

IN THE SUPREME COURT OF THE STATE OF NEVADA

ESTATE OF REBECCA
POWELL, through Brian Powell as
Special Administrator; DARCI
CREECY, individually; TARYN
CREECY, individually; ISAIAH
KHOSROF, individually; LLOYD
CREECY, individually,

Appellants,

vs.

VALLEY HEALTH SYSTEM,
LLC (doing business as
“Centennial Hills Hospital Medical
Center”),

Respondent.

Electronically Filed
Feb 03 2023 04:53 PM
Elizabeth A. Brown
Clerk of Supreme Court

Appeal No. 84861

APPELLANTS' APPENDIX

VOLUME 1

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Respectfully submitted,

/s/ Paul S. Padda

Paul S. Padda, Esq.

Dated: January 30, 2023

CERTIFICATE OF SERVICE

Pursuant to the Nevada Rules of Appellate Procedure, I hereby certify that on this day, January 30, 2023, the foregoing document entitled **APPELLANTS' APPENDIX VOLUME 1** was filed with the Supreme Court of Nevada through its electronic filing system. Service of the foregoing document shall be made in accordance with the Master Service List upon all registered parties and/or participants and their counsel.

/s/ Shelbi Schram

Shelbi Schram, Paralegal
PAUL PADDA LAW

Case Information

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

Case Number	Court	Judicial Officer
A-19-788787-C	Department 25	Delaney, Kathleen E.
File Date	Case Type	Case Status
02/04/2019	Malpractice - Medical/Dental	Closed

Party

Special Administrator
Powell, Brian

Plaintiff
Estate of Rebecca Powell

Active Attorneys▼
Attorney
Shah, Srilata Rao
Retained

Lead Attorney
Padda, Paul S.
Retained

Inactive Attorneys▼
Attorney
Nelson, Suneel J, ESQ
Retained

Attorney
Ang, Joshua Y
Retained

Attorney
Verde, Brandon C.
Retained

Attorney
Lafia, Michael

Retained

Plaintiff

Khosrof, Isaiah

Active Attorneys ▼

Attorney

Shah, Srilata Rao

Retained

Lead Attorney

Padda, Paul S.

Retained

Inactive Attorneys ▼

Attorney

Ang, Joshua Y

Retained

Attorney

Nelson, Suneel J, ESQ

Retained

Attorney

Verde, Brandon C.

Retained

Attorney

Lafia, Michael

Retained

Plaintiff

Creecy, Lloyd

Active Attorneys ▼

Attorney

Shah, Srilata Rao

Retained

Lead Attorney

Padda, Paul S.

Retained

Inactive Attorneys ▼

Attorney

Nelson, Suneel J, ESQ

Retained

Attorney
Ang, Joshua Y
Retained

Attorney
Verde, Brandon C.
Retained

Attorney
Lafia, Michael
Retained

Plaintiff
Creecy, Taryn

Active Attorneys ▼
Attorney
Shah, Srilata Rao
Retained

Lead Attorney
Padda, Paul S.
Retained

Inactive Attorneys ▼
Attorney
Ang, Joshua Y
Retained

Attorney
Nelson, Suneel J, ESQ
Retained

Attorney
Verde, Brandon C.
Retained

Attorney
Lafia, Michael
Retained

Plaintiff
Creecy, Darci

Active Attorneys ▼
Attorney
Shah, Srilata Rao
Retained

Lead Attorney
Padda, Paul S.
Retained

Inactive Attorneys ▼
Attorney
Nelson, Suneel J, ESQ
Retained

Attorney
Ang, Joshua Y
Retained

Attorney
Verde, Brandon C.
Retained

Attorney
Lafia, Michael
Retained

Defendant
Valley Health System, LLC

Aliases
DBA Centennial Hills Hospital Medical Center

Active Attorneys ▼
Lead Attorney
Garth, Adam
Retained

Inactive Attorneys ▼
Attorney
McBride, Robert C.
Retained

Attorney
Hueth, Chelsea R
Retained

Attorney
Prangle, Michael E.
Retained

Attorney
Thompson, Zachary J.
Retained

Attorney

Vogel, Stephen B.
Retained

Attorney
Garth, Adam
Retained

Disposition Events

12/05/2019 Judgment ▼

Judicial Officer
Wiese, Jerry A.

Judgment Type
Order of Dismissal Without Prejudice

Monetary Judgment

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

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

10/29/2020 Judgment ▼

Judicial Officer
Wiese, Jerry A.

Judgment Type
Summary Judgment

Monetary Judgment

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

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

10/29/2020 Judgment ▼

Judicial Officer
Wiese, Jerry A.

Judgment Type
Order of Dismissal Without Prejudice

Monetary Judgment

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

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

02/15/2022 Judgment ▼

Judicial Officer
Wiese, Jerry A.

Judgment Type
Order

Monetary Judgment

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

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

Total Judgment: \$21,057.28

06/02/2022 Judgment ▼

Judicial Officer
Wiese, Jerry A.

Judgment Type
Judgment

Monetary Judgment

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 Judgment ▼

Judicial Officer

Wiese, Jerry A.

Judgment Type

Order of Dismissal

Monetary Judgment

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

07/20/2022 Judgment ▼

Judicial Officer

Bell, Linda Marie

Judgment Type

Clerk's Certificate

Monetary Judgment

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

Judgment: 07/20/2022 Docketed: 07/20/2022

Comment: Supreme Court No. 84424; Appeal Dismissed

Events and Hearings

02/04/2019 Initial Appearance Fee Disclosure ▼

Initial Appearance Fee Disclosure - IAFD (CIV)

Comment

[1] Initial Appearance Fee Disclosure

02/04/2019 Complaint ▼

Complaint - COMP (CIV)

Comment

[2] Complaint

05/30/2019 Summons Electronically Issued - Service Pending ▼

Comment

[3] Summons - Valley Health System, LLC

05/30/2019 Summons Electronically Issued - Service Pending ▼

Comment

[4] Summons - Valley Health System, LLC (1)

05/30/2019 Summons Electronically Issued - Service Pending ▼

Comment

[5] Summons - Dr. Dionice S. Juliano, M.D.

05/30/2019 Summons Electronically Issued - Service Pending ▼

Comment

[6] Summons- Dr. Conrad C.D. Concio, M.D.

05/30/2019 Summons Electronically Issued - Service Pending ▼

Comment

[7] Summons- Dr. Vishal S. Shah M.D.

06/03/2019 Ex Parte Motion ▼

Ex Parte Motion - EXMT (CIV)

Comment

[8] Plaintiffs' ExParte Motion To Extend Time To Serve

06/04/2019 Affidavit of Service ▼

Affidavit of Service - AOS (CIV)

Comment

[9] Affidavit of Service - Universal Health Services, Inc.

06/04/2019 Affidavit of Service ▼

Affidavit of Service - AOS (CIV)

Comment

[10] AOS - Dr. Canrado C.D. Concio, MD

06/04/2019 Affidavit of Service ▼

Affidavit of Service - AOS (CIV)

Comment

[11] AOS -Valley Health System, LLC

06/11/2019 Order ▼

Order - ORDR (CIV)

Comment

[12] Order Granting Plaintiffs' Exparte Motion to Extend Time For Service

06/11/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[13] Notice of Entry of Order Granting Plaintiffs' Exparte Motion to Extend Time For Service

06/12/2019 Motion to Dismiss ▼

Motion to Dismiss - MDSM (CIV)

Comment

[14] Defendant Conrado Concio, M.D. and Dionice Juliano, M.D's Motion to Dismiss

06/12/2019 Initial Appearance Fee Disclosure ▼

Initial Appearance Fee Disclosure - IAFD (CIV)

Comment

[15] Initial Appearance Fee Disclosure

06/12/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[16] Notice of Hearing

06/13/2019 Joinder ▼

Joinder - JOIN (CIV)

Comment

[17] Defendant Vishal Shah, M.D.'s Joinder to Defendants Concio and Juliano's Motion to Dismiss

06/13/2019 Initial Appearance Fee Disclosure ▼

Initial Appearance Fee Disclosure - IAFD (CIV)

Comment

[18] Initial Appearance Fee Disclosure

06/19/2019 Motion to Dismiss ▼

Motion to Dismiss - MDSM (CIV)

Comment

[19] Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint

06/19/2019 Initial Appearance Fee Disclosure ▼

Initial Appearance Fee Disclosure - IAFD (CIV)

Comment

[20] Defendant Centennial Hills Hospital's Initial Appearance Fee Disclosure

06/20/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[21] Notice of Hearing

06/25/2019 Waiver ▼

Waiver - WAIV (CIV)

Comment

[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.

06/25/2019 Waiver ▼

Waiver - WAIV (CIV)

Comment

[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.

06/26/2019 Joinder ▼

Joinder - JOIN (CIV)

Comment

[24] DEFENDANT CENTENNIAL HILLS HOSPITAL S JOINDER TO DEFENDANTS CONRADO CONCIO, MD, AND DIONICE JULIANO, MD S MOTION TO DISMISS

06/28/2019 Minute Order ▼

Minute Order

Judicial Officer

Escobar, Adriana

Hearing Time

7:30 AM

Result

Recused

Comment

Recusal

06/28/2019 Notice of Department Reassignment ▼

Notice of Department Reassignment - NODR (CIV)

Comment

[25] Notice of Department Reassignment

07/08/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

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

07/08/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

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

07/22/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

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

07/22/2019 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

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

08/13/2019 Notice of Appearance ▼

Notice of Appearance - NOTA (CIV)

Comment

[30] Notice of Appearance

08/13/2019 Opposition to Motion to Dismiss ▼

Opposition - OPPS (CIV)

Comment

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

09/17/2019 Reply ▼

Reply - RPLY (CIV)

Comment

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

09/18/2019 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

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

09/23/2019 Motion to Dismiss ▼

Motion to Dismiss - MDSM (CIV)

Comment

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

09/23/2019 Joinder To Motion ▼

Joinder To Motion - JMOT (CIV)

Comment

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

09/24/2019 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOH (CIV)

Comment

[36] Notice of Hearing

09/25/2019 Motion to Dismiss ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Result

Denied

Comment

Defendant Conrado Concio, MD, and Dionice Juliano, MD's Motion to Dismiss

09/25/2019 Joinder ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Result

Denied

Comment

Defendant Vishal Shah, M.D. Joinder to Defendant's Concio and Juliano's Motion to dismiss

09/25/2019 Motion to Dismiss ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Result
Denied

Comment
Defendant Centennial Hills Hospital's Motion to Dismiss Plaintiffs' Complaint

09/25/2019 Joinder ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Result
Denied

Comment
Defendant Centennial Hills Hospital's Joinder to Defendants Conrado Concio, MD and Dionice Juliano, MD's Motion to Dismiss

09/25/2019 Joinder ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Result
Denied

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

09/25/2019 Joinder ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Result
Denied

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

09/25/2019 All Pending Motions ▼

All Pending Motions

Judicial Officer
Wiese, Jerry A.

Hearing Time

9:00 AM

Result

Matter Heard

Parties Present ▲

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Defendant

Attorney: Thompson, Zachary J.

10/01/2019 Notice of Change of Address ▼

Notice of Change of Address - NCOA (CIV)

Comment

[37] Notice of Change of Address

10/02/2019 Answer to Complaint ▼

Answer - ANS (CIV)

Comment

[38] Defendants Conrado Concio, MD, Dionice Juliano, MD, and Vishal Shah, MD's Answer to Plaintiffs' Complaint

10/02/2019 Demand for Jury Trial ▼

Demand for Jury Trial - DMJT (CIV)

Comment

[39] Defendants Donice S. Juliano, MD, Contrado Concio, MD and Vishal Shah, MD's Demand for Jury Trial

10/30/2019 Motion to Dismiss ▼

Motion to Dismiss

Minutes - Motion to Dismiss

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Result

Matter Continued

Comment

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

Parties Present ▲

Defendant

Attorney: Thompson, Zachary J.

10/30/2019 Opposition to Motion to Dismiss ▼

Opposition to Motion to Dismiss - OMD (CIV)

Comment

[40] Plaintiffs' Opposition To Defendant Universal Health Services, INC.'s, Motion to Dismiss Or, In The Alternative, For Summary Judgment

10/30/2019 Motion to Withdraw As Counsel ▼

Motion to Withdraw As Counsel - MWCN (CIV)

Comment

[41] Plaintiffs' Motion For Withdrawal of Suneel Nelson, Esq., Joshua Y. Ang, Esq., And Michael Lafia, Esq., As Retained Counsel

10/31/2019 Clerk's Notice of Nonconforming Document ▼

Clerk's Notice of Nonconforming Document - CNND (CIV)

Comment

[42] Clerk's Notice of Nonconforming Document

11/18/2019 Disclosure Statement ▼

Disclosure Statement - DSST (CIV)

Comment

[43] DEFENDANT VALLEY HEALTH SYSTEM, LLC, dba CENTENNIAL HILLS HOSPITAL MEDICAL CENTER S NRCP
7.1 DISCLOSURE STATEMENT

12/05/2019 Stipulation and Order ▼

Stipulation and Order - SAO (CIV)

Comment

[44] Stipulation and Order to Dismiss Universal Health Services, Inc. without Prejudice

12/05/2019 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

[45] Notice of Entry of Stipulation and Order to Dismiss Universal Health Services, Inc. without Prejudice

02/21/2020 Notice of Appearance ▼

Notice of Appearance - NOTA (CIV)

Comment

[46] Notice of Appearance By Brandon C. Verde,Esq.

03/10/2020 Substitution of Attorney ▼

Substitution of Attorney - SUBT (CIV)

Comment

[47] Substitution of Counsel

03/16/2020 Order to Show Cause ▼

Order - ORDR (CIV)

Comment

[48] Order to Show Cause

03/16/2020 Notice of Early Case Conference ▼

Notice of Early Case Conference - NECC (CIV)

Comment

[49] Notice of NRCP 16.1(b) (1) Early Case Conference_Estate of Rebecca Powell, et. al., v. Valley Health System, et. al.

03/20/2020 Joint Case Conference Report ▼

Joint Case Conference Report - JCCR (CIV)

Comment

[50] Joint Case Conference Report

03/23/2020 Mandatory Rule 16 Conference Order ▼

Order - ORDR (CIV)

Comment

[51] Mandatory Rule 16 Conference Order

03/24/2020 Minute Order ▼

Minute Order

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

04/01/2020 Show Cause Hearing ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated

Comment

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

04/13/2020 Notice of Association of Counsel ▼

Notice of Association of Counsel - NOAC (CIV)

Comment

[52] Notice of Association of Counsel

04/15/2020 Answer to Complaint ▼

Answer - ANS (CIV)

Comment

[53] Defendant Valley Health System, Llc, Dba Centennial Hills Hospital Medical Center s Answer To Plaintiffs Complaint

04/15/2020 Demand for Jury Trial ▼

Demand for Jury Trial - DMJT (CIV)

Comment

[54] Demand for Jury Trial

04/29/2020 Motion to Associate Counsel ▼

Motion to Associate Counsel - MASS (CIV)

Comment

[55] Defendant Valley Health System, Llc Dba Centennial Hills Hospital Medical Center's Motion to Associate Richard Douglas Carroll as Counsel

04/29/2020 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[56] Notice of Hearing

05/05/2020 Mandatory Rule 16 Conference ▼

Mandatory Rule 16 Conference

Judicial Officer

Wiese, Jerry A.

Hearing Time

12:00 PM

Result

Trial Date Set

05/05/2020 Substitution of Attorney ▼

Substitution of Attorney - SUBT (CIV)

Comment

[57] Substitution of Attorneys

05/06/2020 Scheduling and Trial Order ▼

Scheduling and Trial Order - SCHTO (CIV)

Comment

[58] Scheduling Order and Order Setting

06/02/2020 Order Admitting to Practice ▼

Order - ORDR (CIV)

Comment

[59] Order Admitting to Practice

06/03/2020 Motion to Associate Counsel ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated

Comment

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

06/08/2020 Substitution of Attorney ▼

Substitution of Attorney - SUBT (CIV)

Comment

[60] Substitution Of Attorney For Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center

08/07/2020 Motion for Summary Judgment ▼

Motion for Summary Judgment - MSJD (CIV)

Comment

[61] Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims

08/10/2020 Non Opposition ▼

Non Opposition - NONO (CIV)

Comment

[62] Defendants Valley Health Systems' Non-Opposition to Defendant Juliano's Motion for Summary Judgment and Joinder to Defendant Concio and Shah's Motion for Partial Summary Judgment

08/24/2020 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[63] Notice of Hearing

08/24/2020 Stipulation and Order ▼

Stipulation and Order

Comment

[64] Stipulation and Order Regarding Plaintiffs' Responses to Defendants Juliano, Concio and Shah's Interrogatories and Requests for Production

08/24/2020 Stipulation and Order ▼

Stipulation and Order

Comment

[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

09/02/2020 Motion for Summary Judgment ▼

Comment

[66] Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations

09/02/2020 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[67] Notice of Hearing

09/02/2020 Redacted Version ▼

Redacted Version

Comment

[83] Redacted version of Motion for Summary Judgment per Order 10/28/20

09/03/2020 Joinder to Motion For Summary Judgment ▼

Joinder To Motion - JMOT (CIV)

Comment

[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

09/04/2020 Filing Fee Remittance ▼

Comment

[69] Filing Fee Remittance

09/16/2020 Opposition to Motion For Summary Judgment ▼

Opposition to Motion For Summary Judgment - OMSJ (CIV)

Comment

[70] Plaintiffs Opposition to Valley Health System, LLC s Motion For Summary Judgment Seeking Dismissal on Statute of Limitations Grounds

10/13/2020 Opposition and Countermotion ▼

Opposition to Motion For Summary Judgment - OMSJ (CIV)

Comment

[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

10/21/2020 Minute Order ▼

Minute Order

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

10/21/2020 Reply to Opposition ▼

Reply to Opposition - ROPP (CIV)

Comment

[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 ▼

Reply in Support - RIS (CIV)

Comment

[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 ▼

Joinder - JOIN (CIV)

Comment

[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 ▼

Joinder - JOIN (CIV)

Comment

[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 Emotional Distress Claims

10/21/2020 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

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

10/26/2020 Minute Order ▼

Minutes - Minute Order

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

10/26/2020 Ex Parte Application ▼

Ex Parte Application - EPAP (CIV)

Comment

[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 ▼

Ex Parte - EXPT (CIV)

Comment

[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 ▼

Order

Comment

[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 ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[80] Notice of Entry of Order

10/29/2020 Order ▼

Order

Comment
[81] Order

11/02/2020 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment
[82] Notice of Entry of Order

11/03/2020 Order Shortening Time ▼

Order Shortening Time

Comment
[84] Powell v Valley - Motion for Stay Pending Writ (continued revisions #2)

11/04/2020 Motion for Summary Judgment ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Cancel Reason
Vacated

Comment
Defendant Juliano's Motion for Summary Judgment, and Defendant Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims

11/04/2020 Motion for Summary Judgment ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Cancel Reason
Vacated

Comment
Valley Health System, LLC and Universal Health Services, Inc.'s Motion for Summary Judgment Based Upon the Expiration of The Statute of Limitations

11/04/2020 Joinder ▼

Judicial Officer
Wiese, Jerry A.

Hearing Time
9:00 AM

Cancel Reason

Vacated

Comment

Defendants Dionice Juliano, MD, Conrado Concio, MD and Vishal Shah, MD's Joinder to Defendant's Motion for Summary Judgment on the Statute of Limitations

11/04/2020 Opposition and Countermotion ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated

Comment

Plaintiffs' Opposition to Defendant Juliano's Motion for Summary Judgment, And Defendants' Concio and Shah's Motion for Partial Summary Judgment on Emotional Distress Claims and Counter-Motion to Amend or Withdraw Plaintiffs' Responses to Defendants' Request for Admissions

11/05/2020 Motion ▼

Order

Comment

[85] Defendant Valley Health System LLC's Motion for Stay on Order Shortening Time

11/19/2020 Opposition to Motion ▼

Opposition - OPPS (CIV)

Comment

[86] Plaintiffs' Opposition to Defendant Valley Health System LLC's Motion for Stay of Proceedings

11/20/2020 Reply to Opposition ▼

Reply to Opposition - ROPP (CIV)

Comment

[87] Defendant Valley Health System LLC s Reply To Plaintiff s Opposition To Motion For Stay On Order Shortening Time

11/23/2020 Minute Order ▼

Minute Order

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

11/25/2020 Motion to Stay ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - Previously Decided

Comment

Defendant VHS's Motion for Stay on OST

12/17/2020 Order ▼

Order

Comment

[88] Order Denying Defendant Valley Health System, LLC's Motion to Stay on Order Shortening Time

12/17/2020 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[89] Notice of Entry of Order

01/01/2021 Recorders Transcript of Hearing ▼

Recorders Transcript of Hearing - RTRAN (CIV)

Comment

[90] Recorders Transcript of Hearing: All Pending Motions

01/21/2021 Stipulation and Order ▼

Stipulation and Order

Comment

[91] Stipulation and Order to Continue Status Check Hearing

01/21/2021 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[92] Notice of Entry of Order

02/04/2021 Order ▼

Order - ORDR (CIV)

Comment

[93] ORDER RESETTING STATUS CHECK HEARING AS TELECONFERENCE

02/06/2021 Order ▼

Order

Comment

[94] Order Denying Defendants Conrado Concio, M.D. and Dionice Juliano, M.D.'s Motion to Dismiss Plaintiff's Complaint

02/06/2021 Order ▼

Order

Comment

[95] Order Denying Defendant Centennial Hills Hospital Medical Center's Motion to Dismiss Plaintiff's Complaint

02/10/2021 Status Check ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated

Comment

Status Check: Submission/Filing of Order from 09/25/19 hearing

03/10/2021 Notice ▼

Notice - NOTC (CIV)

Comment

[96] Notice of Appearance

04/06/2021 Motion to Reconsider ▼

Motion to Reconsider - MRCN (CIV)

Comment

[97] Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus

04/06/2021 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

[98] Exhibits G-M to Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus

04/06/2021 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[99] Notice of Hearing

04/07/2021 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

[100] Notice of Entry of Order Denying Defendant Centennial Hills Hospital Medical Center's Motion to Dismiss Plaintiffs' Complaint

04/07/2021 Notice of Entry of Order ▼

Notice of Entry - NEO (CIV)

Comment

[101] Notice of Entry of Order Denying Defendants Conrado Concio M.D. and Dionice Juilano, M.D.'s Motion to Dismiss Plaintiffs' Complaint

04/09/2021 Order Shortening Time ▼

Order Shortening Time

Comment

[102] Order Shortening Time to Hear Motion to Reconsider Stay Pending Writ of Mandamus

04/09/2021 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[103] Notice of Entry of Order

04/15/2021 Opposition ▼

Opposition - OPPS (CIV)

Comment

[104] Plaintiffs' Opposition to Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus

04/16/2021 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

[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

04/20/2021 Minute Order ▼

Minute Order

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

04/21/2021 Motion to Reconsider ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - Previously Decided

Comment

Defendant Valley Health System LLC's Motion to Reconsider Motion for Stay Pending Petition for Writ of Mandamus

04/28/2021 Order ▼

Order

Comment

[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

04/28/2021 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

[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

06/04/2021 Order ▼

Order

Comment

[108] Confidentiality Agreement and Protective Order

06/04/2021 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[109] Notice of Entry of Order

06/18/2021 Initial Expert Disclosure ▼

Initial Expert Disclosure - IED (CIV)

Comment

[110] Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center s Initial Expert Disclosure

08/18/2021 Status Report ▼

Status Report - SR (CIV)

Comment

[111] Joint Status Report

09/07/2021 Minute Order ▼

Minute Order

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Result

Minute Order - No Hearing Held

10/05/2021 Notice ▼

Notice - NOTC (CIV)

Comment

[112] Defendant Valley Health System, LLC dba Centennial Hills Hospital Medical Center's Notice of Trial Conflict

11/03/2021 Order ▼

Order - ORDR (CIV)

Comment

[113] Order Setting Further Proceedings Re: Supreme Court Order

11/18/2021 Further Proceedings ▼

Original Type

Further Proceedings

Further Proceedings

Judicial Officer

Wiese, Jerry A.

Hearing Time

10:00 AM

Result

Matter Heard

Comment

Further Proceedings: Writ of Mandamus

11/19/2021 Order ▼

Order

Comment

[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

11/19/2021 Notice of Entry of Order ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

[115] Notice of Entry of Order

11/22/2021 Memorandum ▼

Memorandum of Costs and Disbursements - MEMC (CIV)

Comment

[116] Defendant Valley Health System LLC's Verified Memorandum of Costs

11/22/2021 Motion for Attorney Fees ▼

Motion for Attorney Fees - MATF (CIV)

Comment

[117] 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

11/23/2021 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[118] Notice of Hearing

11/23/2021 Memorandum of Costs and Disbursements ▼

Memorandum of Costs and Disbursements - MEMC (CIV)

Comment

[119] Defendants Conrado Concio, MD and Vishal Shah, MD's Memorandum of Costs and Disbursements

12/01/2021 Status Check: Settlement/Trial Setting ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - Case Closed

12/03/2021 Motion to Extend ▼

Motion to Extend - MEX (CIV)

Comment

[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

12/06/2021 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[121] Notice of Hearing

12/06/2021 Application ▼

Application - APPL (CIV)

Comment

[122] Plaintiffs Application for Order Shortening Time on Plaintiffs Motion to Extend Time to Respond to Defendant's Memorandum for Costs

12/10/2021 Order ▼

Order

Comment

[123] Order Shortening Time Regarding Plaintiff's Motion to Extend Time to Respond to Defendant's Memorandums of Costs

12/10/2021 Motion for Attorney Fees and Costs ▼

Motion for Attorney Fees and Costs - MAFC (CIV)

Comment

[124] Defendants Conrado Concio, MD and Vishal Shah, MD's Motion for Attorneys' Fees and Costs

12/11/2021 Order Setting Medical/Dental Malpractice Status Check ▼

Order Setting Medical/Dental Malpractice Status Check

Comment

[125] Order Setting Medical/Dental Malpractice Status Check and Trial Setting Conference

12/13/2021 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[126] Notice of Hearing

12/16/2021 Opposition ▼

Opposition - OPPS (CIV)

Comment

[127] Plaintiff's Opposition to Defendant Valley Health System LLC'S Motion for Attorney's Fees

12/20/2021 Opposition and Countermotion ▼

Opposition and Countermotion - OPPC (CIV)

Comment

[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

12/21/2021 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

[129] Defendants Conrado Concio, MD and Vishal Shah, MD's Opposition to Plaintiff's Motion to Extend Time

12/23/2021 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

[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 ▼

Reply to Opposition - ROPP (CIV)

Comment

[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 ▼

Reply to Opposition - ROPP (CIV)

Comment

[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

01/11/2022 Status Check: Medical/Dental Malpractice ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

8:00 AM

Cancel Reason

Vacated - Case Closed

01/24/2022 Order ▼

Order

Comment

[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 ▼

Notice of Entry - NEO (CIV)

Comment

[134] NOTICE OF ENTRY OF ORDER

01/26/2022 Motion ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Cancel Reason

Vacated

Comment

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

02/02/2022 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

**[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 ▼

Reply in Support - RIS (CIV)

Comment

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

02/09/2022 Opposition and Countermotion ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - per Order

Comment

**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**

02/15/2022 Order ▼

Order

Comment

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

02/15/2022 Order ▼

Order

Comment

**[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 ▼

Notice of Entry of Decision and Order - NOED (CIV)

Comment

**[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 ▼

Notice of Entry of Order - NEOJ (CIV)

Comment

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

02/18/2022 Motion for Attorney Fees ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - per Order

Comment

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 Motion for Attorney Fees and Costs ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - per Order

Comment

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

02/23/2022 Motion to Reconsider ▼

Motion to Reconsider - MRCN (CIV)

Comment

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

02/23/2022 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[142] Notice of Hearing

03/09/2022 Opposition to Motion ▼

Opposition to Motion - OPPM (CIV)

Comment

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

03/14/2022 Notice of Appeal ▼

Notice of Appeal - NOAS (CIV)

Comment

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

03/14/2022 Case Appeal Statement ▼

Case Appeal Statement - ASTA (CIV)

Comment

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

03/17/2022 Notice of Appeal ▼

Notice of Appeal - NOAS (CIV)

Comment

[146] Plaintiff's Notice of Appeal

03/17/2022 Case Appeal Statement ▼

Case Appeal Statement - ASTA (CIV)

Comment

[147] Plaintiffs Case Appeal Statement

03/23/2022 Reply in Support ▼

Reply in Support - RIS (CIV)

Comment

[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

04/01/2022 Motion For Reconsideration ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

3:00 AM

Cancel Reason

Vacated - per Order

Comment

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

04/25/2022 Pre Trial Conference ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - Case Closed

05/04/2022 Order ▼

Order

Comment

[149] Order RE: Valley Health System's Motion for Reconsideration RE: Motion for Attorney's Fees

05/04/2022 Notice of Entry of Order ▼

Notice of Entry - NEO (CIV)

Comment

[150] Notice of Entry of Order

05/16/2022 Calendar Call ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

9:00 AM

Cancel Reason

Vacated - Case Closed

05/23/2022 Jury Trial - FIRM ▼

Judicial Officer

Wiese, Jerry A.

Hearing Time

10:30 AM

Cancel Reason

Vacated - Case Closed

06/02/2022 Judgment ▼

Judgment

Comment

[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

06/07/2022 Notice of Entry of Judgment ▼

Notice of Entry of Judgment - NJUD (CIV)

Comment

[152] Notice of Entry of Judgment

06/07/2022 Notice of Appeal ▼

Notice of Appeal - NOAS (CIV)

Comment

[153] Plaintiffs' Notice of Appeal

06/07/2022 Case Appeal Statement ▼

Case Appeal Statement - ASTA (CIV)

Comment

[154] Plaintiffs' Case Appeal Statement

07/05/2022 Case Reassigned to Department 7 ▼

Comment

Pursuant to Administrative Order 22-09 - Case Reassigned from Judge Jerry A. Wiese to Judge Linda Marie Bell

07/19/2022 Ex Parte Application for Examination of Judgment Debtor ▼

Ex Parte Application for Examination of Judgment Debtor - EAJD (CIV)

Comment

[155] Ex Parte Application for Judgment Debtors Examination and Production of Documents

07/20/2022 NV Supreme Court Clerks Certificate/Judgment - Dismissed ▼

NV Supreme Court Clerks Certificate/Judgment - Dismissed

Comment

[156] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

08/18/2022 Order for Examination of Judgment Debtor ▼

Order for Examination of Judgment Debtor

Comment

[157] Order Directing Examination of Judgment Debtors and Production of Documents

08/19/2022 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

[158] Notice Of Entry Of Order

09/27/2022 Motion for Stay of Execution ▼

Motion for Stay of Execution - MSTE (CIV)

Comment

[159] Plaintiffs Motion To Stay Execution On Judgment For Attorneys Fees And Costs Including Stay Of Examination Of Judgment Debtors And Production Of Documents

09/27/2022 Exhibits ▼

Exhibits - EXHS (CIV)

Comment

[160] Exhibits 1 to 6 to Plaintiffs' Motion to Stay Execution on Judgment for Attorneys' Fees and Costs Including Stay of Examination of Judgment Debtors and Production of Documents

09/28/2022 Hearing for Examination of Judgment Debtor ▼

Minutes - Hearing for Examination of Judgment Debtor

Judicial Officer
Bell, Linda Marie

Hearing Time
9:00 AM

Result
Matter Heard

Parties Present ▲
Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Defendant

Attorney: Garth, Adam

Attorney: Garth, Adam

09/29/2022 Notice of Intent ▼

Notice of Intent - NI (CIV)

Comment
[161] Notice Of Intent To Appear Electronically

10/28/2022 Opposition and Countermotion ▼

Opposition and Countermotion - OPPC (CIV)

Comment
[162] Defendant/Judgment Creditor Valley Health System, LLCs Opposition To Plaintiffs Motion To Stay Execution On Judgment For Attorneys Fees And Costs Including Stay Of Examination Of Judgment Debtors And Production Of Documents And Countermotion For Contempt And Attorneys Fees

10/28/2022 Appendix ▼

Appendix - APEN (CIV)

Comment
[163] Appendix to Defendant/Judgment Creditor Valley Health System, LLCs Opposition To Plaintiffs Motion To Stay Execution On Judgment For Attorneys Fees And Costs Including Stay Of Examination Of Judgment Debtors And Production Of Documents And Countermotion For Contempt And Attorneys Fees

11/04/2022 Response ▼

Response - RSPN (CIV)

Comment

[164] Plaintiffs' Response to Defendant Valley Health System, LLC's Opposition to Motion to Stay Execution on Judgment for Attorneys' Fee and Costs (Including Stay of Judgment Debtors and Production of Documents) and Plaintiffs Opposition to Defendants Countermotion for Contempt and Attorney's Fees

11/04/2022 Appendix ▼

Appendix - APEN (CIV)

Comment

[165] Appendix in Support of Plaintiffs' Motion to Stay Judgment and Response to VHS's Opposition and Countermotion

11/08/2022 Minute Order ▼

Minute Order

Judicial Officer

Bell, Linda Marie

Hearing Time

3:15 PM

Result

Minute Order - No Hearing Held

11/08/2022 Notice ▼

Notice - NOTC (CIV)

Comment

[166] Plaintiff's Notice of Filing Consent to Use Electronic Signature of Lloyd Creecy

11/09/2022 Notice of Intent ▼

Notice of Intent - NI (CIV)

Comment

[167] Notice Of Intent To Appear Electronically

11/16/2022 Motion for Stay of Execution ▼

Judicial Officer

Bell, Linda Marie

Hearing Time

9:00 AM

Result

Granted

Comment

[159] PLAINTIFFS MOTION TO STAY EXECUTION ON JUDGMENT FOR ATTORNEYS FEES AND COSTS INCLUDING STAY OF EXAMINATION OF JUDGMENT DEBTORS AND PRODUCTION OF DOCUMENTS

11/16/2022 Opposition and Countermotion ▼

Judicial Officer

Bell, Linda Marie

Hearing Time

9:00 AM

Result

Denied

Comment

Defendant/Judgment Creditor Valley Health System, LLCs Opposition To Plaintiffs Motion To Stay Execution On Judgment For Attorneys Fees And Costs Including Stay Of Examination Of Judgment Debtors And Production Of Documents And Counter-motion For Contempt And Attorneys Fees

11/16/2022 All Pending Motions ▼

Minutes - All Pending Motions

Judicial Officer

Bell, Linda Marie

Hearing Time

9:00 AM

Result

Matter Heard

Parties Present ▲

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Plaintiff

Attorney: Padda, Paul S.

Defendant

Attorney: Garth, Adam

Attorney: Garth, Adam

11/16/2022 Motion to Set Aside ▼

Motion to Set Aside - MSTA (CIV)

Comment

[168] Plaintiffs' Motion to Set Aside Judgment and Related Relief

11/18/2022 Clerk's Notice of Hearing ▼

Clerk's Notice of Hearing - CNOC (CIV)

Comment

[169] Notice of Hearing

11/22/2022 Court Recorders Invoice for Transcript ▼

Court Recorders Invoice for Transcript

Comment

[170] Invoice for 9/28 and 11/16

11/29/2022 Recorders Transcript of Hearing ▼

Recorders Transcript of Hearing - RTRAN (CIV)

Comment

[171] Recorders Transcript of Hearing 9/28/22

11/29/2022 Recorders Transcript of Hearing ▼

Recorders Transcript of Hearing - RTRAN (CIV)

Comment

[172] Recorders Transcript of All Pending Motion 11/16/22

12/01/2022 Order Granting Motion ▼

Order Granting Motion

Comment

[173] Order Granting Motion to Stay Enforcement of Judgment

12/01/2022 Order ▼

Order

Comment

[174] Order Declining to Rule Upon Motion to Set Aside Judgment and Related Relief

12/09/2022 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

[175] Notice of Entry of Order Granting Motion to Stay Enforcement of Judgment

12/09/2022 Notice of Entry ▼

Notice of Entry - NEO (CIV)

Comment

[176] Notice of Entry of Order Declining to Rule Upon Motion to Set Aside Judgment and Related Relief

12/21/2022 Motion to Set Aside ▼

Judicial Officer(s)

Bell, Linda Marie, Bixler, James

Hearing Time

9:00 AM

Cancel Reason
Vacated - per Order

Comment
Plaintiffs' Motion to Set Aside Judgment and Related Relief

01/03/2023 Case Reassigned to Department 21 ▼

Comment
Pursuant to Administrative Order 22-14 - Reassigned to Judge Tara Clark Newberry

01/03/2023 Peremptory Challenge ▼

Peremptory Challenge - CHLG (CIV)

Comment
[177] Defendants Valley Health System, LLC's (Doing Business as "Centennial Hills Hospital Medical Center") and Universal Health Services Inc's Peremptory Challenge of Judge

01/10/2023 Notice of Department Reassignment ▼

Notice of Department Reassignment - NODR (CIV)

Comment
[178] Notice of Department Reassignment

06/13/2023 Status Check ▼

Judicial Officer
Delaney, Kathleen E.

Hearing Time
9:00 AM

Comment
Status Check: Status of Appeal

Financial

Estate of Rebecca Powell

Total Financial Assessment	\$574.00
Total Payments and Credits	\$574.00

2/5/2019	Transaction Assessment			\$390.00
2/5/2019	Efile Payment	Receipt # 2019-07588-CCCLK	Estate of Rebecca Powell	(\$390.00)
3/17/2022	Transaction Assessment			\$24.00

3/17/2022	Efile Payment	Receipt # 2022-16486- CCCLK	Estate of Rebecca Powell	(\$24.00)
6/7/2022	Transaction Assessment			\$24.00
6/7/2022	Efile Payment	Receipt # 2022-32259- CCCLK	Estate of Rebecca Powell	(\$24.00)
6/7/2022	Transaction Assessment			\$27.00
6/7/2022	Payment (Window)	Receipt # 2022-32263- CCCLK	American Legal Investigation	(\$27.00)
6/8/2022	Transaction Assessment			\$108.00
6/8/2022	Payment (Window)	Receipt # 2022-32458- CCCLK	American Legal Investigation Services Nevada, Inc	(\$108.00)
11/16/2022	Transaction Assessment			\$1.00
11/16/2022	Payment (Window)	Receipt # 2022-66880- CCCLK	American Legal Investigaion Serveice Nevada INC	(\$1.00)
Valley Health System, LLC				
	Total Financial Assessment			\$1,329.37
	Total Payments and Credits			\$1,329.37
6/20/2019	Transaction Assessment			\$223.00
8/20/2019	Payment (Mail)	Receipt # 2019-50914- CCCLK	HPS Hall Prangle & Schoonveld	(\$223.00)
4/15/2020	Transaction Assessment			\$223.00
4/15/2020	Efile Payment	Receipt # 2020-20640- CCCLK	Valley Health System, LLC	(\$223.00)
9/2/2020	Transaction Assessment			\$200.00
9/2/2020	Efile Payment	Receipt # 2020-48895- CCCLK	Valley Health System, LLC	(\$200.00)
3/14/2022	Transaction Assessment			\$48.00
3/14/2022	Efile Payment	Receipt # 2022-15452- CCCLK	Valley Health System, LLC	(\$48.00)
11/22/2022	Transaction Assessment			\$185.37
11/23/2022	Payment (Window)	Receipt # 2022-68317- CCCLK	Lewis Brisbois Bisgaard & Smith	(\$185.37)

1/3/2023	Transaction Assessment			\$450.00
1/3/2023	Efile Payment	Receipt # 2023-00231-CCCLK	Valley Health System, LLC	(\$450.00)
Universal Health Services, Inc.				
	Total Financial Assessment			\$423.00
	Total Payments and Credits			\$423.00
9/24/2019	Transaction Assessment			\$423.00
5/15/2020	Payment (Mail)	Receipt # 2020-26420-CCCLK	Hall Prangle and Schoonveld LLC	(\$223.00)
5/20/2020	Payment (Mail)	Receipt # 2020-27168-CCCLK	Hall Prangle and Schoonveld LLC	(\$200.00)
Juliano, Dionice S., M.D.				
	Total Financial Assessment			\$200.00
	Total Payments and Credits			\$200.00
8/7/2020	Transaction Assessment			\$200.00
8/7/2020	Efile Payment	Receipt # 2020-43716-CCCLK	Juliano, Dionice S.	(\$200.00)
Concio, Conrado C.D., M.D.				
	Total Financial Assessment			\$453.00
	Total Payments and Credits			\$453.00
6/12/2019	Transaction Assessment			\$253.00
6/12/2019	Efile Payment	Receipt # 2019-35687-CCCLK	Concio, Conrado C.D.	(\$253.00)
9/8/2020	Transaction Assessment			\$200.00
9/8/2020	Efile Payment	Receipt # 2020-49741-CCCLK	Concio, Conrado C.D.	(\$200.00)
Shah, Vishal S., M.D.				
	Total Financial Assessment			\$223.00
	Total Payments and Credits			\$223.00
6/13/2019	Transaction Assessment			\$223.00
6/13/2019	Efile Payment	Receipt # 2019-36039-CCCLK	Shah, Vishal S.	(\$223.00)

Documents

Initial Appearance Fee Disclosure - IAFD (CIV)

Complaint - COMP (CIV)

Ex Parte Motion - EXMT (CIV)

Affidavit of Service - AOS (CIV)

Affidavit of Service - AOS (CIV)

Affidavit of Service - AOS (CIV)

Order - ORDR (CIV)
Notice of Entry of Order - NEOJ (CIV)
Motion to Dismiss - MDSM (CIV)
Initial Appearance Fee Disclosure - IAFD (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Joinder - JOIN (CIV)
Initial Appearance Fee Disclosure - IAFD (CIV)
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Clerk's Notice of Hearing - CNOC (CIV)
Waiver - WAIV (CIV)
Waiver - WAIV (CIV)
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Minute Order
Notice of Department Reassignment - NODR (CIV)
Stipulation and Order - SAO (CIV)
Notice of Entry of Order - NEOJ (CIV)
Stipulation and Order - SAO (CIV)
Notice of Entry of Order - NEOJ (CIV)
Notice of Appearance - NOTA (CIV)
Opposition - OPPS (CIV)
Reply - RPLY (CIV)
Reply in Support - RIS (CIV)
Motion to Dismiss - MDSM (CIV)
Joinder To Motion - JMOT (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Notice of Change of Address - NCOA (CIV)
Answer - ANS (CIV)
Demand for Jury Trial - DMJT (CIV)
Opposition to Motion to Dismiss - OMD (CIV)
Motion to Withdraw As Counsel - MWCN (CIV)
Motion to Dismiss
Clerk's Notice of Nonconforming Document - CNND (CIV)
Disclosure Statement - DSST (CIV)
Minutes - Motion to Dismiss
Stipulation and Order - SAO (CIV)
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Notice of Appearance - NOTA (CIV)
Substitution of Attorney - SUBT (CIV)
Order - ORDR (CIV)
Notice of Early Case Conference - NECC (CIV)
Joint Case Conference Report - JCCR (CIV)
Order - ORDR (CIV)

Minute Order

Notice of Association of Counsel - NOAC (CIV)

Answer - ANS (CIV)

Demand for Jury Trial - DMJT (CIV)

Motion to Associate Counsel - MASS (CIV)

Clerk's Notice of Hearing - CNOC (CIV)

Substitution of Attorney - SUBT (CIV)

Mandatory Rule 16 Conference

Scheduling and Trial Order - SCHTO (CIV)

Order - ORDR (CIV)

Substitution of Attorney - SUBT (CIV)

Motion for Summary Judgment - MSJD (CIV)

Non Opposition - NONO (CIV)

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Stipulation and Order

Stipulation and Order

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Joinder To Motion - JMOT (CIV)

Opposition to Motion For Summary Judgment - OMSJ (CIV)

Opposition to Motion For Summary Judgment - OMSJ (CIV)

Reply to Opposition - ROPP (CIV)

Reply in Support - RIS (CIV)

Minute Order

Joinder - JOIN (CIV)

Joinder - JOIN (CIV)

Reply in Support - RIS (CIV)

Ex Parte Application - EPAP (CIV)

Ex Parte - EXPT (CIV)

Minutes - Minute Order

All Pending Motions

Order

Notice of Entry of Order - NEOJ (CIV)

Order

Notice of Entry of Order - NEOJ (CIV)

Redacted Version

Order Shortening Time

Order

Opposition - OPPS (CIV)

Reply to Opposition - ROPP (CIV)

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Recorders Transcript of Hearing - RTRAN (CIV)

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Notice - NOTC (CIV)
Motion to Reconsider - MRCN (CIV)
Exhibits - EXHS (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
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Notice of Entry - NEO (CIV)
Order Shortening Time
Notice of Entry of Order - NEOJ (CIV)
Opposition - OPPS (CIV)
Reply in Support - RIS (CIV)
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Status Report - SR (CIV)
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Notice of Entry of Order - NEOJ (CIV)
Memorandum of Costs and Disbursements - MEMC (CIV)
Motion for Attorney Fees - MATF (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Memorandum of Costs and Disbursements - MEMC (CIV)
Motion to Extend - MEX (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Application - APPL (CIV)
Order
Motion for Attorney Fees and Costs - MAFC (CIV)
Order Setting Medical/Dental Malpractice Status Check
Clerk's Notice of Hearing - CNOC (CIV)
Opposition - OPPS (CIV)
Opposition and Countermotion - OPPC (CIV)
Opposition to Motion - OPPM (CIV)
Opposition to Motion - OPPM (CIV)
Reply to Opposition - ROPP (CIV)

Reply to Opposition - ROPP (CIV)
Order
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Reply in Support - RIS (CIV)
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Order
Notice of Entry of Decision and Order - NOED (CIV)
Notice of Entry of Order - NEOJ (CIV)
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Opposition to Motion - OPPM (CIV)
Further Proceedings
Notice of Appeal - NOAS (CIV)
Case Appeal Statement - ASTA (CIV)
Notice of Appeal - NOAS (CIV)
Case Appeal Statement - ASTA (CIV)
Reply in Support - RIS (CIV)
Order
Notice of Entry - NEO (CIV)
Judgment
Notice of Entry of Judgment - NJUD (CIV)
Notice of Appeal - NOAS (CIV)
Case Appeal Statement - ASTA (CIV)
Ex Parte Application for Examination of Judgment Debtor - EAJD (CIV)
NV Supreme Court Clerks Certificate/Judgment - Dismissed
Order for Examination of Judgment Debtor
Notice of Entry - NEO (CIV)
Motion for Stay of Execution - MSTE (CIV)
Exhibits - EXHS (CIV)
Notice of Intent - NI (CIV)
Minutes - Hearing for Examination of Judgment Debtor
Opposition and Countermotion - OPPC (CIV)
Appendix - APEN (CIV)
Response - RSPN (CIV)
Appendix - APEN (CIV)
Notice - NOTC (CIV)
Minute Order
Notice of Intent - NI (CIV)
Motion to Set Aside - MSTA (CIV)
Clerk's Notice of Hearing - CNOC (CIV)
Minutes - All Pending Motions
Court Recorders Invoice for Transcript

Recorders Transcript of Hearing - RTRAN (CIV)

Recorders Transcript of Hearing - RTRAN (CIV)

Order Granting Motion

Order

Notice of Entry - NEO (CIV)

Notice of Entry - NEO (CIV)

Peremptory Challenge - CHLG (CIV)

Notice of Department Reassignment - NODR (CIV)



1 **IAFD**

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11 *Attorneys for Plaintiffs*

12 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **ESTATE OF REBECCA POWELL,**
15 **through BRIAN POWELL, as Special**
16 **Administrator; DARCI CREECY,**
17 **individually and as an Heir; TARYN**
18 **CREECY, individually and as an Heir;**
19 **ISAIAH KHOSROF, individually and as an**
20 **Heir; LLOYD CREECY, individually;**

21 Plaintiffs,

22 vs.

23 **VALLEY HEALTH SYSTEM, LLC (doing**
24 **business as "Centennial Hills Hospital Medical**
25 **Center"), a foreign limited liability company;**
26 **UNIVERSAL HEALTH SERVICES, INC.,**
27 **a foreign corporation; DR. DIONICE S.**
28 **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.:

Department 14

INITIAL APPEARANCE FEE DISCLOSURE
(NRS CHAPTER 19)

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for

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the party appearing in the above entitled action as indicated below:

Estate Of Rebecca Powell (through Brian Powell)	\$270.00
Darci Creecy	\$ 30.00
Taryn Creecy	\$ 30.00
Isaiah Khosrof	\$ 30.00
<u>Lloyd Creecy</u>	<u>\$ 30.00</u>
TOTAL	\$390.00

DATED this 4th day of January 2019.

Respectfully submitted by:

PAUL PADDA LAW, PLLC

By: 
PAUL S. PADDA, ESQ.
JOSHUA Y. ANG, ESQ.
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Attorneys for Plaintiffs

CLARK COUNTY DISTRICT COURT

CLARK COUNTY, NEVADA

ESTATE OF REBECCA POWELL,
through **BRIAN POWELL**, as Special
Administrator; **DARCI CREECY**,
individually and as an Heir; **TARYN**
CREECY, individually and as an Heir;
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.

A-19-788787-C

Case No. _____

Department 14

Dept No. _____

COMPLAINT
JURY TRIAL DEMANDED

SUBJECT TO AUTOMATIC
ARBITRATION EXEMPTION –

1. Pursuant To N.A.R. 3(A)-
Medical Malpractice
2. Amount In Controversy Exceeds
\$50,000.00

1 This is a civil action seeking monetary damages for the death of Rebecca Powell. In
2 support of this Complaint, Plaintiffs rely upon the Affidavit of Dr. Sami Hashim, M.D.
3 (incorporated by reference herein and attached to this Complaint as **Exhibit A**) and allege as
4 follows:

5
6 **I.**

7 **ARBITRATION EXEMPTION**

8 1. Nevada Revised Statute ("N.R.S.") 38.250 requires that "[a]ll civil actions filed in
9 district court for damages, if the cause of action arises in the State of Nevada and the amount in
10 issue does not exceed \$50,000 per plaintiff, exclusive of attorney's fees, interest and court costs,
11 must be submitted to nonbinding arbitration . . ."

12
13 2. This case is automatically exempt from the arbitration program because "the
14 amount in issue" (i.e. damages) for Plaintiffs significantly exceeds \$50,000.00, and because it is
15 a medical malpractice matter.

16
17 **II.**

18 **JURISDICTION, VENUE AND LEGAL BASIS FOR THIS ACTION**

19 3. This civil action is brought by Plaintiffs pursuant to the statutory and common law
20 of the State of Nevada. Venue is appropriate in this Court because all events giving rise to the
21 present cause of action occurred in Clark County, Nevada. The amount in controversy in this
22 case is well in excess of the statutorily required amount of \$15,000.00.

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III.

THE PARTIES

4. Plaintiff, "Estate of Rebecca Powell" administers the affairs of Rebecca Powell ("Rebecca") who died in Clark County, Nevada on May 11, 2017. At the time of her death, Rebecca, an adult female, was approximately 42-years old. Rebecca was born on May 30, 1975.

5. Plaintiff Brian Powell ("Brian") is an adult male and the ex-husband of Rebecca as well as the Special Administrator of Rebecca's Estate. At all time periods relevant to this lawsuit, Brian was a resident of Clark County, Nevada.

6. Plaintiff Darci Creecy ("Darci") is an adult female and the daughter of Rebecca. At all time periods relevant to this lawsuit, Darci was a resident of Ohio.

7. Plaintiff Taryn Creecy ("Taryn") is an adult female and the daughter of Rebecca. At all time periods relevant to this lawsuit, Taryn was a resident of Ohio.

8. Plaintiff Isaiah Khosrof ("Khosrof") is an adult male and the son of Rebecca. At all time periods relevant to this lawsuit, Khosrof was a resident of Massachusetts.

9. Plaintiff Lloyd Creecy ("Lloyd") is an adult male and the father of Rebecca. At all time periods relevant to this lawsuit, Lloyd was a resident of Ohio.

10. Defendant Valley Health System, LLC (doing business as "Centennial Hills Hospital Medical Center") ("VHS") is a for-profit healthcare company, upon information and belief, headquartered in Nevada, that operates approximately 6 hospitals in Nevada. Upon information and belief, VHS owns and operates "Centennial Hills Hospital Medical Center"

1 located in Las Vegas, Nevada. VHS is a Delaware limited liability company registered to transact
2 business in Nevada.

3 11. Defendant Universal Health Services, Inc. ("UHS") is, upon information and
4 belief, a for-profit healthcare company headquartered in King of Prussia, Pennsylvania. Upon
5 further information and belief, UHS, through subsidiarie(s)/intermediarie(s) owns and operates
6 "Centennial Hills Hospital Medical Center" located in Las Vegas, Nevada, through
7 ownership/control of Valley Health System, LLC. UHS is a foreign corporation registered in
8 Delaware.
9

10 12. Defendant Dr. Dionice S. Juliano, M.D. ("Dr. Juliano") is an adult male individual
11 that, upon information and belief, was a resident of Clark County, Nevada for all time periods
12 relevant to this lawsuit. Dr. Juliano is licensed to practice medicine in the State of Nevada.
13

14 13. Defendant Dr. Conrado C.D. Concio, M.D. ("Dr. Concio") is an adult male
15 individual that, upon information and belief, was a resident of Clark County, Nevada for all time
16 periods relevant to this lawsuit. Dr. Concio is licensed to practice medicine in the State of Nevada.
17

18 14. Defendant Dr. Vishal S. Shah, M.D. ("Dr. Shah") is an adult male individual that,
19 upon information and belief, was a resident of Clark County, Nevada for all time periods relevant
20 to this lawsuit. Dr. Shah is licensed to practice medicine in the State of Nevada.

21 15. Plaintiffs are informed and believe, and thereupon allege, that each of the
22 Defendants designated as Does 1 through 10, inclusive, are responsible in some manner for the
23 events and happenings herein referred to and negligently and/or intentionally caused injuries and
24 damages to Plaintiffs. Plaintiffs further allege that they cannot currently ascertain the identity of
25

1 each of the Doe Defendants and Plaintiffs will therefore seek leave of Court to amend this
2 Complaint to insert the true names and capacities of Doe Defendants when they have been
3 ascertained, together with appropriate charging allegations and to join such Defendants in this
4 action.

5
6 16. Plaintiffs are informed and believe, and thereupon allege, that each of the
7 Defendants designated as Roes A through Z, inclusive, is responsible in some manner for the
8 events and happenings herein referred to and negligently and/or intentionally caused injuries and
9 damages to Plaintiffs. Plaintiffs are further informed and believe that each of the Roes is either a
10 corporation, related subsidiary, parent entity, group, partnership, holding company, owner,
11 predecessor entity, successor entity, joint venture, related association, insurer or business entity,
12 the true names of which are currently unknown to Plaintiffs at this time. Additionally, Plaintiffs
13 allege that they cannot currently ascertain the identity of each of the Roe Defendants and Plaintiffs
14 will therefore seek leave of Court to amend this Complaint to insert the true names and capacities
15 of Roe Defendants when they have been ascertained, together with appropriate charging
16 allegations and to join such Defendants in this action.
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19 IV.

20 **FACTUAL BACKGROUND**

21 17. Centennial Hills Hospital Medical Center ("CHHMC") (operated by VHS and
22 UHS) advertises itself on its website as a hospital that offers various healthcare services, including
23 emergency care, heart care, stroke services, imaging services, gastroenterology and oncology,
24 among other things. UHS, the parent corporation of VHS, and through VHS, the owner and
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operator of CHHMC, in or around April 2018, was reported to have set aside approximately \$35 million for the potential settlement of alleged False Claims Act violations.

18. On May 3, 2017, Rebecca was found by emergency medical services (“EMS”) at home, unconscious with labored breathing, and with vomitus on her face. It was believed she had ingested an over-amount of Benadryl, Cymbalta and Ambien. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 6A). EMS intubated Rebecca and transported her to the Emergency Department (“ED”) of CHHMC. *Id.* At the ED, Rebecca was evaluated and diagnosed with: (a) Respiratory Failure and low blood pressure; (b) “Overdose on unknown amount of Benadryl, Cymbalta and ethyl alcohol”; (c) Sinus Tachycardia – no ectopy; and (d) Acidosis, among other things. *Id.*

19. Notwithstanding the Death Certificate stating that the only cause of death was “Complications of Cymbalta Intoxication,” Rebecca did not, and with high probability could not have died from this. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 6B). Instead, Rebecca died as a direct consequence of respiratory failure directly due to below standard of care violations as indicated by her medical records and reinforced by the Department of Health and Human Services—Division of Health Quality and Compliance’s (“DHHS”) Investigative Report. *Id.* After being admitted to Centennial Hills Hospital on March 3, 2017, Rebecca’s health status steadily improved over the course of almost a week to a point where a pulmonologist consultation stated that Rebecca felt well and wanted to go home, while making no note to delay discharge. *Id.* Plaintiffs were also told by healthcare providers that Rebecca was doing much better and “would be discharged soon.” *Id.* Metabolically, Cymbalta has a half-shelf life of approximately

1 12-24 hours and up to 48 hours if an excessive amount is ingested. Rebecca's health status did
2 not deteriorate, and was in fact improving, until 150 hours plus had transpired. *Id.* Therefore, the
3 possibility that Rebecca died of Cymbalta intoxication or of complications arising therefrom, is
4 not realistic. *Id.* A bronchoscopy and bronchoalveolar lavage on May 4, 2017 excluded any
5 aspiration of vomitus, and toxicology reports did not find evidence of the ingestion of Ambien,
6 Benadryl or ethyl alcohol. *Id.*

7
8 20. By May 9, 2017, it was noted that Rebecca "had significantly improved and was
9 expected to be discharged." *Id.* However, Rebecca's health status began to deteriorate the next
10 day, on May 11, 2017. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 6C). The initial
11 changes were not critical, nor overly concerning. *Id.* However, Defendants' conduct in providing
12 healthcare services to Rebecca fell below the appropriate standard of care; this included
13 inadequate and absent monitoring, a lack of diagnostic testing and improper treatment, all of
14 which were directly related to Rebecca's acutely failing health status and ultimately her death
15 early in the morning of May 11, 2017. *Id.*

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18 21. The day before, on May 10, 2017 in the wee hours of the morning, Rebecca started
19 coughing and complained of shortness of breath, weakness and a "drowning" feeling. *Id.* Pursuant
20 to this, the drug Ativan was ordered to be administered to Rebecca by Dr. Shah via IV push. *Id.*
21 Various tests including x-rays were administered, which showed possible infiltrates or edema. *Id.*

22
23 22. On May 11, 2017, Dr. Concio ordered two consecutive doses of the drug Ativan
24 to be administered to Rebecca via IV push. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D.
25 ¶ 6D). A CT Scan of Rebecca's chest was also ordered, but said scan was aborted due to

1 Rebecca's shortness of breath and "anxiety." *Id.* At the very least, a portable x-ray should have
2 been ordered when the patient was returned to her room, but it was not. *Id.* Later, an RT-Tech
3 noted that Rebecca needed to be monitored by a "sitter" due to her attempting to remove her
4 oxygen mask. *Id.* However, no sitter was assigned, nor was Rebecca moved to another room with
5 adequate monitoring capabilities. *Id.* Indeed, the camera monitor of the room Rebecca was in
6 noted that the resolution of the camera/monitor did not allow him to see the patient enough to
7 discern when she attempted to remove the mask. *Id.* Rebecca was mis-diagnosed with 'anxiety
8 disorder' by an unqualified healthcare provider and there was no differential diagnosis presented
9 by any physician at any time on May 11, 2017 when the patient was suffering from respiratory
10 insufficiency. *Id.* Given that Rebecca had been receiving daily doses of Midazolam,
11 Acetylcysteine and at least four other drugs known to cause adverse respiratory side effects, and
12 that Rebecca went into Code Blue status within 90 minutes after Ativan dosing, it is highly
13 probable that the administration of back-to-back doses of Ativan via IV Push to her (while she
14 was already in respiratory distress), alongside the inadequate and absent monitoring, and other
15 act or omissions falling below standard of care, as notes by the DHHS Investigative Report, all
16 directly led to Rebecca's acute respiratory failure resulting in the final cardiorespiratory event
17 and her death. *Id.*

21 23. Dr. Juliano, Dr. Concio and Dr. Shah all breached their duty as professionals
22 providing medical services to Rebecca. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶
23 7). All three of them were aware of the patient's acutely declining health status and were
24 responsible (and should have) ordered alternative diagnostic imaging such as a portable x-ray to
25

1 detect any significant pulmonary changes when an attempt to conduct a CT scan failed due to
2 “anxiety.” See **Exhibit A**, (Affidavit of Dr. Sami Hashim, M.D. ¶ 7A). In addition, based on
3 Rebecca’s stable condition until late May 10, 2017 and her acute decline in health status on May
4 11, 2017, these three physicians should have made a differential diagnosis that included the
5 possibility of side effect(s) and adverse reaction(s) from the numerous medications being
6 administered to Rebecca known to have side effects directly related to her symptoms manifesting
7 during the deterioration of her health status on May 10 and 11, 2017. *Id.* The nature of the sudden
8 onset of Rebecca’s symptoms should have triggered the three doctors to review drug side effects
9 and interactions as a likely cause of her symptoms and declining health status, but this possibility
10 was ignored by them. *Id.* All three physicians were aware of the decision to administer more
11 Ativan via IV-Push to Rebecca multiple times in rapid succession to treat the her symptom of
12 anxiety, and allowed this administration in dereliction of their responsibility to have been aware
13 that administering Ativan to a respiratory-compromised patient poses significant risks related to
14 serious pulmonary/respiratory function. *Id.* Indeed, the FDA provides warnings of such risks. *Id.*

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18 24. Had the three physicians reviewed Rebecca’s drug regimen, they would have
19 realized a large number of these drugs caused shortness of breath, associated anxiety, cough,
20 labored breathing, weakness and other related symptoms exhibited by Rebecca. *Id.* They would
21 have further recognized that Ativan is known to potentially cause and/or increase respiratory
22 depression and would not have administered it, especially not by IV-Push, which is fast-acting.

23
24 *Id.*

25 ...

25. In concert with, and in addition to the above-articulated failures, a DHHS report dated February 5, 2018 (received by Special Administrator Brian Powell on February 9, 2018) found a plethora of violations falling below the standard of care. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 8). Among other things, the report criticized the fact that no specific differential diagnosis was shown in the records related to Rebecca's complaints and abnormal findings between May 10 and 11, 2017. *Id.* It also notes that the records state numerous times that physician notification, elevation to a higher level of care and/or closer monitoring was required but did not occur. *Id.* For example, at one point in time the respiratory therapist concluded the physician should have been notified, the Rapid Response Team ("RRT") activated, and the level of care upgraded, but the physician was not notified, the RRT was not activated and the level of care was not elevated. *Id.* Further, Rebecca was never moved to a different room for closer monitoring as earlier advised. *Id.* Instead, for at least one hour while she was in severe respiratory distress, no RN or CNA checked on her, which was grossly inadequate. *Id.* Also falling far below the standard of care was the fact that Rebecca did not receive any cardiac monitoring until she entered Code Blue status. *Id.* Any patient in respiratory distress needing a re-breather mask and receiving the same medications as Rebecca, must be on telemetry to monitor cardiac status. *Id.* In Rebecca's case, this was critically important given the fact she had been administered multiple IV Push doses of Ativan, a drug known to depress the respiratory system. *Id.*

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V.

FIRST CAUSE OF ACTION

[On Behalf Of The Estate Of Rebecca Powell (Through Special Administrator Brian), Darci, Taryn and Isaiah Against All Defendants]
Negligence / Medical Malpractice

26. Plaintiffs The Estate Of Rebecca Powell (through Special Administrator Brian), Dacri, Taryn, and Isaiah reallege and incorporate by reference the allegations set forth in paragraphs 1 through 25 above.

27. Under Nevada law, specifically the provisions of Nevada Revised Statute ("NRS") sections 41A, a plaintiff may recover for medical malpractice by showing the following: (i) defendant(s) (i.e. hospital, physician or employee of hospital) failed in rendering services to use reasonable care, skill or knowledge ordinarily used in similar circumstances; (ii) defendant's conduct was the actual and proximate cause of plaintiff's injuries; and (iii) plaintiff suffered damages. Under NRS 41A.071, a suit alleging medical malpractice requires an affidavit from a "medical expert."

28. In this case, Defendants (physicians, medical personnel and medical services corporations in the business of operating/providing services at Centennial Hills Hospital Medical Center) owed Rebecca a duty of care to provide her with medical services in a reasonable and safe manner. Defendants breached their duty of care towards Rebecca by providing her with medical services that fell below the acceptable standards of practice and care. See **Exhibit A** (attached in compliance with NRS 41A.071 and fully incorporated by reference herein). Specifically, Defendants acted below the standard of care when, among other things detailed in **Exhibit A**, they failed to recognize and consider the differential diagnosis of drug-induced

1 respiratory distress, inappropriately administering and/or allowing the administration of
2 additional Ativan via IV Push which further depressed Rebecca's respiration, contributing to her
3 death. This was compounded by numerous instances of failure to notify a physician, failure to
4 elevate to a higher level of care, failure to conduct necessary tests and failure to conduct closer
5 monitoring, all falling below the standard of care. Defendants also failed to recognize the fact that
6 Cymbalta could not be the cause of Rebecca's acute health deterioration due to its short half-shelf
7 life. Any other failures by Defendants to adhere to the standard of care while treating Rebecca
8 not described herein are realleged and incorporated by reference herein, as set forth in Exhibit A
9 and paragraphs 1 to 27 above.

11 29. Based upon the foregoing, it was entirely foreseeable that administering several
12 doses of Ativan via IV Push in quick succession to Rebecca, who was already experiencing
13 respiratory distress, and who was already on a cocktail of other drugs also known to have negative
14 respiratory effects, in conjunction with the various failures of care describes above and in Exhibit
15 A, could have caused (and in all probability did cause) severe respiratory symptoms, ultimately
16 putting Rebecca into Code Blue status and killing her. Exhibit A, ¶ 7 and 8. Thus, Defendants'
17 breach of their duty was both the actual and proximate cause of Rebecca's death.

20 30. Plaintiffs Dacri, Taryn and Isaiah, the heirs of Rebecca, as well as her Estate, have
21 suffered damages, including but not limited to significant pain and suffering, as a result of
22 Defendants' negligence in excess of \$15,000.00.

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1 35. Under NRS 41.085, the heirs and personal representative of a decedent's estate
2 may respectively maintain independent causes of action against another where that person/party
3 has caused the decedent's death by wrongful act or neglect.

4 36. In this case, Rebecca's Estate (through Brian its Special Administrator) and her
5 heirs (her children Dacri, Taryn, and Isaiah) may each seek appropriate damages permitted by
6 Nevada law (NRS 41.085) based upon the death of Rebecca. This includes, but is not limited to,
7 damages for grief, sorrow, loss of probable support, companionship, society, comfort and
8 consortium, medical/funeral expenses and damages for pain/suffering/emotional distress of
9 Rebecca. Additionally, these Plaintiffs may also seek any special damages permitted by law.

10 37. Defendants acted wrongfully and neglectfully when they breached their duty of
11 care towards Rebecca by providing her with medical service that fell below the acceptable
12 standards of practice and care. See Exhibit A (fully incorporated by reference herein).
13 Specifically, Defendants acted below the standard of care when, among other things detailed in
14 Exhibit A, they failed to recognize and consider the differential diagnosis of drug-induced
15 respiratory distress, inappropriately administering and/or allowing the administration of
16 additional Ativan via IV Push which further depressed Rebecca's respiration, contributing to her
17 death. This was compounded by numerous instances of failure to notify a physician, failure to
18 elevate to a higher level of care, failure to conduct necessary tests and failure to conduct closer
19 monitoring, all falling below the standard of care. Defendants also failed to recognize the fact that
20 Cymbalta could not be the cause of Rebecca's acute health deterioration due to its short half-shelf
21 life. Any other failures by Defendants to adhere to the standard of care while treating Rebecca
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1 not described herein are realleged and incorporated by reference herein, as set forth in **Exhibit A**
2 and paragraphs 1 to 36 above.

3 38. These Plaintiffs, the heirs of Rebecca, as well as her Estate, have suffered
4 respective damages as a result of Defendants' negligence in excess of \$15,000.00.

5 39. That the conduct of Defendants rose to the level of oppression, fraud or malice,
6 express or implied. That Defendants consciously disregarded the welfare and safety of Rebecca
7 and these Plaintiffs in providing substandard care to Rebecca, leading to her death. Further,
8 Defendants committed fraud where notes and records by RN(s) and/or CNAs were contradicted
9 by a note indicating that Rebecca was not checked on for an hour on May 11, 2017 while she was
10 in critical condition. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 8). These Plaintiffs
11 further reallege and incorporate any further applicable acts or omissions of Defendants while
12 treating Rebecca not described herein, as set forth in Exhibit A and paragraphs 1 to 38 above.
13 That these Plaintiffs are entitled to punitive/exemplary damages due to said acts or omissions.
14

15 40. As a result of Defendants' negligence, these Plaintiffs have been required to obtain
16 the services of an attorney to prosecute this action. These Plaintiffs are entitled to an award of
17 attorney's fees and costs of suit incurred herein.
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20 **VII.**

21 **THIRD CAUSE OF ACTION**

22 ***[On Behalf Of Darci, Taryn and Isaiah Against All Defendants]***
23 **Negligent Infliction Of Emotional Distress**

24 41. These Plaintiffs reallege and incorporate by reference the allegations set forth in
25 paragraphs 1 through 40 above.

1 42. A plaintiff may recover for negligent infliction of emotional distress (bystander
2 theory) under Nevada law by showing the following: (i) defendant negligently committed an
3 injury upon another; (ii) plaintiff is closely related to the victim of the accident; (iii) plaintiff was
4 located near the scene of the accident; and (iv) plaintiff suffered a shock resulting from the sensory
5 and contemporaneous observance of the accident.
6

7 43. In this case, Defendants (physicians and medical services corporations operating
8 a for-profit hospital) owed Rebecca a duty of care to provide reasonable and safe services. They
9 breached this duty of care towards Rebecca by providing her with medical service that fell below
10 the acceptable standards of practice and care. *See Exhibit A* (fully incorporated by reference
11 herein). Specifically, Defendants acted below the standard of care when, among other things
12 detailed in *Exhibit A*, they failed to recognize and consider the differential diagnosis of drug-
13 induced respiratory distress, inappropriately administering and/or allowing the administration of
14 additional Ativan via IV Push which further depressed Rebecca's respiration, contributing to her
15 death. This was compounded by numerous instances of failure to notify a physician, failure to
16 elevate to a higher level of care, failure to conduct necessary tests and failure to conduct closer
17 monitoring, all falling below the standard of care. Defendants also failed to recognize the fact that
18 Cymbalta could not be the cause of Rebecca's acute health deterioration due to its short half-shelf
19 life. Any other failures by Defendants to adhere to the standard of care while treating Rebecca
20 not described herein are realleged and incorporated by reference herein, as set forth in *Exhibit A*
21 and paragraphs 1 to 42 above.
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1 44. As a direct and proximate result of the negligence of Defendants, these Plaintiffs
2 suffered shock and serious emotional distress when they observed the condition of their mother
3 Rebecca precipitously deteriorate (ultimately leading to her rapid death) at CHHMC on May 10
4 and 11 of 2017.

5 45. These Plaintiffs contemporaneously observed the direct and proximate results of
6 Defendants' negligence when their mother Rebecca, who previously appeared to be recovering,
7 rapidly deteriorated before their eyes and died. These Plaintiffs suffered a shock and serious
8 emotional distress from sensory, contemporaneous observance of this tragic and unfortunate
9 event, all directly and proximately caused by Defendants' negligence. That said, this severe
10 emotional distress had an adverse impact on their physical health and well-being.
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12 46. These Plaintiffs, and each of them, have suffered damages as a result of
13 Defendants' actions in excess of \$15,000.00.
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15 47. That the conduct of Defendants rose to the level of oppression, fraud or malice,
16 express or implied. That Defendants consciously disregarded the welfare and safety of Rebecca
17 and these Plaintiffs in providing substandard care to Rebecca, leading to her death. Further,
18 Defendants committed fraud where notes and records by RN(s) and/or CNAs were contradicted
19 by a note indicating that Rebecca was not checked on for an hour on May 11, 2017 while she was
20 in critical condition. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 8). These Plaintiffs
21 further reallege and incorporate any further applicable acts or omissions of Defendants while
22 treating Rebecca not described herein, as set forth in Exhibit A and paragraphs 1 to 46 above.
23 That these Plaintiffs are entitled to punitive/exemplary damages due to said acts or omissions.
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1 48. As a result of Defendants' actions, these Plaintiffs have been required to obtain
2 the services of an attorney to prosecute this action. These Plaintiff is entitled to an award of
3 attorney's fees and costs of suit incurred herein.

4 **VIII.**

5 **FOURTH CAUSE OF ACTION**
6 ***[On Behalf Of Lloyd Creecy Against All Defendants]***
7 **Negligent Infliction Of Emotional Distress**

8 49. This Plaintiff realleges and incorporates by reference the allegations set forth in
9 paragraphs 1 through 48 above.

10 50. A plaintiff may recover for negligent infliction of emotional distress (bystander
11 theory) under Nevada law by showing the following: (i) defendant negligently committed an
12 injury upon another; (ii) plaintiff is closely related to the victim of the accident; (iii) plaintiff was
13 located near the scene of the accident; and (iv) plaintiff suffered a shock resulting from the sensory
14 and contemporaneous observance of the accident.

15 51. In this case, Defendants (physicians and medical services corporations operating
16 a for-profit hospital) owed Rebecca a duty of care to provide reasonable and safe services. They
17 breached this duty of care towards Rebecca by providing her with medical service that fell below
18 the acceptable standards of practice and care. See **Exhibit A** (fully incorporated by reference
19 herein). Specifically, Defendants acted below the standard of care when, among other things
20 detailed in **Exhibit A**, they failed to recognize and consider the differential diagnosis of drug-
21 induced respiratory distress, inappropriately administering and/or allowing the administration of
22 additional Ativan via IV Push which further depressed Rebecca's respiration, contributing to her
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1 death. This was compounded by numerous instances of failure to notify a physician, failure to
2 elevate to a higher level of care, failure to conduct necessary tests and failure to conduct closer
3 monitoring, all falling below the standard of care. Defendants also failed to recognize the fact that
4 Cymbalta could not be the cause of Rebecca's acute health deterioration due to its short half-shelf
5 life. Any other failures by Defendants to adhere to the standard of care while treating Rebecca
6 not described herein are realleged and incorporated by reference herein, as set forth in Exhibit A
7 and paragraphs 1 to 50 above.
8

9 52. As a direct and proximate result of the negligence of Defendants, this Plaintiff
10 suffered shock and serious emotional distress when he observed the condition of his daughter
11 Rebecca precipitously deteriorate (ultimately leading to her rapid death) at CHHMC on May 10
12 and 11 of 2017.
13

14 53. This Plaintiff contemporaneously observed the direct and proximate results of
15 Defendants' negligence when his daughter Rebecca, who previously appeared to be recovering,
16 rapidly deteriorated before his eyes and died. This Plaintiff suffered a shock and serious
17 emotional distress from sensory, contemporaneous observance of this tragic and unfortunate
18 event, all directly and proximately caused by Defendants' negligence. That said, this severe
19 emotional distress had an adverse impact on his physical health and well-being.
20

21 54. This Plaintiff has suffered damages as a result of Defendants' actions in excess of
22 \$15,000.00.
23

24 55. That the conduct of Defendants rose to the level of oppression, fraud or malice,
25 express or implied. That Defendants consciously disregarded the welfare and safety of Rebecca
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1 and these Plaintiffs in providing substandard care to Rebecca, leading to her death. Further,
2 Defendants committed fraud where notes and records by RN(s) and/or CNAs were contradicted
3 by a note indicating that Rebecca was not checked on for an hour on May 11, 2017 while she was
4 in critical condition. *See Exhibit A*, (Affidavit of Dr. Sami Hashim, M.D. ¶ 8). These Plaintiffs
5 further reallege and incorporate any further applicable acts or omissions of Defendants while
6 treating Rebecca not described herein, as set forth in Exhibit A and paragraphs 1 to 54 above.
7 That these Plaintiffs are entitled to punitive/exemplary damages due to said acts or omissions.
8

9 56. As a result of Defendants' actions, this Plaintiff has been required to obtain the
10 services of an attorney to prosecute this action. This Plaintiff is entitled to an award of attorney's
11 fees and costs of suit incurred herein.
12

13 **IX.**

14 **RELIEF REQUESTED**

15 57. Wherefore, in light of the foregoing, Plaintiffs request that the Court enter the
16 following relief in this matter:
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- 18 a. Set this matter for trial by jury on a date certain;
- 19 b. Award Plaintiffs compensatory and special damages in amounts exceeding
20 \$15,000.00 for each cause of action set forth herein;
- 21 c. Award Plaintiffs interest (pre-judgment and post-judgment) on all sums
22 permitted by law;
- 23 d. Award Plaintiff reasonable attorney's fees and costs for having to
24 prosecute this matter;

25 ...

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- 1 e. Punitive/Exemplary Damages for each cause of action; and
2
3 f. Award all other just and proper relief.

4 DATED this 4th day of February 2019.

5 Respectfully submitted by:

6 PAUL PADDA LAW, PLLC

7
8 By: 

9 PAUL S. PADDA, ESQ.
10 JOSHUA Y. ANG, ESQ.
11 4560 South Decatur Blvd., Suite 300
12 Las Vegas, Nevada 89103

13 Attorneys for Plaintiffs
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EXHIBIT A

EXHIBIT A

AFFIDAVIT OF DR. SAMI HASHIM, M.D.

STATE OF NEW YORK }
COUNTY OF WESTCHESTER }

The undersigned affiant, Dr. Sami Hashim, M.D., being first duly sworn, hereby deposes and says:

1. I have reviewed the medical records pertaining to Rebecca Powell (Date of Birth: May 30, 1975 / Date of Death: May 11, 2017).
2. This affidavit is offered based upon my personal and professional knowledge. I am over the age of eighteen and competent to testify to the matters set forth herein if called upon to do so.
3. I am a medical doctor and senior attending physician in the Division of Endocrinology and Metabolism at St. Luke's Hospital/Medical Center at Mount Sinai in New York, New York. I have been a Professor of Endocrinology, Internal Medicine, Metabolism & Nutritional Medicine at Columbia University College of Physicians & Surgeons since the early 1970's and was Chief of Metabolic Research from 1971 to 1997. I have published over 200 papers in peer-reviewed journals and am a recognized expert in the fields of internal medicine (including general medicine, which includes cardiology, neurology, pulmonology and other specialties), endocrinology, metabolism and nutrition. I have served on research review committees of the National Institute of Health. I earned my MD degree from the State University of New York, with post graduate training at Harvard University.
4. I have worked as a senior attending physician and professor at St. Luke's Hospital and Medical Center, a Mount Sinai Medical Center affiliate hospital (previously affiliated with Columbia University) for over 20 years. As a professor, I teach medical students, interns, residents all aspects of internal and general medicine, in-patient and out-patient medical care. I complete medical rounds each day seeing patients with and without medical students, interns, residents and I train Fellows in many different specialties including Emergency Medicine, Cardiology, and Pulmonary Medicine. I also attend to private patients at St. Luke's.
5. As a senior attending physician and Professor with decades of teaching and training medical students, Interns, Residents and Fellows as well as attending to my own private patients, I can attest that following Standard of Care ("SOC") protocols is crucial and essential for proper diagnosis, treatment and care management. Obviously, there are numerous SOC protocols, which begin from the time the patient is first seen and examined at a hospital/medical center, post-admission, at time of discharge and following discharge. Many of the protocols are basic, yet of critical importance to the patient's overall health welfare and ultimate recovery during the recuperation period following discharge. That is why all hospitals/medical centers respect and adhere to strict guidelines and protocols described & defined by each healthcare facility and even by federal law(s). Certainly, real-time information stated

and revealed in a patient's medical records such as all chart notes, must be carefully evaluated and considered as primary SOC as part of patient care management. Disregard of even basic protocols can lead to catastrophic events and outcomes.

6. I have reviewed the available medical records, summary reports and the HHS-Investigative Report pertaining to Rebecca Powell. Evaluation of her medical records and reconstruction of an accurate timeline was available in part (all records were requested, not all records were provided by Centennial Hills Hospital & Medical Center). In my opinion, stated to a reasonable degree of medical probability, the conduct of *Centennial Hills Hospital & Medical Center* (including its hospitalists/nurses and other healthcare providers including *Dr. Juliano Dionice, M.D., Dr. C. Concio, M.D., Dr. Vishal Shah* - presumed employees)—fell below the appropriate standards of care that were owed to Rebecca Powell. The medical records and additional medical related information I have reviewed reveal the following:

- A. On May 3, 2017 at 3:27PDT, Rebecca Powell, a 41-year old adult female, was found by EMS at home, unconscious with labored breathing and vomitus on her face. It was believed she ingested an over-amount of Benadryl, Cymbalta and Ambien. EMS intubated Ms. Powell and transported her to Centennial Hills Hospital—Emergency Department (ED). At ED, patient was evaluated and diagnosed with:
- Respiratory Failure and low BP
 - “Overdose on unknown amount of Benadryl, Cymbalta and ETOH”
 - Review of Systems: “Within Normal Limits” (WNL)
 - Sinus Tachycardia – no ectopy
 - Lab results consistent with respiratory failure and over-dosage of suspected medications
 - Acidosis
- B. Notwithstanding clear evidence of intentional over-dosing of the substances mentioned, the Death Certificate noted the *only* cause of death was due to: “Complications of Cymbalta Intoxication.” Based on medical records, the patient did not and with high probability could not have died from the cause of death stated in the Death Certificate. The patient died as a direct consequence of respiratory failure directly due to below standard of care violations as indicated by her medical records and reinforced by the Department of Health and Human Services—Division of Health Quality and Compliance Investigative Report. Furthermore:
- After being admitted to Centennial Hills Hospital on 05/03/17, the patient's health status steadily improved over the course of almost a week.
 - Patient was extubated in the ICU and moved to a medical floor.
 - Patient's lab results improved daily.
 - Pulmonologist consultation stated that the patient felt well enough and wanted to go home. The specialist made no note to delay discharge.
 - Healthcare providers told family members from out-of-town that the patient was doing much better and “would be discharged soon.” Family returned to their homes out-of-state based on the information they received.

- Metabolically, Cymbalta has a half-shelf life of approximately 12-24 hours, up to 48 hours if an over-amount is ingested. The patient didn't have a downward health status until 150 hours+ had transpired. *Therefore, the possibility that she died from Cymbalta intoxication or complication of, is not realistic.*
 - There was no medical evidence of the patient ingesting Ambien, Benadryl or ETOH, nor did toxicology reports reveal any of those substances.
 - On 05/04/17, the patient underwent a bronchoscopy and bronchoalveolar lavage. The report stated, *"There was no foreign material or deciduous matter evidenced."* Had the patient aspirated vomitus, there would have been some endotracheal or bronchial evidence of foreign or deciduous matter.
 - From 05/07/17 – 05/11/17 – Over a period of nearly five days, medical records state the patient steadily improved.
 - 05/07/17– PROGRESS NOTES state *"Patient alert and stable"* and *"Can upgrade diet to GI soft."*
 - 05/08/17 – *"Patient vitals remain stable"* and *"No significant event during shifts."*
 - 05/09/17 – PROGRESS NOTES (stating the patient had significantly improved and was expected to be discharged)
 - *"Patient eager to go home. Denies any shortness of breath. No cough, shortness of breath or sputum production."*
 - Review of Systems – Normal
 - Vitals – Normal
- C. Late on 05/10/17 and early hours of 05/11/17, the patient's health status changed. Initially, the changes were not even approaching critical by any stretch of consideration or concern. However, the *below standard of care related to inadequate and absent monitoring, lack of diagnostic testing and improper treatment were directly related to the patient's acutely failing health status and ultimately her pronounced death at 6:57 AM on 05/11/17.*
- On 05/10/17 at 2AM, patient started coughing and complained of SOB. Patient was receiving O2-2L/NC
 - At 10:51AM – Patient's SO2 dropped to 92%
 - At 3:11PM – *Patient complained of continued SOB and weakness*
 - At 4:11PM – Patient complaining of increased labor for breathing, states she feels like she's *"drowning"*
 - Order for breathing treatment and *Ativan IV Push* ordered by *Dr. Shah* & administered for anxiety with no improvement.
 - Dr. Shah contacted who ordered STAT ABG and 2 view x-ray – Results showed possible infiltrates or edema.
- D. On 05/11/17, the patient's health status markedly declined.
- At 2AM – A STAT CT scan of chest was ordered.
 - At 2:20AM – *Ativan IV Push* (.5mg) was ordered by *Dr. Concio* & administered.
 - At 2:40AM – *CT Lab called to state patient was being returned to her room (701) and CT could not be completed due to patient's complaint of SOB and anxiety.*
 - (Note: At the very least, a portable x-ray should have been ordered when the patient was returned to her room. It wasn't.)
 - At 3:27AM – *Ativan IV Push* was again ordered by *Dr. Concio* & administered.

- At 3:45AM – RT-Tech (Venessa) was called to assess the patient. Indicated that the patient was not cooperative and kept removing the O2 mask. Also stated the patient needed to be monitored with a “sitter.” Karen contacted House Supervisor David to explain that a sitter was needed. He suggested placing the patient in wrist restraints. When asked to closely monitor the patient, the camera monitor (John) noted that the resolution of the camera/monitor did not allow him to see the patient enough to discern when she attempted to remove the mask. He advised moving the patient to a room with better video capability. The patient did not receive a “sitter” nor was she moved to another room with adequate monitoring capability.
- The patient was mis-diagnosed with ‘anxiety disorder’ by an unqualified healthcare provider and there was no differential diagnosis presented by any physician at any time on 05/11/17 when the patient was suffering from respiratory insufficiency.
- Based on the administration of multiple doses of Ativan IV Push, the fact that the patient had been receiving daily doses of Midazolam (another Benzodiazepine causing respiratory depression), Acetylcysteine (can also cause respiratory symptoms), (at least four other drugs with side effects of SOB, labored breathing and cough) and the period of time from Ativan dosing to Code Blue was within less than 90 minutes. Given the medication regimen the patient was on, it’s highly probable that administering the back to back doses of Ativan IV Push to this patient (already in respiratory distress), the inadequate and absent monitoring of the patient and other below standards of care as verified in the Investigative Report, were all directly related to the patient’s acute respiratory failure leading to the final cardiorespiratory event and death.

7. Dr. Dionice, Dr. Concio and Dr. Shah, in my expert opinion, each one breached their duty.

- A. Based on radiological reports as late as 05/10/17, stating there were no significant changes from 05/08/17, noting “possible infiltrates or edema.” This is extremely relevant in diagnosing and treating the patient’s sudden respiratory change in health status late 05/10/17 and 05/11/17.
 - Since the patient was unable to undergo a CT scan due to “anxiety”, at the very least a portable x-ray should have been ordered to determine if and what significant pulmonary changes were present based on the presence of acute signs & symptoms. Each of the three physicians aforementioned were aware of the patient’s acutely declining health status and were responsible for not only ordering an alternative diagnostic imaging such as a portable x-ray, but also obtaining & reporting the results to determine pulmonary involvement based on her symptoms. Medical records do not reveal a portable x-ray ordered when the CT scan was unable to be completed, nor any results of any x-ray ordered after the attempted CT scan when the patient was returned to her room.
 - Based on the patient’s stable condition until late 05/10/17 and her acute decline in health status on 05/11/17, an immediate differential diagnosis should have been made, which absolutely should have included the possibility of side effect(s) and adverse reaction(s) from medications being administered. Given the nature of the sudden onset of the patient’s symptoms, drug side effects and interactions should have been reviewed by each of the three physicians aforementioned. The patient had been receiving six drugs, including Ativan administered on 05/09/17 and 05/10/17, all having side effects directly

related to the symptoms and findings displayed by the patient at the time her health acutely worsened on 05/10/17 & 05/11/17.

- Without consideration of the probable drug side effects, adverse reactions and interactions, which were most probably directly related to the patient's acute symptoms, the three physicians aforementioned ignored even the possibility that her medications might be the cause of her symptoms & declining health status. Consequently, not one of the three physicians aforementioned even placed drug(s) side effects/adverse reactions on any differential diagnosis.
- Instead of performing their professional duty related to prescribed and administered medications, all three of the physicians aforementioned were aware of the decision to administer even more Ativan IV-Push, multiple times in a short period of time to treat the patient's symptom of anxiety. It was the responsibility of each of the three physicians to have been aware and knowledgeable that administering Ativan to a respiratory compromised patient has significant risks related to serious pulmonary/respiratory function. The FDA provides warnings with the use of benzodiazepines of such risk. Interactions with other drugs (not only when used concomitantly with opiates) can compound the seriousness of the risk(s).
- *Had any of the three physicians aforementioned, reviewed the patient's drug regimen, they would have realized that several of the drugs caused, shortness of breath (SOB) and associated anxiety, cough, labored breathing, weakness and other related symptoms exhibited by the patient. Had any of the three aforementioned physicians, reviewed the side effects, Ativan (known to potentially cause and/or increase respiratory depression) would not have been administered, especially not by IV-Push (the effects are much faster and more dramatically pronounced).*

8. Department of Health and Human Services—NV Bureau of Health Quality and Compliance Investigative Report, not only reinforced my findings, but revealed many other below standard of care violations, all related directly to the wrongful death of the patient. The information below, provides examples of other below standard of care violations found in the medical records and as part of the HHS—NV Bureau's Investigation:

- There was no specific differential diagnosis shown in the records related to her complaints and abnormal findings between 05/10/17 to 05/11/17.
- The records stated numerous times that the patient needed to be elevated to a higher level of care and required *close* monitoring. *Neither were provided.*
- **Respiratory Therapist** – (“...the RT concluded the physician should have been notified, the RRT activated and the level of care upgraded.”) *The physician was not notified, the RRT was not activated and the level of care was not elevated.*
- **Registered Nurse** – (“...RN explained normal vital signs were: B/P: 100/60, HR: no more than 100 bpm, RR: 16-20 br/m and SPO2 no less than 92%. If a patient with a HR of 130 bpm and RR of 30 br/m, the physician must be notified immediately and the RRT activated.”) *The patient had a HR of 130, SPO2 below 92% while receiving 3+ liters of oxygen and a respiratory rate of 30 bpm..”) The physician was not notified.*
- **The Legal 2000 Patient Frequency Observation Record** – (“...they could not see the incident on monitor and again advised to change the patient to room 832 (with working camera). The record revealed at 6:10 AM, Code Blue was announced. The record indicated the patient “last appeared to be sitting in close to upright position with fingers

*possible in mouth for approximately one hour.”) **IMPORTANT NOTE – The patient was not changed to a different room as earlier advised. Hence, she was not being adequately monitored, which was of critical importance. The last sentence in this record reveals that for at least one hour the patient was in severe respiratory distress and during that hour, no RN or CNA checked on the patient. This contradicts other records and statements made by the RN and the CNA.***

- **Chief of Nursing Operations – (“...the Chief of Nursing Operations (CNO) indicated that the patient should have been monitored closely based on the vital signs and condition. The CNO acknowledged the Rapid Response Team (RRT) should have been activated and the patient upgraded to a higher level of care.”) *The RRT was not activated nor was the patient elevated to a higher level of care.***
- **Process Improvement Manager – (“...the facility Process Improvement Manager indicated the patient was not monitored by telemetry and the cardiac monitoring documentation available for 05/11/17 was the EKG performed during the Code Blue.”) *The patient was already known to be in respiratory distress before she coded. According to this record-note, the patient was not receiving any cardiac monitoring and was only monitored during the code. (This is a shameful and gross example of below standard of care. Any patient in respiratory distress needing a re-breather mask and receiving the same medications for the present acute health status, must be on telemetry to monitor cardiac status. In this patient’s case, it was critically important given the fact she had been administered multiple IV PUSH doses of ATIVAN, a drug known to depress the respiratory system.***
- **Respiratory Therapy Supervisor – (“...RT Supervisor confirmed according to the vital signs documented in the record on 05/11/17 at 4:08 AM and 4:47 AM, the patient was in respiratory distress and required an upgrade of the level of care.”) *On more than one occasion during the same hour, the patient required being upgraded to a higher level of care, but wasn’t upgraded. This note also indicates that during that hour between 4:00 AM – 5 AM, no RN or CNA checked on the patient. This contradicts other records and statements made by the RN and the CNA.***

9. In my expert opinion, stated to a reasonable degree of medical probability, the failure to properly diagnose the patient before she became acutely critical on 05/11/17, the failure of the healthcare provider staff to adequately monitor the patient (also stated in the HHS-Investigative Report), the failure to properly diagnose the patient, the failure to provide proper treatment (*lacking review of the patient’s medications*) and administering the drug (*Ativan*) several times IV-Push in a respiratory compromised patient, inclusively & directly led to the patient’s wrongful death. Additionally, there were many other below Standard of Care violations as revealed and reported by the Department of Health and Human Services, Nevada—Bureau of Health Care Quality and Compliance – Investigation Report (Complaint Number - NV00049271) also related directly to Rebecca’s Powell’s wrongful death.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief. I reserve the right to change my opinions pending production and review of additional medical records.

Sami Hashim
Dr. Sami Hashim, M.D.

Dated: 1/23/2019

Sworn to me before this 23rd day

of January 2019.

Bonnie Leung
Notary Public





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11 Attorneys for Plaintiff

12 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 **ESTATE OF REBECCA POWELL,**
15 through **BRIAN POWELL**, as Special
16 Administrator; **DARCI CREECY**,
17 individually and as an Heir; **TARYN**
18 **CREECY**, individually and as an Heir;
19 **ISAIAH KHOSROF**, individually and as an
20 Heir; **LLOYD CREECY**, individually;

21 Plaintiffs,

22 vs.

23 **VALLEY HEALTH SYSTEM, LLC** (doing
24 business as "Centennial Hills Hospital Medical
25 Center"), a foreign limited liability company;
26 **UNIVERSAL HEALTH SERVICES, INC.**,
27 a foreign corporation; **DR. DIONICE S.**
28 **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.: XIV (14)

AFFIDAVIT OF SERVICE

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AFFIDAVIT OF SERVICE

CLARK COUNTY DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

ESTATE OF REBECCA POWELL, through BRIAN
POWELL, as Special Administrator; et al.,

Plaintiff(s)

v.

VALLEY HEALTH SYSTEM, LLC (doing business as
"Centennial Hills Hospital Medical Center"), a foreign
limited liability company; et al.,

Defendant(s)

Case No.:A-19-788787-C
Joshua Y. Ang, Esq., Bar No.14026
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Attorneys for the Plaintiff(s)

Client File# Estate of Powell

I, Judith Mae All, being sworn, states: That I am a licensed process server registered in Nevada. I received a copy of the Summons-Civil; Complaint, from PAUL PADDA LAW PLLC

That on 5/31/2019 at 1:36 PM I served the above listed documents to Valley Health System, LLC - c/o CSC Services of Nevada, Inc., Registered Agent by personally delivering and leaving a copy at 2215-B Renaissance Drive, Las Vegas, NV 89119 with Monica Sewall - Office Manager, a person of suitable age and discretion, authorized by Registered Agent to accept service of process at the above address shown on the current certificate of designation filed with the Secretary of State.

That the description of the person actually served is as follows:

Gender: Female, Race: Caucasian, Age: 40's, Height: 5'7", Weight: 160 lbs., Hair: Red, Eyes:Brown

I being duly sworn, states: that all times herein, Affiant was and is over 18 years of age, not a party to or interested in the proceedings in which this Affidavit is made. I declare under penalty of perjury that the foregoing is true and correct.

Date: 6/3/19

Judith Mae All
Registered Work Card# R-040570
State of Nevada

(No Notary Per NRS 53.045)

Service Provided for:
Nationwide Legal Nevada, LLC
626 S. 7th Street
Las Vegas, NV 89101
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Control #:NV184261
Reference: Estate of Powell



1 **MTD**
2 MICHAEL E. PRANGLE, ESQ.
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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 an Heir;
14 TARYN CREECY, individually and as an Heir;
15 ISAIAH KHOSROF, individually and as an Heir;
16 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. JULIANO,
24 M.D., an individual; DR. CONRADO C.D.
25 CONCIO, M.D., an individual; DR. VISHAL S.
26 SHAH, M.D., an individual; DOES 1-10; and
27 ROES A-Z;

28 **Defendants.**

CASE NO. A-19-788787-C

DEPT NO. XIV

**DEFENDANT CENTENNIAL HILLS
HOSPITAL'S MOTION TO DISMISS
PLAINTIFFS' COMPLAINT**

HEARING REQUESTED

23 COMES NOW, Defendant VALLEY HEALTH SYSTEM, LLC dba Centennial Hills
24 Hospital Medical Center (hereinafter referred to as "Centennial Hills Hospital") by and through
25 its attorneys HALL PRANGLE & SCHOONVELD, LLC and files this MOTION TO DISMISS
26 PLAINTIFFS' COMPLAINT. This Motion is made and based on the papers and pleadings on
27 file herein, the points and authorities attached hereto and such argument of counsel which may
28 . . .

1 be adduced at the time of the hearing on said Motion.

2 DATED this 19th day of June, 2019.

3 HALL PRANGLE & SCHOONVELD, LLC

4
5 By: /s/: Zachary Thompson, Esq
6 MICHAEL E. PRANGLE, ESQ.
7 Nevada Bar No. 8619
8 ZACHARY J. THOMPSON, ESQ.
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11 Las Vegas, Nevada 89144
12 *Attorneys for Defendant*
13 *Valley Health System, LLC, dba*
14 *Centennial Hills Hospital Medical Center*

15 **NOTICE OF MOTION**

16 PLEASE TAKE NOTICE that the undersigned will bring the foregoing **DEFENDANT**
17 **CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS'**
18 **COMPLAINT** for hearing before the above entitled court on the ____ day of
19 _____, 2019 at the hour of ____ a.m. in Department No. XIV, or as soon
20 thereafter as counsel be heard.

21 DATED this 19th day of June, 2019.

22 HALL PRANGLE & SCHOONVELD, LLC

23 By: /s/: Zachary Thompson, Esq
24 MICHAEL E. PRANGLE, ESQ.
25 Nevada Bar No. 8619
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

On February 4, 2019, the Estate of Rebecca Powell and individual heirs (collectively “Plaintiffs”) filed an untimely Complaint against Centennial Hills Hospital, Dionice Juliano, MD, Conrado Concio, MD, and Vishal Shah, MD (collectively “Defendants”), for alleged professional negligence/wrongful death arising out of the care and treatment Ms. Powell received at Centennial Hills Hospital.¹ See Complaint filed February 4, 2019. Plaintiffs contend that Defendants breached standard of care by purportedly failing to recognize and consider drug-induced respiratory distress, allowing the administration of Ativan, and failing to otherwise treat or monitor Ms. Powell. See Complaint at ¶ 28. Plaintiffs allege that these deviations caused her death on May 11, 2017 and that they observed the alleged negligence. See Complaint at ¶ 29; see also Complaint at ¶¶ 41-56 (asserting shock as a result of the observance or contemporaneous witnessing of the alleged negligence). Plaintiffs do not allege any negligent care, treatment, actions or inactions by Defendants after Ms. Powell’s death on May 11, 2017. Consequently, under the facts pled, the statute of limitations began to run on May 11, 2017. Although the statute of limitations began to run on May 11, 2017, Plaintiffs failed to file their Complaint until February 4, 2019, which is more than one year and eight months later. Since Plaintiffs failed to file their Complaint within NRS 41A.097(2)’s one-year statute of limitations, Centennial Hills Hospital respectfully requests that Plaintiffs’ Complaint should be dismissed.

II.

STATEMENT OF ALLEGED FACTS

Based upon the Complaint and the accompanying affidavit, Rebecca Powell overdosed on Benadryl, Cymbalta, and Ambien on May 3, 2017.² See Complaint at ¶ 18. Emergency

¹ The estate’s claims were purportedly brought through its Special Administrator, Plaintiff’s ex-husband Brian Powell. However, the Complaint was filed before Mr. Powell, the patient’s ex-husband, submitted his Petition for Appointment of Special Administrator on February 21, 2019.

² For purposes this NRCP 12(b)(5) motion only, the Court must accept the allegations of Plaintiffs’ Complaint as true to determine whether Plaintiffs’ Complaint is legally sufficient.

1 medical services were called, and Ms. Powell was found unconscious with labored breathing and
2 vomit on her face. *See* Complaint at ¶ 18. She was transported to Centennial Hills Hospital
3 where she was admitted. *See* Complaint at ¶ 18. One week into her admission, on May 10,
4 2017, Ms. Powell complained of shortness of breath, weakness, and a drowning feeling, and
5 Vishal Shah, MD, ordered Ativan to be administered via IV push. *See* Complaint at ¶ 21. On
6 May 11, 2017, Conrado Concio, MD, ordered two doses of Ativan via IV push. *See* Complaint
7 at ¶ 22. To assess her complaints, a chest CT was ordered, but the providers were unable to
8 obtain the chest CT due to Ms. Powell's anxiety, and she was returned to her room. *See*
9 Complaint at ¶ 22; *see also* Complaint, Ex. A at p. 3. Ms. Powell was placed in a room with a
10 camera monitor. *See* Complaint at ¶ 22. Pursuant to the doctor's orders, a dose of Ativan was
11 administered at 03:27. *See* Complaint, Ex. A at p. 3. Subsequently, Ms. Powell suffered acute
12 respiratory failure, which resulted in her death on May 11, 2017. *See* Complaint at ¶ 22.
13 Plaintiffs observed the alleged negligence, her rapid deterioration, and the results of the alleged
14 negligence. *See* Complaint at ¶¶ 44-45, 52-53.

15 On February 4, 2019, which was one year, eight months, and twenty-four days after Ms.
16 Powell's death, Plaintiffs filed the subject Complaint seeking relief under the following causes
17 of action: 1) negligence/medical malpractice; 2) wrongful death pursuant to NRS 41.085; 3)
18 negligent infliction of emotional distress on behalf of Darci, Taryn, and Isaiah; and 4) negligent
19 infliction of emotional distress on behalf of Lloyd Creecy. Plaintiffs included the Affidavit of
20 Sami Hashim, MD, which sets forth alleged breaches of the standard of care. Plaintiffs' claims
21 sound in professional negligence, which subjects the claims to NRS 41A.097(2)'s one-year
22 statute of limitations requirement. Since Plaintiffs failed to file their Complaint within one-year
23 after they discovered or through the use of reasonable diligence should have discovered the
24 injury, Plaintiffs failed to timely file their Complaint, which necessitated the instant motion. *See*
25 NRS 41A.097(2).

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III.

STANDARD OF REVIEW

Nevada Rule of Civil Procedure 12(b) provides for dismissal of a cause of action for the “failure to state a claim upon which relief can be granted.” See NRCP 12(b)(5). A motion to dismiss tests the legal sufficiency of the claim set out against the moving party. See *Zalk-Josephs Co. v. Wells-Cargo, Inc.*, 81 Nev. 163, 400 P.2d 621 (1965). Dismissal is appropriate where a plaintiff’s allegations “are insufficient to establish the elements of a claim for relief.” *Hampe v. Foote*, 118 Nev. 405, 408, 47 P.3d 438, 439 (2002), *overruled in part on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). To survive dismissal under NRCP 12, a complaint must contain “facts, which if true, would entitle the plaintiff to relief.” *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). Hence, in analyzing the validity of a claim the court is to accept plaintiff’s factual allegations “as true and draw all inferences in the Plaintiff’s favor.” *Id.* Nevertheless, the court is not bound to accept as true a plaintiff’s legal conclusions, and “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937 (2009) (analyzing the federal counterpart to NRCP 12). Moreover, the court may not take into consideration matters outside of the pleading being attacked. *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993).

IV.

ARGUMENT

A. Plaintiffs’ Claims Sounds in Professional Negligence/Wrongful Death and Are Subject to NRS 41A.097(2)’s One-Year Statute of Limitations.

NRS 41A.097(2) provides the statute of limitations for injuries or the wrongful death of a person based upon an alleged error or omission in practice by a provider of health care or based upon the alleged “professional negligence” of the provider of health care. See NRS 41A.097(2)(a)-(c) (applying to actions for injury or death against a provider of health care

1 “based upon alleged professional negligence of the provider of health care” or “from error or
2 omission in practice by the provider of health care).

3 To determine whether a plaintiff’s claim sounds in “professional negligence,” the Court
4 should look to the gravamen of the claim to determine the character of the action, not the form
5 of the pleadings. See *Szymborski v. Spring Mountain Treatment Ctr.*, 403 P.3d 1280, 1285
6 (Nev. 2017) (“Therefore, we must look to the gravamen or ‘substantial point or essence’ of each
7 claim rather than its form to see whether each individual claim is for medical malpractice or
8 ordinary negligence.”) (quoting *Estate of French*, 333 S.W.3d at 557 (citing Black’s Law
9 Dictionary 770 (9th ed. 2009))); see also *Lewis v. Renown*, 432 P.3d 201 (Nev. 2018)
10 (recognizing that the Court had to look to the gravamen of each claim rather than its form to
11 determine whether the claim sounded in professional negligence); *Andrew v. Coster*, 408 P.3d
12 559 (Nev. 2017), cert. denied, 138 S. Ct. 2634, 201 L. Ed. 2d 1037 (2018); see generally *Egan v.*
13 *Chambers*, 299 P.3d 364, 366 n. 2 (Nev.2013) (citing *State Farm Mut. Auto. Ins. Co. v.*
14 *Wharton*, 88 Nev. 183, 495 P.2d 359, 361 (1972)); see also *Brown v. Mt. Grant Gen. Hosp.*, No.
15 3:12-CV-00461-LRH, 2013 WL 4523488, at *8 (D. Nev. Aug. 26, 2013).

16 A claim sounds in “professional negligence” if the claim arises out of “the failure of a
17 provider of health care, in rendering services, to use the reasonable care, skill or knowledge
18 ordinarily used under similar circumstances by similarly trained and experienced providers of
19 health care.” NRS 41A.015. A “provider of health care” includes, in pertinent part, a
20 physician, a nurse, and a licensed hospital. See NRS 41A.017. Consequently, if a plaintiff’s
21 claim arises out of the alleged failure of a physician, nurse, and/or hospital to use reasonable
22 care, skill, or knowledge, used by other similarly trained and experienced providers, in rendering
23 services to the patient, the plaintiff’s claim sounds in professional negligence.

24 Generally, “[a]llegations of breach of duty involving medical judgment, diagnosis, or
25 treatment indicate that a claim is for medical malpractice.” *Szymborski*, 403 P.3d at 1284
26 (citing *Papa v. Brunswick Gen. Hosp.*, 132 A.D.2d 601, 517 N.Y.S.2d 762, 763 (1987) (“When
27 the duty owing to the plaintiff by the defendant arises from the physician-patient relationship or
28 is substantially related to medical treatment, the breach thereof gives rise to an action sounding

1 in medical malpractice as opposed to simple negligence.”); *Estate of French v. Stratford House*,
2 333 S.W.3d 546, 555 (Tenn. 2011) (“If the alleged breach of duty of care set forth in the
3 complaint is one that was based upon medical art or science, training, or expertise, then it is a
4 claim for medical malpractice.”)); see also *Lewis v. Renown Reg'l Med. Ctr.*, 432 P.3d 201 (Nev.
5 2018) (holding that Plaintiffs’ elder abuse claim under NRS 41.1495 sounded in professional
6 negligence where it involved alleged failures to check on the patient while under monitoring).

7 For example, in *Lewis v. Renown*, the Nevada Supreme Court recognized that a claim for
8 elder abuse arising out of alleged failure to properly check or monitor a patient or otherwise
9 provide adequate care sounded in professional negligence. See generally *Lewis v. Renown*, 432
10 P.3d 201 (Nev. 2018). Since the gravamen of Plaintiff’s claim was professional negligence, the
11 Court affirmed the District Court’s dismissal of the elder abuse claim on statute of limitations
12 grounds. *Id.* In reaching this holding, the Court reasoned as follows:

13 In *Szymborski* we considered the distinction between claims for medical
14 negligence and claims for ordinary negligence against a healthcare provider in the
15 context of the discharge and delivery by taxi of a disturbed patient to his
16 estranged father’s house, without notice or warning. *Id.* at 1283-1284. In contrast
17 to allegations of a healthcare provider’s negligent performance of nonmedical
18 services, “[a]llegations of [a] breach of duty involving medical judgment,
19 diagnosis, or treatment indicate that a claim is for [professional negligence].” *Id.*
20 at 1284. The gravamen of Lewis’ claim for abuse and neglect is that Renown
21 failed to adequately care for Sheila by failing to monitor her. Put differently,
22 Renown breached its duty to provide care to Sheila by failing to check on her
23 every hour per the monitoring order in place. We are not convinced by Lewis’
24 arguments that a healthcare provider’s failure to provide care to a patient presents
a claim distinct from a healthcare provider’s administration of substandard care;
both claims amount to a claim for professional negligence where it involves a
“breach of duty involving medical judgment, diagnosis, or treatment.” *Id.* Lewis’
allegations that Renown failed to check on Sheila while she was under a
monitoring order necessarily involve a claim for a breach of duty in the
administration of medical treatment or judgment. Thus, we affirm the district
court’s dismissal of Lewis’ claims against Renown because his claim for abuse
and neglect sounds in professional negligence and is time barred pursuant to NRS
41A.097(2).

25 *Id.* (emphasis added).

26 Similarly, in this case, Plaintiffs’ claims for negligence/medical malpractice pursuant to
27 NRS 41A, wrongful death pursuant to NRS 41.05, and negligent infliction of emotion distress,
28 all sound in professional negligence. Plaintiffs’ first cause of action for negligence/medical

malpractice is explicitly one for professional negligence subject to NRS 41A and is based upon the report from Sami Hashim, MD. *See* Complaint at ¶¶ 26-33 and Dr. Hashim's Aff. Plaintiffs' second cause of action is based upon the same alleged failures to provide medical services below the applicable standard of care and the same affidavit from Dr. Hashim. *See* Complaint at ¶¶ 34-40. Plaintiffs' third and fourth causes of action for negligent infliction of emotional distress are also based upon the same alleged deviations in the standard of care and the same affidavit as the professional negligence claim. *See* Complaint at ¶¶ 41-48; 49-56. As a result, it is clear Plaintiffs' claims sound in professional negligence or that the gravamen of their claims is professional negligence. Consequently, Plaintiffs' claims are necessarily subject to NRS 41A.097(2)'s statute of limitations.

B. Plaintiffs' Complaint Should be Dismissed Because it was Filed After the One-Year Statute of Limitations Expired.

Pursuant to NRS 41A.097(2), an action for injury or death against a provider of health care may not be commenced more than one year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury of a person based upon alleged professional negligence and/or from an error or omission by a provider of health care. *See* NRS 41A.097(2). "A plaintiff 'discovers' his injury when 'he knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of his cause of action.'" *Eamon v. Martin*, No. 67815, 2016 WL 917795, at *1 (Nev. App. Mar. 4, 2016) (quoting *Massey v. Litton*, 99 Nev. 723, 728, 669 P.2d 248, 252 (1983)). "A person is placed on 'inquiry notice' when he or she 'should have known of facts that would lead an ordinarily prudent person to investigate the matter further.'" *Id.* (quoting *Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 252, 277 P.3d 458, 462 (2012) (internal quotations marks omitted)). "This does not mean that the accrual period begins when the plaintiff discovers the precise facts pertaining to his legal theory, but only to the general belief that someone's

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1 negligence may have cause[d] the injury.” *Id.*³ “Thus, the plaintiff ‘discovers’ the injury when
2 ‘he had facts before him that would have led an ordinarily prudent person to investigate further
3 into whether [the] injury may have been caused by someone’s negligence.” *Id.* (quoting *Winn*,
4 128 Nev. at 252, 277 P.3d at 462).

5 The date on which the one-year statute of limitation begins to run may be decided as a
6 matter of law where uncontroverted facts establish the accrual date. *See Golden v. Forage, No.*
7 *72163*, 2017 WL 4711619, at *1 (Nev. App. Oct. 13, 2017) (“The date on which the one-year
8 statute of limitation began to run is ordinarily a question of fact for the jury, and may be decided
9 as a matter of law only where the uncontroverted facts establish the accrual date.”) (citing *Winn*
10 *v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 251, 277 P.3d 458, 462 (2012) (recognizing that
11 the district court may determine the accrual date as a matter of law where the accrual date is
12 properly demonstrated)); *see also Dignity Health v. Eighth Judicial Dist. Court of State, ex rel.*
13 *Cty. of Clark, No. 66084*, 2014 WL 4804275, at *2 (Nev. Sept. 24, 2014).

14 If the Court finds that the plaintiff failed to commence an action against a provider of
15 health care before the expiration of the statute of limitations under NRS 41A.097, the Court may
16 properly dismiss the Complaint pursuant to NRCP 12(b)(5). *See, e.g., Egan ex rel. Egan v.*
17 *Adashek, No. 66798*, 2015 WL 9485171, at *2 (Nev. App. Dec. 16, 2015) (affirming district
18 court’s dismissal of action under NRCP 12(b)(5) where the plaintiff failed to file within the
19 statute of limitations set forth in NRS 41A.087); *Rodriguez v. Washinsky*, 127 Nev. 1171, 373
20 P.3d 956 (2011) (affirming district court’s decision granting motion to dismiss the plaintiffs’
21 claims for failure to comply with NRS 41A.097); *Domnitz v. Reese*, 126 Nev. 706, 367 P.3d 764
22 (2010) (affirming district court’s decision dismissing plaintiff’s claim after finding that plaintiff
23 had been placed on inquiry notice prior to one year before his complaint was filed and that the
24 statute of limitations had expired pursuant to NRS 41A.97(2)).

25 ///

26
27
28 ³ Similarly, this does not mean that the accrual period begins when the Plaintiff becomes aware of the precise
causes of action he or she may pursue. *Golden v. Forage, No. 72163*, 2017 WL 4711619, at *1 (Nev. App. Oct. 13,
2017) (“The plaintiff need not be aware of the precise causes of action he or she may ultimately pursue.”).

1 In this case, NRS 41A.097(2)'s one-year statute of limitations began to run on the date of
2 Ms. Powell's death (May 11, 2017). Per the Complaint, the individually named Plaintiffs,
3 including Darci Creecy, Taryn Creecy, Isaiah Creecy, and Lloyd Creecy, contemporaneously
4 observed the alleged negligence and Ms. Powell's rapid deterioration leading up to her death on
5 May 11, 2017. *See* Complaint at ¶ 20 (died on May 11, 2017); *see also* Complaint at ¶¶ 45-46
6 and 52-53 (allegedly contemporaneously observing Ms. Powell rapidly deteriorate and die).

7 In fact, such contemporary observance of the alleged negligence is an element of
8 Plaintiffs' claims for negligent infliction of emotional distress. In order to establish negligent
9 infliction of emotional distress under Nevada law, a plaintiff must generally show that he or she
10 was a bystander, who is closely related to the victim of an accident, be located near the scene of
11 such accident and suffer "shock" that caused emotional distress resulting from the "observance
12 or contemporaneous sensory of the accident." *State v. Eaton*, 101 Nev. 705, 714, 710 P.2d
13 1370, 1376 (1985) (allowing recovery for negligent infliction of emotional distress to witness of
14 car accident in which the plaintiff's baby daughter was killed); *see also Grotts v. Zahner*, 989
15 P.2d 912, 920 (Nev. 1999). "[R]ecovery may not be had under this cause of action, for the 'grief
16 that may follow from the [injury] of the related accident victim.'" *Eaton*, at 714, 710 P.2d at
17 1376. In fact, in cases where emotional distress damages are not secondary to physical injuries,
18 "proof of 'serious emotional distress' causing physical injury or illness must be presented."
19 *Olivero v. Lowe*, 116 Nev. 395, 399-405 (Nev. 2000).

20 Since Plaintiffs allege that they contemporaneously observed the alleged negligence and
21 deterioration of Ms. Powell leading up to her death, the Plaintiffs knew, or should have known,
22 of facts that would put a reasonably person on inquiry notice by May 11, 2017. Plaintiffs were
23 aware of facts that would lead an ordinarily prudent person to investigate the matter further at
24 that time. Under Nevada law, Plaintiffs did not have to know precise facts or legal theories for
25 their claims; rather, they only needed to be placed on inquiry notice. Here, under the facts
26 alleged in the Complaint, Plaintiffs were placed on inquiry notice because they were aware of
27 facts that would lead an ordinarily prudent person to investigate the matter further.

28 ///

1 Given this, the one-year statute of limitations under NRS 41A.097(2) began to run on
2 May 11, 2017. Thus, Plaintiffs were required to file their Complaint by May 11, 2018.
3 Plaintiffs failed to file their Complaint until February 4, 2019. Since Plaintiffs failed to file their
4 Complaint within the one-year statute of limitations provided by NRS 41A.097(2), Plaintiffs'
5 Complaint was untimely. Therefore, the Centennial Hills Hospital respectfully requests that this
6 Court dismiss Plaintiffs' Complaint in its entirety with prejudice.

7 V.

8 **CONCLUSION**

9 Based on the foregoing, Centennial Hills Hospital respectfully requests that this Court
10 dismiss Plaintiffs' Complaint with prejudice.

11 DATED this 19th day of June, 2019.

HALL PRANGLE & SCHOONVELD, LLC

12 By: /s/ Zachary Thompson, Esq.
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20 Valley Health System, LLC, dba
21 Centennial Hills Hospital Medical Center

22 **AFFIRMATION**

23 ***Pursuant to NRS 239B.030***

24 The undersigned does affirm that the preceding document does not contain the Social
25 Security Number of any person.

26 DATED this 19th day of June, 2019.

HALL PRANGLE & SCHOONVELD, LLC

27 By: /s/ Zachary Thompson, Esq.
28 MICHAEL E. PRANGLE, ESQ.
Nevada Bar No. 8619
ZACHARY J. THOMPSON, ESQ.
Nevada Bar No. 11001
1160 N. Town Center Dr., Ste. 100
Las Vegas, NV 89144
Attorneys for Defendant
Valley Health System, LLC, dba
Centennial Hills Hospital Medical Center

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HALL PRANGLE & SCHOONVELD, LLC; that on the 19th day of June, 2019, I served a true and correct copy of the foregoing **DEFENDANT CENTENNIAL HILLS HOSPITAL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT** as follows:

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

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

 Receipt of Copy at their last known address:

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/s/ Reina Claus
An employee of HALL PRANGLE & SCHOONVELD, LLC

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IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

CASE NO.: A-19-788787-C

DEPT. NO.: XIV

**PLAINTIFFS' OPPOSITION TO
MOTION TO DISMISS FILED BY
DEFENDANTS DR. CONRADO C.D.
CONCIO, M.D. AND DR. DIONICE S.
JULIANO, M.D.**

I. INTRODUCTION

Pursuant to NRCp 12(b)(5), Defendants Dr. Conrado C.D. Concio, M.D. (“Dr. Concio”), and Dr. Dionice S. Juliano, M.D. (“Dr. Juliano”), and Defendant Centennial Hills Hospital have filed motions advocating dismissal of Plaintiffs’ lawsuit in which Plaintiffs assert claims for wrongful death, professional negligence, and negligent infliction of emotional distress arising from the tragic death of 42-year-old Rebecca Powell while she was in the Defendants’ care at Centennial Hills Hospital on May 11, 2017.

Specifically, Defendants argue that dismissal of Plaintiffs’ claims is necessary because: (a) as to Dr. Juliano, the Plaintiffs’ affidavit of merit does not satisfy the “threshold pleading requirements” of NRS 41A.071 because, in violation of subsection (4) of the statute, the affidavit contains “absolutely no reference whatsoever to what Defendant Juliano actually undertook that [fell below the appropriate standard of care]” (Dr. Juliano’s Mot. 5:12-14); (b) as to each and all of the Defendants, Plaintiffs’ claims based upon professional negligence are time-barred under the one-year limitations period provided by NRS 41A.097; and, (c) Plaintiffs’ wrongful death claims are also time-barred because they should be “subsumed within their professional negligence claims” and therefore also subject to NRS 41A.097’s one-year limitations period rather than NRS 11.190(4)(e)’s two-year limitations period for actions for wrongful death.

As Plaintiffs demonstrate below, none of Defendants’ foregoing arguments provides grounds for dismissal under NRCp 12(b)(5), either in whole or in any part, because: (1) as to Dr. Juliano, Plaintiff’s “affidavit of merit” specifically identifies acts deviating from the standard of care as required under NRS 41A.071(4); (2) Plaintiffs allege sufficient facts concerning when they had “inquiry notice” of their professional negligence claims, and Defendants’ concealment of relevant facts, such that the Court cannot find as a matter of law, based upon “uncontroverted

facts,” that Plaintiffs’ claims are untimely under NRS 41A.097; and (3) Defendants fail to present any legal authority for their contention that the Court should consider Plaintiffs’ wrongful death claims to be “subsumed within their professional negligence claims,” and therefore subject to NRS 41A.097’s one-year statute of limitations rather than NRS 11.190(4)(e)’s two-year limitations period for actions for wrongful death.

II. ANALYSIS

A. Motions to Dismiss Pursuant to NRCP 12(b)(5), Generally

Defendants’ motions to dismiss are brought pursuant to Nevada Rule of Civil Procedure (“NRCP”) 12(b)(5). Under the standard applicable to that Rule, this Court’s decision will be “subject to a rigorous standard of review on appeal” in keeping with the Nevada Supreme Court’s policy favoring having cases adjudicated on the merits. *See Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 227-28 (2008). In reviewing and considering Dr. Concio and Dr. Julianio’s motion, the Court must accept all factual allegations in Plaintiffs’ complaint as true and draw all inferences in their favor. *Id.* Plaintiffs’ complaint can only be dismissed under NRCP 12(b)(5) “if it appears beyond a doubt that [Plaintiffs] **could prove no set of facts**, which, if true, would entitle [them] to relief.” *Id.*¹ This leniency is also applicable to any arguments involving the NRS 41A.071 affidavit requirement. “[B]ecause NRS 41A.071 governs the threshold requirements for initial pleadings in medical malpractice cases, not the ultimate trial of such matters, we must liberally construe this procedural rule of pleading in a manner that is consistent with our NRCP 12 jurisprudence.” *Borger v. Eighth Judicial Dist. Court ex rel. County of Clark*, 120 Nev. 1021, 1028 (2004).

¹ Emphasis supplied.

Under the very high standard required for dismissal under NRCP 12(b)(5), Defendants bear the burden of persuasion. *See Blackjack Bonding v. Las Vegas Municipal Court*, 116 Nev. 1213, 1217 (2000) (the appropriate standard requires a showing by the moving party of “beyond a doubt”).

B. Plaintiffs Satisfy NRS 41A.071(4)’s Requirements as to Dr. Julianano’s Professional Negligence.

Dr. Julianano seeks dismissal of the professional negligence claims asserted against him, arguing that the expert affidavit of Dr. Sami Hashim, M.D. (“Dr. Hashim”), attached to Plaintiff’s complaint in accordance with NRS 41A.071(4), does not sufficiently “set[] forth factually a specific act or acts of alleged negligence separately as to each [Dr. Julianano] in simple, concise and direct terms.” *See* NRS 41A.071(4). Examination of Dr. Hashim’s affidavit reveals, however, that Dr. Julianano’s specific acts of negligence, like those of Dr. Concio and Dr. Shah, are identified with clarity there. Indeed, Dr. Hashim devotes the better part of two pages identifying and describing, in detail, the “breach[es] of duty” committed by the three physician-defendants, including Dr. Julianano during a two-day period from May 10th to May 11th, 2017, when they were responsible for Rebecca Powell’s care as her condition worsened and she ultimately died. (*See* Dr. Hashim’s Supporting Affidavit, ¶7.) As but one example of the several breaches described in that section, Dr. Hashim describes that:

Without consideration of the probable drug side effects, adverse reactions and interactions, which were most probably directly related to the patient’s acute symptoms, [Dr. Julianano, Dr. Concio and Dr. Shah] ignored even the possibility that her medications might be the cause of her symptoms & declining health status. Consequently, not one of the three physicians aforementioned even placed drug(s) side effects/adverse reactions on any differential diagnosis.

(*Id.*, at pg. 8, ¶7A.) Dr. Hashim’s specific attribution of malpractice to Dr. Julianano is plain, and Dr. Julianano’s argument that he his acts of negligence have not been identified with sufficient

specificity in Plaintiffs' affidavit of merit fails. Further, in light of the Nevada Supreme Court's directive to liberally construe NRS 41A.071's requirements in a manner consistent with our NRCPP 12 jurisprudence, any ambiguity or uncertainty (though Plaintiffs maintain that there is none) must be resolved in favor of Plaintiffs. *See Borger*, 120 Nev. at 1028 and *See Buzz Stew, LLC*, 124 Nev. at 227-8. To the extent that Dr. Hashim's attribution of malpractice to Dr. Julianio is at all vague—though it is not—his affidavit, liberally construed, still passes muster under NRS 41A.071(4). Dr. Julianio is therefore not entitled to dismissal of Plaintiffs' claims for professional negligence against him.

C. Plaintiffs' Professional Negligence Claims are Not, as a Matter of Law, Untimely under NRS 41A.097; and Plaintiffs' Have Alleged Facts Sufficient to Raise an Inference of Concealment by Defendants so as to Warrant Tolling.

Defendants argue for dismissal of Plaintiffs' claims for professional negligence because they contend that, "as a matter of law," Plaintiffs' claims were filed after expiration of the one-year statute of limitations provided by NRS 41A.097 for professional negligence claims. Specifically, Defendants argue that, because Plaintiffs did not file their complaint until February 4, 2019, "in order for Plaintiffs' claims to survive the statute of limitations, Plaintiffs must not have discovered their claim until after February 4, 2018," approximately eight months after the death of Rebecca Powell on May 11, 2017. (Dr. Julianio's Mot. 6:18-20.) Failing to draw all inferences in Plaintiffs' favor, as required on a motion for dismissal pursuant to NRCPP 12(b)(5), Defendants' conclude that "it is impossible that Plaintiffs could have exercised reasonable diligence and yet not have discovered the claim until almost eight months later." (*Id.* at 6:22.)

The statute of limitations for a medical malpractice claim begins to run when the plaintiff "knows or, through the use of reasonable diligence, should have known of facts that would put a reasonable person on inquiry notice of his cause of action." *Massey v. Litton*, 99 Nev. 723, 728,

669 P.2d 248, 252 (1983); *see also Pope v. Gray*, 104 Nev. 358, 362–63, 760 P.2d 763, 764–65 (1988) (applying the discovery rule established in *Massey* to wrongful death actions based on medical malpractice). The accrual date for a statute of limitations is a question of law when the facts are uncontroverted. *Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. —, —, 277 P.3d 458, 462–63 (2012); *cf. Doyle v. Ripplinger*, 126 Nev. 706, 367 P.3d 764 (2010) (table) (reversing order granting summary judgment where plaintiffs established material issue of fact concerning when they knew sufficient facts to be put on “inquiry notice,” commencing running of the limitations period).

In *Pope*, the Nevada Supreme Court reversed an order dismissing Pope’s claims as untimely, finding that the district court had erred by resolving the relevant factual issues on a motion. There, the Supreme Court rejected defendant’s argument that “Pope should have been alerted to possible malpractice when the doctors informed her that they were not certain of the cause of death, or, at the very latest...when the autopsy report listing acute gastrojejunitis as the cause of death was filed.” *Pope*, 104 Nev. at 365, 760 P.2d at 767. To the contrary, citing the district court’s obligation to construe all allegations in favor of the non-movant under Rule 41(b), the Nevada Supreme Court reasoned as follows:

Pope’s mother died suddenly, after no apparent long-standing illness. Even though the doctors told Pope, on the day of her mother’s death, that they did not know why she died, given Magill’s age, surgical treatment, and serious manifestation of poor health two days before her death, death alone would not necessarily suggest, to a reasonably prudent person, that the decedent succumbed to the effects of medical malpractice.

Although the autopsy report specifying acute gastrojejunitis as the cause of death was apparently placed with Magill’s medical records on June 2, 1986, available for Pope’s examination, Pope advanced at least a reasonable argument that she should not have been expected to suspect malpractice until September 17, 1982, when she received her mother’s death certificate.

1 *Pope*, 104 Nev. at 366, 760 P.2d at 768.

2
3 Here, Dr. Hashim’s affidavit describes why, despite Plaintiffs’ diligent efforts to learn the
4 true cause of Rebecca Powell’s death, it is entirely realistic to infer—as we must—that they did
5 not have sufficient facts, nor could they have obtained sufficient facts based upon the incomplete,
6 and often misleading, information they received from Defendants. Indeed, as Dr. Hashim’s
7 confirms, as of January 23, 2019, the date upon which he signed his affidavit, “all records were
8 requested, not all records were provided by Centennial Hills Hospital & Medical Center.” (Dr.
9 Hashim’s Supporting Affidavit, pg. 2, ¶6A.) Consequently, even at that late date, only a partial
10 reconstruction of the timeline of the events preceding Rebecca Powell’s death has been possible.
11 (*Id.*) Moreover, in his review of such records, Dr. Hashim has found numerous, troubling
12 inconsistencies supporting an inference that Defendants have engaged in concealment, which
13 warrants tolling of the statute of limitations.
14

15
16 Nowhere are the inconsistencies more glaring than in Dr. Hashim’s review of the death
17 certificate. As Dr. Hashim describes: “Notwithstanding clear evidence of intentional over-dosing
18 of [Benadryl, Cymbalta and ETOH], [Rebecca Powell’s] Death Certificate noted the *only* cause
19 of death was due to: “Complications of Cymbalta Intoxication.” (*Id.* at pg. 2, ¶6B.) That could
20 not have been accurate, Dr. Hashim explains, because “[m]etabolically, Cymbalta has a half-shelf
21 life of approximately 12-24 hours, up to 48 hours if an over-amount is ingested. The patient
22 didn’t have a downward health status until 150 hours+ had transpired. Therefore, the possibility
23 that she died from Cymbalta intoxication or complication of, is not realistic.” (*Id.* at pg. 3, ¶6B.)
24 Further, “[t]here was no medical evidence of the patient ingesting Ambien, Benadryl or ETOH,
25 nor did toxicology reports reveal any of those substances.” (*Id.*)
26
27
28

1 But the troubling discrepancies in the records did not end there. As Dr. Hashim explains,
2 his opinions are also drawn from information he learned from an investigative report by the
3 Department of Health and Human Services—NV Bureau of Health Quality and Compliance,
4 which he says “not only reinforced my findings, but revealed many other below standard of care
5 violations, all related directly to the wrongful death of the patient.” (Dr. Hashim Supporting
6 Affidavit, pg. 5, ¶8.) There remain issues of fact concerning when Plaintiffs had inquiry notice
7 regarding Defendants’ negligence as a cause of Rebecca Powell’s death. Further, Dr. Hashim’s
8 affidavit confirms that the full picture has not emerged without the production of an investigative
9 report by an outside agency. Defendants’ motions to dismiss on the grounds of that Plaintiffs’
10 claims are untimely under NRS 41A.097 must be denied because there are factual issues that
11 cannot be resolved on a motion here.
12

13
14 **D. Plaintiffs’ Wrongful Death and NIED Claims are Not Subsumed Under their**
15 **Professional Negligence Claims for Purposes of the Statute of Limitations.**

16 Defendants argue that all of Plaintiffs’ claims, including those for wrongful death and NIED,
17 “sound in” professional negligence and should therefore be subject to a one-year limitations
18 period pursuant to NRS 41A.097(2). Between them, however, they have not cited a controlling
19 precedent that requires the Court to apply the shorter one-year limitations period rather than the
20 two year period applicable under 11.190(4)(e). Plaintiffs respectfully submit that their claims for
21 wrongful death and NIED, if prevailing, would provide them with avenues of distinct relief to
22 remedy distinct harms from those contemplated in their medical malpractice claims. As such,
23 Plaintiffs’ claims for wrongful death and NIED should be measured under distinct limitations
24 period.
25
26
27
28

III. CONCLUSION

For all of the reasons set forth herein, all aspects of the Defendants' subject motions to dismiss and joinders must be denied.

DATED this 13th day of August, 2019.

Respectfully submitted by:

PAUL PADDA LAW, PLLC

By: /s/ Suneel J. Nelson

SUNEEL J. NELSON, ESQ.

4560 South Decatur Boulevard, Suite 300
Las Vegas, Nevada 89103

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing document were served on this 13th day of April 2019, via the Court's electronic service and filing system ("Odyssey") upon all parties and their counsel.

/S/

An Employee of Paul Padda Law, PLLC

**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...

PRINT DATE: 10/27/2020

Page 1 of 2

Minutes Date: September 25, 2019

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. Julian; 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).



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15 Centennial Hills Hospital Medical Center
16 and Universal Health Services, Inc.

12 DISTRICT COURT
13 CLARK COUNTY, NEVADA

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

20 Plaintiffs,

21 vs.

22 VALLEY HEALTH SYSTEM, LLC (doing
23 business as "Centennial Hills Hospital Medical
24 Center"), a foreign limited liability company;
25 UNIVERSAL HEALTH SERVICES, INC., a
26 foreign corporation; DR. DIONICE S. JULIANO,
27 M.D., an individual; DR. CONRADO C.D.
28 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. XIV

DEFENDANT VALLEY HEALTH
SYSTEM, LLC, dba CENTENNIAL
HILLS HOSPITAL MEDICAL
CENTER'S ANSWER TO
PLAINTIFFS' COMPLAINT

COMES NOW, Defendant, Valley Health System, LLC, dba Centennial Hills Hospital
Medical Center, by and through its attorneys of the law firm of McBRIDE HALL and hereby

1 provides its answer to Plaintiffs' Complaint as follows:

2 I.

3 **ARBITRATION EXEMPTION**

4 1. In answering paragraphs 1 and 2 of Plaintiffs' Complaint, this answering
5 Defendant states that the allegations call for legal conclusion, as such no response is required. To
6 the extent a response is required, this answering Defendant states it is without sufficient
7 information to form a belief as to the truth of the allegations contained in said paragraphs and
8 therefore denies the same.
9

10 II.

11 **JURISDICTION, VENUE AND LEGAL BASIS FOR THIS ACTION**

12 2. In answering paragraph 3 of Plaintiffs' Complaint, this answering Defendant
13 states that the allegations call for legal conclusion, as such no response is required. To the extent
14 a response is required, this answering Defendant states it is without sufficient information to
15 form a belief as to the truth of the allegations contained in said paragraphs and therefore denies
16 the same.
17

18 III.

19 **THE PARTIES**

20 3. In answering paragraphs 4, 5, 6, 7, 8 and 9 of Plaintiffs' Complaint, this
21 answering Defendant states it is without sufficient information to form a belief as to the truth of
22 the allegations contained in said paragraphs and therefore denies the same.
23

24 4. In answering paragraph 10 of Plaintiffs' Complaint, this answering Defendant
25 admits only the Valley Health System, LLC, doing business as Centennial Hills Hospital
26 Medical Center, is a foreign limited liability company licensed to practice healthcare services in
27 the State of Nevada. As to the remaining allegations, this answering Defendant states it is
28

without sufficient information to form a belief as to the truth of the allegations contained in said paragraphs and therefore denies the same.

5. In answering paragraph 11 of Plaintiffs' Complaint, this answering Defendant admits only the Valley Health System, LLC, is an indirect subsidiary of Universal Health Services, Inc. a foreign corporation. As to the remaining allegations, this answering Defendant denies each and every allegations contained in said paragraphs.

6. In answering paragraphs 12, 13 and 14 of Plaintiffs' Complaint, this answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraphs and therefore denies the same.

7. In answering paragraph 15 and 16 of Plaintiffs' Complaint, this answering Defendant states that the allegations call for legal conclusion, as such no response is required. To the extent a response is required, this answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraphs and therefore denies the same.

IV.

FACTUAL BACKGROUND

8. In answering paragraph 17 of Plaintiffs' Complaint, this answering Defendant denies that Centennial Hills Hospital Medical Center is operated by UHS. As to the remaining allegations, this answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraphs and therefore denies the same.

9. In answering paragraph 18 of Plaintiffs' Complaint, this answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

10. In answering paragraph 19 of Plaintiffs' Complaint, this answering Defendant denies that Centennial Hills Hospital breached the standard of care and that any alleged breach of

1 the standard of care cause Plaintiff's death. As to the remaining allegations, this answering
2 Defendant states that the allegations therein call for an expert opinion and, as such, do not
3 require a response. To the extent a response is required, the answering Defendant states it is
4 without sufficient information to form a belief as to the truth of the allegations contained in said
5 paragraph and therefore denies the same.
6

7 11. In answering paragraph 20 of Plaintiffs' Complaint, this answering Defendant
8 denies that Centennial Hills Hospital breached the standard of care. As to the remaining
9 allegations, this answering Defendant states it is without sufficient information to form a belief
10 as to the truth of the allegations contained in said paragraphs and therefore denies the same.
11

12 12. In answering paragraph 21 of Plaintiffs' Complaint, this answering Defendant
13 states it is without sufficient information to form a belief as to the truth of the allegations
14 contained in said paragraph and therefore denies the same.
15

16 13. In answering paragraph 22 of Plaintiffs' Complaint, this answering Defendant
17 denies that Defendant Centennial Hills Hospital breached the standard of care. As to the
18 remaining allegations, this answering Defendant states that the allegations therein call for an
19 expert opinion and, as such, do not require a response. To the extent a response is required, the
20 answering Defendant states it is without sufficient information to form a belief as to the truth of
21 the allegations contained in said paragraph and therefore denies the same.
22

23 14. In answering paragraph 23 and 24 of Plaintiffs' Complaint, this answering
24 Defendant states that the allegations therein call for an expert opinion and, as such, do not
25 require a response. To the extent a response is required, the answering Defendant states it is
26 without sufficient information to form a belief as to the truth of the allegations contained in said
27 paragraph and therefore denies the same.
28

15. In answering paragraph 25 of Plaintiffs' Complaint, this answering Defendant
denies that Defendant Centennial Hills Hospital breached the standard of care. As to the

1 remaining allegations, this answering Defendant states that the allegations therein call for an
2 expert opinion and, as such, do not require a response. To the extent a response is required, the
3 answering Defendant states it is without sufficient information to form a belief as to the truth of
4 the allegations contained in said paragraph and therefore denies the same.

5
6 **V.**

7 **FIRST CAUSE OF ACTION**

8 **[On Behalf Of The Estate Of Rebecca Powell (Through Special Administrator Brien),
9 Darci, Taryn and Isaiah Against All Defendants]
10 Negligence / Medical Malpractice**

11 16. In answering paragraph 26 of Plaintiffs' Complaint, this answering Defendant
12 repeats and repleads its answers to paragraphs 1 through 25 of Plaintiffs' Complaint.

13 17. In answering paragraph 27 of Plaintiffs' Complaint, this answering Defendant
14 states that the allegations call for legal conclusion, as such no response is required.

15 18. In answering paragraph 28, 29, 30, 31, 32 and 33 of Plaintiffs' Complaint, this
16 answering Defendant denies each and every allegation.

17 **VI.**

18 **SECOND CAUSE OF ACTION**

19 **[On Behalf Of The Estate Of Rebecca Powell (Through Special Administrator Brien),
20 Darci, Taryn and Isaiah Against All Defendants]
21 Wrongful Death Pursuant to NRS 41.085**

22 19. In answering paragraph 34 of Plaintiffs' Complaint, this answering Defendant
23 repeats and repleads its answers to paragraphs 1 through 33 of Plaintiffs' Complaint.

24 20. In answering paragraphs 35 and 36 of Plaintiffs' Complaint, this answering
25 Defendant states that the allegations call for legal conclusion, as such no response is required.

26 21. In answering paragraphs 37, 38, 39 and 40 of Plaintiffs' Complaint, this
27 answering Defendant denies each and every allegation.

28 **VII.**

THIRD CAUSE OF ACTION

**[On Behalf Of Darci, Taryn and Isaiah Against All Defendants]
Negligent Infliction Of Emotional Distress**

22. In answering paragraph 41 of Plaintiffs' Complaint, this answering Defendant repeats and repleads its answers to paragraphs 1 through 40 of Plaintiffs' Complaint.

23. In answering paragraph 42 of Plaintiffs' Complaint, this answering Defendant states that the allegations call for legal conclusion, as such no response is required. To the extent a response is required, the answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

24. In answering paragraph 43 of Plaintiffs' Complaint, this answering Defendant denies that Centennial Hills Hospital breached the standard of care. As to the remaining allegations, this answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

25. In answering paragraphs 44, 45, 46, 47 and 48 of Plaintiffs' Complaint, this answering Defendant denies each and every allegation.

VIII.
FOURTH CAUSE OF ACTION
[On Behalf Of Lloyd Creecy Against All Defendants]
Negligent Infliction Of Emotional Distress

26. In answering paragraph 49 of Plaintiffs' Complaint, this answering Defendant repeats and repleads its answers to paragraphs 1 through 48 of Plaintiffs' Complaint.

27. In answering paragraph 50 of Plaintiffs' Complaint, this answering Defendant states that the allegations call for legal conclusion, as such no response is required. To the extent a response is required, the answering Defendant states it is without sufficient information to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

28. In answering paragraphs 51, 52, 53, 54, 55 and 56 of Plaintiffs' Complaint, this answering Defendant denies each and every allegation.

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SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

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

EIGHTH AFFIRMATIVE DEFENSE

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

NINTH AFFIRMATIVE DEFENSE

Defendant alleges that it is not guilty of fraud, oppression or malice, express or implied, in connection with the care rendered to Plaintiff at any of the times or places alleged in the Complaint.

TENTH AFFIRMATIVE DEFENSE

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

ELEVENTH AFFIRMATIVE DEFENSE

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

///

1 **TWELFTH AFFIRMATIVE DEFENSE**

2 Plaintiffs' Complaint is void ab initio as it does not include an affidavit which meets with
3 requirements of N.R.S. 41A.

4 **THIRTEENTH AFFIRMATIVE DEFENSE**

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

9 **FOURTEENTH AFFIRMATIVE DEFENSE**

10 Defendant alleges that at all relevant times this Defendant was acting in good faith and
11 not with recklessness, oppression, fraud or malice.

12 **FIFTEENTH AFFIRMATIVE DEFENSE**

13 Plaintiffs have failed to allege any facts sufficient to satisfy Plaintiffs' burden of proof by
14 clear and convincing evidence that this Answering Defendant engaged in any conduct that would
15 support an award of punitive damages.

16 **SIXTEENTH AFFIRMATIVE DEFENSE**

17 No award of punitive damages can be awarded against this Answering Defendant under
18 the facts and circumstances alleged in Plaintiffs' Complaint.

19 **SEVENTEENTH AFFIRMATIVE DEFENSE**

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

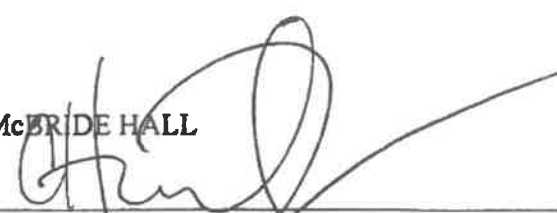
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WHEREFORE, Defendant prays for relief as follows:

1. That Plaintiffs take nothing by way of the Complaint on file herein.
2. For reasonable attorney's fees and costs incurred in defending this litigation.
3. For such other and further relief as this Court deems just and proper in the premises.

DATED this 15th day of April, 2020.

McBRIDE HALL



ROBERT C. McBRIDE, ESQ.
Nevada Bar No.: 7082
CHELSEA R. HUETH, ESQ.
Nevada Bar No.: 10904
8329 W. Sunset Road, Suite 260
Las Vegas, Nevada 89113
Attorneys for Defendants,
Valley Health System, LLC, dba
Centennial Hills Hospital Medical Center

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 15th day of April 2020, I served a true and correct copy
3 of the foregoing **DEFENDANT VALLEY HEALTH SYSTEM, LLC, dba CENTENNIAL**
4 **HILLS HOSPITAL MEDICAL CENTER'S ANSWER TO PLAINTIFF'S COMPLAINT**
5 addressed to the following counsel of record at the following address(es):

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

13 Paul S. Padda, Esq.
14 Brandon C. Verde, Esq.
15 PAUL PADDA LAW, PLLC
16 4560 South Decatur Boulevard, Suite 300
17 Las Vegas, Nevada 89103
18 *Attorneys for Plaintiffs*

John H. Cotton, Esq.
Brad Shipley, Esq.
JOHN H. COTTON & ASSOCIATES, LTD.
7900 West Sahara Avenue, Suite 200
Las Vegas, NV 89117
Attorneys for Defendants,
Dionice S. Juliano, M.D., Conrado Concio,
M.D. and Vishal S. Shah, M.D.

19
20 /s/Stephanie Lazo
21 An Employee of McBRIDE HALL
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1 SCHTO

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 **Estate of Rebecca Powell**
5 **vs.**
6 **Valley Health System, LLC**

CASE NO: A-19-788787-C
DEPT. 30

7 **SCHEDULING ORDER AND**
8 **ORDER SETTING FIRM CIVIL JURY TRIAL**

9 **NATURE OF ACTION: MALPRACTICE - MED/DENTAL**
10 **TIME REQUIRED FOR TRIAL: 5 WEEKS**
11 **TRIAL READY DATE: JANUARY 31, 2022**
12 **DATES FOR SETTLEMENT CONFERENCE: PARTIES AGREE TO CONDUCT**
13 **A PRIVATE MEDIATION TO BE**
14 **SCHEDULED BY COUNSEL**

15 The parties herein appeared before the Honorable Jerry A. Wiese II, in Department 30
16 of the Eighth Judicial District Court for a Mandatory Rule 16 Discovery Conference wherein
17 all discovery deadlines were agreed upon and ordered by the Court. This order may only be
18 amended or modified by further order of the court upon good cause shown,

19 **IT IS HEREBY ORDERED** that the parties will comply with the following
20 deadlines:

21 A private mediation shall be conducted in July, 2021.

22 A status check regarding settlement/trial setting shall be conducted on JUNE 2,
23 2021, at 9:00 AM in Department 30, Courtroom 14A located in the Regional Justice
24 Center, 200 Lewis Avenue, Las Vegas, Nevada 89155.

25 All parties shall file motions to amend pleadings or add parties on or before
26 6/18/2021.
27
28

1 All parties shall make initial expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or
2 before **6/18/2021**.

3 All parties shall make rebuttal expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on
4 or before **8/27/2021**.

5 All parties shall complete discovery on or before **10/28/2021**.

6 All parties shall file dispositive motions on or before **11/30/2021**.

7 Unless otherwise directed by the court, all pretrial disclosures pursuant to N.R.C.P.
8 16.1(a)(3) must be made at least 30 days before trial.

9 Motions for extensions of discovery shall be made in accordance with E.D.C.R. 2.35.
10 The deadline for responding to discovery requests must fall on or before the date discovery
11 closes. A deposition must be completed on or before the date discovery closes.

12 Unless otherwise ordered, discovery disputes (except disputes presented at a pre-trial
13 conference or at trial) must first be heard by the Discovery Commissioner.

14 **IT IS HEREBY FURTHER ORDERED:**

15 A. The above entitled Medical Malpractice case is set for a **FIRM 5-week Jury**
16 **Trial commencing on MAY 23, 2022, at 10:30 AM.** The trial will be held in Department
17 30, Courtroom 14A located in the Regional Justice Center, 200 Lewis Avenue, Las Vegas,
18 Nevada 89155.

19 B. A Pre-Trial Conference with the designated attorney and/or parties in proper
20 person will be held on **APRIL 25, 2022, at 9:00 AM.** Trial counsel should be prepared to
21 advise the court of any potential conflicts they or their witnesses have in the five (5) week
22 stack.

1 C. A Calendar Call will be held on **MAY 16, 2022, at 9:00AM**. Trial Counsel
2 (and any party in proper person) must appear. Parties must have the following ready for
3 trial at the time of Calendar Call:
4

- 5 (1) Typed exhibit lists;
6 (2) List of depositions;
7 (3) List of equipment needed for trial, including audiovisual equipment; and
8 (4) Courtesy copies of any legal briefs on trial issues.

9 If counsel anticipates the need for audio visual equipment during trial, a request must be
10 submitted to the District Court AV Department following the Calendar Call by contacting the
11 AV Dept at 671-3300 or via E-Mail at courthelpdesk@clarkcountycourts.us.

12 D. The Joint Pre-trial Memorandum must be filed no later than **4:00 PM** on
13 **Friday, MAY 13, 2022**, with a courtesy copy delivered to chambers. EDCR 2.67 must be
14 fully complied with.

15 E. Stipulations to continue trial and discovery deadlines must comply with EDCR
16 2.35. All Stipulations resulting in the continuance of a trial must include an Order and be
17 submitted to Department 30 for signature by the District Court Judge. The Court generally
18 is not inclined to grant continuances of the trial, absent a showing of good cause. A request
19 for continuance of trial will result in the scheduling of an EDCR 1.90 conference.
20

21 F. All motions in limine shall be filed at least **45 days** prior to trial. Counsel are
22 required to confer, pursuant to EDCR 2.47, at least **two weeks** prior to filing any motion in
23 limine.

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

25 ***AN UPCOMING TRIAL DATE IS NOT AN EXTREME EMERGENCY***
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1 H. All original depositions anticipated to be used in any manner during the trial must be
2 delivered to the clerk on a date and time to be determined at the time of the Pretrial Conference. If
3 deposition testimony is anticipated to be used in lieu of live testimony, a designation (by page/line
4 citation) of the portions of the testimony to be offered must be filed and served by facsimile or hand,
5 two (2) judicial days prior to the Calendar Call. Any objections or counterdesignations (by page/line
6 citation) of testimony must be filed and served by facsimile or hand, one (1) judicial day prior to the
7 commencement of trial. Counsel shall advise the clerk prior to publication.
8

9 I. In accordance with EDCR 2.67, counsel shall meet, review, and discuss exhibits. All
10 exhibits must comply with EDCR 2.27. Two (2) sets must be three hole punched placed in three
11 ring binders along with the exhibit list. The sets must be delivered to the Courtroom Clerk on a date
12 and time to be determined at the time of the Pretrial Conference. Any demonstrative exhibits
13 including exemplars anticipated to be used must be disclosed prior to the calendar call. Pursuant to
14 EDCR 2.68, at the Calendar Call, counsel shall be prepared to stipulate or make specific objections
15 to individual proposed exhibits. Unless otherwise agreed to by the parties, demonstrative exhibits
16 are marked for identification but not admitted into evidence.

17 J. In accordance with EDCR 2.67, counsel shall meet and discuss jury instructions,
18 special interrogatories, if requested, and verdict forms. Each side shall provide the Court, at the
19 Calendar Call, an agreed set of jury instructions and proposed form of verdict along with any
20 additional proposed jury instructions with an electronic copy in Word format.

21 Failure of the designated trial attorney or any party appearing in proper person to
22 appear for any court appearances or to fully comply with EDCR 2.67 or this trial Order shall
23 result in any of the following: (1) dismissal of the action (2) default judgment; (3) monetary
24 sanctions; (4) vacation of trial date; and/or any other appropriate remedy or sanction.
25

26 Counsel must advise the Court immediately when the case settles or is otherwise
27 resolved prior to trial. A stipulation which terminates a case by dismissal shall indicate
28

1 whether a Scheduling Order has been filed and, if a trial date has been set, the date of that
2 trial.
3

4 DATED: May 6, 2020



6 JERRY A. WIESE II, District Judge

7 I hereby certify that on or about the date signed, a copy of this Order was
8 electronically served, pursuant to NEFCR 9, to all registered parties, via eFileNV, and/or
9 served via US Mail, at any address listed below.
10

11 /s/ Angela McBride

12 ANGELA MCBRIDE, Judicial Executive Assistant
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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 KHORSOF, 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

**DEFENDANT VALLEY HEALTH
SYSTEM, LLC'S RULE 68 OFFER TO
PLAINTIFFS**

24
25 TO: ESTATE OF REBECCA POWELL, through BRIAN POWELL, as Special
26 Administrator; DARCI CREECY, individually and as Heir; TARYN CREECY, individually and as
27 an Heir; ISAAH KHORSOF, individually and as an Heir; LLOYD CREECY, individually,
28 Plaintiffs; and

1 TO: Paul S. Padda, Esq., PAUL PADDA LAW, PLLC, 4560 S. Decatur Blvd., Suite 300,
2 Las Vegas, NV 89103, their attorneys:

3 PLEASE TAKE NOTICE that pursuant to the provisions of N.R.C.P. 68 and *Busick v.*
4 *Trainor*, 2019 Nev. Unpub. LEXIS 378, 2019 WL 1422712 (Nev., March 28, 2019), 437 P.3d 1050,
5 Defendants VALLEY HEALTH SYSTEM, LLC (doing business as "Centennial Hills Hospital
6 Medical Center"), a foreign limited liability company ("Defendant"), by and through its counsel of
7 record, S. Brent Vogel, Esq. and Adam Garth, Esq. of LEWIS BRISBOIS BISGAARD & SMITH
8 LLP, hereby offer to waive any presently or potentially recoverable attorney's fees and costs in full
9 and final settlement of the above-referenced case. At this time, Defendant has incurred \$53,389.90
10 in attorney's fees and \$5,124.46 in costs.

11 This Offer shall not be construed to allow Plaintiffs to seek costs, attorney's fees, or
12 prejudgment interest from the Court in addition to the amount stated in the Offer, should Plaintiffs
13 accept the Offer.

14 Pursuant to N.R.C.P. 68, this Offer shall be open for a period of fourteen (14) days from the
15 date of service. In the event this Offer is accepted by Plaintiffs, Defendant will obtain a dismissal
16 of the claim as provided by N.R.C.P. 68(d), rather than to allow judgment to be entered against
17 Defendant. Accordingly, and pursuant to these rules and statutes, judgment against Defendant could
18 not be entered unless ordered by the District Court.

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1 This Offer is made solely for the purposes intended by N.R.C.P. 68, and is not to be construed
2 as an admission in any form, shape or manner that Defendant is liable for any of the allegations
3 made by Plaintiffs in the Complaint. Nor is it an admission that Plaintiffs are entitled to any relief,
4 including, but not limited to, an award of damages, attorney's fees, costs or interest. By virtue of
5 this Offer, Defendant waives no defenses asserted in their Answer to Plaintiffs' Complaint.

6
7 DATED this 28th day of August, 2020

8
9 LEWIS BRISBOIS BISGAARD & SMITH LLP

10
11 By /s/ Adam Garth
12 S. BRENT VOGEL
13 Nevada Bar No. 6858
14 ADAM GARTH
15 Nevada Bar No. 15045
16 6385 S. Rainbow Boulevard, Suite 600
17 Las Vegas, Nevada 89118
18 Tel. 702.893.3383
19 *Attorneys for Attorneys for Defendant Valley*
20 *Health System, LLC dba Centennial Hills Hospital*
21 *Medical Center*
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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August, 2020, a true and correct copy of **DEFENDANT VALLEY HEALTH SYSTEM, LLC'S RULE 68 OFFER TO PLAINTIFFS** was served by electronically filing with the Clerk of the Court using the Odyssey E-File & Serve system and serving all parties with an email-address on record, who have agreed to receive electronic service in this action.

Paul S. Padda, Esq.
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*Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D. and Vishal S.
Shah, M.D.*

By /s/ Roya Rokni
Roya Rokni, an Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP