it

is currently preparing a Petition for Writ of Mandamus, and is first seeking a stay with the district Court pursuant to NRAP 8(a)(1)(A). The decision whether to grant a motion for a stay in proceedings is left to the sound discretion of the Court. *Nevada Tax Commission v. Brent Mackie*, 74 Nev. 273, 276 (1958). The factors to be considered by the Court when considering whether to issue a stay in the proceedings when an appellate issue is pending before the Nevada Supreme Court are (1) whether the object of the writ petition will be defeated if the stay is denied; (2) whether the petitioner will suffer irreparable or serious injury if the stay is denied; (3) whether the real party in interest will suffer irreparable or serious injury if the stay is granted; and (4) whether petitioner is likely to prevail on the merits in the writ petition. NRAP 8(c); *Fritz Hansen A/S v. Eighth Judicial District Court*, 116 Nev. 650, 657 (2000).

Defendant, VHS argues that each of the 4 factors weigh in favor of granting a stay. The Plaintiffs, on the other hand, argue that none of the factors weigh in favor of the Defendant. This Court finds and concludes as follows: 1) Trial is currently not scheduled until May of 2022, and consequently, even if a stay is denied, it is likely that the Supreme Court would rule on the "potential" Writ of Mandamus, prior to the parties going to Trial. Consequently, the Court does not find that the purpose of the writ petition would be defeated if the stay were denied. 2) The only injury or damage that the Petitioner would suffer if the stay were denied, would be continued litigations and the costs associated therewith. The Court has consistently held that ongoing litigation and the expenses associated therewith do not cause "irreparable harm." Consequently, the Court does not find that the Petitioner would suffer irreparable harm or serious injury if the stay were denied. 3) Although the Plaintiffs are correct that memories dim as time passes, such a fact applies to all witnesses equally Plaintiff's witnesses as well as Defendants' witnesses. Consequently, the Court does not find that the Plaintiffs would suffer irreparable or serious injury if the stay were granted. 4) The Court cannot find that the Petitioners are likely to prevail on the merits, as this Court previously found, and continues to believe, that the Death Certificate identifying Ms. Powell's cause of death as a "suicide," may have tolled the statute of limitations, in that such a conclusion or determination by the Medical Examiner, would clearly not suggest "negligence" on the part of any medical care provider. Although the Defendants suggest that the Plaintiffs possessed inquiry notice much earlier, the Court could not find that the families questioning of the cause of death equated with inquiry notice of negligence. Consequently, this Court concluded that when the Plaintiffs knew or should have known, of the alleged negligence of the Defendants, was an issue of fact which overcame the Defendants' Motion for Summary Judgment. Consequently, the Court cannot find that there is a likelihood of success on the merits.

Another issue which is important in this Court's analysis, is the fact that a Writ has apparently not yet been filed. If the Court were to grant the Stay as requested, it is possible that 6 months, or even a year from now, the Writ may still not be filed, so the Court would have stayed the case for no reason.

Based upon all these reasons, considering the relevant factors set forth above, finding that they weigh in favor of the non-moving party, and good cause appearing, IT IS HEREBY ORDERED that the Defendant's Motion for Stay is hereby DENIED.

The Court requests that Plaintiff's counsel prepare an Order consistent with the foregoing, have it approved as to form and content by opposing counsel, and submit it to the Court within 10 days.

Because this matter has been decided on the papers, the hearing scheduled for 11/25/20 will be taken off calendar, and consequently, there is no need for any parties or attorneys to appear.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 11-24-20./ /lk

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

## Malpractice - Medical/Dental

# COURT MINUTES

**April 20, 2021**

A-19-788787-C      Estate of Rebecca Powell, Plaintiff(s)  
vs.  
Valley Health System, LLC, Defendant(s)

**April 20, 2021                  3:00 AM                  Minute Order**

**HEARD BY:** Wiese, Jerry A. **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- The above-referenced matter is scheduled for a hearing on 4/21/21 with regard to Defendant, Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus. Pursuant to the administrative orders of the Court, including A.O. 21-03, this matter may be decided after a hearing, decided on the pleadings, or continued. Additionally, EDCR 2.23 provides that any matter may be decided with or without oral argument. This Court has determined that this matter may be decided on the pleadings, and consequently, this minute order issues.

This matter has been pending since February, 2019. It is currently set for trial on May 23, 2022. Initial expert disclosures are to be made on or before June 18, 2021, rebuttal expert disclosures are due on August 27, 2021, and discovery is to be completed on or before October 28, 2021.

Defendant Valley Health System LLC (aka CHH; doing business as "Centennial Hills Hospital Medical Center") moved this Court for summary judgment based upon an alleged expiration of the statute of limitations. CHH argued that Plaintiffs sought and received Ms. Powell's complete medical records from CHH just weeks after her death demonstrating their suspicion of alleged malpractice, and that Plaintiffs were therefore on inquiry notice when they received the medical records in June,

2017 since their own expert testified that he had sufficient evidence therein to allege malpractice. CHH also argued that Plaintiffs failed to submit any admissible evidence whatsoever in opposition to that motion.

The Court issued an order denying CHH's motion on October 29, 2020. CHH then moved this Court for a stay of all proceedings prior to filing a Petition for a Writ of Mandamus. On December 17, 2020, this Court issued an order denying CHH's motion for a stay, due in part to the lack of likelihood that CHH would prevail on the merits, and the fact that a writ petition had not been filed. CHH has since filed its petition with the Nevada Supreme Court. In an order dated March 9, 2021, the Nevada Supreme Court issued an order directing an answer to CHH's writ petition, setting a briefing schedule of Plaintiffs' opposition by March 30, 2021 and CHH's reply by April 13, 2021. In its order, the Court stated "Having reviewed the petition, it appears that an answer may assist this court in resolving this matter." Defendant Valley Health System LLC's instant Motion to Reconsider the decision on the Motion for Stay Pending PWM was filed on 04/06/21 on OST.

Defendant CHH now argues that the Supreme Court's request for an Answer suggests a likelihood of success on the merits, and the Writ Petition has now been filed, so the Court should now grant the stay that was previously requested.

In opposition, the Plaintiff argues that the Motion is procedurally defective because a Motion for Reconsideration needs to be filed within 14 days from the 12/17/20 Notice of Entry of Order, which was filed by the Defendant. (See EDCR 2.24)

EDCR 2.24 states in pertinent part as follows:  
EDCR 2.24 Rehearing of motions.

....

(b) A party seeking reconsideration of a ruling of the court, other than any order that may be addressed by motion pursuant to NRCP 50(b), 52(b), 59 or 60, must file a motion for such relief within 14 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the period for filing a notice of appeal from a final order or judgment.

Based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED that Defendant's Motion for Reconsideration is hereby DENIED as untimely. The Court notes that this decision does not preclude the filing of a Motion to Stay with the Supreme Court.

The Court requests that counsel for the Plaintiff prepare an Order consistent with the foregoing, have it approved as to form and content by opposing counsel, and submit it to the Court for signature within 10 days.

Because this matter has been decided on the pleadings, the hearing scheduled for 4/21/21 will be

taken off calendar, and consequently, there is no need for any parties or attorneys to appear.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 4-20-21./ /lk



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

## Malpractice - Medical/Dental

# COURT MINUTES

September 07, 2021

A-19-788787-C      Estate of Rebecca Powell, Plaintiff(s)  
vs.  
Valley Health System, LLC, Defendant(s)

September 07, 2021 3:00 AM Minute Order

**HEARD BY:** Wiese, Jerry A. **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- The above-referenced matter is scheduled for a Status Check: Settlement/Trial Setting hearing on 9/8/21. The Court notes the Joint Status Report filed 8/18/21, indicates that a Petition for Writ of Mandamus is pending decision by the Supreme Court and accordingly the parties believe a sixty (60) day extension of discovery will be necessary. However, the extension of discovery should not impact the FIRM Jury Trial setting in this matter. The Court further notes that a Mediation has been scheduled to take place on November 16, 2021. The Court appreciates the parties filing the Joint Status Report and keeping the court apprised of the progress of the case.

There have been no subsequent filings in this matter and based on the foregoing, and good cause appearing, IT IS HEREBY ORDERED that the Status Check: Settlement/Trial Setting in this case is hereby CONTINUED to December 1, 2021 at 9:00 a.m.

IT IS FURTHER ORDERED that Counsel shall submit an appropriate Stipulation and Order to Extend Discovery Deadlines, consistent with the dates indicated in the Joint Status Report, for the Court's consideration. If the Mediation is successful in resolving the matter, Counsel are FURTHER ORDERED to immediately advise the Court of the change of status.

As a result of the continuance, there is no need for any parties or attorneys to appear on 9/8/21 with regard to this matter.

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 09-07-21./ /lk

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

## Malpractice - Medical/Dental

# COURT MINUTES

November 18, 2021

A-19-788787-C      Estate of Rebecca Powell, Plaintiff(s)  
vs.  
Valley Health System, LLC, Defendant(s)

**November 18, 2021      10:00 AM      Further Proceedings**

**HEARD BY:** Wiese, Jerry A.

**COURTROOM:** RJC Courtroom 14A

**COURT CLERK:** Lauren Kidd  
Dara Yorke

**RECORDER:** Vanessa Medina

**REPORTER:**

## PARTIES

**PRESENT:** Shipley, Brad J Attorney

## JOURNAL ENTRIES

- Brad Shipley, Esq. and Counsel on behalf of Centennial Hills Hospital present via Bluejeans video conference.

Court noted the instant matter came back on a Writ Of Mandamus and counsel submitted a proposed Order; however, it didn't know if it was approved. Counsel indicated Mr. Padda had not approved the Order and was still waiting on a hearing. Following colloquy, Court advised parties it would sign the Order and the instant matter would be done. Parties concurred.

CLERK'S NOTE: Minute Order prepared using JAVS recording. // 3-10-22/ dv

CLERK'S NOTE: Counsel present on behalf of Centennial Hills Hospital announcement of appearance was unclear due to being present via Bluejeans video conference. // 3-10-22/ dy



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

**S. BRENT VOGEL. ESQ.**  
**6385 S. RAINBOW BLVD., STE 600**  
**LAS VEGAS, NV 89118**

**DATE: March 16, 2022**  
**CASE: A-19-788787-C**

**RE CASE:** ESTATE OF REBECCA POWELL; BRIAN POWELL; DARCI CREECY; TARYN CREECYL ISAIAH KHOSROF; LLOYD CREECY vs. VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER vs. CONRADO C.D.; CONCIO, M.D.; DR. VISHAL S. SHAH, M.D.

NOTICE OF APPEAL FILED: March 14, 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

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

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

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

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

DEFENDANT VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER'S NOTICE OF APPEAL; DEFENDANT VALLEY HEALTHY SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER'S CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER RE: VALLEY HEALTH SYSTEM'S MOTION FOR FEES AND COUNTERMOTION FOR FEES AND COSTS; NOTICE OF ENTRY OF ORDER AND DECISION REGARDING VALLEY HEALTH SYSTEM'S MOTION FOR FEES AND COUNTERMOTION FOR FEES AND COSTS; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

ESTATE OF REBECCA POWELL; BRIAN POWELL; DARCI CREECY; TARYN CREECYL ISAAH KHOSROF; LLOYD CREECY,

Plaintiff(s),

vs.

VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER vs. CONRADO C.D.; CONCIO, M.D.; DR. VISHAL S. SHAH, M.D.,

Defendant(s),

Case No: A-19-788787-C

Dept No: XXX

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 16 day of March 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

