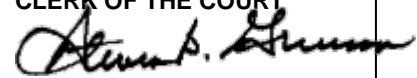


PAUL PADDALAW, PLLC
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 366-1888 • Fax (702) 366-1940

Electronically Filed
6/7/2022 2:21 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Jun 14 2022 03:07 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS
PAUL S. PADDALAW, ESQ.
Nevada Bar No. 10417
Email: psp@paulpaddalaw.com
PAUL PADDALAW, PLLC
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 366-1888

Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL, through
Brian Powell as Special Administrator;
DARCI CREECY, individually; TARYN
CREECY, individually; ISAAH KHOSROF,
individually; 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; ROES A-Z;

Defendants.

CASE NO. A-19-788787-C

DEPT. XXX (30)

PLAINTIFFS' NOTICE OF APPEAL

Pursuant to the provisions of Nevada Rules of Appellate Procedure 3 and 4, Plaintiffs
hereby appeal to the Nevada Supreme Court from the Judgment entered by this Court on June
2, 2022 awarding costs and attorney's fees in favor of Defendant Valley Health System, LLC

(Notice of which was entered on June 7, 2022). This appeal encompasses all interlocutory orders leading to the entry of the monetary Judgment that is the subject of this appeal, including the Court's May 4, 2022 Order granting reconsideration of its prior denial of attorney's fees and costs to Valley Health System, LLC.

PAUL PADDALAW

/s/ Paul S. Padda

Paul S. Padda, Esq.
Nevada Bar No. 10417
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103

Attorney for Plaintiffs

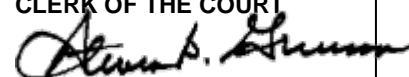
Dated: June 7, 2022

CERTIFICATE OF SERVICE

Pursuant to the Nevada Rules of Civil Procedure, the undersigned hereby certifies that on this day, June 7, 2022, a copy of **PLAINTIFFS' NOTICE OF APPEAL** was served upon all parties/counsel in the above-entitled matter through the Court's electronic filing system.

/s/ Karen Cormier

Karen Cormier, Paralegal
PAUL PADDALAW



ASTA
PAUL S. PADDALAW, ESQ.
Nevada Bar No. 10417
Email: psp@paulpaddalaw.com
PAUL PADDALAW, PLLC
4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103
Tele: (702) 366-1888

Attorneys for Plaintiffs/Appellants

DISTRICT COURT
CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL, through
Brian Powell as Special Administrator;
DARCI CREECY, individually; TARYN
CREECY, individually; ISAIAH KHOSROF,
individually; 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; ROES A-Z;

Defendants.

CASE NO. A-19-788787-C

DEPT. XXX (30)

**PLAINTIFFS' CASE APPEAL
STATEMENT**

Plaintiffs, by and through their undersigned counsel of record, hereby submit this Case
Appeal Statement as follows:

• • •

1. Name of appellants filing this case appeal statement:

Estate of Rebecca Powell, Darci Creecy, Taryn Creecy, Isaiah Khosrof and Lloyd Creecy.

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

The Honorable Jerry A. Wiese, Eighth Judicial District Court of the State of Nevada (Clark County).

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

Appellants are Estate of Rebecca Powell, Darci Creecy, Taryn Creecy, Isaiah Khosrof And Lloyd Creecy. Counsel for Appellants is Paul S. Padda, Esq. of Paul Padda Law, 4560 South Decatur Blvd., Suite 300, Las Vegas, Nevada 89103.

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

Respondent is Valley Health Systems, LLC. Counsel for this party is S. Brent Vogel, Esq. and Adam Garth, Esq. of Lewis Brisbois Bisgaard & Smith, 6385 South Rainbow Blvd., Suite 600, Las Vegas, Nevada 89118.

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

All attorneys identified in response to questions 3 and 4 are licensed to practice in the State of Nevada.

1 **6. Indicate whether appellant was represented by appointed or retained counsel in the**
2 **district court:**

3 Each appellant was represented by retained counsel in the district court action.

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

6 Appellants are represented by retained counsel acting *pro bono*.

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

9 No.

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

12 The Complaint was filed on February 4, 2019.

13 **10. Provide a brief description of the nature of the action and result in district court,**
14 **Including the type of judgment or order being appealed and the relief granted by the**
15 **district court:**

16 This case arises from an alleged wrongful death. Plaintiffs contend that Rebecca Powell
17 died on account of medical malpractice.

18 Following a remand from the Nevada Supreme Court, which granted a writ of
19 mandamus, the district court initially denied Defendant Valley Health System, LLC's motion
20 for fees and costs but later granted reconsideration of that decision culminating in a monetary
21 judgment against Plaintiffs for fees and costs.

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

See Valley Health System, LLC, et. al. v. The Eighth Judicial District Court, et. al., Case No. 82250 (NV Supreme Court).

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

No.

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

It is unlikely this case will result in a settlement given Valley Health System, LLC's posture during prior settlement proceedings in the Nevada Supreme Court.

PAUL PADDA LAW, PLLC

/s/ *Paul S. Padda*

Paul S. Padda, Esq.
Nevada Bar No. 10417
4560 South Decatur Blvd., Suite 300
Las Vegas, Nevada 89103

Attorney for Plaintiffs

Dated: June 7, 2022

PAUL PADDA LAW, PLLC
4560 South Decatur Blvd., 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 5, the undersigned certifies that on this day, June 7, 2022, a copy of the foregoing **PLAINTIFFS' CASE APPEAL STATEMENT** was filed with the Court and served upon all parties/counsel of record in the above-entitled matter through the Court's electronic filing system - efileNV eservice.

/s/ Karen Cormier

Karen Cormier, Paralegal
PAUL PADDA LAW

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

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

§
§
§
§
§
§
§

Location: **Department 30**
 Judicial Officer: **Wiese, Jerry A.**
 Filed on: **02/04/2019**
 Case Number History:
 Cross-Reference Case Number: **A788787**
 Supreme Court No.: **84402**
84424

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>
Plaintiff	Creecy, Darci	Padda, Paul S. <i>Retained</i> 702-366-1888(W)
	Creecy, Lloyd	Padda, Paul S. <i>Retained</i> 702-366-1888(W)
	Creecy, Taryn	Padda, Paul S. <i>Retained</i> 702-366-1888(W)
	Estate of Rebecca Powell	Padda, Paul S. <i>Retained</i> 702-366-1888(W)
	Khosrof, Isaiah	Padda, Paul S. <i>Retained</i> 702-366-1888(W)
Defendant	Concio, Conrado C.D., M.D. Removed: 06/02/2022 Dismissed	
	Juliano, Dionice S., M.D. Removed: 10/29/2020 Dismissed	Cotton, John H <i>Retained</i> 702-832-5909(W)
	Shah, Vishal S., M.D. Removed: 06/02/2022 Dismissed	
	Universal Health Services, Inc. Removed: 12/05/2019 Dismissed	Prangle, Michael E. <i>Retained</i> 7028896400(W)

CASE SUMMARY**CASE NO. A-19-788787-C****Valley Health System, LLC****Special
Administrator****Powell, Brian**

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
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 <i>[26] Stipulation and Order To Reset Hearing And Briefing Schedule For Defendants' Motions To Dismiss</i>
07/08/2019	 Notice of Entry of Order Filed By: Plaintiff Estate of Rebecca Powell <i>[27] Notice of Entry of Order re Stipulation and Order to Reset Hearing and Briefing Schedule For Defendants Motions To Dismiss</i>
07/22/2019	 Stipulation and Order Filed by: Plaintiff Estate of Rebecca Powell <i>[28] Stipulation and Order to Reset Hearing and Briefing Schedule for Defendants' Motion to Dismiss and Related Joinders</i>
07/22/2019	 Notice of Entry of Order Filed By: Plaintiff Estate of Rebecca Powell <i>[29] Notice of Entry of Order - Stipulation and Order to Reset Hearing and Briefing Schedule for Defendants' Motion to Dismiss and Related Joinders</i>
08/13/2019	 Notice of Appearance Party: Plaintiff Estate of Rebecca Powell <i>[30] Notice of Appearance</i>
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 <i>[31] Plaintiffs' Opposition to Motion to Dismiss Filed by Defendants Dr. Conrado C.D. Concio, M.D. and Dr. Dionice S. Juliano, M.D.</i>
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. <i>[32] Defendant Conrado Concio, MD, Vishal Shah, MD, and Dionice Juliano, MD's Reply in Support of Motion to Dismiss and Joinder thereto</i>
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. <i>[33] Defendant Centennial Hills Hospital's Reply in Support of Motion to Dismiss Plaintiffs' Complaint</i>
09/23/2019	 Motion to Dismiss Filed By: Defendant Universal Health Services, Inc. <i>[34] Defendant Universal Health Services, Inc.'s Motion to Dismiss or, Alternatively, Motion for Summary Judgment for Lack of Jurisdiction</i>
09/23/2019	 Joinder To Motion Filed By: Defendant Universal Health Services, Inc. <i>[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</i>
09/24/2019	 Clerk's Notice of Hearing <i>[36] Notice of Hearing</i>














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>

CASE SUMMARY

CASE NO. A-19-788787-C

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 Countermotion 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 Countermotion 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

[130] Plaintiffs' Opposition to Defendants aConrado Concio, M.D. and Vishal Sha, M.D.'s Motion for Attorneys' Fee and Costs

12/27/2021



Reply to Opposition

Filed by: Plaintiff Estate of Rebecca Powell

[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

12/27/2021



Reply to Opposition

Filed by: Plaintiff Estate of Rebecca Powell

[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

01/24/2022



Order

[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

01/25/2022



Notice of Entry

Filed By: Defendant Valley Health System, LLC

[134] NOTICE OF ENTRY OF ORDER

02/02/2022



Reply in Support

Filed By: Defendant Valley Health System, LLC

[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

02/02/2022



Reply in Support

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

[136] Defendants Conrado Concio, MD and Vishal Shah, MD's Reply in Support of Their Motion for Fees and Costs

02/15/2022



Order

[137] ORDER RE: CONCIO'S AND SHAH'S MOTION FOR FEES AND COSTS

02/15/2022



Order

[138] ORDER RE: VALLEY HEALTH SYSTEM'S MOTION FOR FEES AND COUNTERMOTION FOR FEES AND COSTS

02/16/2022



Notice of Entry of Decision and Order

Filed By: Plaintiff Estate of Rebecca Powell

[139] Notice of Entry of Order and Decision Regarding Valley Health System's Motion for Fees and Countermotion for Fees and Costs

02/16/2022



Notice of Entry of Order

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

[140] Notice of Entry of Order Re: Concio's and Shah's Motion for Fees and Costs













02/23/2022



Motion to Reconsider

CASE SUMMARY

CASE NO. A-19-788787-C

	<p>Filed By: Defendant Valley Health System, LLC <i>[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</i></p>
02/23/2022	<p> Clerk's Notice of Hearing <i>[142] Notice of Hearing</i></p>
03/09/2022	<p> Opposition to Motion Filed By: Plaintiff Estate of Rebecca Powell <i>[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</i></p>
03/14/2022	<p> Notice of Appeal Filed By: Defendant Valley Health System, LLC <i>[144] Defendant Valley Health System LLC DBA Centennial Hills Hospital Medical Center's Notice of Appeal</i></p>
03/14/2022	<p> Case Appeal Statement Filed By: Defendant Valley Health System, LLC <i>[145] DEFENDANT VALLEY HEALTH SYSTEM, LLC DBA CENTENNIAL HILLS HOSPITAL MEDICAL CENTER S CASE APPEAL STATEMENT</i></p>
03/17/2022	<p> Notice of Appeal Filed By: Plaintiff Estate of Rebecca Powell <i>[146] Plaintiff's Notice of Appeal</i></p>
03/17/2022	<p> Case Appeal Statement Filed By: Plaintiff Estate of Rebecca Powell <i>[147] Plaintiffs Case Appeal Statement</i></p>
03/23/2022	<p> Reply in Support Filed By: Defendant Valley Health System, LLC <i>[148] Defendant Valley Health System, LLC DBA Centennial Hills Hospital Medical Center's Reply in Further Support of Motion for Reconsideration Regarding its 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></p>
05/04/2022	<p> Order <i>[149] Order RE: Valley Health System's Motion for Reconsideration RE: Motion for Attorney's Fees</i></p>
05/04/2022	<p> Notice of Entry of Order Filed By: Defendant Valley Health System, LLC <i>[150] Notice of Entry of Order</i></p>
06/02/2022	<p> Judgment <i>[151] DEFENDANT VALLEY HEALTH SYSTEM LLC'S JUDGMENT OF COSTS AND ATTORNEYS' FEES PER NRS 18.020, 18.005, 18.110, 17.117, AND N.R.C.P. 68(f) AS AGAINST PLAINTIFFS</i></p>
06/07/2022	<p> Notice of Entry of Judgment Filed By: Defendant Valley Health System, LLC <i>[152] Notice of Entry of Judgment</i></p>
06/07/2022	<p> Notice of Appeal</p>

CASE SUMMARY

CASE NO. A-19-788787-C

Filed By: Plaintiff Estate of Rebecca Powell
[153] Plaintiffs' Notice of Appeal

06/07/2022



Case Appeal Statement

Filed By: Plaintiff Estate of Rebecca Powell
[154] Plaintiffs' 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

06/02/2022

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: Valley Health System, LLC (Defendant)
Judgment: 06/02/2022, Docketed: 06/03/2022
Total Judgment: 118,906.78

06/02/2022

Order of Dismissal (Judicial Officer: Wiese, Jerry A.)

Debtors: Estate of Rebecca Powell (Plaintiff), Isaiah Khosrof (Plaintiff), Lloyd Creecy (Plaintiff), Taryn Creecy (Plaintiff), Darci Creecy (Plaintiff)
Creditors: Valley Health System, LLC (Defendant), Dr. Conrado C.D. Concio, MD. (Defendant), Dr. Vishal S. Shah, MD. (Defendant)
Judgment: 06/02/2022, Docketed: 06/03/2022

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, 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

CASE SUMMARY

CASE NO. A-19-788787-C

(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>Motion to Dismiss (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Conrado Concio, MD, and Dionice Juliano, MD's Motion to Dismiss</i> Minute Order Dated 06-28-19 Denied;</p>
09/25/2019	<p>Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Vishal Shah, M.D. Joinder to Defendant's Concio and Juliano's Motion to dismiss</i> Minute Order Dated 06-28-19 Denied;</p>
09/25/2019	<p>Motion to Dismiss (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint</i> Minute Order Dated 06-28-19 Denied;</p>
09/25/2019	<p>Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Defendant Centennial Hills Hospital's Joinder to Defendants Conrado Concio, MD and Dionice Juliano, MD's Motion to Dismiss</i> Minute Order Dated 06-28-19 Denied;</p>
09/25/2019	<p>Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <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> Denied;</p>
09/25/2019	<p>Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <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> Denied;</p>
09/25/2019	<p> All Pending Motions (9:00 AM) (Judicial Officer: Wiese, Jerry A.) Matter Heard; Journal Entry Details: <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 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,</i></p>

CASE SUMMARY

CASE NO. A-19-788787-C

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;

04/01/2020

CANCELED Show Cause Hearing (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

Vacated

Show Cause Hearing - Failure to Conduct Rule 16.1 ECC and/or file JCCR

CASE SUMMARY

CASE NO. A-19-788787-C

05/05/2020

Mandatory Rule 16 Conference (12:00 PM) (Judicial Officer: Wiese, Jerry A.)

Trial Date Set;

Journal Entry Details:

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.;

06/03/2020

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

Vacated

Defendant Valley Health System, Llc Db a Centennial Hills Hospital Medical Center's Motion to Associate Richard Douglas Carroll as Counsel

10/21/2020

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

Minute Order - No Hearing Held;

Journal Entry Details:

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;

10/26/2020

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

Minute Order - No Hearing Held;

Journal Entry Details:

For purposes of judicial economy, the Court hereby ORDERS the hearings currently scheduled on October 28, 2020, at 9:00 AM on Defendant Julianano'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 Julianano, 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 Julianano'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;

11/04/2020

CANCELED Motion for Summary Judgment (9:00 AM) (Judicial Officer: Wiese, Jerry A.)

CASE SUMMARY

CASE NO. A-19-788787-C

	<p><i>Vacated</i> <i>Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims</i></p>
11/04/2020	<p>CANCELED Motion for Summary Judgment (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i> <i>Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations</i></p>
11/04/2020	<p>CANCELED Joinder (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i> <i>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></p>
11/04/2020	<p>CANCELED Opposition and Countermotion (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i> <i>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></p>
11/23/2020	<p> Minute Order (3:00 AM) (Judicial Officer: Wiese, Jerry A.) Minute Order - No Hearing Held; Journal Entry Details: <p><i>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</i></p> </p>

CASE SUMMARY

CASE NO. A-19-788787-C

Joinders; granted Defendant Julianos Motion for Summary Judgment, and dismissed Dr. Julianos Motion for 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

02/10/2021 CANCELED Status Check (9:00 AM) (Judicial Officer: Wiese, Jerry A.)
Vacated
Status Check: Submission/Filing of Order from 09/25/19 hearing

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

04/20/2021

**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 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;

04/21/2021

CANCELED Motion to Reconsider (9:00 AM) (Judicial Officer: Wiese, Jerry A.)*Vacated - Previously Decided**Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus*

09/07/2021

**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 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

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

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

04/01/2022

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

Vacated - per Order

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

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-19-788787-C

04/25/2022	CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Case Closed</i>
05/16/2022	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Case Closed</i>
05/23/2022	CANCELED Jury Trial - FIRM (10:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated - Case Closed</i>

DATE	FINANCIAL INFORMATION
	Defendant Concio, Conrado C.D., M.D. Total Charges 453.00 Total Payments and Credits 453.00 Balance Due as of 6/9/2022 0.00
	Defendant Juliano, Dionice S., M.D. Total Charges 200.00 Total Payments and Credits 200.00 Balance Due as of 6/9/2022 0.00
	Defendant Shah, Vishal S., M.D. Total Charges 223.00 Total Payments and Credits 223.00 Balance Due as of 6/9/2022 0.00
	Defendant Universal Health Services, Inc. Total Charges 423.00 Total Payments and Credits 423.00 Balance Due as of 6/9/2022 0.00
	Defendant Valley Health System, LLC Total Charges 694.00 Total Payments and Credits 694.00 Balance Due as of 6/9/2022 0.00
	Plaintiff Estate of Rebecca Powell Total Charges 573.00 Total Payments and Credits 573.00 Balance Due as of 6/9/2022 0.00
	Defendant Valley Health System, LLC Appeal Bond Balance as of 6/9/2022 500.00
	Plaintiff Estate of Rebecca Powell Appeal Bond Balance as of 6/9/2022 500.00

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**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input checked="" type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <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
Probate Probate (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 Estate Value <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	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <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	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <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		Other Civil Filing Other Civil Filing <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.

JUDG
S. BRENT VOGEL
Nevada Bar No. 6858
Brent.Vogel@lewisbrisbois.com
ADAM GARTH
Nevada Bar No. 15045
Adam.Garth@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
*Attorneys for Defendant Valley Health System,
LLC dba Centennial Hills Hospital Medical
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL, through
BRIAN POWELL, as Special Administrator;
DARCI CREECY, individually and as 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.: 30

**DEFENDANT VALLEY HEALTH
SYSTEM LLC'S JUDGMENT OF COSTS
AND ATTORNEYS' FEES PER NRS
18.020, 18.005, 18.110, 17.117, and N.R.C.P.
68(f) AS AGAINST PLAINTIFFS**

Pursuant to the Order granting Defendant Valley Health System, LLC's motion for summary judgment dated and entered on November 19, 2021 (**Exhibit "A"**), the Order granting Defendant Valley Health System, LLC's motion for reconsideration regarding motion for attorneys' fees dated and entered on May 4, 2022 (**Exhibit "B"**), and pursuant to Defendant Valley Health System, LLC's notice of withdrawal of appeal dated and filed in the Nevada Supreme Court on May 12, 2022

1 (Exhibit "C"),

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

3 That the Plaintiffs, take nothing, and that the action be dismissed on the merits.

4 Defendants Valley Health System, LLC shall be awarded their reasonable costs and
5 attorneys' fees pursuant to NRS 18.020, 18.005, 18.110, 17.117, and N.R.C.P. 68(f) in the amounts
6 of \$110,849.85 for attorneys' fees, and costs of \$8,056.93, for a total of \$118,906.78 in accordance
7 with the Court's orders attached hereto as **Exhibits "A" and "B"** based upon the withdrawal of
8 Defendant's appeal as attached hereto as **Exhibit "C"**.

9 DATED this _____ day of _____, 2022.

Dated this 2nd day of June, 2022

10
11
12 _____
DISTRICT COURT JUDGE

13 Respectfully Submitted By: **7B8 6E9 6A6B C7E9**
LEWIS BRISBOIS BISGAARD & SMITH LLP
14 **Jerry A. Wiese**
District Court Judge

15 By /s/ Adam Garth
16 S. BRENT VOGEL
17 Nevada Bar No. 6858
18 ADAM GARTH
19 Nevada Bar No. 15045
20 6385 S. Rainbow Boulevard, Suite 600
21 Las Vegas, Nevada 89118
22 Tel. 702.893.3383
*Attorneys for Attorneys for Defendant Valley
Health System, LLC dba Centennial Hills Hospital
Medical Center*

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Agreed as to form and substance by:

2

Refused to sign

3

Paul S. Padda, Esq.

4

Srilata Shah, Esq.

5

PAUL PADDA LAW, PLLC

6

4560 S. Decatur Blvd., Suite 300

7

Las Vegas, NV 89103

8

Tel: 702.366.1888

9

Fax: 702.366.1940

10

psp@paulpaddalaw.com

11

Attorneys for Plaintiffs

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this ____ day of May, 2022, a true and correct copy of **DEFENDANT**
3 **VALLEY HEALTH SYSTEM LLC'S JUDGMENT OF COSTS AND ATTORNEYS' FEES**
4 **PER NRS 18.020, 18.005, 18.110, 17.117, and N.R.C.P. 68(f) AS AGAINST PLAINTIFFS** was
5 served by electronically filing with the Clerk of the Court using the Odyssey E-File & Serve system
6 and serving all parties with an email-address on record, who have agreed to receive electronic service
7 in this action.

8 Paul S. Padda, Esq.
9 PAUL PADDALAW, PLLC
10 4560 S. Decatur Blvd., Suite 300
11 Las Vegas, NV 89103
12 Tel: 702.366.1888
13 Fax: 702.366.1940
14 psp@paulpaddalaw.com
15 *Attorneys for Plaintiffs*

16 By /s/ Heidi Brown
17 An Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
20
21
22
23
24
25
26
27
28

From: [Paul Padda](#)
To: [Garth, Adam](#); [Srilata Shah](#)
Cc: [Vogel, Brent](#); [Brown, Heidi](#); [San Juan, Maria](#)
Subject: [EXT] RE: Powell v Valley - CHH's Judgment for Costs #2.pdf
Date: Monday, May 16, 2022 1:26:18 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)



We cannot agree to this. Thanks.

Paul S. Padda, Esq.

PAUL PADDA LAW, PLLC
(702) 366-1888
paulpaddalaw.com



Nevada Physical Office:
4560 South Decatur Blvd, Suite 300
Las Vegas, Nevada 89103
Tele: [\(702\) 366-1888](tel:(702)366-1888)

California Physical Office:
300 South Grand Avenue, Suite 3840
Los Angeles, California 90071
Tele: (213) 423-7788

Mailing Address For All Offices:
4030 South Jones Blvd., Unit 30370
Las Vegas, Nevada 89173



PAUL PADDA LAW

IT'S NOT ABOUT THE INJURY. IT'S ABOUT THE RECOVERY.

CONFIDENTIALITY NOTICE: The information in this electronic mail communication contains confidential information which is the property of the sender and may be protected by the attorney-client privilege and/or attorney work product doctrine. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorized by the sender. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution of the contents of this e-mail transmission or the taking or omission of any action in reliance thereon or pursuant thereto, is prohibited, and may be unlawful. If you received this e-mail in error, please notify us immediately of your receipt of this message by e-mail and destroy this communication, any attachments, and all copies thereof. Thank you for your cooperation.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>
Sent: Thursday, May 12, 2022 12:43 PM
To: Paul Padda <psp@paulpaddalaw.com>; Srilata Shah <sri@paulpaddalaw.com>
Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Brown, Heidi <Heidi.Brown@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>
Subject: Powell v Valley - CHH's Judgment for Costs #2.pdf

Counsel,

Please see attached. Please advise if we may affix your e-signature to the judgment.

Adam Garth



Adam Garth

Partner

Adam.Garth@lewisbrisbois.com

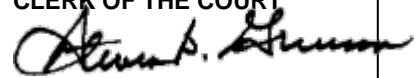
T: 702.693.4335 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

[Representing clients from coast to coast. View our locations nationwide.](#)

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

EXHIBIT A



1 **NEOJ**
S. BRENT VOGEL
2 Nevada Bar No. 06858
Brent.Vogel@lewisbrisbois.com
3 ADAM GARTH
Nevada Bar No. 15045
4 Adam.Garth@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
5 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
6 T: 702.893.3383
F: 702.893.3789
7 *Attorneys for Defendant Valley Health System,*
LLC dba Centennial Hills Hospital Medical
8 *Center*

9
10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

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

15 Plaintiffs,

16 vs.

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

22 Defendants.

Case No. A-19-788787-C

Dept. No. 30

NOTICE OF ENTRY OF ORDER

23
24 PLEASE TAKE NOTICE that an ORDER was entered with the Court in the above-
25 captioned matter on the 19th day of November 2021, a copy of which is attached hereto.

26 ///

27 ///

28 ///

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

DATED this 19th day of November, 2021.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Adam Garth
S. BRENT VOGEL
Nevada Bar No. 06858
ADAM GARTH
Nevada Bar No. 15045
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
702.893.3383
*Attorneys for Attorneys for Defendant Valley
Health System, LLC dba Centennial Hills Hospital
Medical Center*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 19th day of November, 2021, a true and correct copy of
3 **NOTICE OF ENTRY OF ORDER** was served by electronically filing with the Clerk of the
4 Court using the Odyssey E-File & Serve system and serving all parties with an email-address on
5 record, who have agreed to receive electronic service in this action.

6 Paul S. Padda, Esq.
7 PAUL PADDA LAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN. H. COTTON & ASSOCIATES
7900 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipleyr@jhcottonlaw.com
*Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.*

14
15 By /s/ Roya Rokni
16 An Employee of
17 LEWIS BRISBOIS BISGAARD & SMITH LLP
18
19
20
21
22
23
24
25
26
27
28

ORDR

S. BRENT VOGEL
Nevada Bar No. 6858
Brent.Vogel@lewisbrisbois.com
ADAM GARTH
Nevada Bar No. 15045
Adam.Garth@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
*Attorneys for Defendant Valley Health System,
LLC dba Centennial Hills Hospital Medical
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL, through
BRIAN POWELL, as Special Administrator;
DARCI CREECY, individually and as 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.: 30

**ORDER VACATING PRIOR ORDER
DENYING DEFENDANT 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**

This matter, coming before this Honorable Court on November 18, 2021 at 10:30 a.m. in
accordance with the order granting the petition for a writ of mandamus issued by the Nevada
Supreme Court dated October 18, 2021, directing that this Court vacate its order of October 29,
2020, which previously denied Defendant VALLEY HEALTH SYSTEM, LLC's motion for

1 summary judgment and co-defendants Concio and Shah's joinder thereto (collectively
2 "Defendants"), and ordering this Court to issue an order entering summary judgment in favor of
3 said Defendants due to the expiration of the statute of limitations, with Paul S. Padda, Esq. and
4 Srilata Shah, Esq. of PAUL PADDA LAW, PLLC, appearing on behalf of Plaintiffs, Adam Garth,
5 Esq., S. Brent Vogel, Esq. and Shady Sirsy, Esq., of the Law Offices of LEWIS BRISBOIS
6 BISGAARD & SMITH LLP, appearing on behalf of the Defendant VALLEY HEALTH SYSTEM,
7 LLC and John H. Cotton, Esq. and Brad Shipley, Esq. of JOHN H. COTTON AND ASSOCIATES,
8 appearing on behalf of DR. CONRADO C.D. CONCIO, M.D. and DR. VISHAL S. SHAH, M.D.,
9 with the Honorable Court having reviewed the order of the Nevada Supreme Court, finds and orders
10 as follows:

11 THE COURT FINDS that Defendants argued that undisputed evidence demonstrated
12 Plaintiffs were on inquiry notice of their alleged professional negligence, wrongful death, and
13 negligent infliction of emotional distress claims by June 11, 2017, at the latest, and

14 THE COURT FURTHER FINDS that Defendants contended that Plaintiffs' February 4,
15 2019 complaint was time-barred under NRS 41A.097(2) (providing that plaintiffs must bring an
16 action for injury or death based on the negligence of a health care provider within three years of the
17 date of injury and within one year of discovering the injury, whichever occurs first), and

18 THE COURT FURTHER FINDS that the term injury in NRS 41A.097 means "legal injury."
19 *Massey v. Litton*, 99 Nev. 723, 726, 669 P.2d 248, 251 (1983). A plaintiff "discovers his legal injury
20 when he knows or, through the use of reasonable diligence, should have known of facts that would
21 put a reasonable person on inquiry notice of his cause of action." *Id.* at 728, 669 P.2d at 252. A
22 plaintiff "is put on 'inquiry notice' when he or she should have known of facts that 'would lead an
23 ordinarily prudent person to investigate the matter further.'" *Winn v. Sunrise Hosp. & Med. Ctr.*,
24 128 Nev. 246, 252, 277 P.3d 458, 462 (2012) (quoting *Inquiry Notice*, *Black's Law Dictionary* (9th
25 ed. 2009)), and

26 THE COURT FURTHER FINDS that while the accrual date for NRS 41A.097(2)'s one-
27 year period is generally a question for the trier of fact, this Court may decide the accrual date as a
28 matter of law when the evidence is irrefutable. *Winn*, 128 Nev. at 251, 277 P.3d at 462, and

1 THIS COURT FURTHER FINDS that here, irrefutable evidence demonstrated that
2 Plaintiffs were on inquiry notice by June 11, 2017, at the latest, when Plaintiff Brian Powell, special
3 administrator for the estate, filed a complaint with the State Board of Nursing. There, Brian alleged
4 that the decedent, Rebecca Powell, “went into respiratory distress” and her health care providers did
5 not appropriately monitor her, abandoning her care and causing her death, and

6 THIS COURT FURTHER FINDS that Brian Powell’s own allegations in the aforesaid
7 Board complaint demonstrate that he had enough information to allege a prima facie claim for
8 professional negligence-that in treating Rebecca Powell, her health care providers failed “to use the
9 reasonable care, skill or knowledge ordinarily used under similar circumstances by similarly trained
10 and experienced providers of health care.” NRS 41A.015 (defining professional negligence); *Winn*,
11 128 Nev. at 252-53; 277 P.3d at 462 (explaining that a “plaintiffs general belief that someone’s
12 negligence may have caused his or her injury” triggers inquiry notice), and

13 THIS COURT FURTHER FINDS that the evidence shows that Plaintiff Brian Powell was
14 likely on inquiry notice even earlier than the aforesaid Board complaint, wherein Plaintiffs alleged
15 they had observed in real time, following a short period of recovery, the rapid deterioration of
16 Rebecca Powell’s health while in Defendants’ care, and

17 THIS COURT FURTHER FINDS that Plaintiff Brian Powell filed a complaint with the
18 Nevada Department of Health and Human Services (NDHHS) on or before May 23, 2017. Similar
19 to the Nursing Board complaint, this complaint alleged facts, such as the Defendants’ failure to
20 upgrade care, sterilize sutures properly, and monitor Rebecca Powell, all of which suggest he already
21 believed, and knew of facts to support his belief, that negligent treatment caused Rebecca Powell’s
22 death by the time he made these complaints to NDHHS and the Nursing Board, and

23 THIS COURT FURTHER FINDS that even though Plaintiffs received Rebecca Powell’s
24 death certificate 17 days later, erroneously listing her cause of death as suicide, that fact did not
25 change the conclusion that Plaintiffs received inquiry notice prior to that date, and

26 THE COURT FURTHER FINDS that Plaintiffs did not adequately address why tolling
27 should apply under NRS 41A.097(3) (providing that the limitation period for a professional
28 negligence claim “is tolled for any period during which the provider of health care has concealed

1 any act, error or omission upon which the action is based”), and

2 THIS COURT FURTHER FINDS that even if Plaintiffs did adequately address the tolling
3 issue, such an argument would be unavailing, as the medical records provided were sufficient for
4 their expert witness to conclude that petitioners were negligent in Rebecca Powell’s care. *See Winn*,
5 128 Nev. at 255, 277 P.3d at 464 (holding that tolling under NRS 41A.097(3) is only appropriate
6 where the intentionally concealed medical records were “material” to the professional negligence
7 claims), and

8 THE COURT FURTHER FINDS that the doctrine of equitable tolling has not been extended
9 to NRS 41A.097(2), and

10 THIS COURT FURTHER FINDS that Plaintiffs did not adequately address whether such
11 an application of equitable tolling is appropriate under these facts. *See Edwards v. Emperor's*
12 *Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (refusing to consider
13 arguments that a party did not cogently argue or support with relevant authority), and

14 THE COURT FURTHER FINDS that Plaintiffs had until June 11, 2018, at the latest, to file
15 their professional negligence claim, making Plaintiffs’ February 4, 2019 complaint untimely, and

16 THE COURT FURTHER FINDS that given the uncontroverted evidence demonstrating that
17 Defendants were entitled to judgment as a matter of law because the complaint was time-barred
18 under NRS 41A.097(2), *see* NRCP 56(a); *Wood*, 121 Nev. at 729, 121 P.3d at 1029 (recognizing
19 that courts must grant summary judgment when the pleadings and all other evidence on file, viewed
20 in a light most favorable to the nonmoving party, "demonstrate that no genuine issue as to any
21 material fact [remains] and that the moving party is entitled to a judgment as a matter of law"
22 (internal quotations omitted));

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court’s prior order
24 of October 29, 2020 denying VALLEY HEALTH SYSTEM, LLC’s motion for summary judgment
25 and co-defendants’ joinder thereto is vacated in its entirety, and

26 ///

27 ///

28 ///

1 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
2 VALLEY HEALTH SYSTEM, LLC's motion for summary judgment and co-defendants' joinders
3 thereto are granted in their entirety due to the untimely filing of this action by Plaintiffs.

4 Dated this 19th day of November, 2021

5 Dated: _____.


DISTRICT COURT JUDGE

6
7
8 DATED this ____ day of November, 2021.

9 DATED this 18th day of November, 2021
10 Jerry A. Wiese
District Court Judge

11 *UNSIGNED*

12 Paul S. Padda, Esq.
13 Srilata Shah, Esq.,
14 PAUL PADDALAW, PLLC
15 4560 S. Decatur Blvd., Suite 300
16 Las Vegas, NV 89103
17 Tel: 702.366.1888
18 Fax: 702.366.1940
19 psp@paulpaddalaw.com
20 Attorneys for Plaintiffs

21 DATED this 18th day of November, 2021

22 /s/ Brad Shipley

23 John H. Cotton, Esq.
24 Brad Shipley, Esq.
25 JOHN H. COTTON & ASSOCIATES
26 7900 W. Sahara Ave., Suite 200
27 Las Vegas, NV 89117
28 Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipley@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

/s/ Adam Garth

S. BRENT VOGEL, ESQ.
Nevada Bar No. 6858
ADAM GARTH, ESQ.
Nevada Bar No. 15045
SHADY SIRSY, ESQ.
Nevada Bar No. 15818
LEWIS BRISBOIS BISGAARD & SMITH
LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant Valley Health
System, LLC dba Centennial Hills Hospital
Medical Center

From: [Brad Shipley](#)
To: [Garth, Adam](#); [Srilata Shah](#); [Paul Padda](#)
Cc: [Vogel, Brent](#); [Rokni, Roya](#); [Sirsy, Shady](#); [San Juan, Maria](#)
Subject: [EXT] RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"
Date: Friday, November 12, 2021 10:00:14 AM
Attachments: [image001.png](#)

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Adam,

I believe the bracketed word [proposed] in the title caption should be removed before submission to the court, but please use my e-signature with or without making that change. Thank you for taking the time to draft the order.

Brad Shipley, Esq.
John H. Cotton & Associates, Ltd.
7900 W. Sahara ave. #200
Las Vegas, NV 89117
bshipley@jhcottonlaw.com
702 832 5909

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>
Sent: Friday, November 12, 2021 8:50 AM
To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>
Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; John Cotton <jhcotton@jhcottonlaw.com>
Subject: FW: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"
Importance: High

Counsel,

As a reminder, we have not heard from any party with respect to an agreement on submitting the proposed order to the Court. Given that the hearing is scheduled for 11/18, we previously indicated that if we did not hear from all parties by 12:00 noon today, we would proceed to submit this order to the court indicating no agreement between the parties. Please advise your position on this proposed order. Many thanks.

Adam Garth



Adam Garth
Partner
Adam.Garth@lewisbrisbois.com
T: 702.693.4335 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

[Representing clients from coast to coast. View our locations nationwide.](#)

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>

Sent: Tuesday, November 9, 2021 10:33 AM

To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>

Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; jhcotton@jhcottonlaw.com

Subject: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Importance: High

Counsel:

Attached is a proposed order reflecting the Supreme Court's ruling on the writ petition for Judge Wiese's consideration and signature. In accordance with the Supreme Court's order, Judge Wiese was directed to vacate his order denying the respective summary judgment motions and issuing a new order granting said motions. This proposed order does exactly that and reflects the rationale utilized by the Supreme Court in its decision. It is our intention to submit this proposed order to Judge Wiese in advance of the hearing he scheduled for November 18, 2021. Please respond whether we have your consent to use your e-signature on the proposed order prior to submission. If you have proposed changes, please advise accordingly and we can see whether they can be incorporated. We would like to submit the order on or before Friday, November 12, 2021, so please indicate your agreement to the order or if you have an objection. If we do not hear from you by before 11/12 by 12:00 noon, we will submit the order with a letter of explanation as to those parties unwilling to sign and they will have an opportunity to submit any competing order to the Court. Many thanks for your attention to this matter.

Adam Garth

Adam Garth

Partner

Las Vegas Rainbow

702.693.4335 or x7024335

From: [Garth, Adam](#)
To: [Paul Padda](#); [Srilata Shah](#); [Brad Shipley](#)
Cc: [Vogel, Brent](#); [Rokni, Roya](#); [Sirsy, Shady](#); [San Juan, Maria](#); jhcotton@jhcottonlaw.com
Subject: RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"
Date: Friday, November 12, 2021 9:59:40 AM
Attachments: [image001.png](#)
[image002.png](#)

We are not willing to do that. As you were unwilling to stay anything at our request, we will return the courtesy.

From: Paul Padda <psp@paulpaddalaw.com>
Sent: Friday, November 12, 2021 9:56 AM
To: Garth, Adam <Adam.Garth@lewisbrisbois.com>; Srilata Shah <sri@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>
Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; jhcotton@jhcottonlaw.com
Subject: [EXT] RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As you know, there is a motion for rehearing pending in the Supreme Court. Given that fact, and the lack of prejudice to Defendants, please advise if Defendants are willing to stay enforcement of the Supreme Court's decision which is the subject of a motion for rehearing? Thanks.

Paul S. Padda, Esq.
PAUL PADDALAW, PLLC
Websites: paulpaddalaw.com

Nevada Office:
4560 South Decatur Blvd., Suite 300
Las Vegas, Nevada 89103
Tele: (702) 366-1888

California Office:
One California Plaza
300 South Grand Avenue, Suite 3840
Los Angeles, California 90071
Tele: (213) 423-7788



CONFIDENTIALITY NOTICE: The information in this electronic mail communication contains confidential information which is the property of the sender and may be protected by the attorney-client privilege and/or attorney work product doctrine. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorized by the sender. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution of the contents of this e-mail transmission or the taking or omission of any action in reliance thereon or pursuant thereto, is prohibited, and may be unlawful. If you received this e-mail in error, please notify us immediately of your receipt of this message by e-mail and destroy this communication, any attachments, and all copies thereof. Thank you for your cooperation.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>

Sent: Friday, November 12, 2021 8:50 AM

To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>

Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; jhcotton@jhcottonlaw.com

Subject: FW: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Importance: High

Counsel,

As a reminder, we have not heard from any party with respect to an agreement on submitting the proposed order to the Court. Given that the hearing is scheduled for 11/18, we previously indicated that if we did not hear from all parties by 12:00 noon today, we would proceed to submit this order to the court indicating no agreement between the parties. Please advise your position on this proposed order. Many thanks.

Adam Garth



Adam Garth

Partner

Adam.Garth@lewisbrisbois.com

T: 702.693.4335 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

[Representing clients from coast to coast. View our locations nationwide.](#)

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>

Sent: Tuesday, November 9, 2021 10:33 AM

To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>

Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; jhcotton@jhcottonlaw.com

Subject: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Importance: High

Counsel:

Attached is a proposed order reflecting the Supreme Court's ruling on the writ petition for Judge Wiese's consideration and signature. In accordance with the Supreme Court's order, Judge Wiese was directed to vacate his order denying the respective summary judgment motions and issuing a new order granting said motions. This proposed order does exactly that and reflects the rationale utilized by the Supreme Court in its decision. It is our intention to submit this proposed order to Judge Wiese in advance of the hearing he scheduled for November 18, 2021. Please respond whether we have your consent to use your e-signature on the proposed order prior to submission. If you have proposed changes, please advise accordingly and we can see whether they can be incorporated. We would like to submit the order on or before Friday, November 12, 2021, so please indicate your agreement to the order or if you have an objection. If we do not hear from you by before 11/12 by 12:00 noon, we will submit the order with a letter of explanation as to those parties unwilling to sign and they will have an opportunity to submit any competing order to the Court. Many thanks for your attention to this matter.

Adam Garth

Adam Garth

Partner

Las Vegas Rainbow

702.693.4335 or x7024335

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Estate of Rebecca Powell,
Plaintiff(s)

CASE NO: A-19-788787-C

7 vs.

DEPT. NO. Department 30

8
9 Valley Health System, LLC,
Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order 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: 11/19/2021

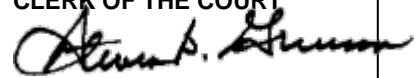
16 Paul Padda	psp@paulpaddalaw.com
17 S. Vogel	brent.vogel@lewisbrisbois.com
18 Jody Foote	jfoote@jhcottonlaw.com
19 Jessica Pincombe	jpinnacle@jhcottonlaw.com
20 John Cotton	jhcotton@jhcottonlaw.com
21 Paul Padda	civil@paulpaddalaw.com
22 Brad Shipley	bshipley@jhcottonlaw.com
23 Tony Abbatangelo	Tony@thevegaslawyers.com
24 Adam Garth	Adam.Garth@lewisbrisbois.com
25 Royak Rokni	roya.rokni@lewisbrisbois.com

26
27
28

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

Diana Escobedo	diana@paulpaddalaw.com
Srilata Shah	sri@paulpaddalaw.com
Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com

EXHIBIT B



1 S. BRENT VOGEL
Nevada Bar No. 6858
2 Brent.Vogel@lewisbrisbois.com
ADAM GARTH
3 Nevada Bar No. 15045
Adam.Garth@lewisbrisbois.com
4 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
5 Las Vegas, Nevada 89118
Telephone: 702.893.3383
6 Facsimile: 702.893.3789
*Attorneys for Defendant Valley Health System,
7 LLC dba Centennial Hills Hospital Medical
Center*

8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA
11

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

15 Plaintiffs,

16 vs.

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

22 Defendants.
23

Case No. A-19-788787-C

Dept. No.: 30

NOTICE OF ENTRY OF ORDER

24 PLEASE TAKE NOTICE that the Order Regarding Valley Health System's Motion for
25 Reconsideration Regarding Motion for Attorneys' Fees was entered on May 4, 2022, a true and
26 correct copy of which is attached hereto.

27 ///

28 ///

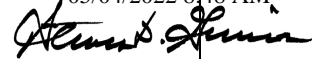
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 4th day of May, 2022, a true and correct copy of **NOTICE OF ENTRY**
3 **OF ORDER** was served by electronically filing with the Clerk of the Court using the Odyssey E-
4 File & Serve system and serving all parties with an email-address on record, who have agreed to
5 receive electronic service in this action.

6 Paul S. Padda, Esq.
7 PAUL PADDALAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN. H. COTTON & ASSOCIATES
7900 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipleyr@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

14
15
16 By /s/ Heidi Brown
17 an Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
20
21
22
23
24
25
26
27
28



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;)
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

**ORDER RE: VALLEY
HEALTH SYSTEM'S
MOTION FOR
RECONSIDERATION RE
MOTION FOR
ATTORNEYS' FEES**

INTRODUCTION

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ ^{4/1/22}, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Reconsideration of the Court's Order re: Defendant's Motion for Attorneys' Fees. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter 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. This Court
19 entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for
20 Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's
21 denial of fees and costs. Consequently, this Court no longer has jurisdiction to address
22 the issue of fees and costs. If the Court were inclined to reconsider its previous
23 decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.*

24 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

25 Valley Health System, d/b/a Centennial Hills Hospital (CHH) requests that the
26 Court reconsider its 2/15/22 Order denying attorneys' fees and costs and award it
27 \$110,930.85 in attorneys' fees per N.R.C.P. 68 and NRS § 17.117, plus \$58,514.36 in
28 pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR
7.60. Additionally, CHH requests this Court sign the judgment already submitted for
the undisputed \$42,492.03.

1 CHH contends that this Court conflated two issues- (1) the memorandum of
2 costs and disbursements previously submitted totaling \$42,492.038, “an amount which
3 is undisputed, and for which this Court has refused to sign a judgment,” and (2) the
4 additional costs, disbursements and attorneys’ fees addressed by CHH’s instant motion
5 and the initial motion which sought \$110,930.85 in attorneys’ fees per N.R.C.P. 68 and
6 N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to
7 N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

8 With regard to first “issue,” CHH argues that because the Court denied Plaintiff’s
9 Motion to Extend Time to Retax Costs, the \$42,492.03 claimed in CHH’s Verified
10 Memorandum of Costs is undisputed and therefore judgment must be signed and
11 entered. CHH stated that, “[t]his Court cannot revisit an issue which has been finally
12 decided and therefore, at a minimum, a judgment for the unchallenged \$42,492.03 in
13 statutory costs and disbursements must be signed.

14 The majority of CHH’s Motion for Reconsideration concentrates on the second
15 “issue,” that this Court’s decision to deny CHH’s request for an additional \$169,445.21
16 in costs, disbursements and attorneys’ fees was clearly erroneous. See *Masonry & Tile*
17 *Contractors v. Jolley, Urga & Wirth Ass’n*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).
18 As a preliminary matter, CHH is concerned by the Court’s comparison to the Motion
19 for Fees filed by Drs. Concio and Shaw. Further, CHH contends it is “more concerning,”
20 that the Court’s prior order stated, “Finally, in considering the result, the Court notes
21 that although the Court found insufficient evidence to establish irrefutably that the
22 statute of limitations had expired, Defense counsel was successful in convincing the
23 Supreme Court of that, and consequently, Defendants prevailed.” According to CHH,
24 “the record needs to be corrected here- there was no convincing the Supreme Court of
25 anything.”

26 CHH argues that although the Court correctly found that CHH’s offer of
27 judgment was made in good faith and its timing was proper, it erroneously found
28 “Plaintiffs’ decision to reject the offer and proceed to trial was not grossly unreasonable
or in bad faith. Plaintiffs believed they had a valid claim, and the Court cannot find
that wanting some recovery, as opposed to \$0.00, to be ‘grossly unreasonable’ or in
‘bad faith.’” CHH contends that this finding is unreasonable in light of the Nevada
Supreme Court’s determination that Plaintiffs were on notice of any alleged malpractice

1 no more than one month after decedent's death. Similarly, CHH argues that this Court
2 incorrectly found Plaintiffs' decision to reject the Offer of Judgment was not made in
3 bad faith and was not grossly unreasonable.

4 As for the reasonableness of the attorneys' fees requested pursuant to NRCP 68,
5 CHH states that it offered to present the Court supporting documentation for in camera
6 review, but, "instead of granting a hearing to which Plaintiffs could interpose whatever
7 opposition they may have had, the Court rejected this offer and suggestion." In
8 addition, Plaintiffs did not oppose the amount of costs and fees incurred in the original
9 motion, even without the attached bills. Additionally, CHH provides that, "[s]ince this
10 Court insisted that the bills be attached, CHH has provided the entirety thereof for
judicial review and review by Plaintiffs."

11 In Opposition, Plaintiffs argue that CHH's Motion must be summarily denied,
12 without the Court addressing the merits of the Motion because CHH did not present
13 any new or substantially different evidence than what it had the opportunity to present
14 when it filed its Verified Memorandum of Costs and separate Motion for Attorney's
15 Fees on 11/22/21. Further, Plaintiffs contend that CHH's Motion for Reconsideration is
16 "clearly a transparent attempt to bolster a potential appeal by inviting the Court to
17 engage with the merits," because a motion for reconsideration is only appealable if
18 decided on the merits. *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589
(2010).

19 Further, Plaintiffs argue that CHH falsely claims that it attached evidence to its
20 Motion for Reconsideration that "was originally submitted to this Court." Plaintiffs also
21 state that CHH's Motion lacks any authority showing the Court's denial of costs was
22 clearly erroneous, and it does not even engage with the authorities cited on pages 7
23 through 9 of the Court's 2/15/22 Order. Plaintiffs argue they should not be liable for
24 CHH's negligence in failing to follow both the statutory and common law requirements
25 for establishing entitlement to costs. Plaintiffs argue that this Court was thus correct in
26 denying CHH costs in their entirety for lack of proper documentation and reliable
evidence.

27 With regard to CHH's request to reconsider the denial of fees, Plaintiffs note that
28 the Court's denial was based upon its finding that (1) Plaintiffs did not act in bad faith
or in a grossly unreasonable manner when they rejected CHH zero dollar Offer of

1 Judgment and (2) the documentation in support of the request for attorney's fees was
2 lacking. While the first finding by itself ends the inquiry into whether fees can be
3 awarded, in this case the Court also found that "[a]lthough the Defendant [CHH] has
4 offered to submit a billing ledger to the Court in camera, it would have been necessary
5 for the Defendant to have submitted such ledger, and disclosed it to the Plaintiffs so
6 that the reasonableness could have been addressed by all parties, and by the Court."
7 Plaintiffs argue that since this never happened, there was no reasonable basis for this
8 Court to assess the reasonableness of fees being claimed by CHH. Plaintiffs argue that
9 CHH merely rehashes the same arguments presented in its original Motion for Fees.

10 Moreover, Plaintiffs argue that the Court's decision to deny fees was not clearly
11 erroneous because the disposition of this case turned on a legal question, which the
12 Nevada Supreme Court decided, well after the time Plaintiffs rejected the Offer of
13 Judgment. It would be ridiculous to expect Plaintiffs, grieving the death of their
14 mother, to anticipate the legal issue and foresee its resolution by the Nevada Supreme
15 Court when they rejected the Offer of Judgment. CHH itself acknowledges this fact
16 when it admits, "[m]edical malpractice cases are complex and require an in-depth
17 understanding of both unique legal issues as well as the medical care and course that is
18 at issue." VHS' Motion for Reconsideration, p. 21 (lines 1-2).

19 Finally, Plaintiffs argue that the CHH fails to address the deficiency of
20 withholding a billing ledger when it made its fee request and instead asking the Court
21 to rely only upon the declaration of its counsel.

22 In Reply, CHH argues that Plaintiff incorrectly asserts CHH "has not presented
23 any new or substantially different evidence than what it had the opportunity to present
24 when it filed its original Verified Memorandum of Costs and separate Motion for
25 Attorneys' Fees..." CHH's instant motion is predicated on this Court's clearly erroneous
26 decision to: (1) refuse to sign a judgment for an undisputed amount of legally
27 awardable costs to which CHH is entitled, and (2) to deny additional costs and
28 attorneys' fees stemming from Plaintiff's commencement and maintenance of an action
that the Supreme Court found was not only untimely, but that this Court's decision to
deny summary judgment in light of the evidence was a manifest abuse of discretion.

1 Noting that the Court decided the underlying Motion on the papers and without
2 oral argument, CHH contends that this Court ignored the request for in camera review
3 of any evidence it required, with Plaintiffs' opportunity to review same as well. The
4 Court also denied any request for statutorily permitted costs and fees, which was never
5 opposed by Plaintiffs, and denied the discretionary motion for attorneys' fees and costs
6 predicated on other legal and statutory bases. CHH suggests that these denials were
7 based upon this Court's abuse of its discretion and refusal to accept the underlying
8 findings of the Supreme Court pertaining to the evidence Plaintiffs knowingly
9 possessed which demonstrated clear inquiry notice within one month of the decedent's
10 death.

11 CHH argues that this Court erroneously concluded that CHH submitted no
12 documentary evidence or explanation of costs attendant to the verified memorandum
13 of costs. However, the verified memorandum of costs contained not only a complete
14 listing of disbursements which are allowable under the law for these purposes, but the
15 declaration explained that the expenses were accurate and were incurred and were
16 reasonable. Moreover, the memorandum explained and justified each of the costs,
17 supported by case authority and an application of the respective factors considered to
18 the specific facts and circumstances of this case. As such, CHH claims there was more
19 than ample evidentiary justification for the costs claimed including court filing fees and
20 the expert fees which were justified by the explanations contained in the verified
21 memorandum. For this Court to somehow assert complete ignorance of the legal and
22 appellate history of this case was clearly erroneous.

23 Moreover, CHH states that Plaintiffs never disputed, nor to this day dispute, the
24 veracity and accuracy of the costs contained in the verified memorandum of costs. CHH
25 argues that, "There was no absence of evidence justifying the costs. The Court just
26 chose to ignore it and improperly declared they were insufficient, citing to the
27 aforenoted authority." CHH argues that the authority does stand for the proposition for
28 which they are cited or was misapplied by the Court. The authority cited involved no
evidence or documentation. CHH not only provided evidence, it justified the costs,
especially of the voluminous number of experts needed for retention due to the
blunderbuss of allegations.

1 CHH further states:

2 Rather than accepting the Supreme Court's decision and rationale, this
3 Court's denial of CHH's motion and the rationale behind that decision
4 continues to perpetuate the false notion that the action was either
5 brought or maintained in good faith, a fact completely dispelled by the
6 Supreme Court's decision. Thus, denying costs and attorneys' fees in light
7 of the Supreme Court's decision is not only clearly erroneous, it is also a
8 manifest abuse of discretion which the instant motion seeks to redress.

9 Again, this Court possessed admissible evidence of the work, time and
10 expenses on the original motion. This Court wanted more than that. This
11 motion gives the Court everything it could possibly need. Moreover, all of
12 this could have been obviated by a hearing with an opportunity for all
13 parties to participate to consider the totality of the evidence which has
14 now been submitted, and would have been submitted had the in camera
15 inspection thereof been considered.

16 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

17 Pursuant to EDCR 2.24(a), "[n]o motion once heard and disposed of may be
18 renewed in the same cause, nor may the same matters therein embraced by reheard,
19 unless by leave of the court granted upon motion therefor, after notice of such motion
20 to the adverse parties."

21 Nevada courts have inherent authority to reconsider their prior orders. See,
22 *Trail v. Faretto*, 91 Nev. 401 (1975). A party may, "for sufficient cause shown ... request
23 that a court ... amend, correct, resettle, modify, or vacate, as the case may be, an order
24 previously made and entered ... in the case or proceeding. *Id.* at 403. A court may
25 exercise its discretion to revisit and reverse a prior ruling if any one of five
26 circumstances is present: (1) a clearly erroneous ruling; (2) an intervening change in
27 controlling law; (3) substantially different evidence; (4) other changed circumstances;
28 or (5) that manifest injustice would result if the prior ruling is permitted to stand.
United States v. Real Prop_ . Located at Incline Village, 976 F. Supp. 1327, 1353
(D.Nev. 1997). A motion for reconsideration should be granted where new issues of fact
or law are raised which support a "ruling contrary to the ruling already reached."
Moore v. City of Las Vegas, 92 Nev. 402, 405 (1976).

Although the Defendants take offense at the language the Court used in its
previous Order, this Court intended nothing negative by indicating that Defendants
were able to "convince" the Supreme Court of their position. Such statement was made

1 simply to convey the “fact” that the Supreme Court was “convinced” that the
2 Defendant’s position was correct. Defendants argue that the Court’s denial of fees and
3 costs was somehow a continuation of the Court’s position in favor of the Plaintiff, but
4 this is also incorrect. In fact, the Court found that the *Beattie* and *Brunzell* factors
5 weighed in favor of the Defense, but since the Defense had not supported its request for
6 fees and costs, as required by the Nevada Supreme Court, this Court was unable to
7 award fees and costs. *Beattie v. Thomas*, 99 Nev. 579, 588, 668 P.2d 268 (1983);
8 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969).

9 Additionally, Defendants argue that because they submitted a Memorandum of
10 Costs, which was not timely objected to, they are “entitled” to whatever they asked for.
11 This is also incorrect. A party is only entitled to costs if they are substantiated, and the
12 Court finds that such costs were reasonable, and incurred in the subject litigation.
13 *Frazier v. Drake*, 131 Nev. 632, 357 P.3d 365 (NV.Ct.of App., 2015); *Bobby Berosini,*
14 *Ltd. V. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353, 971 P.2d 383
15 (1998); *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015).

16 Finally, Defendants suggest that the Court would have been able to review the
17 supporting documents, which Defendant failed to initially provide, if the Court had
18 held a “hearing” and allowed the Defendant to present such documents. Part of the
19 Court’s previous inability to award fees was based on the Defendant’s failure to provide
20 support for the fees requested, although such documentation was offered to the Court
21 “in camera.” It is simply not “fair” to an opposing party, to offer supporting documents
22 “in camera,” implying that the opposing party will not have the opportunity to
23 challenge such documents. Based on the Defendant’s suggestion that they would make
24 billing records available to the Court “in camera,” the Court was led to believe that such
25 documents would not be provided to the Plaintiff.

26 The Defendant has now submitted documentation supporting the claim for
27 attorney’s fees. Because the Court has now been presented with substantially different
28 or additional evidence, reconsideration is appropriate.

Defendant has now provided billing records indicating the following:

5/27/20	\$725.00
6/1/20-6/28/20	\$3,510.00
7/1/20-7/31/20	\$10,192.50
8/10/20-8/28/20	\$8,865.00
9/1/20-9/25/20	\$19,642.50

10/1/20-10/29/20	\$12,559.50
11/2/20-11/30/20	\$14,392.80
12/1/20-12/22/20	\$3,690.00
1/5/21-1/21/21	\$4,449.00
2/4/21-2/19/21	\$1,489.50
3/4/21-3/30/21	\$2,150.00
4/2/21-4/30/21	\$11,200.00
5/5/21-5/21/21	\$905.00
6/4/21-6/25/21	\$6,629.50
7/7/21-7/29/21	\$1,026.50
8/3/21-8/31/21	\$5,841.50
9/8/21-9/30/21	\$4,375.00
10/1/21-10/27/21	\$10,700.00
11/9/21-11/23/21	\$2,826.50
12/2/21-12/29/21	\$7,975.00
1/3/22-1/25/22	<u>\$4,925.00</u>
Total:	\$138,069.80

Defendant has now provided documentation supporting the following costs:

American Legal Investigation	\$27.43
Ruffalo & Associates	\$4,350.00
	\$1,800.00
	\$10,350.00
Abraham Ishaaya, M.D.	\$6,710.00
	\$1,375.00
	\$6,187.50
	\$2,970.00
	\$3,437.50
	\$4,675.00
Cohen Volk Economic Counseling	\$688.50
	\$3,855.60
JAMS	\$3,000.00
Filing Fees	<u>\$529.50</u>
Total:	\$49,956.03

Defendant argues that it is entitled to \$42,492.03, and \$110,930.85 in attorneys' fees per N.R.C.P. 68 and N.R.S. §§17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

On August 28, 2020, Defendant served an Offer of Judgment on Plaintiff pursuant to N.R.C.P. 68, N.R.S. 17.1151, and *Busick v. Trainor*, 2019 Nev. Unpub. LEXIS 378, 437 P.3d 1050 (2019) for a waiver of any presently or potentially recoverable costs in full and final settlement of the matter. At the time of the Offer,

1 Defendants' expended costs and fees totaled \$58,514.36. The Offer was not accepted by
2 Plaintiff and expired on September 11, 2020.

3 Since the date of the Offer of Judgment, Defendant argues that it incurred
4 \$106,619.85 in attorney's fees, and paralegal's fees in the amount of \$4,230.00. This
5 Court finds and concludes that the fees incurred by Defendant were reasonable and
6 necessarily incurred in the defense of the case. This Court adopts by reference its prior
7 reasoning and analysis relating to the requested attorney's fees, and now that the Court
8 has been provided with the documentary support of such fees, and finds that such fees
9 were reasonable, pursuant to *Beattie* and *Brunzell*, the Court finds and concludes that
10 such fees are appropriate and recoverable. The Court further finds that the Defendant
11 has now met the requirements of *Frazier*, with regard to documenting the costs
12 incurred. The Court is still not convinced that the expert fees, in addition to the \$1,500
13 recoverable by statute, are necessary or recoverable. Consequently, in reducing each of
14 the expert's fees to \$1,500.00, the above-referenced costs, which have been
documented, must be reduced to \$8,056.93.

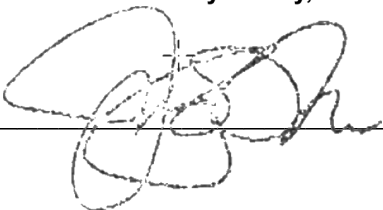
15 **CONCLUSION/ORDER**

16 Based upon the foregoing, and good cause appearing,

17 This Court now indicates its intention, pursuant to *Huneycutt v. Huneycutt*, 94
18 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228 P.3d 453
19 (2010), that if this Court had jurisdiction to decide this matter, the Court would now
award attorney's fees of \$110,849.85, and costs of \$8,056.93.

20 Because this matter has been decided on the pleadings, any future hearings
21 relating to this matter are taken off calendar. The Court requests that counsel for
22 Defendant prepare and process a Notice of Entry with regard to this matter, and convey
23 this Decision to the Supreme Court, pursuant to *Huneycutt* and *Dingwall*.

24 Dated this 4th day of May, 2022

25 
26 _____

27
28 **0D9 DD7 5826 D5EB**
Jerry A. Wiese
District Court Judge

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: 5/4/2022

16 Paul Padda psp@paulpaddalaw.com

17 S. Vogel brent.vogel@lewisbrisbois.com

18 Jody Foote jfoote@jhcottonlaw.com

19 Jessica Pincombe jpincombe@jhcottonlaw.com

20 John Cotton jhcotton@jhcottonlaw.com

21 Brad Shipley bshipley@jhcottonlaw.com

22 Tony Abbatangelo Tony@thevegaslawyers.com

23 Adam Garth Adam.Garth@lewisbrisbois.com

24 Paul Padda civil@paulpaddalaw.com

25 Srilata Shah sri@paulpaddalaw.com

26
27
28

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

Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com
Kimberly DeSario	kimberly.desario@lewisbrisbois.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com

EXHIBIT C

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC,

Appellant,

vs.

ESTATE OF REBECCA POWELL, DARCI
CREECY, TARYN CREECY, ISAIAH
KHOSROF, and LLOYD CREECY,

Respondents.

Supreme Court No.: 84402

Electronically Filed
May 12 2022 10:56 a.m.

District Court No.: A-19-788787-C
Elizabeth A. Brown
Clerk of Supreme Court

NOTICE OF WITHDRAWAL OF APPEAL

VALLEY HEALTH SYSTEM, LLC, appellant named above, hereby
moves to voluntarily withdraw the appeal mentioned above.

I, Adam Garth, Esq., as counsel for the appellant, explained and informed
VALLEY HEALTH SYSTEM, LLC of the legal effects and consequences of this
voluntary withdrawal of this appeal, including that VALLEY HEALTH SYSTEM,
LLC cannot hereafter seek to reinstate this appeal and that any issues that were or
could have been brought in this appeal are forever waived. Having been so
informed, VALLEY HEALTH SYSTEM, LLC hereby consents to a voluntary
dismissal of the above-mentioned appeal.

VERIFICATION

I recognize that pursuant to N.R.A.P. 3C I am responsible for filing a notice of withdrawal of appeal and that the Supreme Court of Nevada may sanction an attorney for failing to file such a notice. I therefore certify that the information provided in this notice of withdrawal of appeal is true and complete to the best of my knowledge, information and belief.

DATED this 12th day of May, 2022

LEWIS BRISBOIS BISGAARD &
SMITH LLP

By /s/ Adam Garth
S. BRENT VOGEL
Nevada Bar No. 006858
ADAM GARTH
Nevada Bar No. 15045
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Tel. 702.893.3383
Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 2022, a true and correct copy of **NOTICE OF WITHDRAWAL OF APPEAL** was served upon the following parties by electronic service through this Court's electronic service system and also by placing a true and correct copy thereof in the United States Mail in Las Vegas, Nevada with first class postage fully prepaid:.

Paul S. Padda, Esq.
PAUL PADDA LAW, PLLC
4560 S. Decatur Blvd., Suite 300
Las Vegas, NV 89103
Tel: 702.366.1888
Fax: 702.366.1940
psp@paulpaddalaw.com
Attorneys for Plaintiffs

By /s/ Heidi Brown
An Employee of
LEWIS BRISBOIS BISGAARD &
SMITH LLP

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 Judgment was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

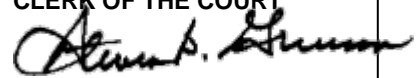
15 Service Date: 6/2/2022

16 Paul Padda	psp@paulpaddalaw.com
17 S. Vogel	brent.vogel@lewisbrisbois.com
18 Jody Foote	jfoote@jhcottonlaw.com
19 Jessica Pincombe	jpincombe@jhcottonlaw.com
20 John Cotton	jhcotton@jhcottonlaw.com
21 Paul Padda	civil@paulpaddalaw.com
22 Brad Shipley	bshipley@jhcottonlaw.com
23 Tony Abbatangelo	Tony@thevegaslawyers.com
24 Adam Garth	Adam.Garth@lewisbrisbois.com
25 Srilata Shah	sri@paulpaddalaw.com

26
27
28

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

Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com
Kimberly DeSario	kimberly.desario@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com



NJUD
S. BRENT VOGEL
Nevada Bar No. 6858
Brent.Vogel@lewisbrisbois.com
ADAM GARTH
Nevada Bar No. 15045
Adam.Garth@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Facsimile: 702.893.3789
*Attorneys for Defendant Valley Health System,
LLC dba Centennial Hills Hospital Medical
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL, through
BRIAN POWELL, as Special Administrator;
DARCI CREECY, individually and as 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.: 30

NOTICE OF ENTRY OF JUDGMENT

1 PLEASE TAKE NOTICE that the Defendant Valley Health System LLC' Judgment of Costs
2 and Attorneys' Fees per NRS 18.020, 18.005, 18.110, 17.117, and N.R.C.P. 68(f) as Against
3 Plaintiffs was entered on June 2, 2022, a true and correct copy of which is attached hereto as **Exhibit**
4 **A.**

5
6 DATED this 7th day of June, 2022

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8 By /s/ Adam Garth

9 S. BRENT VOGEL

10 Nevada Bar No. 6858

11 ADAM GARTH

12 Nevada Bar No. 15045

13 6385 S. Rainbow Boulevard, Suite 600

14 Las Vegas, Nevada 89118

15 Tel. 702.893.3383

16 *Attorneys for Attorneys for Defendant Valley*

17 *Health System, LLC dba Centennial Hills Hospital*

18 *Medical Center*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 7th day of June, 2022, a true and correct copy of **NOTICE OF**
3 **ENTRY OF JUDGMENT** was served by electronically filing with the Clerk of the Court using the
4 Odyssey E-File & Serve system and serving all parties with an email-address on record, who have
5 agreed to receive electronic service in this action.

6 Paul S. Padda, Esq.
7 PAUL PADDALAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN. H. COTTON & ASSOCIATES
7900 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipleyr@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

14
15
16 By /s/ Maria T. San Juan
17 an Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
20
21
22
23
24
25
26
27
28

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

EXHIBIT A

1 **JUDG**
2 S. BRENT VOGEL
3 Nevada Bar No. 6858
4 Brent.Vogel@lewisbrisbois.com
5 ADAM GARTH
6 Nevada Bar No. 15045
7 Adam.Garth@lewisbrisbois.com
8 LEWIS BRISBOIS BISGAARD & SMITH LLP
9 6385 S. Rainbow Boulevard, Suite 600
10 Las Vegas, Nevada 89118
11 Telephone: 702.893.3383
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; ISIAIAH 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'S JUDGMENT OF COSTS
AND ATTORNEYS' FEES PER NRS
18.020, 18.005, 18.110, 17.117, and N.R.C.P.
68(f) AS AGAINST PLAINTIFFS**

23 Pursuant to the Order granting Defendant Valley Health System, LLC's motion for summary
24 judgment dated and entered on November 19, 2021 (**Exhibit "A"**), the Order granting Defendant
25 Valley Health System, LLC's motion for reconsideration regarding motion for attorneys' fees dated
26 and entered on May 4, 2022 (**Exhibit "B"**), and pursuant to Defendant Valley Health System, LLC's
27 notice of withdrawal of appeal dated and filed in the Nevada Supreme Court on May 12, 2022
28

1 (Exhibit "C"),

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

3 That the Plaintiffs, take nothing, and that the action be dismissed on the merits.

4 Defendants Valley Health System, LLC shall be awarded their reasonable costs and
5 attorneys' fees pursuant to NRS 18.020, 18.005, 18.110, 17.117, and N.R.C.P. 68(f) in the amounts
6 of \$110,849.85 for attorneys' fees, and costs of \$8,056.93, for a total of \$118,906.78 in accordance
7 with the Court's orders attached hereto as **Exhibits "A" and "B"** based upon the withdrawal of
8 Defendant's appeal as attached hereto as **Exhibit "C"**.

9 DATED this _____ day of _____, 2022.

Dated this 2nd day of June, 2022

10
11
12 _____
DISTRICT COURT JUDGE

13 Respectfully Submitted By: **JERRY A. WISE**
14 LEWIS BRISBOIS BISGAARD & SMITH LLP
15 **District Court Judge**

16 By /s/ Adam Garth
17 S. BRENT VOGEL
18 Nevada Bar No. 6858
19 ADAM GARTH
20 Nevada Bar No. 15045
21 6385 S. Rainbow Boulevard, Suite 600
22 Las Vegas, Nevada 89118
23 Tel. 702.893.3383
24 *Attorneys for Attorneys for Defendant Valley*
25 *Health System, LLC dba Centennial Hills Hospital*
26 *Medical Center*

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Agreed as to form and substance by:

2

Refused to sign

3

Paul S. Padda, Esq.

4

Srilata Shah, Esq.

5

PAUL PADDA LAW, PLLC

6

4560 S. Decatur Blvd., Suite 300

7

Las Vegas, NV 89103

8

Tel: 702.366.1888

9

Fax: 702.366.1940

10

psp@paulpaddalaw.com

11

Attorneys for Plaintiffs

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this ____ day of May, 2022, a true and correct copy of **DEFENDANT**
3 **VALLEY HEALTH SYSTEM LLC'S JUDGMENT OF COSTS AND ATTORNEYS' FEES**
4 **PER NRS 18.020, 18.005, 18.110, 17.117, and N.R.C.P. 68(f) AS AGAINST PLAINTIFFS** was
5 served by electronically filing with the Clerk of the Court using the Odyssey E-File & Serve system
6 and serving all parties with an email-address on record, who have agreed to receive electronic service
7 in this action.

8 Paul S. Padda, Esq.
9 PAUL PADDA LAW, PLLC
10 4560 S. Decatur Blvd., Suite 300
11 Las Vegas, NV 89103
12 Tel: 702.366.1888
13 Fax: 702.366.1940
14 psp@paulpaddalaw.com
15 *Attorneys for Plaintiffs*

16 By /s/ Heidi Brown
17 An Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
20
21
22
23
24
25
26
27
28

From: [Paul Padda](#)
To: [Garth, Adam](#); [Srilata Shah](#)
Cc: [Vogel, Brent](#); [Brown, Heidi](#); [San Juan, Maria](#)
Subject: [EXT] RE: Powell v Valley - CHH's Judgment for Costs #2.pdf
Date: Monday, May 16, 2022 1:26:18 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)



We cannot agree to this. Thanks.

Paul S. Padda, Esq.

PAUL PADDALAW, PLLC
(702) 366-1888
paulpaddalaw.com



Nevada Physical Office:
4560 South Decatur Blvd, Suite 300
Las Vegas, Nevada 89103
Tele: [\(702\) 366-1888](tel:(702)366-1888)

California Physical Office:
300 South Grand Avenue, Suite 3840
Los Angeles, California 90071
Tele: (213) 423-7788

Mailing Address For All Offices:
4030 South Jones Blvd., Unit 30370
Las Vegas, Nevada 89173



CONFIDENTIALITY NOTICE: The information in this electronic mail communication contains confidential information which is the property of the sender and may be protected by the attorney-client privilege and/or attorney work product doctrine. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorized by the sender. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution of the contents of this e-mail transmission or the taking or omission of any action in reliance thereon or pursuant thereto, is prohibited, and may be unlawful. If you received this e-mail in error, please notify us immediately of your receipt of this message by e-mail and destroy this communication, any attachments, and all copies thereof. Thank you for your cooperation.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>
Sent: Thursday, May 12, 2022 12:43 PM
To: Paul Padda <psp@paulpaddalaw.com>; Srilata Shah <sri@paulpaddalaw.com>
Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Brown, Heidi <Heidi.Brown@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>
Subject: Powell v Valley - CHH's Judgment for Costs #2.pdf

Counsel,

Please see attached. Please advise if we may affix your e-signature to the judgment.

Adam Garth



Adam Garth

Partner

Adam.Garth@lewisbrisbois.com

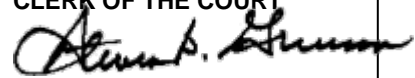
T: 702.693.4335 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

[Representing clients from coast to coast. View our locations nationwide.](#)

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

EXHIBIT A



1 **NEOJ**
S. BRENT VOGEL
2 Nevada Bar No. 06858
Brent.Vogel@lewisbrisbois.com
3 ADAM GARTH
Nevada Bar No. 15045
4 Adam.Garth@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
5 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
6 T: 702.893.3383
F: 702.893.3789
7 *Attorneys for Defendant Valley Health System,*
LLC dba Centennial Hills Hospital Medical
8 *Center*

9
10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

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

15 Plaintiffs,

16 vs.

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

22 Defendants.

Case No. A-19-788787-C

Dept. No. 30

NOTICE OF ENTRY OF ORDER

23
24 PLEASE TAKE NOTICE that an ORDER was entered with the Court in the above-
25 captioned matter on the 19th day of November 2021, a copy of which is attached hereto.

26 ///

27 ///

28 ///

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

DATED this 19th day of November, 2021.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Adam Garth
S. BRENT VOGEL
Nevada Bar No. 06858
ADAM GARTH
Nevada Bar No. 15045
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
702.893.3383
*Attorneys for Attorneys for Defendant Valley
Health System, LLC dba Centennial Hills Hospital
Medical Center*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 19th day of November, 2021, a true and correct copy of
3 **NOTICE OF ENTRY OF ORDER** was served by electronically filing with the Clerk of the
4 Court using the Odyssey E-File & Serve system and serving all parties with an email-address on
5 record, who have agreed to receive electronic service in this action.

6 Paul S. Padda, Esq.
7 PAUL PADDA LAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN. H. COTTON & ASSOCIATES
7900 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipleyr@jhcottonlaw.com
*Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.*

14
15 By /s/ Roya Rokni
16 An Employee of
17 LEWIS BRISBOIS BISGAARD & SMITH LLP
18
19
20
21
22
23
24
25
26
27
28

ORDR

S. BRENT VOGEL

Nevada Bar No. 6858

Brent.Vogel@lewisbrisbois.com

ADAM GARTH

Nevada Bar No. 15045

Adam.Garth@lewisbrisbois.com

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Telephone: 702.893.3383

Facsimile: 702.893.3789

*Attorneys for Defendant Valley Health System,
LLC dba Centennial Hills Hospital Medical
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL, through
BRIAN POWELL, as Special Administrator;
DARCI CREECY, individually and as 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.: 30

**ORDER VACATING PRIOR ORDER
DENYING DEFENDANT 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**

This matter, coming before this Honorable Court on November 18, 2021 at 10:30 a.m. in
accordance with the order granting the petition for a writ of mandamus issued by the Nevada
Supreme Court dated October 18, 2021, directing that this Court vacate its order of October 29,
2020, which previously denied Defendant VALLEY HEALTH SYSTEM, LLC's motion for

1 summary judgment and co-defendants Concio and Shah's joinder thereto (collectively
2 "Defendants"), and ordering this Court to issue an order entering summary judgment in favor of
3 said Defendants due to the expiration of the statute of limitations, with Paul S. Padda, Esq. and
4 Srilata Shah, Esq. of PAUL PADDA LAW, PLLC, appearing on behalf of Plaintiffs, Adam Garth,
5 Esq., S. Brent Vogel, Esq. and Shady Sirsy, Esq., of the Law Offices of LEWIS BRISBOIS
6 BISGAARD & SMITH LLP, appearing on behalf of the Defendant VALLEY HEALTH SYSTEM,
7 LLC and John H. Cotton, Esq. and Brad Shipley, Esq. of JOHN H. COTTON AND ASSOCIATES,
8 appearing on behalf of DR. CONRADO C.D. CONCIO, M.D. and DR. VISHAL S. SHAH, M.D.,
9 with the Honorable Court having reviewed the order of the Nevada Supreme Court, finds and orders
10 as follows:

11 THE COURT FINDS that Defendants argued that undisputed evidence demonstrated
12 Plaintiffs were on inquiry notice of their alleged professional negligence, wrongful death, and
13 negligent infliction of emotional distress claims by June 11, 2017, at the latest, and

14 THE COURT FURTHER FINDS that Defendants contended that Plaintiffs' February 4,
15 2019 complaint was time-barred under NRS 41A.097(2) (providing that plaintiffs must bring an
16 action for injury or death based on the negligence of a health care provider within three years of the
17 date of injury and within one year of discovering the injury, whichever occurs first), and

18 THE COURT FURTHER FINDS that the term injury in NRS 41A.097 means "legal injury."
19 *Massey v. Litton*, 99 Nev. 723, 726, 669 P.2d 248, 251 (1983). A plaintiff "discovers his legal injury
20 when he knows or, through the use of reasonable diligence, should have known of facts that would
21 put a reasonable person on inquiry notice of his cause of action." *Id.* at 728, 669 P.2d at 252. A
22 plaintiff "is put on 'inquiry notice' when he or she should have known of facts that 'would lead an
23 ordinarily prudent person to investigate the matter further.'" *Winn v. Sunrise Hosp. & Med. Ctr.*,
24 128 Nev. 246, 252, 277 P.3d 458, 462 (2012) (quoting *Inquiry Notice*, *Black's Law Dictionary* (9th
25 ed. 2009)), and

26 THE COURT FURTHER FINDS that while the accrual date for NRS 41A.097(2)'s one-
27 year period is generally a question for the trier of fact, this Court may decide the accrual date as a
28 matter of law when the evidence is irrefutable. *Winn*, 128 Nev. at 251, 277 P.3d at 462, and

1 THIS COURT FURTHER FINDS that here, irrefutable evidence demonstrated that
2 Plaintiffs were on inquiry notice by June 11, 2017, at the latest, when Plaintiff Brian Powell, special
3 administrator for the estate, filed a complaint with the State Board of Nursing. There, Brian alleged
4 that the decedent, Rebecca Powell, “went into respiratory distress” and her health care providers did
5 not appropriately monitor her, abandoning her care and causing her death, and

6 THIS COURT FURTHER FINDS that Brian Powell’s own allegations in the aforesaid
7 Board complaint demonstrate that he had enough information to allege a prima facie claim for
8 professional negligence-that in treating Rebecca Powell, her health care providers failed “to use the
9 reasonable care, skill or knowledge ordinarily used under similar circumstances by similarly trained
10 and experienced providers of health care.” NRS 41A.015 (defining professional negligence); *Winn*,
11 128 Nev. at 252-53; 277 P.3d at 462 (explaining that a “plaintiffs general belief that someone’s
12 negligence may have caused his or her injury” triggers inquiry notice), and

13 THIS COURT FURTHER FINDS that the evidence shows that Plaintiff Brian Powell was
14 likely on inquiry notice even earlier than the aforesaid Board complaint, wherein Plaintiffs alleged
15 they had observed in real time, following a short period of recovery, the rapid deterioration of
16 Rebecca Powell’s health while in Defendants’ care, and

17 THIS COURT FURTHER FINDS that Plaintiff Brian Powell filed a complaint with the
18 Nevada Department of Health and Human Services (NDHHS) on or before May 23, 2017. Similar
19 to the Nursing Board complaint, this complaint alleged facts, such as the Defendants’ failure to
20 upgrade care, sterilize sutures properly, and monitor Rebecca Powell, all of which suggest he already
21 believed, and knew of facts to support his belief, that negligent treatment caused Rebecca Powell’s
22 death by the time he made these complaints to NDHHS and the Nursing Board, and

23 THIS COURT FURTHER FINDS that even though Plaintiffs received Rebecca Powell’s
24 death certificate 17 days later, erroneously listing her cause of death as suicide, that fact did not
25 change the conclusion that Plaintiffs received inquiry notice prior to that date, and

26 THE COURT FURTHER FINDS that Plaintiffs did not adequately address why tolling
27 should apply under NRS 41A.097(3) (providing that the limitation period for a professional
28 negligence claim “is tolled for any period during which the provider of health care has concealed

1 any act, error or omission upon which the action is based”), and

2 THIS COURT FURTHER FINDS that even if Plaintiffs did adequately address the tolling
3 issue, such an argument would be unavailing, as the medical records provided were sufficient for
4 their expert witness to conclude that petitioners were negligent in Rebecca Powell’s care. *See Winn*,
5 128 Nev. at 255, 277 P.3d at 464 (holding that tolling under NRS 41A.097(3) is only appropriate
6 where the intentionally concealed medical records were “material” to the professional negligence
7 claims), and

8 THE COURT FURTHER FINDS that the doctrine of equitable tolling has not been extended
9 to NRS 41A.097(2), and

10 THIS COURT FURTHER FINDS that Plaintiffs did not adequately address whether such
11 an application of equitable tolling is appropriate under these facts. *See Edwards v. Emperor's*
12 *Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (refusing to consider
13 arguments that a party did not cogently argue or support with relevant authority), and

14 THE COURT FURTHER FINDS that Plaintiffs had until June 11, 2018, at the latest, to file
15 their professional negligence claim, making Plaintiffs’ February 4, 2019 complaint untimely, and

16 THE COURT FURTHER FINDS that given the uncontroverted evidence demonstrating that
17 Defendants were entitled to judgment as a matter of law because the complaint was time-barred
18 under NRS 41A.097(2), *see* NRCP 56(a); *Wood*, 121 Nev. at 729, 121 P.3d at 1029 (recognizing
19 that courts must grant summary judgment when the pleadings and all other evidence on file, viewed
20 in a light most favorable to the nonmoving party, "demonstrate that no genuine issue as to any
21 material fact [remains] and that the moving party is entitled to a judgment as a matter of law"
22 (internal quotations omitted));

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this Court’s prior order
24 of October 29, 2020 denying VALLEY HEALTH SYSTEM, LLC’s motion for summary judgment
25 and co-defendants’ joinder thereto is vacated in its entirety, and

26 ///

27 ///

28 ///

1 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant
2 VALLEY HEALTH SYSTEM, LLC's motion for summary judgment and co-defendants' joinders
3 thereto are granted in their entirety due to the untimely filing of this action by Plaintiffs.

4
5 Dated: _____.

Dated this 19th day of November, 2021


DISTRICT COURT JUDGE

8 DATED this ____ day of November, 2021.

11 DATED this 18th day of November, 2021
Jerry A. Wiese
District Court Judge

9
10 *UNSIGNED*

11 Paul S. Padda, Esq.
12 Srilata Shah, Esq.,
13 PAUL PADDALAW, PLLC
14 4560 S. Decatur Blvd., Suite 300
15 Las Vegas, NV 89103
16 Tel: 702.366.1888
17 Fax: 702.366.1940
18 psp@paulpaddalaw.com
19 Attorneys for Plaintiffs

20 DATED this 18th day of November, 2021

21 /s/ Brad Shipley

22 John H. Cotton, Esq.
23 Brad Shipley, Esq.
24 JOHN H. COTTON & ASSOCIATES
25 7900 W. Sahara Ave., Suite 200
26 Las Vegas, NV 89117
27 Tel: 702.832.5909
28 Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipley@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

/s/ Adam Garth

S. BRENT VOGEL, ESQ.
Nevada Bar No. 6858
ADAM GARTH, ESQ.
Nevada Bar No. 15045
SHADY SIRSY, ESQ.
Nevada Bar No. 15818
LEWIS BRISBOIS BISGAARD & SMITH
LLP
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant Valley Health
System, LLC dba Centennial Hills Hospital
Medical Center

From: [Brad Shipley](#)
To: [Garth, Adam](#); [Srilata Shah](#); [Paul Padda](#)
Cc: [Vogel, Brent](#); [Rokni, Roya](#); [Sirsy, Shady](#); [San Juan, Maria](#)
Subject: [EXT] RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"
Date: Friday, November 12, 2021 10:00:14 AM
Attachments: [image001.png](#)

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Adam,

I believe the bracketed word [proposed] in the title caption should be removed before submission to the court, but please use my e-signature with or without making that change. Thank you for taking the time to draft the order.

Brad Shipley, Esq.
John H. Cotton & Associates, Ltd.
7900 W. Sahara ave. #200
Las Vegas, NV 89117
bshipley@jhcottonlaw.com
702 832 5909

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>
Sent: Friday, November 12, 2021 8:50 AM
To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>
Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; John Cotton <jhcotton@jhcottonlaw.com>
Subject: FW: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"
Importance: High

Counsel,

As a reminder, we have not heard from any party with respect to an agreement on submitting the proposed order to the Court. Given that the hearing is scheduled for 11/18, we previously indicated that if we did not hear from all parties by 12:00 noon today, we would proceed to submit this order to the court indicating no agreement between the parties. Please advise your position on this proposed order. Many thanks.

Adam Garth



Adam Garth
Partner
Adam.Garth@lewisbrisbois.com
T: 702.693.4335 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

[Representing clients from coast to coast. View our locations nationwide.](#)

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>

Sent: Tuesday, November 9, 2021 10:33 AM

To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>

Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; jhcotton@jhcottonlaw.com

Subject: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Importance: High

Counsel:

Attached is a proposed order reflecting the Supreme Court's ruling on the writ petition for Judge Wiese's consideration and signature. In accordance with the Supreme Court's order, Judge Wiese was directed to vacate his order denying the respective summary judgment motions and issuing a new order granting said motions. This proposed order does exactly that and reflects the rationale utilized by the Supreme Court in its decision. It is our intention to submit this proposed order to Judge Wiese in advance of the hearing he scheduled for November 18, 2021. Please respond whether we have your consent to use your e-signature on the proposed order prior to submission. If you have proposed changes, please advise accordingly and we can see whether they can be incorporated. We would like to submit the order on or before Friday, November 12, 2021, so please indicate your agreement to the order or if you have an objection. If we do not hear from you by before 11/12 by 12:00 noon, we will submit the order with a letter of explanation as to those parties unwilling to sign and they will have an opportunity to submit any competing order to the Court. Many thanks for your attention to this matter.

Adam Garth

Adam Garth

Partner

Las Vegas Rainbow

702.693.4335 or x7024335

From: [Garth, Adam](#)
To: [Paul Padda](#); [Srilata Shah](#); [Brad Shipley](#)
Cc: [Vogel, Brent](#); [Rokni, Roya](#); [Sirsy, Shady](#); [San Juan, Maria](#); jhcotton@jhcottonlaw.com
Subject: RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"
Date: Friday, November 12, 2021 9:59:40 AM
Attachments: [image001.png](#)
[image002.png](#)

We are not willing to do that. As you were unwilling to stay anything at our request, we will return the courtesy.

From: Paul Padda <psp@paulpaddalaw.com>
Sent: Friday, November 12, 2021 9:56 AM
To: Garth, Adam <Adam.Garth@lewisbrisbois.com>; Srilata Shah <sri@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>
Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; jhcotton@jhcottonlaw.com
Subject: [EXT] RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As you know, there is a motion for rehearing pending in the Supreme Court. Given that fact, and the lack of prejudice to Defendants, please advise if Defendants are willing to stay enforcement of the Supreme Court's decision which is the subject of a motion for rehearing? Thanks.

Paul S. Padda, Esq.
PAUL PADDA LAW, PLLC
Websites: paulpaddalaw.com

Nevada Office:
4560 South Decatur Blvd., Suite 300
Las Vegas, Nevada 89103
Tele: (702) 366-1888

California Office:
One California Plaza
300 South Grand Avenue, Suite 3840
Los Angeles, California 90071
Tele: (213) 423-7788



CONFIDENTIALITY NOTICE: The information in this electronic mail communication contains confidential information which is the property of the sender and may be protected by the attorney-client privilege and/or attorney work product doctrine. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorized by the sender. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution of the contents of this e-mail transmission or the taking or omission of any action in reliance thereon or pursuant thereto, is prohibited, and may be unlawful. If you received this e-mail in error, please notify us immediately of your receipt of this message by e-mail and destroy this communication, any attachments, and all copies thereof. Thank you for your cooperation.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>

Sent: Friday, November 12, 2021 8:50 AM

To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>

Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; jhcotton@jhcottonlaw.com

Subject: FW: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Importance: High

Counsel,

As a reminder, we have not heard from any party with respect to an agreement on submitting the proposed order to the Court. Given that the hearing is scheduled for 11/18, we previously indicated that if we did not hear from all parties by 12:00 noon today, we would proceed to submit this order to the court indicating no agreement between the parties. Please advise your position on this proposed order. Many thanks.

Adam Garth



Adam Garth

Partner

Adam.Garth@lewisbrisbois.com

T: 702.693.4335 F: 702.366.9563

6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | LewisBrisbois.com

[Representing clients from coast to coast. View our locations nationwide.](#)

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.

From: Garth, Adam <Adam.Garth@lewisbrisbois.com>

Sent: Tuesday, November 9, 2021 10:33 AM

To: Srilata Shah <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>

Cc: Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; jhcotton@jhcottonlaw.com

Subject: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"

Importance: High

Counsel:

Attached is a proposed order reflecting the Supreme Court's ruling on the writ petition for Judge Wiese's consideration and signature. In accordance with the Supreme Court's order, Judge Wiese was directed to vacate his order denying the respective summary judgment motions and issuing a new order granting said motions. This proposed order does exactly that and reflects the rationale utilized by the Supreme Court in its decision. It is our intention to submit this proposed order to Judge Wiese in advance of the hearing he scheduled for November 18, 2021. Please respond whether we have your consent to use your e-signature on the proposed order prior to submission. If you have proposed changes, please advise accordingly and we can see whether they can be incorporated. We would like to submit the order on or before Friday, November 12, 2021, so please indicate your agreement to the order or if you have an objection. If we do not hear from you by before 11/12 by 12:00 noon, we will submit the order with a letter of explanation as to those parties unwilling to sign and they will have an opportunity to submit any competing order to the Court. Many thanks for your attention to this matter.

Adam Garth

Adam Garth

Partner

Las Vegas Rainbow

702.693.4335 or x7024335

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: 11/19/2021

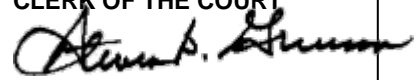
16 Paul Padda	psp@paulpaddalaw.com
17 S. Vogel	brent.vogel@lewisbrisbois.com
18 Jody Foote	jfoote@jhcottonlaw.com
19 Jessica Pincombe	jpinnacle@jhcottonlaw.com
20 John Cotton	jhcotton@jhcottonlaw.com
21 Paul Padda	civil@paulpaddalaw.com
22 Brad Shipley	bshipley@jhcottonlaw.com
23 Tony Abbatangelo	Tony@thevegaslawyers.com
24 Adam Garth	Adam.Garth@lewisbrisbois.com
25 Royak Rokni	roya.rokni@lewisbrisbois.com

26
27
28

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

Diana Escobedo	diana@paulpaddalaw.com
Srilata Shah	sri@paulpaddalaw.com
Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com

EXHIBIT B



1 S. BRENT VOGEL
Nevada Bar No. 6858
2 Brent.Vogel@lewisbrisbois.com
ADAM GARTH
3 Nevada Bar No. 15045
Adam.Garth@lewisbrisbois.com
4 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
5 Las Vegas, Nevada 89118
Telephone: 702.893.3383
6 Facsimile: 702.893.3789
*Attorneys for Defendant Valley Health System,
7 LLC dba Centennial Hills Hospital Medical
Center*

8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA
11

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

15 Plaintiffs,

16 vs.

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

22 Defendants.
23

Case No. A-19-788787-C

Dept. No.: 30

NOTICE OF ENTRY OF ORDER

24 PLEASE TAKE NOTICE that the Order Regarding Valley Health System's Motion for
25 Reconsideration Regarding Motion for Attorneys' Fees was entered on May 4, 2022, a true and
26 correct copy of which is attached hereto.

27 ///

28 ///

1 DATED this 4th day of May, 2022

2 LEWIS BRISBOIS BISGAARD & SMITH LLP

3 By /s/ Adam Garth

4 S. BRENT VOGEL

5 Nevada Bar No. 6858

6 ADAM GARTH

7 Nevada Bar No. 15045

8 6385 S. Rainbow Boulevard, Suite 600

9 Las Vegas, Nevada 89118

10 Tel. 702.893.3383

11 *Attorneys for Attorneys for Defendant Valley*

12 *Health System, LLC dba Centennial Hills Hospital*

13 *Medical Center*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 4th day of May, 2022, a true and correct copy of **NOTICE OF ENTRY**
3 **OF ORDER** was served by electronically filing with the Clerk of the Court using the Odyssey E-
4 File & Serve system and serving all parties with an email-address on record, who have agreed to
5 receive electronic service in this action.

6 Paul S. Padda, Esq.
7 PAUL PADDALAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN. H. COTTON & ASSOCIATES
7900 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipleyr@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

14
15
16 By /s/ Heidi Brown
17 an Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
20
21
22
23
24
25
26
27
28

Heather S. Linn

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
RECONSIDERATION RE
MOTION FOR
ATTORNEYS’ FEES

INTRODUCTION

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ ^{4/1/22}, with regard to Defendant, Valley Health System (Centennial Hospital’s) Motion for **Reconsideration of the Court’s Order re: Defendant’s Motion for Attorneys’ Fees.**

Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter 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. This Court**
19 **entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for**
20 **Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's**
21 **denial of fees and costs. Consequently, this Court no longer has jurisdiction to address**
22 **the issue of fees and costs. If the Court were inclined to reconsider its previous**
23 **decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.***
24 ***Honeycutt*, 94 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228**
25 **P.3d 453 (2010)), indicating its intention.**

26 SUMMARY OF LEGAL AND FACTUAL ARGUMENTS

27 Valley Health System, d/b/a Centennial Hills Hospital (CHH) requests that the
28 **Court reconsider its 2/15/22 Order denying attorneys' fees and costs and award it**
29 **\$110,930.85 in attorneys' fees per N.R.C.P. 68 and NRS § 17.117, plus \$58,514.36 in**
30 **pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR**
31 **7.60. Additionally, CHH requests this Court sign the judgment already submitted for**
32 **the undisputed \$42,492.03.**

CHH contends that this Court conflated two issues- (1) the memorandum of costs and disbursements previously submitted totaling \$42,492.038, “an amount which is undisputed, and for which this Court has refused to sign a judgment,” and (2) the additional costs, disbursements and attorneys’ fees addressed by CHH’s instant motion and the initial motion which sought \$110,930.85 in attorneys’ fees per N.R.C.P. 68 and N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

With regard to first “issue,” CHH argues that because the Court denied Plaintiff’s Motion to Extend Time to Retax Costs, the \$42,492.03 claimed in CHH’s Verified Memorandum of Costs is undisputed and therefore judgment must be signed and entered. CHH stated that, “[t]his Court cannot revisit an issue which has been finally decided and therefore, at a minimum, a judgment for the unchallenged \$42,492.03 in statutory costs and disbursements must be signed.

The majority of CHH’s Motion for Reconsideration concentrates on the second “issue,” that this Court’s decision to deny CHH’s request for an additional \$169,445.21 in costs, disbursements and attorneys’ fees was clearly erroneous. See *Masonry & Tile Contractors v. Jolley, Urga & Wirth Ass’n*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). As a preliminary matter, CHH is concerned by the Court’s comparison to the Motion for Fees filed by Drs. Concio and Shaw. Further, CHH contends it is “more concerning,” that the Court’s prior order stated, “Finally, in considering the result, the Court notes that although the Court found insufficient evidence to establish irrefutably that the statute of limitations had expired, Defense counsel was successful in convincing the Supreme Court of that, and consequently, Defendants prevailed.” According to CHH, “the record needs to be corrected here- there was no convincing the Supreme Court of anything.”

CHH argues that although the Court correctly found that CHH’s offer of judgment was made in good faith and its timing was proper, it erroneously found “Plaintiffs’ decision to reject the offer and proceed to trial was not grossly unreasonable or in bad faith. Plaintiffs believed they had a valid claim, and the Court cannot find that wanting some recovery, as opposed to \$0.00, to be ‘grossly unreasonable’ or in ‘bad faith.’” CHH contends that this finding is unreasonable in light of the Nevada Supreme Court’s determination that Plaintiffs were on notice of any alleged malpractice

1 no more than one month after decedent's death. Similarly, CHH argues that this Court
2 incorrectly found **Plaintiffs'** decision to reject the Offer of Judgment was not made in
3 bad faith and was not grossly unreasonable.

4 **As for the reasonableness of the attorneys' fees requested pursuant to NRCP 68,**
5 CHH states that it offered to present the Court supporting documentation for in camera
6 review, but, **"instead of granting a hearing to which Plaintiffs could interpose whatever**
7 **opposition they may have had, the Court rejected this offer and suggestion."** In
8 addition, Plaintiffs did not oppose the amount of costs and fees incurred in the original
9 motion, even without the attached bills. Additionally, CHH provides that, **"[s]ince this**
10 **Court insisted that the bills be attached, CHH has provided the entirety thereof for**
11 **judicial review and review by Plaintiffs."**

12 In Opposition, Plaintiffs argue that CHH's Motion must be summarily denied,
13 without the Court addressing the merits of the Motion because CHH did not present
14 any new or substantially different evidence than what it had the opportunity to present
15 when it filed its Verified Memorandum of Costs and separate Motion for Attorney's
16 Fees on 11/22/21. **Further, Plaintiffs contend that CHH's Motion for Reconsideration is**
17 **"clearly a transparent attempt to bolster a potential appeal by inviting the Court to**
18 **engage with the merits," because a motion for reconsideration is only appealable if**
19 **decided on the merits. AA Primo Builders, LLC v. Washington, 126 Nev. 578, 589**
20 **(2010).**

21 Further, Plaintiffs argue that CHH falsely claims that it attached evidence to its
22 Motion for Reconsideration that **"was originally submitted to this Court."** Plaintiffs also
23 **state that CHH's Motion lacks any authority showing the Court's denial of costs was**
24 **clearly erroneous, and it does not even engage with the authorities cited on pages 7**
25 **through 9 of the Court's 2/15/22 Order. Plaintiffs argue they should not be liable for**
26 **CHH's negligence in failing to follow both the statutory and common law requirements**
27 **for establishing entitlement to costs. Plaintiffs argue that this Court was thus correct in**
28 **denying CHH costs in their entirety for lack of proper documentation and reliable**
evidence.

With regard to CHH's request to reconsider the denial of fees, Plaintiffs note that
the Court's denial was based upon its finding that (1) Plaintiffs did not act in bad faith
or in a grossly unreasonable manner when they rejected CHH zero dollar Offer of

1 Judgment and (2) the documentation in support of the request for attorney's fees was
2 lacking. While the first finding by itself ends the inquiry into whether fees can be
3 awarded, in this case the Court also found that "[a]lthough the Defendant [CHH] has
4 offered to submit a billing ledger to the Court in camera, it would have been necessary
5 for the Defendant to have submitted such ledger, and disclosed it to the Plaintiffs so
6 that the reasonableness could have been addressed by all parties, and by the Court."
7 Plaintiffs argue that since this never happened, there was no reasonable basis for this
8 Court to assess the reasonableness of fees being claimed by CHH. Plaintiffs argue that
9 CHH merely rehashes the same arguments presented in its original Motion for Fees.

10 Moreover, Plaintiffs argue that the Court's decision to deny fees was not clearly
11 erroneous because the disposition of this case turned on a legal question, which the
12 Nevada Supreme Court decided, well after the time Plaintiffs rejected the Offer of
13 Judgment. It would be ridiculous to expect Plaintiffs, grieving the death of their
14 mother, to anticipate the legal issue and foresee its resolution by the Nevada Supreme
15 Court when they rejected the Offer of Judgment. CHH itself acknowledges this fact
16 when it admits, "[m]edical malpractice cases are complex and require an in-depth
17 understanding of both unique legal issues as well as the medical care and course that is
18 at issue." VHS' Motion for Reconsideration, p. 21 (lines 1-2).

19 Finally, Plaintiffs argue that the CHH fails to address the deficiency of
20 withholding a billing ledger when it made its fee request and instead asking the Court
21 to rely only upon the declaration of its counsel.

22 **In Reply, CHH argues that Plaintiff incorrectly asserts CHH "has not presented**
23 **any new or substantially different evidence than what it had the opportunity to present**
24 **when it filed its original Verified Memorandum of Costs and separate Motion for**
25 **Attorneys' Fees..." CHH's instant motion is predicated on this Court's clearly erroneous**
26 **decision to: (1) refuse to sign a judgment for an undisputed amount of legally**
27 **awardable costs to which CHH is entitled, and (2) to deny additional costs and**
28 **attorneys' fees stemming from Plaintiff's commencement and maintenance of an action**
that the Supreme Court found was not only untimely, but that this Court's decision to
deny summary judgment in light of the evidence was a manifest abuse of discretion.

1 Noting that the Court decided the underlying Motion on the papers and without
2 oral argument, CHH contends that this Court ignored the request for in camera review
3 **of any evidence it required, with Plaintiffs' opportunity to review same as well. The**
4 Court also denied any request for statutorily permitted costs and fees, which was never
5 **opposed by Plaintiffs, and denied the discretionary motion for attorneys' fees and costs**
6 predicated on other legal and statutory bases. CHH suggests that these denials were
7 based upon **this Court's abuse of its discretion and refusal to accept the underlying**
8 **findings of the Supreme Court pertaining to the evidence Plaintiffs knowingly**
9 **possessed which demonstrated clear inquiry notice within one month of the decedent's**
10 death.

11 CHH argues that this Court erroneously concluded that CHH submitted no
12 documentary evidence or explanation of costs attendant to the verified memorandum
13 of costs. However, the verified memorandum of costs contained not only a complete
14 listing of disbursements which are allowable under the law for these purposes, but the
15 declaration explained that the expenses were accurate and were incurred and were
16 reasonable. Moreover, the memorandum explained and justified each of the costs,
17 supported by case authority and an application of the respective factors considered to
18 the specific facts and circumstances of this case. As such, CHH claims there was more
19 than ample evidentiary justification for the costs claimed including court filing fees and
20 the expert fees which were justified by the explanations contained in the verified
21 memorandum. For this Court to somehow assert complete ignorance of the legal and
22 appellate history of this case was clearly erroneous.

23 Moreover, CHH states that Plaintiffs never disputed, nor to this day dispute, the
24 veracity and accuracy of the costs contained in the verified memorandum of costs. CHH
25 **argues that, "There was no absence of evidence justifying the costs. The Court just**
26 **chose to ignore it and improperly declared they were insufficient, citing to the**
27 **aforenoted authority." CHH argues that the authority does stand for the proposition for**
28 which they are cited or was misapplied by the Court. The authority cited involved no
evidence or documentation. CHH not only provided evidence, it justified the costs,
especially of the voluminous number of experts needed for retention due to the
blunderbuss of allegations.

1 CHH further states:

2 **Rather than accepting the Supreme Court's decision and rationale, this**
3 **Court's denial of CHH's motion and the rationale** behind that decision
4 continues to perpetuate the false notion that the action was either
5 brought or maintained in good faith, a fact completely dispelled by the
6 **Supreme Court's decision. Thus, denying costs and attorneys' fees in light**
7 of the Supreme **Court's decision is not only clearly erroneous, it is also a**
8 manifest abuse of discretion which the instant motion seeks to redress.

9 Again, this Court possessed admissible evidence of the work, time and
10 expenses on the original motion. This Court wanted more than that. This
11 motion gives the Court everything it could possibly need. Moreover, all of
12 this could have been obviated by a hearing with an opportunity for all
13 parties to participate to consider the totality of the evidence which has
14 now been submitted, and would have been submitted had the in camera
15 inspection thereof been considered.

16 FINDINGS OF FACT AND CONCLUSIONS OF LAW

17 Pursuant to EDCR 2.24(a), "[n]o motion once heard and disposed of may be
18 renewed in the same cause, nor may the same matters therein embraced by reheard,
19 unless by leave of the court granted upon motion therefor, after notice of such motion
20 to the adverse parties."

21 Nevada courts have inherent authority to reconsider their prior orders. See,
22 *Trail v. Faretto*, 91 Nev. 401 (1975). A party may, "for sufficient cause shown ... request
23 that a court ... amend, correct, resettle, modify, or vacate, as the case may be, an order
24 previously made and entered ... in the case or proceeding. *Id.* at 403. A court may
25 exercise its discretion to revisit and reverse a prior ruling if any one of five
26 circumstances is present: (1) a clearly erroneous ruling; (2) an intervening change in
27 controlling law; (3) substantially different evidence; (4) other changed circumstances;
28 or (5) that manifest injustice would result if the prior ruling is permitted to stand.
United States v. Real Prop_ Located at Incline Village, 976 F. Supp. 1327, 1353
(D.Nev. 1997). A motion for reconsideration should be granted where new issues of fact
or law are raised which support a "ruling contrary to the ruling already reached."
Moore v. City of Las Vegas, 92 Nev. 402, 405 (1976).

Although the Defendants take offense at the language the Court used in its
previous Order, this Court intended nothing negative by indicating that Defendants
were able to "convince" the Supreme Court of their position. Such statement was made

1 simply to convey the “fact” that the Supreme Court was “convinced” that the
2 Defendant’s position was correct. Defendants argue that the Court’s denial of fees and
3 costs was somehow a continuation of the Court’s position in favor of the Plaintiff, but
4 this is also incorrect. In fact, the Court found that the *Beattie* and *Brunzell* factors
5 weighed in favor of the Defense, but since the Defense had not supported its request for
6 fees and costs, as required by the Nevada Supreme Court, this Court was unable to
7 award fees and costs. *Beattie v. Thomas*, 99 Nev. 579, 588, 668 P.2d 268 (1983);
8 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969).

9 Additionally, Defendants argue that because they submitted a Memorandum of
10 **Costs, which was not timely objected to, they are “entitled” to whatever they asked for.**
11 This is also incorrect. A party is only entitled to costs if they are substantiated, and the
12 Court finds that such costs were reasonable, and incurred in the subject litigation.
13 *Frazier v. Drake*, 131 Nev. 632, 357 P.3d 365 (NV.Ct.of App., 2015); *Bobby Berosini,*
14 *Ltd. V. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353, 971 P.2d 383
15 (1998); *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015).

16 Finally, Defendants suggest that the Court would have been able to review the
17 supporting documents, which Defendant failed to initially provide, if the Court had
18 held a “hearing” and allowed the Defendant to present such documents. **Part of the**
19 **Court’s previous inability to award fees was based on the Defendant’s failure to provide**
20 **support for the fees requested, although such documentation was offered to the Court**
21 **“in camera.” It is simply not “fair” to an opposing party, to offer supporting documents**
22 **“in camera,” implying that the opposing party will not have the opportunity to**
23 **challenge such documents. Based on the Defendant’s suggestion that they would make**
24 **billing records available to the Court “in camera,” the Court was led to believe that such**
25 **documents would not be provided to the Plaintiff.**

26 The Defendant has now submitted documentation supporting the claim for
27 **attorney’s fees.** Because the Court has now been presented with substantially different
28 or additional evidence, reconsideration is appropriate.

Defendant has now provided billing records indicating the following:

5/27/20	\$725.00
6/1/20-6/28/20	\$3,510.00
7/1/20-7/31/20	\$10,192.50
8/10/20-8/28/20	\$8,865.00
9/1/20-9/25/20	\$19,642.50

10/1/20-10/29/20	\$12,559.50
11/2/20-11/30/20	\$14,392.80
12/1/20-12/22/20	\$3,690.00
1/5/21-1/21/21	\$4,449.00
2/4/21-2/19/21	\$1,489.50
3/4/21-3/30/21	\$2,150.00
4/2/21-4/30/21	\$11,200.00
5/5/21-5/21/21	\$905.00
6/4/21-6/25/21	\$6,629.50
7/7/21-7/29/21	\$1,026.50
8/3/21-8/31/21	\$5,841.50
9/8/21-9/30/21	\$4,375.00
10/1/21-10/27/21	\$10,700.00
11/9/21-11/23/21	\$2,826.50
12/2/21-12/29/21	\$7,975.00
1/3/22-1/25/22	<u>\$4,925.00</u>
Total:	\$138,069.80

Defendant has now provided documentation supporting the following costs:

American Legal Investigation	\$27.43
Ruffalo & Associates	\$4,350.00
	\$1,800.00
	\$10,350.00
Abraham Ishaaya, M.D.	\$6,710.00
	\$1,375.00
	\$6,187.50
	\$2,970.00
	\$3,437.50
	\$4,675.00
Cohen Volk Economic Counseling	\$688.50
	\$3,855.60
JAMS	\$3,000.00
Filing Fees	<u>\$529.50</u>
Total:	\$49,956.03

Defendant argues that it is entitled to \$42,492.03, and **\$110,930.85 in attorneys' fees** per N.R.C.P. 68 and N.R.S. §§17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

On August 28, 2020, Defendant served an Offer of Judgment on Plaintiff pursuant to N.R.C.P. 68, N.R.S. 17.1151, and *Busick v. Trainor*, 2019 Nev. Unpub. LEXIS 378, 437 P.3d 1050 (2019) for a waiver of any presently or potentially recoverable costs in full and final settlement of the matter. At the time of the Offer,

1 **Defendants' expended costs and fees totaled \$58,514.36.** The Offer was not accepted by
2 Plaintiff and expired on September 11, 2020.

3 Since the date of the Offer of Judgment, Defendant argues that it incurred
4 **\$106,619.85 in attorney's fees, and paralegal's fees in the amount of \$4,230.00.** This
5 Court finds and concludes that the fees incurred by Defendant were reasonable and
6 necessarily incurred in the defense of the case. This Court adopts by reference its prior
7 **reasoning and analysis relating to the requested attorney's fees, and now that the Court**
8 has been provided with the documentary support of such fees, and finds that such fees
9 were reasonable, pursuant to *Beattie* and *Brunzell*, the Court finds and concludes that
10 such fees are appropriate and recoverable. The Court further finds that the Defendant
11 has now met the requirements of *Frazier*, with regard to documenting the costs
12 incurred. The Court is still not convinced that the expert fees, in addition to the \$1,500
13 recoverable by statute, are necessary or recoverable. Consequently, in reducing each of
14 the expert's fees to **\$1,500.00, the above-referenced costs, which have been**
documented, must be reduced to \$8,056.93.

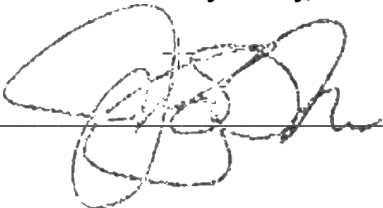
15 CONCLUSION/ORDER

16 Based upon the foregoing, and good cause appearing,

17 This Court now indicates its intention, pursuant to *Huneycutt v. Huneycutt*, 94
18 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228 P.3d 453
19 (2010), that if this Court had jurisdiction to decide this matter, the Court would now
20 **award attorney's fees of \$110,849.85, and costs of \$8,056.93.**

21 Because this matter has been decided on the pleadings, any future hearings
22 relating to this matter are taken off calendar. The Court requests that counsel for
23 Defendant prepare and process a Notice of Entry with regard to this matter, and convey
24 this Decision to the Supreme Court, pursuant to *Huneycutt* and *Dingwall*.

25 **Dated this 4th day of May, 2022**

26 

27
28 **0D9 DD7 5826 D5EB
Jerry A. Wiese
District Court Judge**

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: 5/4/2022

16 Paul Padda psp@paulpaddalaw.com

17 S. Vogel brent.vogel@lewisbrisbois.com

18 Jody Foote jfoote@jhcottonlaw.com

19 Jessica Pincombe jpincombe@jhcottonlaw.com

20 John Cotton jhcotton@jhcottonlaw.com

21 Brad Shipley bshipley@jhcottonlaw.com

22 Tony Abbatangelo Tony@thevegaslawyers.com

23 Adam Garth Adam.Garth@lewisbrisbois.com

24 Paul Padda civil@paulpaddalaw.com

25 Srilata Shah sri@paulpaddalaw.com

26
27
28

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

Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com
Kimberly DeSario	kimberly.desario@lewisbrisbois.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com

EXHIBIT C

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC,

Appellant,

vs.

ESTATE OF REBECCA POWELL, DARCI
CREECY, TARYN CREECY, ISAIAH
KHOSROF, and LLOYD CREECY,

Respondents.

Supreme Court No.: 84402

Electronically Filed
May 12 2022 10:56 a.m.

District Court No.: A-15-788787-C
Elizabeth A. Brown
Clerk of Supreme Court

NOTICE OF WITHDRAWAL OF APPEAL

VALLEY HEALTH SYSTEM, LLC, appellant named above, hereby
moves to voluntarily withdraw the appeal mentioned above.

I, Adam Garth, Esq., as counsel for the appellant, explained and informed
VALLEY HEALTH SYSTEM, LLC of the legal effects and consequences of this
voluntary withdrawal of this appeal, including that VALLEY HEALTH SYSTEM,
LLC cannot hereafter seek to reinstate this appeal and that any issues that were or
could have been brought in this appeal are forever waived. Having been so
informed, VALLEY HEALTH SYSTEM, LLC hereby consents to a voluntary
dismissal of the above-mentioned appeal.

VERIFICATION

I recognize that pursuant to N.R.A.P. 3C I am responsible for filing a notice of withdrawal of appeal and that the Supreme Court of Nevada may sanction an attorney for failing to file such a notice. I therefore certify that the information provided in this notice of withdrawal of appeal is true and complete to the best of my knowledge, information and belief.

DATED this 12th day of May, 2022

LEWIS BRISBOIS BISGAARD &
SMITH LLP

By /s/ Adam Garth
S. BRENT VOGEL
Nevada Bar No. 006858
ADAM GARTH
Nevada Bar No. 15045
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Tel. 702.893.3383
Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 2022, a true and correct copy of **NOTICE OF WITHDRAWAL OF APPEAL** was served upon the following parties by electronic service through this Court's electronic service system and also by placing a true and correct copy thereof in the United States Mail in Las Vegas, Nevada with first class postage fully prepaid:.

Paul S. Padda, Esq.
PAUL PADDA LAW, PLLC
4560 S. Decatur Blvd., Suite 300
Las Vegas, NV 89103
Tel: 702.366.1888
Fax: 702.366.1940
psp@paulpaddalaw.com
Attorneys for Plaintiffs

By /s/ Heidi Brown
An Employee of
LEWIS BRISBOIS BISGAARD &
SMITH LLP

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 Judgment was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 6/2/2022

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

26
27
28

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

Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com
Kimberly DeSario	kimberly.desario@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com

Heaven 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;)
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

**ORDER RE: VALLEY
HEALTH SYSTEM'S
MOTION FOR
RECONSIDERATION RE
MOTION FOR
ATTORNEYS' FEES**

INTRODUCTION

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ ^{4/1/22}, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Reconsideration of the Court's Order re: Defendant's Motion for Attorneys' Fees. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter 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. This Court
19 entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for
20 Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's
21 denial of fees and costs. Consequently, this Court no longer has jurisdiction to address
22 the issue of fees and costs. If the Court were inclined to reconsider its previous
23 decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.*
24 *Honeycutt*, 94 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228
25 P.3d 453 (2010)), indicating its intention.

26 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

27 Valley Health System, d/b/a Centennial Hills Hospital (CHH) requests that the
28 Court reconsider its 2/15/22 Order denying attorneys' fees and costs and award it
\$110,930.85 in attorneys' fees per N.R.C.P. 68 and NRS § 17.117, plus \$58,514.36 in
pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR
7.60. Additionally, CHH requests this Court sign the judgment already submitted for
the undisputed \$42,492.03.

1 CHH contends that this Court conflated two issues- (1) the memorandum of
2 costs and disbursements previously submitted totaling \$42,492.038, “an amount which
3 is undisputed, and for which this Court has refused to sign a judgment,” and (2) the
4 additional costs, disbursements and attorneys’ fees addressed by CHH’s instant motion
5 and the initial motion which sought \$110,930.85 in attorneys’ fees per N.R.C.P. 68 and
6 N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to
7 N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

8 With regard to first “issue,” CHH argues that because the Court denied Plaintiff’s
9 Motion to Extend Time to Retax Costs, the \$42,492.03 claimed in CHH’s Verified
10 Memorandum of Costs is undisputed and therefore judgment must be signed and
11 entered. CHH stated that, “[t]his Court cannot revisit an issue which has been finally
12 decided and therefore, at a minimum, a judgment for the unchallenged \$42,492.03 in
13 statutory costs and disbursements must be signed.

14 The majority of CHH’s Motion for Reconsideration concentrates on the second
15 “issue,” that this Court’s decision to deny CHH’s request for an additional \$169,445.21
16 in costs, disbursements and attorneys’ fees was clearly erroneous. See *Masonry & Tile*
17 *Contractors v. Jolley, Urga & Wirth Ass’n*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).
18 As a preliminary matter, CHH is concerned by the Court’s comparison to the Motion
19 for Fees filed by Drs. Concio and Shaw. Further, CHH contends it is “more concerning,”
20 that the Court’s prior order stated, “Finally, in considering the result, the Court notes
21 that although the Court found insufficient evidence to establish irrefutably that the
22 statute of limitations had expired, Defense counsel was successful in convincing the
23 Supreme Court of that, and consequently, Defendants prevailed.” According to CHH,
24 “the record needs to be corrected here- there was no convincing the Supreme Court of
25 anything.”

26 CHH argues that although the Court correctly found that CHH’s offer of
27 judgment was made in good faith and its timing was proper, it erroneously found
28 “Plaintiffs’ decision to reject the offer and proceed to trial was not grossly unreasonable
or in bad faith. Plaintiffs believed they had a valid claim, and the Court cannot find
that wanting some recovery, as opposed to \$0.00, to be ‘grossly unreasonable’ or in
‘bad faith.’” CHH contends that this finding is unreasonable in light of the Nevada
Supreme Court’s determination that Plaintiffs were on notice of any alleged malpractice

1 no more than one month after decedent's death. Similarly, CHH argues that this Court
2 incorrectly found Plaintiffs' decision to reject the Offer of Judgment was not made in
3 bad faith and was not grossly unreasonable.

4 As for the reasonableness of the attorneys' fees requested pursuant to NRCP 68,
5 CHH states that it offered to present the Court supporting documentation for in camera
6 review, but, "instead of granting a hearing to which Plaintiffs could interpose whatever
7 opposition they may have had, the Court rejected this offer and suggestion." In
8 addition, Plaintiffs did not oppose the amount of costs and fees incurred in the original
9 motion, even without the attached bills. Additionally, CHH provides that, "[s]ince this
10 Court insisted that the bills be attached, CHH has provided the entirety thereof for
judicial review and review by Plaintiffs."

11 In Opposition, Plaintiffs argue that CHH's Motion must be summarily denied,
12 without the Court addressing the merits of the Motion because CHH did not present
13 any new or substantially different evidence than what it had the opportunity to present
14 when it filed its Verified Memorandum of Costs and separate Motion for Attorney's
15 Fees on 11/22/21. Further, Plaintiffs contend that CHH's Motion for Reconsideration is
16 "clearly a transparent attempt to bolster a potential appeal by inviting the Court to
17 engage with the merits," because a motion for reconsideration is only appealable if
18 decided on the merits. *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589
(2010).

19 Further, Plaintiffs argue that CHH falsely claims that it attached evidence to its
20 Motion for Reconsideration that "was originally submitted to this Court." Plaintiffs also
21 state that CHH's Motion lacks any authority showing the Court's denial of costs was
22 clearly erroneous, and it does not even engage with the authorities cited on pages 7
23 through 9 of the Court's 2/15/22 Order. Plaintiffs argue they should not be liable for
24 CHH's negligence in failing to follow both the statutory and common law requirements
25 for establishing entitlement to costs. Plaintiffs argue that this Court was thus correct in
26 denying CHH costs in their entirety for lack of proper documentation and reliable
evidence.

27 With regard to CHH's request to reconsider the denial of fees, Plaintiffs note that
28 the Court's denial was based upon its finding that (1) Plaintiffs did not act in bad faith
or in a grossly unreasonable manner when they rejected CHH zero dollar Offer of

1 Judgment and (2) the documentation in support of the request for attorney's fees was
2 lacking. While the first finding by itself ends the inquiry into whether fees can be
3 awarded, in this case the Court also found that "[a]lthough the Defendant [CHH] has
4 offered to submit a billing ledger to the Court in camera, it would have been necessary
5 for the Defendant to have submitted such ledger, and disclosed it to the Plaintiffs so
6 that the reasonableness could have been addressed by all parties, and by the Court."
7 Plaintiffs argue that since this never happened, there was no reasonable basis for this
8 Court to assess the reasonableness of fees being claimed by CHH. Plaintiffs argue that
9 CHH merely rehashes the same arguments presented in its original Motion for Fees.

10 Moreover, Plaintiffs argue that the Court's decision to deny fees was not clearly
11 erroneous because the disposition of this case turned on a legal question, which the
12 Nevada Supreme Court decided, well after the time Plaintiffs rejected the Offer of
13 Judgment. It would be ridiculous to expect Plaintiffs, grieving the death of their
14 mother, to anticipate the legal issue and foresee its resolution by the Nevada Supreme
15 Court when they rejected the Offer of Judgment. CHH itself acknowledges this fact
16 when it admits, "[m]edical malpractice cases are complex and require an in-depth
17 understanding of both unique legal issues as well as the medical care and course that is
18 at issue." VHS' Motion for Reconsideration, p. 21 (lines 1-2).

19 Finally, Plaintiffs argue that the CHH fails to address the deficiency of
20 withholding a billing ledger when it made its fee request and instead asking the Court
21 to rely only upon the declaration of its counsel.

22 In Reply, CHH argues that Plaintiff incorrectly asserts CHH "has not presented
23 any new or substantially different evidence than what it had the opportunity to present
24 when it filed its original Verified Memorandum of Costs and separate Motion for
25 Attorneys' Fees..." CHH's instant motion is predicated on this Court's clearly erroneous
26 decision to: (1) refuse to sign a judgment for an undisputed amount of legally
27 awardable costs to which CHH is entitled, and (2) to deny additional costs and
28 attorneys' fees stemming from Plaintiff's commencement and maintenance of an action
that the Supreme Court found was not only untimely, but that this Court's decision to
deny summary judgment in light of the evidence was a manifest abuse of discretion.

1 Noting that the Court decided the underlying Motion on the papers and without
2 oral argument, CHH contends that this Court ignored the request for in camera review
3 of any evidence it required, with Plaintiffs' opportunity to review same as well. The
4 Court also denied any request for statutorily permitted costs and fees, which was never
5 opposed by Plaintiffs, and denied the discretionary motion for attorneys' fees and costs
6 predicated on other legal and statutory bases. CHH suggests that these denials were
7 based upon this Court's abuse of its discretion and refusal to accept the underlying
8 findings of the Supreme Court pertaining to the evidence Plaintiffs knowingly
9 possessed which demonstrated clear inquiry notice within one month of the decedent's
10 death.

11 CHH argues that this Court erroneously concluded that CHH submitted no
12 documentary evidence or explanation of costs attendant to the verified memorandum
13 of costs. However, the verified memorandum of costs contained not only a complete
14 listing of disbursements which are allowable under the law for these purposes, but the
15 declaration explained that the expenses were accurate and were incurred and were
16 reasonable. Moreover, the memorandum explained and justified each of the costs,
17 supported by case authority and an application of the respective factors considered to
18 the specific facts and circumstances of this case. As such, CHH claims there was more
19 than ample evidentiary justification for the costs claimed including court filing fees and
20 the expert fees which were justified by the explanations contained in the verified
21 memorandum. For this Court to somehow assert complete ignorance of the legal and
22 appellate history of this case was clearly erroneous.

23 Moreover, CHH states that Plaintiffs never disputed, nor to this day dispute, the
24 veracity and accuracy of the costs contained in the verified memorandum of costs. CHH
25 argues that, "There was no absence of evidence justifying the costs. The Court just
26 chose to ignore it and improperly declared they were insufficient, citing to the
27 aforenoted authority." CHH argues that the authority does stand for the proposition for
28 which they are cited or was misapplied by the Court. The authority cited involved no
evidence or documentation. CHH not only provided evidence, it justified the costs,
especially of the voluminous number of experts needed for retention due to the
blunderbuss of allegations.

1 CHH further states:

2 Rather than accepting the Supreme Court's decision and rationale, this
3 Court's denial of CHH's motion and the rationale behind that decision
4 continues to perpetuate the false notion that the action was either
5 brought or maintained in good faith, a fact completely dispelled by the
6 Supreme Court's decision. Thus, denying costs and attorneys' fees in light
7 of the Supreme Court's decision is not only clearly erroneous, it is also a
8 manifest abuse of discretion which the instant motion seeks to redress.

9 Again, this Court possessed admissible evidence of the work, time and
10 expenses on the original motion. This Court wanted more than that. This
11 motion gives the Court everything it could possibly need. Moreover, all of
12 this could have been obviated by a hearing with an opportunity for all
13 parties to participate to consider the totality of the evidence which has
14 now been submitted, and would have been submitted had the in camera
15 inspection thereof been considered.

16 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

17 Pursuant to EDCR 2.24(a), "[n]o motion once heard and disposed of may be
18 renewed in the same cause, nor may the same matters therein embraced by reheard,
19 unless by leave of the court granted upon motion therefor, after notice of such motion
20 to the adverse parties."

21 Nevada courts have inherent authority to reconsider their prior orders. See,
22 *Trail v. Faretto*, 91 Nev. 401 (1975). A party may, "for sufficient cause shown ... request
23 that a court ... amend, correct, resettle, modify, or vacate, as the case may be, an order
24 previously made and entered ... in the case or proceeding. *Id.* at 403. A court may
25 exercise its discretion to revisit and reverse a prior ruling if any one of five
26 circumstances is present: (1) a clearly erroneous ruling; (2) an intervening change in
27 controlling law; (3) substantially different evidence; (4) other changed circumstances;
28 or (5) that manifest injustice would result if the prior ruling is permitted to stand.
United States v. Real Prop_ . Located at Incline Village, 976 F. Supp. 1327, 1353
(D.Nev. 1997). A motion for reconsideration should be granted where new issues of fact
or law are raised which support a "ruling contrary to the ruling already reached."
Moore v. City of Las Vegas, 92 Nev. 402, 405 (1976).

Although the Defendants take offense at the language the Court used in its
previous Order, this Court intended nothing negative by indicating that Defendants
were able to "convince" the Supreme Court of their position. Such statement was made

1 simply to convey the “fact” that the Supreme Court was “convinced” that the
2 Defendant’s position was correct. Defendants argue that the Court’s denial of fees and
3 costs was somehow a continuation of the Court’s position in favor of the Plaintiff, but
4 this is also incorrect. In fact, the Court found that the *Beattie* and *Brunzell* factors
5 weighed in favor of the Defense, but since the Defense had not supported its request for
6 fees and costs, as required by the Nevada Supreme Court, this Court was unable to
7 award fees and costs. *Beattie v. Thomas*, 99 Nev. 579, 588, 668 P.2d 268 (1983);
8 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969).

9 Additionally, Defendants argue that because they submitted a Memorandum of
10 Costs, which was not timely objected to, they are “entitled” to whatever they asked for.
11 This is also incorrect. A party is only entitled to costs if they are substantiated, and the
12 Court finds that such costs were reasonable, and incurred in the subject litigation.
13 *Frazier v. Drake*, 131 Nev. 632, 357 P.3d 365 (NV.Ct.of App., 2015); *Bobby Berosini,*
14 *Ltd. V. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353, 971 P.2d 383
15 (1998); *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015).

16 Finally, Defendants suggest that the Court would have been able to review the
17 supporting documents, which Defendant failed to initially provide, if the Court had
18 held a “hearing” and allowed the Defendant to present such documents. Part of the
19 Court’s previous inability to award fees was based on the Defendant’s failure to provide
20 support for the fees requested, although such documentation was offered to the Court
21 “in camera.” It is simply not “fair” to an opposing party, to offer supporting documents
22 “in camera,” implying that the opposing party will not have the opportunity to
23 challenge such documents. Based on the Defendant’s suggestion that they would make
24 billing records available to the Court “in camera,” the Court was led to believe that such
25 documents would not be provided to the Plaintiff.

26 The Defendant has now submitted documentation supporting the claim for
27 attorney’s fees. Because the Court has now been presented with substantially different
28 or additional evidence, reconsideration is appropriate.

Defendant has now provided billing records indicating the following:

5/27/20	\$725.00
6/1/20-6/28/20	\$3,510.00
7/1/20-7/31/20	\$10,192.50
8/10/20-8/28/20	\$8,865.00
9/1/20-9/25/20	\$19,642.50

10/1/20-10/29/20	\$12,559.50
11/2/20-11/30/20	\$14,392.80
12/1/20-12/22/20	\$3,690.00
1/5/21-1/21/21	\$4,449.00
2/4/21-2/19/21	\$1,489.50
3/4/21-3/30/21	\$2,150.00
4/2/21-4/30/21	\$11,200.00
5/5/21-5/21/21	\$905.00
6/4/21-6/25/21	\$6,629.50
7/7/21-7/29/21	\$1,026.50
8/3/21-8/31/21	\$5,841.50
9/8/21-9/30/21	\$4,375.00
10/1/21-10/27/21	\$10,700.00
11/9/21-11/23/21	\$2,826.50
12/2/21-12/29/21	\$7,975.00
1/3/22-1/25/22	<u>\$4,925.00</u>
Total:	\$138,069.80

Defendant has now provided documentation supporting the following costs:

American Legal Investigation	\$27.43
Ruffalo & Associates	\$4,350.00
	\$1,800.00
	\$10,350.00
Abraham Ishaaya, M.D.	\$6,710.00
	\$1,375.00
	\$6,187.50
	\$2,970.00
	\$3,437.50
	\$4,675.00
Cohen Volk Economic Counseling	\$688.50
	\$3,855.60
JAMS	\$3,000.00
Filing Fees	<u>\$529.50</u>
Total:	\$49,956.03

Defendant argues that it is entitled to \$42,492.03, and \$110,930.85 in attorneys' fees per N.R.C.P. 68 and N.R.S. §§17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

On August 28, 2020, Defendant served an Offer of Judgment on Plaintiff pursuant to N.R.C.P. 68, N.R.S. 17.1151, and *Busick v. Trainor*, 2019 Nev. Unpub. LEXIS 378, 437 P.3d 1050 (2019) for a waiver of any presently or potentially recoverable costs in full and final settlement of the matter. At the time of the Offer,

1 Defendants' expended costs and fees totaled \$58,514.36. The Offer was not accepted by
2 Plaintiff and expired on September 11, 2020.

3 Since the date of the Offer of Judgment, Defendant argues that it incurred
4 \$106,619.85 in attorney's fees, and paralegal's fees in the amount of \$4,230.00. This
5 Court finds and concludes that the fees incurred by Defendant were reasonable and
6 necessarily incurred in the defense of the case. This Court adopts by reference its prior
7 reasoning and analysis relating to the requested attorney's fees, and now that the Court
8 has been provided with the documentary support of such fees, and finds that such fees
9 were reasonable, pursuant to *Beattie* and *Brunzell*, the Court finds and concludes that
10 such fees are appropriate and recoverable. The Court further finds that the Defendant
11 has now met the requirements of *Frazier*, with regard to documenting the costs
12 incurred. The Court is still not convinced that the expert fees, in addition to the \$1,500
13 recoverable by statute, are necessary or recoverable. Consequently, in reducing each of
14 the expert's fees to \$1,500.00, the above-referenced costs, which have been
documented, must be reduced to \$8,056.93.

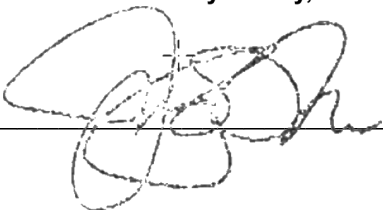
15 **CONCLUSION/ORDER**

16 Based upon the foregoing, and good cause appearing,

17 This Court now indicates its intention, pursuant to *Huneycutt v. Huneycutt*, 94
18 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228 P.3d 453
19 (2010), that if this Court had jurisdiction to decide this matter, the Court would now
award attorney's fees of \$110,849.85, and costs of \$8,056.93.

20 Because this matter has been decided on the pleadings, any future hearings
21 relating to this matter are taken off calendar. The Court requests that counsel for
22 Defendant prepare and process a Notice of Entry with regard to this matter, and convey
23 this Decision to the Supreme Court, pursuant to *Huneycutt* and *Dingwall*.

24 Dated this 4th day of May, 2022

25 
26 _____

27
28 **0D9 DD7 5826 D5EB**
Jerry A. Wiese
District Court Judge

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:

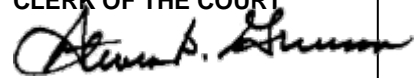
15 Service Date: 5/4/2022

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

26
27
28

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

Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com
Kimberly DeSario	kimberly.desario@lewisbrisbois.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com



1 S. BRENT VOGEL
Nevada Bar No. 6858
2 Brent.Vogel@lewisbrisbois.com
ADAM GARTH
3 Nevada Bar No. 15045
Adam.Garth@lewisbrisbois.com
4 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
5 Las Vegas, Nevada 89118
Telephone: 702.893.3383
6 Facsimile: 702.893.3789
*Attorneys for Defendant Valley Health System,
7 LLC dba Centennial Hills Hospital Medical
Center*

8
9 DISTRICT COURT

10 CLARK COUNTY, NEVADA
11

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

15 Plaintiffs,

16 vs.

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

22 Defendants.
23

Case No. A-19-788787-C

Dept. No.: 30

NOTICE OF ENTRY OF ORDER

24 PLEASE TAKE NOTICE that the Order Regarding Valley Health System's Motion for
25 Reconsideration Regarding Motion for Attorneys' Fees was entered on May 4, 2022, a true and
26 correct copy of which is attached hereto.

27 ///

28 ///

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

DATED this 4th day of May, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Adam Garth
S. BRENT VOGEL
Nevada Bar No. 6858
ADAM GARTH
Nevada Bar No. 15045
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Tel. 702.893.3383
*Attorneys for Attorneys for Defendant Valley
Health System, LLC dba Centennial Hills Hospital
Medical Center*

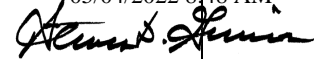
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 4th day of May, 2022, a true and correct copy of **NOTICE OF ENTRY**
3 **OF ORDER** was served by electronically filing with the Clerk of the Court using the Odyssey E-
4 File & Serve system and serving all parties with an email-address on record, who have agreed to
5 receive electronic service in this action.

6 Paul S. Padda, Esq.
7 PAUL PADDALAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN. H. COTTON & ASSOCIATES
7900 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Tel: 702.832.5909
Fax: 702.832.5910
jhcotton@jhcottonlaw.com
bshipleyr@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

14
15
16 By /s/ Heidi Brown
17 an Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
20
21
22
23
24
25
26
27
28



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;)
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

**ORDER RE: VALLEY
HEALTH SYSTEM'S
MOTION FOR
RECONSIDERATION RE
MOTION FOR
ATTORNEYS' FEES**

INTRODUCTION

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ ^{4/1/22}, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Reconsideration of the Court's Order re: Defendant's Motion for Attorneys' Fees. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter 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. This Court
19 entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for
20 Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's
21 denial of fees and costs. Consequently, this Court no longer has jurisdiction to address
22 the issue of fees and costs. If the Court were inclined to reconsider its previous
23 decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.*
24 *Honeycutt*, 94 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228
25 P.3d 453 (2010)), indicating its intention.

26 **SUMMARY OF LEGAL AND FACTUAL ARGUMENTS**

27 Valley Health System, d/b/a Centennial Hills Hospital (CHH) requests that the
28 Court reconsider its 2/15/22 Order denying attorneys' fees and costs and award it
\$110,930.85 in attorneys' fees per N.R.C.P. 68 and NRS § 17.117, plus \$58,514.36 in
pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR
7.60. Additionally, CHH requests this Court sign the judgment already submitted for
the undisputed \$42,492.03.

1 CHH contends that this Court conflated two issues- (1) the memorandum of
2 costs and disbursements previously submitted totaling \$42,492.038, “an amount which
3 is undisputed, and for which this Court has refused to sign a judgment,” and (2) the
4 additional costs, disbursements and attorneys’ fees addressed by CHH’s instant motion
5 and the initial motion which sought \$110,930.85 in attorneys’ fees per N.R.C.P. 68 and
6 N.R.S. §§ 17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to
7 N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

8 With regard to first “issue,” CHH argues that because the Court denied Plaintiff’s
9 Motion to Extend Time to Retax Costs, the \$42,492.03 claimed in CHH’s Verified
10 Memorandum of Costs is undisputed and therefore judgment must be signed and
11 entered. CHH stated that, “[t]his Court cannot revisit an issue which has been finally
12 decided and therefore, at a minimum, a judgment for the unchallenged \$42,492.03 in
13 statutory costs and disbursements must be signed.

14 The majority of CHH’s Motion for Reconsideration concentrates on the second
15 “issue,” that this Court’s decision to deny CHH’s request for an additional \$169,445.21
16 in costs, disbursements and attorneys’ fees was clearly erroneous. See *Masonry & Tile*
17 *Contractors v. Jolley, Urga & Wirth Ass’n*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).
18 As a preliminary matter, CHH is concerned by the Court’s comparison to the Motion
19 for Fees filed by Drs. Concio and Shaw. Further, CHH contends it is “more concerning,”
20 that the Court’s prior order stated, “Finally, in considering the result, the Court notes
21 that although the Court found insufficient evidence to establish irrefutably that the
22 statute of limitations had expired, Defense counsel was successful in convincing the
23 Supreme Court of that, and consequently, Defendants prevailed.” According to CHH,
24 “the record needs to be corrected here- there was no convincing the Supreme Court of
25 anything.”

26 CHH argues that although the Court correctly found that CHH’s offer of
27 judgment was made in good faith and its timing was proper, it erroneously found
28 “Plaintiffs’ decision to reject the offer and proceed to trial was not grossly unreasonable
or in bad faith. Plaintiffs believed they had a valid claim, and the Court cannot find
that wanting some recovery, as opposed to \$0.00, to be ‘grossly unreasonable’ or in
‘bad faith.’” CHH contends that this finding is unreasonable in light of the Nevada
Supreme Court’s determination that Plaintiffs were on notice of any alleged malpractice

1 no more than one month after decedent's death. Similarly, CHH argues that this Court
2 incorrectly found Plaintiffs' decision to reject the Offer of Judgment was not made in
3 bad faith and was not grossly unreasonable.

4 As for the reasonableness of the attorneys' fees requested pursuant to NRCP 68,
5 CHH states that it offered to present the Court supporting documentation for in camera
6 review, but, "instead of granting a hearing to which Plaintiffs could interpose whatever
7 opposition they may have had, the Court rejected this offer and suggestion." In
8 addition, Plaintiffs did not oppose the amount of costs and fees incurred in the original
9 motion, even without the attached bills. Additionally, CHH provides that, "[s]ince this
10 Court insisted that the bills be attached, CHH has provided the entirety thereof for
judicial review and review by Plaintiffs."

11 In Opposition, Plaintiffs argue that CHH's Motion must be summarily denied,
12 without the Court addressing the merits of the Motion because CHH did not present
13 any new or substantially different evidence than what it had the opportunity to present
14 when it filed its Verified Memorandum of Costs and separate Motion for Attorney's
15 Fees on 11/22/21. Further, Plaintiffs contend that CHH's Motion for Reconsideration is
16 "clearly a transparent attempt to bolster a potential appeal by inviting the Court to
17 engage with the merits," because a motion for reconsideration is only appealable if
18 decided on the merits. *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589
(2010).

19 Further, Plaintiffs argue that CHH falsely claims that it attached evidence to its
20 Motion for Reconsideration that "was originally submitted to this Court." Plaintiffs also
21 state that CHH's Motion lacks any authority showing the Court's denial of costs was
22 clearly erroneous, and it does not even engage with the authorities cited on pages 7
23 through 9 of the Court's 2/15/22 Order. Plaintiffs argue they should not be liable for
24 CHH's negligence in failing to follow both the statutory and common law requirements
25 for establishing entitlement to costs. Plaintiffs argue that this Court was thus correct in
26 denying CHH costs in their entirety for lack of proper documentation and reliable
evidence.

27 With regard to CHH's request to reconsider the denial of fees, Plaintiffs note that
28 the Court's denial was based upon its finding that (1) Plaintiffs did not act in bad faith
or in a grossly unreasonable manner when they rejected CHH zero dollar Offer of

1 Judgment and (2) the documentation in support of the request for attorney's fees was
2 lacking. While the first finding by itself ends the inquiry into whether fees can be
3 awarded, in this case the Court also found that "[a]lthough the Defendant [CHH] has
4 offered to submit a billing ledger to the Court in camera, it would have been necessary
5 for the Defendant to have submitted such ledger, and disclosed it to the Plaintiffs so
6 that the reasonableness could have been addressed by all parties, and by the Court."
7 Plaintiffs argue that since this never happened, there was no reasonable basis for this
8 Court to assess the reasonableness of fees being claimed by CHH. Plaintiffs argue that
9 CHH merely rehashes the same arguments presented in its original Motion for Fees.

10 Moreover, Plaintiffs argue that the Court's decision to deny fees was not clearly
11 erroneous because the disposition of this case turned on a legal question, which the
12 Nevada Supreme Court decided, well after the time Plaintiffs rejected the Offer of
13 Judgment. It would be ridiculous to expect Plaintiffs, grieving the death of their
14 mother, to anticipate the legal issue and foresee its resolution by the Nevada Supreme
15 Court when they rejected the Offer of Judgment. CHH itself acknowledges this fact
16 when it admits, "[m]edical malpractice cases are complex and require an in-depth
17 understanding of both unique legal issues as well as the medical care and course that is
18 at issue." VHS' Motion for Reconsideration, p. 21 (lines 1-2).

19 Finally, Plaintiffs argue that the CHH fails to address the deficiency of
20 withholding a billing ledger when it made its fee request and instead asking the Court
21 to rely only upon the declaration of its counsel.

22 In Reply, CHH argues that Plaintiff incorrectly asserts CHH "has not presented
23 any new or substantially different evidence than what it had the opportunity to present
24 when it filed its original Verified Memorandum of Costs and separate Motion for
25 Attorneys' Fees..." CHH's instant motion is predicated on this Court's clearly erroneous
26 decision to: (1) refuse to sign a judgment for an undisputed amount of legally
27 awardable costs to which CHH is entitled, and (2) to deny additional costs and
28 attorneys' fees stemming from Plaintiff's commencement and maintenance of an action
that the Supreme Court found was not only untimely, but that this Court's decision to
deny summary judgment in light of the evidence was a manifest abuse of discretion.

1 Noting that the Court decided the underlying Motion on the papers and without
2 oral argument, CHH contends that this Court ignored the request for in camera review
3 of any evidence it required, with Plaintiffs' opportunity to review same as well. The
4 Court also denied any request for statutorily permitted costs and fees, which was never
5 opposed by Plaintiffs, and denied the discretionary motion for attorneys' fees and costs
6 predicated on other legal and statutory bases. CHH suggests that these denials were
7 based upon this Court's abuse of its discretion and refusal to accept the underlying
8 findings of the Supreme Court pertaining to the evidence Plaintiffs knowingly
9 possessed which demonstrated clear inquiry notice within one month of the decedent's
10 death.

11 CHH argues that this Court erroneously concluded that CHH submitted no
12 documentary evidence or explanation of costs attendant to the verified memorandum
13 of costs. However, the verified memorandum of costs contained not only a complete
14 listing of disbursements which are allowable under the law for these purposes, but the
15 declaration explained that the expenses were accurate and were incurred and were
16 reasonable. Moreover, the memorandum explained and justified each of the costs,
17 supported by case authority and an application of the respective factors considered to
18 the specific facts and circumstances of this case. As such, CHH claims there was more
19 than ample evidentiary justification for the costs claimed including court filing fees and
20 the expert fees which were justified by the explanations contained in the verified
21 memorandum. For this Court to somehow assert complete ignorance of the legal and
22 appellate history of this case was clearly erroneous.

23 Moreover, CHH states that Plaintiffs never disputed, nor to this day dispute, the
24 veracity and accuracy of the costs contained in the verified memorandum of costs. CHH
25 argues that, "There was no absence of evidence justifying the costs. The Court just
26 chose to ignore it and improperly declared they were insufficient, citing to the
27 aforenoted authority." CHH argues that the authority does stand for the proposition for
28 which they are cited or was misapplied by the Court. The authority cited involved no
evidence or documentation. CHH not only provided evidence, it justified the costs,
especially of the voluminous number of experts needed for retention due to the
blunderbuss of allegations.

1 CHH further states:

2 Rather than accepting the Supreme Court's decision and rationale, this
3 Court's denial of CHH's motion and the rationale behind that decision
4 continues to perpetuate the false notion that the action was either
5 brought or maintained in good faith, a fact completely dispelled by the
6 Supreme Court's decision. Thus, denying costs and attorneys' fees in light
7 of the Supreme Court's decision is not only clearly erroneous, it is also a
8 manifest abuse of discretion which the instant motion seeks to redress.

9 Again, this Court possessed admissible evidence of the work, time and
10 expenses on the original motion. This Court wanted more than that. This
11 motion gives the Court everything it could possibly need. Moreover, all of
12 this could have been obviated by a hearing with an opportunity for all
13 parties to participate to consider the totality of the evidence which has
14 now been submitted, and would have been submitted had the in camera
15 inspection thereof been considered.

16 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

17 Pursuant to EDCR 2.24(a), "[n]o motion once heard and disposed of may be
18 renewed in the same cause, nor may the same matters therein embraced by reheard,
19 unless by leave of the court granted upon motion therefor, after notice of such motion
20 to the adverse parties."

21 Nevada courts have inherent authority to reconsider their prior orders. See,
22 *Trail v. Faretto*, 91 Nev. 401 (1975). A party may, "for sufficient cause shown ... request
23 that a court ... amend, correct, resettle, modify, or vacate, as the case may be, an order
24 previously made and entered ... in the case or proceeding. *Id.* at 403. A court may
25 exercise its discretion to revisit and reverse a prior ruling if any one of five
26 circumstances is present: (1) a clearly erroneous ruling; (2) an intervening change in
27 controlling law; (3) substantially different evidence; (4) other changed circumstances;
28 or (5) that manifest injustice would result if the prior ruling is permitted to stand.
United States v. Real Prop_ . Located at Incline Village, 976 F. Supp. 1327, 1353
(D.Nev. 1997). A motion for reconsideration should be granted where new issues of fact
or law are raised which support a "ruling contrary to the ruling already reached."
Moore v. City of Las Vegas, 92 Nev. 402, 405 (1976).

Although the Defendants take offense at the language the Court used in its
previous Order, this Court intended nothing negative by indicating that Defendants
were able to "convince" the Supreme Court of their position. Such statement was made

1 simply to convey the “fact” that the Supreme Court was “convinced” that the
2 Defendant’s position was correct. Defendants argue that the Court’s denial of fees and
3 costs was somehow a continuation of the Court’s position in favor of the Plaintiff, but
4 this is also incorrect. In fact, the Court found that the *Beattie* and *Brunzell* factors
5 weighed in favor of the Defense, but since the Defense had not supported its request for
6 fees and costs, as required by the Nevada Supreme Court, this Court was unable to
7 award fees and costs. *Beattie v. Thomas*, 99 Nev. 579, 588, 668 P.2d 268 (1983);
8 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31 (1969).

9 Additionally, Defendants argue that because they submitted a Memorandum of
10 Costs, which was not timely objected to, they are “entitled” to whatever they asked for.
11 This is also incorrect. A party is only entitled to costs if they are substantiated, and the
12 Court finds that such costs were reasonable, and incurred in the subject litigation.
13 *Frazier v. Drake*, 131 Nev. 632, 357 P.3d 365 (NV.Ct.of App., 2015); *Bobby Berosini,*
14 *Ltd. V. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1353, 971 P.2d 383
15 (1998); *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015).

16 Finally, Defendants suggest that the Court would have been able to review the
17 supporting documents, which Defendant failed to initially provide, if the Court had
18 held a “hearing” and allowed the Defendant to present such documents. Part of the
19 Court’s previous inability to award fees was based on the Defendant’s failure to provide
20 support for the fees requested, although such documentation was offered to the Court
21 “in camera.” It is simply not “fair” to an opposing party, to offer supporting documents
22 “in camera,” implying that the opposing party will not have the opportunity to
23 challenge such documents. Based on the Defendant’s suggestion that they would make
24 billing records available to the Court “in camera,” the Court was led to believe that such
25 documents would not be provided to the Plaintiff.

26 The Defendant has now submitted documentation supporting the claim for
27 attorney’s fees. Because the Court has now been presented with substantially different
28 or additional evidence, reconsideration is appropriate.

Defendant has now provided billing records indicating the following:

5/27/20	\$725.00
6/1/20-6/28/20	\$3,510.00
7/1/20-7/31/20	\$10,192.50
8/10/20-8/28/20	\$8,865.00
9/1/20-9/25/20	\$19,642.50

10/1/20-10/29/20	\$12,559.50
11/2/20-11/30/20	\$14,392.80
12/1/20-12/22/20	\$3,690.00
1/5/21-1/21/21	\$4,449.00
2/4/21-2/19/21	\$1,489.50
3/4/21-3/30/21	\$2,150.00
4/2/21-4/30/21	\$11,200.00
5/5/21-5/21/21	\$905.00
6/4/21-6/25/21	\$6,629.50
7/7/21-7/29/21	\$1,026.50
8/3/21-8/31/21	\$5,841.50
9/8/21-9/30/21	\$4,375.00
10/1/21-10/27/21	\$10,700.00
11/9/21-11/23/21	\$2,826.50
12/2/21-12/29/21	\$7,975.00
1/3/22-1/25/22	<u>\$4,925.00</u>
Total:	\$138,069.80

Defendant has now provided documentation supporting the following costs:

American Legal Investigation	\$27.43
Ruffalo & Associates	\$4,350.00
	\$1,800.00
	\$10,350.00
Abraham Ishaaya, M.D.	\$6,710.00
	\$1,375.00
	\$6,187.50
	\$2,970.00
	\$3,437.50
	\$4,675.00
Cohen Volk Economic Counseling	\$688.50
	\$3,855.60
JAMS	\$3,000.00
Filing Fees	<u>\$529.50</u>
Total:	\$49,956.03

Defendant argues that it is entitled to \$42,492.03, and \$110,930.85 in attorneys' fees per N.R.C.P. 68 and N.R.S. §§17.117, plus \$58,514.36 in pre-NRCP 68 offer fees and expenses pursuant to N.R.S. §§ 7.085, 18.010(2) and EDCR 7.60.

On August 28, 2020, Defendant served an Offer of Judgment on Plaintiff pursuant to N.R.C.P. 68, N.R.S. 17.1151, and *Busick v. Trainor*, 2019 Nev. Unpub. LEXIS 378, 437 P.3d 1050 (2019) for a waiver of any presently or potentially recoverable costs in full and final settlement of the matter. At the time of the Offer,

1 Defendants' expended costs and fees totaled \$58,514.36. The Offer was not accepted by
2 Plaintiff and expired on September 11, 2020.

3 Since the date of the Offer of Judgment, Defendant argues that it incurred
4 \$106,619.85 in attorney's fees, and paralegal's fees in the amount of \$4,230.00. This
5 Court finds and concludes that the fees incurred by Defendant were reasonable and
6 necessarily incurred in the defense of the case. This Court adopts by reference its prior
7 reasoning and analysis relating to the requested attorney's fees, and now that the Court
8 has been provided with the documentary support of such fees, and finds that such fees
9 were reasonable, pursuant to *Beattie* and *Brunzell*, the Court finds and concludes that
10 such fees are appropriate and recoverable. The Court further finds that the Defendant
11 has now met the requirements of *Frazier*, with regard to documenting the costs
12 incurred. The Court is still not convinced that the expert fees, in addition to the \$1,500
13 recoverable by statute, are necessary or recoverable. Consequently, in reducing each of
14 the expert's fees to \$1,500.00, the above-referenced costs, which have been
documented, must be reduced to \$8,056.93.

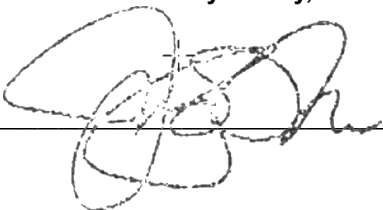
15 **CONCLUSION/ORDER**

16 Based upon the foregoing, and good cause appearing,

17 This Court now indicates its intention, pursuant to *Huneycutt v. Huneycutt*, 94
18 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228 P.3d 453
19 (2010), that if this Court had jurisdiction to decide this matter, the Court would now
award attorney's fees of \$110,849.85, and costs of \$8,056.93.

20 Because this matter has been decided on the pleadings, any future hearings
21 relating to this matter are taken off calendar. The Court requests that counsel for
22 Defendant prepare and process a Notice of Entry with regard to this matter, and convey
23 this Decision to the Supreme Court, pursuant to *Huneycutt* and *Dingwall*.

24 Dated this 4th day of May, 2022

25 
26 _____

27
28 **0D9 DD7 5826 D5EB**
Jerry A. Wiese
District Court Judge

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: 5/4/2022

16 Paul Padda	psp@paulpaddalaw.com
17 S. Vogel	brent.vogel@lewisbrisbois.com
18 Jody Foote	jfoote@jhcottonlaw.com
19 Jessica Pincombe	jpincombe@jhcottonlaw.com
20 John Cotton	jhcotton@jhcottonlaw.com
21 Brad Shipley	bshipley@jhcottonlaw.com
22 Tony Abbatangelo	Tony@thevegaslawyers.com
23 Adam Garth	Adam.Garth@lewisbrisbois.com
24 Paul Padda	civil@paulpaddalaw.com
25 Srilata Shah	sri@paulpaddalaw.com

26
27
28

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

Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com
Kimberly DeSario	kimberly.desario@lewisbrisbois.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com
Shelbi Schram	shelbi@paulpaddalaw.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

June 28, 2019

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

June 28, 2019 7:30 AM Minute Order

HEARD BY: Escobar, Adriana **COURTROOM:** RJC Courtroom 14C

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

PRESENT: Nelson, Suneel J, ESQ Attorney
 Padda, 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 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

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

October 30, 2019 9:00 AM Motion to Dismiss

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

COURT CLERK: Lauren Kidd

RECORDER: Vanessa Medina

REPORTER:

PARTIES

PRESENT: Thompson, Zachary J. Attorney

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

December 04, 2019

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

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

RECORDER:

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

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

**May 05, 2020 12:00 AM Mandatory Rule 16
Conference**

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.

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.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Malpractice - Medical/Dental

COURT MINUTES

October 21, 2020

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

October 21, 2020	3:00 AM	Minute Order
-------------------------	----------------	---------------------

HEARD BY: Wiese, Jerry A.	COURTROOM: No Location
----------------------------------	-------------------------------

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

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

October 26, 2020 3:00 AM Minute Order

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

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/ dv



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

PAUL S. PADDA, ESQ.
4560 S. DECATUR BLVD., SUITE 300
LAS VEGAS, NV 89103

DATE: June 9, 2022
CASE: A-19-788787-C

RE CASE: ESTATE OF REBECCA POWELL, through BRIAN POWELL, as special administrator; DARCI CREECY; TARYN CREECY ISIAH KHOSROF; LLOYD CREECY vs. VALLEY HEALTH SYSTEM, LLC dba CENTENNIAL HILLS HOSPITAL MEDICAL CENTER; DR. CONRADO C.D. CONCIO, M.D.; DR. VISHAL S. SHAH, M.D.

NOTICE OF APPEAL FILED: June 7, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

PLAINTIFFS' NOTICE OF APPEAL; PLAINTIFFS' CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DEFENDANT VALLEY HEALTH SYSTEM LLC'S JUDGMENT OF COSTS AND ATTORNEYS' FEES PER NRS 18.020, 18.005, 18.110, 17.117, AND N.R.C.P. 68(F) AS AGAINST PLAINTIFFS; NOTICE OF ENTRY OF JUDGMENT; ORDER RE: VALLEY HEALTH SYSTEM'S MOTION FOR RECONSIDERATION RE MOTION FOR ATTORNEYS' FEES; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

ESTATE OF REBECCA POWELL, through
BRIAN POWELL, as special administrator;
DARCI CREECY; TARYN CREECY ISAIAH
KHOSROF; LLOYD CREECY,

Plaintiff(s),

vs.

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

Defendant(s),

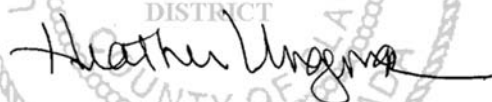
Case No: A-19-788787-C

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 9 day of June 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

