

**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; ISALAH  
KHOSROF, individually; LLOYD  
CREECY, individually,

Appellants,

vs.

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

Respondent.

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Elizabeth A. Brown  
Clerk of Supreme Court

Appeal No. 84861

**APPELLANTS’ APPENDIX**

**VOLUME 6**

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Respectfully submitted,

*/s/ Paul S. Padda*

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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 6** 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

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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; ISAIAH KHOSROF, individually and as  
an Heir; LLOYD CREECY, individually,

15 Plaintiffs,

16 vs.

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

23 Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF ORDER**

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

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DATED this 4<sup>th</sup> day of May, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Adam Garth

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of May, 2022, a true and correct copy of **NOTICE OF ENTRY OF ORDER** 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.

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

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

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

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

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, )

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

Defendants.

**INTRODUCTION**

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ <sup>4/1/22</sup>, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Reconsideration of the Court's Order re: Defendant's Motion for Attorneys' Fees. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter on the pleadings, and consequently, this Order issues.

**FACTUAL AND PROCEDURAL HISTORY**

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

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

3 Plaintiffs brought suit on February 4, 2019 alleging negligence/medical  
4 malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of  
5 emotional distress. Defendants filed Motions to Dismiss and for Summary Judgment,  
6 which this Court denied. After a recent remand from the Nevada Supreme Court, on  
7 11/19/21, the Court entered an Order Vacating Prior Order Denying Defendant Valley  
8 Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for  
9 Summary Judgment and Granting Said Defendant's Motion for Summary Judgment  
10 Per Mandamus of Nevada Supreme Court. A Notice of Entry of Order was entered that  
11 same day. On 11/22/21, Defendant Valley Health Systems filed a Motion for Attorneys  
12 Fee and Verified Memorandum of Costs. On 12/3/21, Plaintiffs filed a Motion to  
13 Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano,  
14 Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs. Plaintiffs received  
15 an Order Shortening Time on 12/10/21. Following briefing, the Court entered an Order  
16 denying Plaintiffs' Motion to Extend Time to Respond, because of a lack of diligence on  
17 part of the Plaintiffs. On 12/20/21, Valley filed an Opposition to Plaintiff's Motion to  
18 Extend Time to Retax Costs, and Countermotion for Fees and Costs. This Court  
19 entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for  
20 Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's  
21 denial of fees and costs. Consequently, this Court no longer has jurisdiction to address  
22 the issue of fees and costs. If the Court were inclined to reconsider its previous  
23 decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.*  
24 *Honeycutt*, 94 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228  
25 P.3d 453 (2010)), indicating its intention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 CHH further states:

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

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

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

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

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

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

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

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

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

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

Defendant has now provided billing records indicating the following:

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

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

Defendant has now provided documentation supporting the following costs:

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

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

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

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

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


15 **CONCLUSION/ORDER**

16 Based upon the foregoing, and good cause appearing,

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

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

24 Dated this 4th day of May, 2022

25   
26  
27

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

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

VALLEY HEALTH SYSTEM, LLC,

Appellant,

vs.

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

Respondents.

Supreme Court No.: 84402

Electronically Filed

May 12 2022 10:56 a.m.

District Court No. A-19-788787-C

Elizabeth A. Brown  
Clerk of Supreme Court

**NOTICE OF WITHDRAWAL OF APPEAL**

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

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

## VERIFICATION

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

**DATED this 12<sup>th</sup> day of May, 2022**

**LEWIS BRISBOIS BISGAARD &  
SMITH LLP**

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

**CERTIFICATE OF SERVICE**

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

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

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

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC,  
D/B/A CENTENNIAL HILLS HOSPITAL  
MEDICAL CENTER, A FOREIGN  
LIMITED LIABILITY COMPANY,

Appellant,

vs.

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; AND LLOYD  
CREECY, INDIVIDUALLY,

Respondents.

No. 84402

**FILED**

**MAY 16 2022**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. J. J. J.  
DEPUTY CLERK

**ORDER DISMISSING APPEAL**

Cause appearing, appellant's motion for a voluntary dismissal  
of this appeal is granted. This appeal is dismissed. NRAP 42(b).

It is so ORDERED.

CLERK OF THE SUPREME COURT  
ELIZABETH A. BROWN

BY: M. H. K.

cc: Hon. Jerry A. Wiese, District Judge  
Stephen E. Haberfeld, Settlement Judge  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Paul Padda Law, PLLC  
Eighth District Court Clerk

SUPREME COURT  
OF  
NEVADA

CLERK'S ORDER

(01) 1947 

22-15332

**6 AA 609**



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

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA  
11

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

18 Plaintiffs,

19 vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF JUDGMENT**

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

5  
6 DATED this 7<sup>th</sup> day of June, 2022

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8 By /s/ Adam Garth

9 S. BRENT VOGEL

10 Nevada Bar No. 6858

11 ADAM GARTH

12 Nevada Bar No. 15045

13 6385 S. Rainbow Boulevard, Suite 600

14 Las Vegas, Nevada 89118

15 Tel. 702.893.3383

16 *Attorneys for Attorneys for Defendant Valley*  
17 *Health System, LLC dba Centennial Hills Hospital*  
18 *Medical Center*  
19  
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1 **CERTIFICATE OF SERVICE**

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

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


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jh cotton@jh cottonlaw.com  
bshipleyr@jh cottonlaw.com  
*Attorneys for Defendants Dionice S. Juliano,*  
*M.D., Conrado Concio, M.D And Vishal S.*  
*Shah, M.D.*

14  
15  
16 By /s/ Maria T. San Juan  
17 an Employee of  
18 LEWIS BRISBOIS BISGAARD & SMITH LLP  
19  
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# EXHIBIT A

4895-1659-3188.1

  
 CLERK OF THE COURT

1 **JUDG**  
 2 **S. BRENT VOGEL**  
 3 Nevada Bar No. 6858  
 4 Brent.Vogel@lewisbrisbois.com  
 5 **ADAM GARTH**  
 6 Nevada Bar No. 15045  
 7 Adam.Garth@lewisbrisbois.com  
 8 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
 9 6385 S. Rainbow Boulevard, Suite 600  
 10 Las Vegas, Nevada 89118  
 11 Telephone: 702.893.3383  
 12 Facsimile: 702.893.3789  
 13 *Attorneys for Defendant Valley Health System,*  
 14 *LLC dba Centennial Hills Hospital Medical*  
 15 *Center*

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

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

17 Plaintiffs,

18 vs.

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

28 Defendants.

Case No. A-19-788787-C

Dept. No.: 30

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

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

1 (Exhibit "C"),

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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

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

9 DATED this \_\_\_\_ day of \_\_\_\_\_, 2022.

Dated this 2nd day of June, 2022

10  
11  
12 DISTRICT COURT JUDGE

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

15 By /s/ Adam Garth

16 S. BRENT VOGEL  
17 Nevada Bar No. 6858  
ADAM GARTH  
18 Nevada Bar No. 15045  
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19 Las Vegas, Nevada 89118  
Tel. 702.893.3383  
20 *Attorneys for Attorneys for Defendant Valley*  
21 *Health System, LLC dba Centennial Hills Hospital*  
22 *Medical Center*

23 ///

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28 ///

1 Agreed as to form and substance by:

2

Refused to sign

3

Paul S. Padda, Esq.

4

Srilata Shah, Esq.

5

PAUL PADDA LAW, PLLC

6

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Las Vegas, NV 89103

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[psp@paulpaddalaw.com](mailto:psp@paulpaddalaw.com)

11

*Attorneys for Plaintiffs*

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1 **CERTIFICATE OF SERVICE**

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

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

16 By /s/ Heidi Brown  
17 An Employee of  
18 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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**From:** Paul Padda  
**To:** Garth, Adam; Srilata Shah  
**Cc:** Vogel, Brent; Brown, Heidi; San Juan, Maria  
**Subject:** [EXT] RE: Powell v Valley - CHH's Judgment for Costs #2.pdf  
**Date:** Monday, May 16, 2022 1:26:18 PM  
**Attachments:** image001.png  
image002.png  
image003.png  
image004.png  
image005.png  
image006.png



We cannot agree to this. Thanks.

**Paul S. Padda, Esq.**

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[paulpaddalaw.com](http://paulpaddalaw.com)



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**California Physical Office:**  
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Las Vegas, Nevada 89173



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

Counsel,

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

Adam Garth




**Adam Garth**  
**Partner**  
[Adam.Garth@lewisbrisbois.com](mailto:Adam.Garth@lewisbrisbois.com)  
**T: 702.693.4335 F: 702.366.9563**

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**Representing clients from coast to coast. View our locations nationwide.**

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# EXHIBIT A



1 **NEOJ**  
2 **S. BRENT VOGEL**  
3 **Nevada Bar No. 06858**  
4 **Brent.Vogel@lewisbrisbois.com**  
5 **ADAM GARTH**  
6 **Nevada Bar No. 15045**  
7 **Adam.Garth@lewisbrisbois.com**  
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11 **T: 702.893.3383**  
12 **F: 702.893.3789**  
13 ***Attorneys for Defendant Valley Health System,***  
14 ***LLC dba Centennial Hills Hospital Medical***  
15 ***Center***

9  
10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

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

18 **Plaintiffs,**

19 **vs.**

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

29 **Defendants.**

**Case No. A-19-788787-C**

**Dept. No. 30**

**NOTICE OF ENTRY OF ORDER**

30 **PLEASE TAKE NOTICE that an ORDER was entered with the Court in the above-**  
31 **captioned matter on the 19<sup>th</sup> day of November 2021, a copy of which is attached hereto.**

32 **///**

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DATED this 19<sup>th</sup> day of November, 2021.

LEWIS BRISBOIS BISGAARD & SMITH LLP

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

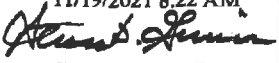
1 **CERTIFICATE OF SERVICE**

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

6 Paul S. Padda, Esq.  
7 PAUL PADDA LAW, PLLC  
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10 Tel: 702.366.1888  
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13 *Attorneys for Plaintiffs*

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jh cotton@jh cottonlaw.com  
bshipleyr@jh cottonlaw.com  
*Attorneys for Defendants Dionice S. Juliano,*  
*M.D., Conrado Concio, M.D And Vishal S.*  
*Shah, M.D.*

14  
15  
16 By /s/ Roya Rokni  
17 An Employee of  
18 LEWIS BRISBOIS BISGAARD & SMITH LLP  
19  
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CLERK OF THE COURT

1 **ORDR**  
 2 **S. BRENT VOGEL**  
 3 Nevada Bar No. 6858  
 4 Brent.Vogel@lewisbrisbois.com  
 5 **ADAM GARTH**  
 6 Nevada Bar No. 15045  
 7 Adam.Garth@lewisbrisbois.com  
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 11 Telephone: 702.893.3383  
 12 Facsimile: 702.893.3789  
 13 *Attorneys for Defendant Valley Health System,*  
 14 *LLC dba Centennial Hills Hospital Medical*  
 15 *Center*

DISTRICT COURT  
 CLARK COUNTY, NEVADA

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

18 Plaintiffs,

19 vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**ORDER VACATING PRIOR ORDER  
 DENYING DEFENDANT VALLEY  
 HEALTH SYSTEM, LLC DBA  
 CENTENNIAL HILLS HOSPITAL  
 MEDICAL CENTER'S MOTION FOR  
 SUMMARY JUDGMENT AND  
 GRANTING SAID DEFENDANT'S  
 MOTION FOR SUMMARY JUDGMENT  
 PER MANDAMUS OF NEVADA  
 SUPREME COURT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ///

27 ///

28 ///

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

4 Dated this 19th day of November, 2021

5 Dated: \_\_\_\_\_



DISTRICT COURT JUDGE

8 DATED this \_\_\_\_ day of November, 2021.

8 DATED this 18th day of November, 2021

Jerry A. Wiese  
District Court Judge

10 \*UNSIGNED\*

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

20 DATED this 18th day of November, 2021

21 /s/ Brad Shipley

22 John H. Cotton, Esq.  
23 Brad Shipley, Esq.  
24 JOHN H. COTTON & ASSOCIATES  
25 7900 W. Sahara Ave., Suite 200  
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Attorneys for Defendants Dionice S. Juliano,  
M.D., Conrado Concio, M.D And Vishal S.  
Shah, M.D.

/s/ Adam Garth

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

**From:** Brad Shipley  
**To:** Garth, Adam; Srilata Shah; Paul Padda  
**Cc:** Vogel, Brent; Rokni, Roya; Sirsy, Shady; San Juan, Maria  
**Subject:** [EXT] RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"  
**Date:** Friday, November 12, 2021 10:00:14 AM  
**Attachments:** Image001.png

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Adam,

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

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

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

Counsel,

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

Adam Garth



**Adam Garth**  
**Partner**  
[Adam.Garth@lewisbrisbois.com](mailto:Adam.Garth@lewisbrisbois.com)  
T: 702.693.4335 F: 702.366.9563

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

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

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

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

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

**Importance:** High

Counsel:

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

Adam Garth

**Adam Garth**  
**Partner**  
Las Vegas Rainbow  
702.693.4335 or x7024335

**From:** Garth Adam  
**To:** Paul Padda, Srilata Shah, Brad Shipley  
**Cc:** Vogel, Brent, Rokni, Roya, Sirsy, Shady, San Juan, Maria, Jh Cotton@jhcottonlaw.com  
**Subject:** RE: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"  
**Date:** Friday, November 12, 2021 9:59:40 AM  
**Attachments:** Image001.png  
Image002.png

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

**From:** Paul Padda <psp@paulpaddalaw.com>  
**Sent:** Friday, November 12, 2021 9:56 AM  
**To:** Garth, Adam <Adam.Garth@lewisbrisbois.com>; Srilata Shah <sri@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>  
**Cc:** Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; Jh Cotton@jhcottonlaw.com  
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As you know, there is a motion for rehearing pending in the Supreme Court. Given that fact, and the lack of prejudice to Defendants, please advise if Defendants are willing to stay enforcement of the Supreme Court's decision which is the subject of a motion for rehearing? Thanks.

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

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

**California Office:**  
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300 South Grand Avenue, Suite 3840  
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**PAUL PADDALAW**  
TRIAL ATTORNEYS

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

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

**To:** Srilata Shah <[sri@paulpaddalaw.com](mailto:sri@paulpaddalaw.com)>; Paul Padda <[psp@paulpaddalaw.com](mailto:psp@paulpaddalaw.com)>; Brad Shipley <[bshipley@ihcottonlaw.com](mailto:bshipley@ihcottonlaw.com)>

**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Rokni, Roya <[Roya.Rokni@lewisbrisbois.com](mailto:Roya.Rokni@lewisbrisbois.com)>; Sirsy, Shady <[Shady.Sirsy@lewisbrisbois.com](mailto:Shady.Sirsy@lewisbrisbois.com)>; San Juan, Maria <[Maria.SanJuan@lewisbrisbois.com](mailto:Maria.SanJuan@lewisbrisbois.com)>; [ihcotton@ihcottonlaw.com](mailto:ihcotton@ihcottonlaw.com)

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**Importance:** High

Counsel,

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Adam Garth



Adam Garth

Partner

[Adam.Garth@lewisbrisbois.com](mailto:Adam.Garth@lewisbrisbois.com)

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**From:** Garth, Adam <[Adam.Garth@lewisbrisbois.com](mailto:Adam.Garth@lewisbrisbois.com)>

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

**To:** Srilata Shah <[sri@paulpaddalaw.com](mailto:sri@paulpaddalaw.com)>; Paul Padda <[psp@paulpaddalaw.com](mailto:psp@paulpaddalaw.com)>; Brad Shipley <[bshipley@ihcottonlaw.com](mailto:bshipley@ihcottonlaw.com)>

**Cc:** Vogel, Brent <[Brent.Vogel@lewisbrisbois.com](mailto:Brent.Vogel@lewisbrisbois.com)>; Rokni, Roya <[Roya.Rokni@lewisbrisbois.com](mailto:Roya.Rokni@lewisbrisbois.com)>; San Juan, Maria <[Maria.SanJuan@lewisbrisbois.com](mailto:Maria.SanJuan@lewisbrisbois.com)>; Sirsy, Shady <[Shady.Sirsy@lewisbrisbois.com](mailto:Shady.Sirsy@lewisbrisbois.com)>; [ihcotton@ihcottonlaw.com](mailto:ihcotton@ihcottonlaw.com)

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

**Importance:** High

Counsel:

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

Adam Garth

Adam Garth

1 **CSERV**

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

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

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

8 **vs.**

**DEPT. NO. Department 30**

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

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 **Service Date: 11/19/2021**

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

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3	Srilata Shah	sri@paulpaddalaw.com
4	Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
5	Maria San Juan	maria.sanjuan@lewisbrisbois.com
6	Karen Cormier	karen@paulpaddalaw.com
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# EXHIBIT B



1 S. BRENT VOGEL  
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2 Brent.Vogel@lewisbrisbois.com  
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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; ISAIAH KHOSROF, individually and as  
an Heir; LLOYD CREECY, individually,

15 Plaintiffs,

16 vs.

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

23 Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF ORDER**

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

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DATED this 4<sup>th</sup> day of May, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

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

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of May, 2022, a true and correct copy of **NOTICE OF ENTRY OF ORDER** 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.  
PAUL PADDA LAW, PLLC  
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bshipleyr@jhcottonlaw.com  
*Attorneys for Defendants Dionice S. Juliano,  
M.D., Conrado Concio, M.D And Vishal S.  
Shah, M.D.*

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

  
CLERK OF THE COURT

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

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

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

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, )

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

Defendants.

**INTRODUCTION**

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ <sup>4/1/22</sup>, with regard to Defendant, Valley Health System (Centennial Hospital's) Motion for Reconsideration of the Court's Order re: Defendant's Motion for Attorneys' Fees. Pursuant to the Administrative Orders of the Court, as well as EDCR 2.23, this matter may be decided with or without oral argument. This Court has determined that it would be appropriate to decide this matter on the pleadings, and consequently, this Order issues.

**FACTUAL AND PROCEDURAL HISTORY**

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

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

3 Plaintiffs brought suit on February 4, 2019 alleging negligence/medical  
4 malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of  
5 emotional distress. Defendants filed Motions to Dismiss and for Summary Judgment,  
6 which this Court denied. After a recent remand from the Nevada Supreme Court, on  
7 11/19/21, the Court entered an Order Vacating Prior Order Denying Defendant Valley  
8 Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for  
9 Summary Judgment and Granting Said Defendant's Motion for Summary Judgment  
10 Per Mandamus of Nevada Supreme Court. A Notice of Entry of Order was entered that  
11 same day. On 11/22/21, Defendant Valley Health Systems filed a Motion for Attorneys  
12 Fee and Verified Memorandum of Costs. On 12/3/21, Plaintiffs filed a Motion to  
13 Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano,  
14 Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs. Plaintiffs received  
15 an Order Shortening Time on 12/10/21. Following briefing, the Court entered an Order  
16 denying Plaintiffs' Motion to Extend Time to Respond, because of a lack of diligence on  
17 part of the Plaintiffs. On 12/20/21, Valley filed an Opposition to Plaintiff's Motion to  
18 Extend Time to Retax Costs, and Countermotion for Fees and Costs. This Court  
19 entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for  
20 Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's  
21 denial of fees and costs. Consequently, this Court no longer has jurisdiction to address  
22 the issue of fees and costs. If the Court were inclined to reconsider its previous  
23 decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.*  
24 *Honeycutt*, 94 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228  
25 P.3d 453 (2010)), indicating its intention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 CHH further states:

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

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

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

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

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

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

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

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

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

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

Defendant has now provided billing records indicating the following:

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

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

Defendant has now provided documentation supporting the following costs:

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

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

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

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

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

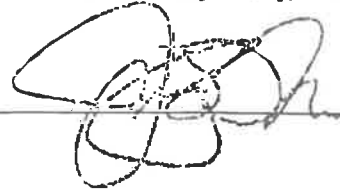
15 **CONCLUSION/ORDER**

16 Based upon the foregoing, and good cause appearing,

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

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

24 Dated this 4th day of May, 2022

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OD9 DD7 5826 D5EB  
Jerry A. Wiese  
District Court Judge

1 **CSERV**

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

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

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

8 **vs.**

**DEPT. NO. Department 30**

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

11  
12 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 **Service Date: 5/4/2022**

16 Paul Padda	psp@paulpaddalaw.com
17 S. Vogel	brent.vogel@lewisbrisbois.com
18 Jody Foote	jfoote@jhcottonlaw.com
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24 Paul Padda	civil@paulpaddalaw.com
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# EXHIBIT C

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

VALLEY HEALTH SYSTEM, LLC,

Appellant,

vs.

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

Respondents.

Supreme Court No.: 84402

Electronically Filed

May 12 2022 10:56 a.m.

District Court No. A-19-788/87-C  
Elizabeth A. Brown  
Clerk of Supreme Court

**NOTICE OF WITHDRAWAL OF APPEAL**

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

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

### VERIFICATION

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

DATED this 12<sup>th</sup> day of May, 2022

LEWIS BRISBOIS BISGAARD &  
SMITH LLP

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

**CERTIFICATE OF SERVICE**

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

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

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

1 **CSERV**

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

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

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

8 **vs.**

**DEPT. NO. Department 30**

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

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

**Service Date: 6/2/2022**

16 <b>Paul Padda</b>	<b>psp@paulpaddalaw.com</b>
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Attorney for Plaintiffs

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

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. A-19-788787-C

DEPT. XXX (30)

**PLAINTIFFS' NOTICE OF APPEAL**

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

1

Estate of Rebecca Powell, et. al. vs. Valley Health System, LLC, et. al.  
Eighth Judicial District Court, Case No. A-19-788787-C (Dept. 30)  
*Plaintiffs' Notice Of Appeal*  
PPL #201297-25-01

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

PAUL PADDA LAW

/s/ Paul S. Padda

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

*Attorney for Plaintiffs*

Dated: June 7, 2022

**CERTIFICATE OF SERVICE**

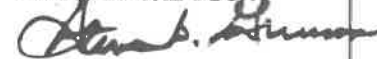
Pursuant to the Nevada Rules of Civil Procedure, the undersigned hereby certifies that on this day, June 7, 2022, a copy of **PLAINTIFFS' NOTICE OF APPEAL** was served upon all parties/counsel in the above-entitled matter through the Court's electronic filing system.

/s/ Karen Cormier

Karen Cormier, Paralegal  
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Electronically Filed  
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Steven D. Grierson  
CLERK OF THE COURT



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Tele: (702) 366-1888

Attorneys for Plaintiffs/Appellants

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

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. A-19-788787-C

DEPT. XXX (30)

**PLAINTIFFS' CASE APPEAL  
STATEMENT**

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

• • •

**1. Name of appellants filing this case appeal statement:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No.

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

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

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

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

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

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

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

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

No.

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

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

**PAUL PADDA LAW, PLLC**

/s/ *Paul S. Padda*

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

*Attorney for Plaintiffs*

**Dated: June 7, 2022**

PAUL PADDA LAW, PLLC  
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Las Vegas, Nevada 89103  
Tele: (702) 366-1888 • Fax (702) 366-1940

**CERTIFICATE OF SERVICE**

Pursuant to the Nevada Rules of Civil Procedure 5, the undersigned certifies that on this day, June 7, 2022, a copy of the foregoing **PLAINTIFFS' CASE APPEAL STATEMENT** was filed with the Court and served upon all parties/counsel of record in the above-entitled matter through the Court's electronic filing system - efileNV eservice.

/s/ Karen Cormier

Karen Cormier, Paralegal  
PAUL PADDA LAW

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Electronically Filed  
12/9/2022 11:49 AM  
Steven D. Grierson  
CLERK OF THE COURT



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Attorney for Plaintiffs

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

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. A-19-788787-C

DEPT. 7

**NOTICE OF ENTRY OF ORDER**  
**GRANTING MOTION TO STAY**  
**ENFORCEMENT OF JUDGMENT**

PLEASE TAKE NOTICE that the Order Granting Motion to Stay Enforcement of  
Judgment was entered in the above-entitled matter on the 1st day of December

...

...

...

**PAUL PADDA LAW, PLLC**  
4560 South Decatur Boulevard, Suite 300  
Las Vegas, Nevada 89103  
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2022, a copy of which is attached hereto.

DATED this 9th day of December 2022.

**PAUL PADDA LAW, PLLC**

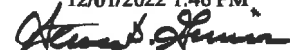
By: /s/ Paul S. Padda  
PAUL S. PADDA, ESQ.  
Nevada Bar No. 10417  
*Attorneys for Plaintiffs*

**PAUL PADDA LAW, PLLC**  
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**CERTIFICATE OF SERVICE**

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I certify that I am an employee of Paul Padda Law, PLLC and that on this 9<sup>th</sup> day of December 2022, I served a true and correct copy of the above and foregoing document on all parties/counsel of record in the above- entitled matter through hand service and/or efileNV eservice.

/s/ Shelbi Schram  
Shelbi Schram, Paralegal  
PAUL PADDA LAW

  
CLERK OF THE COURT**ORD**PAUL S. PADDA, ESQ.  
Nevada Bar No. 10417  
Email: psp@paulpaddalaw.comSTEPHANIE MAZZEI, ESQ.  
Nevada Bar No. 11648

Email: stephanie@paulpaddalaw.com

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Las Vegas, Nevada 89103

Tele: (702) 366-1888

Attorney for Plaintiffs

**DISTRICT COURT****CLARK COUNTY, NEVADA**ESTATE OF REBECCA POWELL, through  
Brian Powell as Special Administrator; DARCI  
CREECY, individually; TARYN CREECY,  
individually; ISAIAH KHOSROF,  
individually; LLOYD CREECY, individually;

Plaintiffs,

vs.

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

Defendants.

CASE NO. A-19-788787-C

DEPT. 7

**ORDER GRANTING MOTION TO STAY  
ENFORCEMENT OF JUDGMENT**Plaintiffs filed a motion on September 27, 2022 seeking to stay enforcement of a  
judgment entered on June 7, 2022 and related judgment debtor examination proceedings.

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Las Vegas, Nevada 89103  
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1 Defendant Valley Health System, LLC filed an opposition and a counter motion requesting  
2 contempt findings, attorney's fees and sanctions.

3 A hearing was held on November 16, 2022 regarding the motion, opposition and  
4 counter motion. The Court allowed oral argument from both sides in addition to the briefing  
5 already submitted to the Court.

6 **BASED UPON A FINDING OF GOOD CAUSE, THE COURT HEREBY ORDERS**  
7 that Plaintiffs' motion for stay of enforcement of the judgment entered on June 7, 2022 is hereby  
8 granted. This stay shall apply to all proceedings, including any scheduled judgment debtor  
9 examinations. Defendant Valley Health System, LLC's counter motion for contempt, attorney's  
10 fees and sanctions is hereby denied.

11  
12 IT IS SO ORDERED:

13  
14 Dated this 1st day of December, 2022

15  
16   
DISTRICT COURT JUDGE

Date

17  
18 Respectfully submitted:

A78 6AF 3A9E 1D79  
Linda Marie Bell  
District Court Judge

19 /s/ Paul S. Padda

20 \_\_\_\_\_  
Paul S. Padda, Esq.  
21 Stephanie Mazzei, Esq.  
22 Counsel for Plaintiffs

23 /s/ Adam Garth

24 \_\_\_\_\_  
Brent Vogel, Esq.  
25 Adam Garth, Esq.  
26 Counsel for Valley Health System, LLC

**From:** Garth, Adam <Adam.Garth@lewisbrisbois.com>  
**Sent:** Tuesday, November 29, 2022 11:08 AM  
**To:** Paul Padda <psp@paulpaddalaw.com>; Vogel, Brent <Brent.Vogel@lewisbrisbois.com>  
**Cc:** Stephanie Mazzei <Stephanie@paulpaddalaw.com>; Brown, Heidi <Heidi.Brown@lewisbrisbois.com>; DeSario, Kimberly <Kimberly.DeSario@lewisbrisbois.com>  
**Subject:** RE: Estate of Powell

You may use my e-signature on both orders.

Adam Garth



**Adam Garth**  
**Partner**  
[Adam.Garth@lewisbrisbois.com](mailto:Adam.Garth@lewisbrisbois.com)  
**T: 702.693.4335 F: 702.366.9563**

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**From:** Paul Padda <psp@paulpaddalaw.com>  
**Sent:** Tuesday, November 29, 2022 10:34 AM  
**To:** Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Garth, Adam <Adam.Garth@lewisbrisbois.com>  
**Cc:** Stephanie Mazzei <Stephanie@paulpaddalaw.com>  
**Subject:** [EXT] Re: Estate of Powell

Please review the attached Orders. The first pertains to stay of judgment. The second pertains to the Court's declination to rule on the motion to set aside judgment because of lack of jurisdiction.

Please provide you approval to add your e-signature if you approve the Orders. If we do not receive a response by 5 pm today, we will submit to Chambers and note your lack of a response.

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4030 South Jones Blvd., Unit 30370  
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**PAUL PADDALAW**

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

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1 **CSERV**

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

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

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

8 **vs.**

**DEPT. NO. Department 7**

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

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 **Service Date: 12/1/2022**

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20 <b>John Cotton</b>	<b>jhcotton@jhcottonlaw.com</b>
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Heidi Brown

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