

IN THE SUPREME COURT OF THE STATE OF NEVADA

ESTATE OF REBECCA POWELL,  
THROUGH BRIAN POWELL, AS  
SPECIAL ADMINISTRATOR; DARCI  
CREECY, INDIVIDUALLY AND AS  
HEIR; TARYN CREECY,  
INDIVIDUALLY AND AS HEIR;  
ISAIAH KHOSROF, INDIVIDUALLY  
AND AS HEIR; AND LLOYD  
CREECY, INDIVIDUALLY,

Appellants,

vs.

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

Respondent.

Supreme Court No. 84861  
District Court Case No. A-19-788787-C

Electronically Filed  
Mar 10 2023 09:29 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

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**RESPONDENT'S APPENDIX TO MOTION TO REQUIRE POSTING OF  
OR INCREASING AMOUNT OF SUPERSEDEAS BOND BY  
APPELLANTS VOLUME III**

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DATED this 10<sup>th</sup> day of March, 2023.

LEWIS BRISBOIS BISGAARD &  
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By /s/ Adam Garth

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## **CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of March, 2023, a true and correct copy of **RESPONDENT'S APPENDIX TO MOTION TO REQUIRE POSTING OF OR INCREASING AMOUNT OF SUPERSEDEAS BOND BY APPELLANTS VOLUME IV** 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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1 of such necessity as to require the larger fee." See NRS 18.005(5); cf.  
2 *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780  
3 (1990) (requiring an "express, careful and preferably written explanation"  
4 of the district court's analysis of factors pertinent to determining whether  
5 a dismissal with prejudice is an appropriate discovery sanction). *In*  
6 *evaluating requests for such awards, district courts should*  
7 *consider the importance of the expert's testimony to the*  
8 *party's case; the degree to which the expert's opinion aided*  
9 *the trier of fact in deciding the case; whether the expert's*  
10 *reports or testimony were repetitive of other expert witnesses;*  
11 *the extent and nature of the work performed by the expert;*  
12 *whether the expert had to conduct independent investigations*  
13 *or testing; the amount of time the expert spent in court,*  
14 *preparing a report, and preparing for trial; the expert's area*  
15 *of expertise; the expert's education and training; the fee*  
16 *actually charged to the party who retained the expert; the fees*  
17 *traditionally charged by the expert on related matters;*  
18 *comparable experts' fees charged in similar cases; and, if an*  
19 *expert is retained from outside the area where the trial is held,*  
20 *the fees and costs that would have been incurred to hire a*  
21 *comparable expert where the trial was held.*

22 *Id.*, at 650-651.

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

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

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

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

14 NRCP 68 provides in pertinent part as follows:

15 **Rule 68. Offers of Judgment**

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

22 **....**  
(d) Acceptance of the Offer and Dismissal or Entry of Judgment.

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

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

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

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

(f) Penalties for Rejection of Offer.

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

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

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

16 . . . .

#### 17 NRCP 68.

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

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

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



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

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

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

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

10 **CONCLUSION/ORDER**

11 Based upon the foregoing, and good cause appearing,

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

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

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

18 Dated this 15th day of February, 2022

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

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

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

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

15 Plaintiffs,

16 vs.

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

22 Defendants.  
23

Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF ORDER**

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

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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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*Attorneys for Attorneys for Defendant Valley*

*Health System, LLC dba Centennial Hills Hospital*

*Medical Center*


**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

  
CLERK OF THE COURT

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

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

Plaintiffs, )

vs. )

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

Defendants. )

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

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

**INTRODUCTION**

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

**FACTUAL AND PROCEDURAL HISTORY**

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



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

3 Plaintiffs brought suit on February 4, 2019 alleging negligence/medical  
4 malpractice, wrongful death pursuant to NRS 41.085, and negligent infliction of  
5 emotional distress. Defendants filed Motions to Dismiss and for Summary Judgment,  
6 which this Court denied. After a recent remand from the Nevada Supreme Court, on  
7 11/19/21, the Court entered an Order Vacating Prior Order Denying Defendant Valley  
8 Health System, LLC DBA Centennial Hills Hospital Medical Center's Motion for  
9 Summary Judgment and Granting Said Defendant's Motion for Summary Judgment  
10 Per Mandamus of Nevada Supreme Court. A Notice of Entry of Order was entered that  
11 same day. On 11/22/21, Defendant Valley Health Systems filed a Motion for Attorneys  
12 Fee and Verified Memorandum of Costs. On 12/3/21, Plaintiffs filed a Motion to  
13 Extend Time to Respond to Defendants' Valley Health Systems, Dr. Dionice S. Juliano,  
14 Dr. Conrado Concio, and Dr. Vishal Shah's Memorandums of Costs. Plaintiffs received  
15 an Order Shortening Time on 12/10/21. Following briefing, the Court entered an Order  
16 denying Plaintiffs' Motion to Extend Time to Respond, because of a lack of diligence on  
17 part of the Plaintiffs. On 12/20/21, Valley filed an Opposition to Plaintiff's Motion to  
18 Extend Time to Retax Costs, and Countermotion for Fees and Costs. This Court  
19 entered an Order on 2/15/22 denying Valley's Motion for Fees and Countermotion for  
20 Fees and Costs. Thereafter, Valley filed an Appeal dealing specifically with the Court's  
21 denial of fees and costs. Consequently, this Court no longer has jurisdiction to address  
22 the issue of fees and costs. If the Court were inclined to reconsider its previous  
23 decision, the most it could do would be to enter a *Honeycutt* Order (See *Honeycutt v.*  
*Honeycutt*, 94 Nev. 79, 575 P.2d 585 (1978); and *Foster v. Dingwall*, 126 Nev. 49, 228  
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  
15 documented, must be reduced to \$8,056.93.

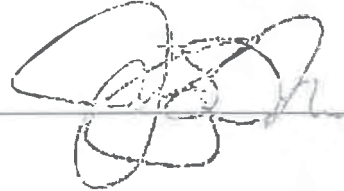
16 **CONCLUSION/ORDER**

17 Based upon the foregoing, and good cause appearing,

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

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

26 Dated this 4th day of May, 2022

27 

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

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

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

CASE NO: A-19-788787-C

7 vs.

DEPT. NO. Department 30

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


10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Order was served via the court's electronic eFile system to all  
14 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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23 Adam Garth	Adam.Garth@lewisbrisbois.com
24 Paul Padda	civil@paulpaddalaw.com
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CLERK OF THE COURT

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

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

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

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



1 (Exhibit "C"),

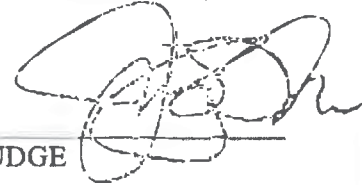
2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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

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

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

Dated this 2nd day of June, 2022



11 DISTRICT COURT JUDGE

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

16 By /s/ Adam Garth

17 S. BRENT VOGEL

18 Nevada Bar No. 6858

19 ADAM GARTH

20 Nevada Bar No. 15045

21 6385 S. Rainbow Boulevard, Suite 600

22 Las Vegas, Nevada 89118

23 Tel. 702.893.3383

24 *Attorneys for Attorneys for Defendant Valley*

25 *Health System, LLC dba Centennial Hills Hospital*

26 *Medical Center*

27 ///

28 ///

///

///

///

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1 Agreed as to form and substance by:

2

Refused to sign

3

Paul S. Padda, Esq.

4

Srilata Shah, Esq.

5

PAUL PADDA LAW, PLLC

6

4560 S. Decatur Blvd., Suite 300

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Las Vegas, NV 89103

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Fax: 702.366.1940

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psp@paulpaddalaw.com

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*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  
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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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(702) 366-1888  
[paulpaddalaw.com](http://paulpaddalaw.com)



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



**PAUL PADDALAW**  
IT'S NOT ABOUT THE INJURY. IT'S ABOUT THE RECOVERY.

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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



6385 South Rainbow Blvd., Suite 600, Las Vegas, NV 89118 | [LewisBrisbois.com](http://LewisBrisbois.com)

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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;  
ISAAH KHOSROF, INDIVIDUALLY  
AND AS AN HEIR; AND LLOYD  
CREECY, INDIVIDUALLY,

Respondents.

No. 84402

**FILED**

**APR 29 2022**

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

**ORDER TO SHOW CAUSE**

This is an appeal from a postjudgment order denying appellant's motion for attorney fees and costs. Preliminary review of the docketing statement, the documents submitted to this court pursuant to NRAP 3(g), and the district court docket entries reveals a potential jurisdictional defect. Specifically, the notice of appeal appears to be prematurely filed under NRAP 4(a) because it appears that it was filed after the timely filing of a tolling motion for reconsideration and before that motion has been formally resolved. See *AA Primo Builders v. Washington*, 126 Nev. 578, 245 P.3d 1190 (2010) (a motion for reconsideration may be considered a tolling motion to alter or amend); *Lytle v. Rosemere Estates Prop. Owners*, 129 Nev. 923, 314 P.3d 946 (2013) (tolling motions directed at an appealable post-judgment order also toll the period to appeal from that order). A timely tolling motion terminates the 30-day appeal period,

SUPREME COURT  
OF  
NEVADA

(U) 1947A

22-13733



and a notice of appeal is of no effect if it is filed after such a tolling motion is filed and before the district court enters a written order finally resolving the motion. See NRAP 4(a)(2).

Accordingly, appellant shall have 30 days from the date of this order within which to show cause why this appeal should not be dismissed for lack of jurisdiction. Failure to demonstrate that this court has jurisdiction may result in this court's dismissal of this appeal. The briefing schedule in this appeal shall be suspended pending further order of this court. Respondents may file any reply within 14 days from the date that appellant's response is served.

It is so ORDERED.

 C.J.

cc: Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Paul Padua Law, PLLC

**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-19-78878-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

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,

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ESTATE OF REBECCA POWELL,  
THROUGH BRIAN POWELL, AS  
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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. Young  
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: [Signature]

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

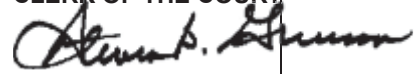
CLERK'S ORDER

10) 1947 

22-15332

**POWELL APP. 118**

# EXHIBIT G



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

ESTATE OF REBECCA  
POWELL,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM,  
LLC,

Defendant.

CASE NO. A-19-788787-C

DEPT. NO. VII

BEFORE THE HONORABLE LINDA MARIE BELL,

DISTRICT COURT JUDGE

WEDNESDAY, SEPTEMBER 28, 2022

**RECORDER'S TRANSCRIPT OF HEARING:**

**HEARING FOR EXAMINATION OF JUDGEMENT DEBTOR**

APPEARANCES:

For the Plaintiff: PAUL PADDA, ESQ.,

For the Defendant: ADAM GARTH, ESQ.,

RECORDED BY: KIMBERLY ESTALA, COURT RECORDER



1 Las Vegas, Nevada; Wednesday, September 28, 2022

2 [Hearing commenced at 9:09 a.m.]

3  
4 THE COURT: What case?

5 THE COURT RECORDER: The Estate of Rebecca Powel  
6 versus Valley Health.

7 THE COURT: Estate of Rebecca Powell versus Valley Health  
8 System case number A788787.

9 MR. PADDA: Good Morning, Your Honor, Paul Padda on  
10 behalf of plaintiffs.

11 THE COURT: Good Morning.

12 MR. GARTH: Good Morning, Your Honor, Adam Garth bar  
13 number 15045 on behalf of the defendant.

14 THE COURT: All right so this is on for -- it was set for a  
15 hearing on Examination of Judgement Debtor.

16 MR. GARTH: Yes, Your Honor, if I might put this into some  
17 context. You signed an order on the 18<sup>th</sup> of August. We served it with  
18 Notice of Entry on Mr. Padda's office directing that the Judgement  
19 Debtors Exam take place today and 14 days prior to today we would  
20 receive responses to request for production that were attached to our  
21 motion that he also received a copy of. We received no responses  
22 whatsoever. At 2:21 yesterday afternoon, my partner and I received an  
23 email from Mr. Padda indicating that his clients were not going to show  
24 up today. He said that as we well know his clients don't have the funds  
25 with which to travel to Nevada. By the way one of those clients is a

1 Nevada resident. And the -- we understood the purpose of today's  
2 hearing was to ascertain what funds these folks actually had. So I can't  
3 divine what his clients have or don't have. He indicated that none of his  
4 clients would be showing up today and that he would be seeking some  
5 protection for them in some way, there was some vague reference in the  
6 email. At 5:24 yesterday evening, we received a motion that Mr. Padda  
7 filed. I took a brief look at it and recognized that it lacks a lot of the basis  
8 that he's claiming it lacks -- he's claiming that it has. And basically  
9 saying that today's hearing shouldn't take place. He was on notice of the  
10 hearing. He did absolutely nothing until yesterday afternoon to  
11 communicate with us about anything that was to happen today. He took  
12 no action on behalf of his clients, filed no Order to Show Cause, nothing,  
13 no Order on Shortened Time. He had done nothing.

14 Now, what makes it worse and really to put this into context  
15 because you're relatively new to this file, so if you'd allow me about 2  
16 minutes just to give you some context as to why today's breach of a  
17 Court order is so egregious it is beyond the pale. This case was started  
18 by Mr. Padda quite a long time ago. There were multiple motions, one to  
19 dismiss, one for summary judgment. *Summary Judgement Motion* was  
20 one that my firm handled; a predecessor defense counsel firm handled  
21 the *Motion to Dismiss*. Similar issue but we had gotten definitive  
22 evidence that Mr. Padda provided, that he and his clients were in the  
23 exclusive possession of that demonstrated when inquiry notice began in  
24 this case. They filed this action 8 months beyond the latest time to do so  
25 for the statute of limitations. We showed Mr. Padda your own records

1 demonstrate that your clients knew. Now, I couldn't pick a more textbook  
2 example of inquiry notice than this case. The case is specifically told that  
3 when you obtain sufficient knowledge that some negligence, some  
4 medical negligence, may have occurred it is -- your obligation to  
5 investigate further.

6 THE COURT: Right.

7 MR. GARTH: Now what did we have in this case --

8 THE COURT: I got it Mr. Garth. And then the Supreme Court  
9 ruled in your favor on the issue of the statute of limitations.

10 MR. GARTH: That's correct. And they were extremely  
11 emphatic. And I haven't seen too many of these on Summary Judgement  
12 Motions where they tell the District Court Judge that it was a manifest  
13 abuse of discretion in the light of overwhelming evidence to not grant  
14 summary judgement. Now Mr. Padda was given a way out. A Rule 60 --

15 MR. PADDA: What does this have to do with why we're here?

16 THE COURT: I'm not sure Mr. Padda.

17 MR. GARTH: The Rule 68 offer of judgement was filed. They  
18 declined it and now were faced, because they lost, with the judgement  
19 debtor's exam after having extensive motion practice on the issue. He is  
20 now pursuing an appeal of the *Motion for Reconsideration* that Judge  
21 Wiese granted, okay. He didn't substantively oppose the motion before  
22 Judge Wiese. He said procedurally Judge, don't consider the substance  
23 of defendant's motion procedurally don't considerate it this way he can't  
24 raise it on appeal. That was disregarded and the Judge granted our  
25 *Motion for Reconsideration* and ultimately awarded the costs and fees.

1 We agreed to withdraw our appeal and pursue the judgement that we're  
2 seeking enforcement of here. So his appeal is now limited solely to the  
3 issue of whether the judge abused his discretion.

4 MR. PADDA: That's not correct.

5 MR. GARTH: Because --

6 THE COURT: I thought the appeal was -- the appeals done  
7 right?

8 MR. PADDA: No --

9 MR. GARTH: No the appeal -- he's just gotten an extension of  
10 time to until November 9<sup>th</sup> to file his brief. Months have gone by but he  
11 received a 14 day automatic extension from the Supreme Court.

12 THE COURT: Okay, I mean I only have very limited -- I didn't  
13 go and look into the Supreme Court file so I have limited things but the  
14 last thing I have was that the an appeal was dismissed at some point.

15 MR. PADDA: Yeah.

16 MR. GARTH: Yeah, we dismissed --

17 THE COURT: Okay.

18 MR. GARTH: -- our appeal of the -- of his initial denial of our  
19 *Motion for Costs and Fees*.

20 MR. PADDA: May I be heard, Your Honor?

21 THE COURT: Hang on let him finish.

22 MR. GARTH: So, now what we're faced with, with all of the  
23 nonsense that has gone on in this case with a plaintiff who defies a  
24 Court Order, says I don't have to show up and based on a quick reading  
25 of their motion the answer basically is, well Mr. Powell as the Special

1 Administrator doesn't have to show up because his status is governed  
2 by the probate court. So it's good enough for Mr. Powell as the Special  
3 Administrator to bring a lawsuit here to pursue the lawsuit not to accept  
4 a settlement but somehow if you have an order granted against you now  
5 we have to go back to probate court. That's not the way it works. We are  
6 also not suing Mr. Powell or seeking enforcement against him in his  
7 individual capacity. It is abundantly clear in the Judgement as it is in  
8 every other paper file that it is only he as Special Administrator. He is  
9 obligated to appear before this Court. He is a Nevada resident. The  
10 others subjected themselves to jurisdiction here. They brought the  
11 lawsuit. They're out of state residents two of which are in Ohio, one of  
12 which is in Massachusetts. We have obtained foreign judgements in  
13 those jurisdictions based upon the judgement entered here. And they  
14 have been filed and they have been served in those jurisdictions and  
15 those judgments are now on file in Ohio, Massachusetts, and here in  
16 Nevada.

17           So what we wanted to ascertain was what assets, if any, do  
18 we have to pursue. That was the purpose of today's hearing. To tell us  
19 the mid-afternoon the day before we don't care what the Court Order  
20 says we're not coming is not only a slap in the face to us but to this  
21 Court. And to not provide us with the requisite documentary evidence  
22 that they were supposed to provide us 2 weeks ago is a further violation  
23 of a Court Order. So now were faced with Mr. Padda's motion that, I  
24 mean were obviously going to vigorously oppose it and since its  
25 baseless were going -- I'm going to have to do a quick evaluation to see

1 whether or not were going to have to counter move for further costs and  
2 sanctions. We are racking up huge amounts of money and that's the  
3 goal here is to frustrate. Now, what could he have done? We waited the  
4 requisite 30 days after the -- after we received the judgement. We did  
5 absolutely nothing. My partners in their -- in our other offices before  
6 enforcing the judgement did nothing. We waited for him to file an appeal  
7 bond for the \$118,000.00 plus now additional interest on the judgement  
8 that was awarded against us. He filed no appeal bond. He claims he  
9 doesn't have to file an appeal bond because the estate, this is now in his  
10 motion of yesterday, the estate could proceed without bond. That  
11 doesn't mean -- that means you can proceed as an estate without bond  
12 in Probate Court it doesn't mean there's no bond you ever have to post  
13 of you lose in the District Court, which is what happened here. But once  
14 again he's only giving the Court half a story in his motion. We'll deal with  
15 that in the opposition. But the -- the reason why I am sort of giving you a  
16 broader context here is that this isn't a one off thing. This isn't something  
17 where we missed it on the calendar, we made a mistake, this is a  
18 pattern of problems with this very case when they are shown definitive  
19 evidence of issues they ignore it. They don't pursue their client's rights.  
20 They don't do what they need to do to protect their clients and then they  
21 keep coming to the Court expecting a judicial cure for practice failures.  
22 And we are racking up huge amounts of money having to keep coming  
23 to court filing motions, dealing with appeals for things that are relatively  
24 simple issues. And this is not only disrespectful to us it's disrespectful to  
25 the Court. Mr. Padda can --

1 THE COURT: Mr. Padda.

2 MR. PADDA: Well since he gave you such a lengthy  
3 recitation of what this case is about I would like to address that as well,  
4 Your Honor.

5 THE COURT: Sure, whatever you want to say.

6 MR. PADDA: Rebecca Powell was a nurse at Nellis Air Force  
7 Base. She got sick. She went to Centennial Hills Hospital and she died  
8 in their care and custody. After she died the State of Nevada issued a  
9 death certificate and the cause of death was listed as suicide. Now that's  
10 very odd, you would say well how can a person commit suicide in a  
11 hospital when they're under the care and custody of the hospital. That's  
12 not a negligent act, that's an intentional act. So what happened was,  
13 Brian Powell who was Ms. Powell's ex-husband also a nurse was  
14 concerned about how she was treated in the hospital. He filed a  
15 complaint with the State of Nevada Department of Health Services  
16 which did an investigation and sanctioned and fined Centennial Hills  
17 Hospital. Then he also filed a complaint with the nursing board. Now,  
18 after a year they came and retained me. I look at the case and I said  
19 well wait a minute if the State of Nevada has made a determination that  
20 this was a suicide I don't think this inquiry notice issue applies. We  
21 brought the case. Judge Wiese agreed with us. Then they made an  
22 Offer of Judgement saying let's do a walk away. We'll offer you zero you  
23 dismiss your case we won't pursue any fees and costs if we win. At that  
24 time there was a pending Writ in the Supreme Court so my clients were  
25 in a position of having to decide should we accept or not accept this



1 Offer of Judgement anticipating what the Supreme Court may or may  
2 not do. Anyways, they rejected that OJ. Their Writ was granted and it  
3 was to me, I mean, I think it was a very poorly considered decision  
4 because what the Court decided was, well even though the death  
5 certificate said suicide the fact that Brian Powell, the ex-husband, the  
6 administrator, filed a complaint with the Nursing Board that means he  
7 knew or should have known there was negligence and therefore we're  
8 dismissing the entire case. The problem with the decision was Mr.  
9 Powell is just the administrator he is not the father of Taryn Creecy,  
10 Darci Creecy, or Isaiah Khosrof. Isaiah lives in Boston. The two  
11 daughters live in Ohio. Lloyd Creecy who's in his late 70's he lives in  
12 Ohio. None of those people live here. And so the problem with the  
13 Supreme Court decision was, well wait a minute, how can you impute  
14 knowledge from one party to all the other plaintiffs in the absence of any  
15 evidence put forth by the defense showing that they were on the  
16 complaint, they had knowledge of it. But anyways the Supreme Court  
17 just chose to bypass that issue and didn't consider it and so the case  
18 was dismissed. Now it comes back to Judge Wiese. Judge Wiese says  
19 I'm going to deny the request for -- the *Motion for Fees and Costs*  
20 because number 1 its preposterous to think that the plaintiffs could have  
21 anticipated what the Supreme Court would do, and number 2 they're  
22 decision to turn it down was of course under the legal standard not  
23 grossly unreasonable or in bad faith especially given the issues involving  
24 the death certificate etcetera. They file a *Motion for Reconsideration* and  
25 the principle argument put forward by Mr. Garth is that Judge Wiese

1 you're a pro-plaintiff Judge that's all you ever do is rule in favor of  
2 plaintiffs. So the Judge then said okay I'm going to reverse myself and  
3 I'm going to now award \$100,000.00 in fees to this multimillion dollar  
4 corporation. You have a 70 something year old man, Lloyd Creecy,  
5 who's grieving the death of his daughter who just wanted answers. You  
6 have -- two plaintiffs Taryn and Darci who are the daughters, both of  
7 them are unemployed. Isaiah just turned 21 he got a job. And so these  
8 people are now settled with \$100,000.00 award against them. And the  
9 Judge didn't change his opinion in the *Motion for Reconsideration* or the  
10 order he says I still believe that their decision to reject the OJ was not in  
11 bad faith and it wasn't unreasonable but I'm going to award fees under  
12 *Brunzell*. Well the problem with that is, you -- he's the analysis is all  
13 wrong. So we filed an appeal so that case is now pending in the Nevada  
14 Supreme Court.

15           With respect to this *Motion for Attorney Fees*, or the  
16 Judgement I would just note, Your Honor, can see it for yourself is that  
17 this was filed as an *Ex Parte Application* for judgement. Ex Parte by  
18 definition means we don't get to respond. Okay, and so then Your Honor  
19 signed the order and we came in and we looked at the case and I filed a  
20 Motion yesterday challenging this Court's jurisdiction. Those are  
21 legitimate points, he should brief them. And, Your Honor, can see that  
22 the probate laws require that this case actually since it involves a claim  
23 against an estate it should actually be litigated in Probate Court and all  
24 of the other plaintiffs are derivative beneficiaries under that under our  
25 wrongful death statute. There coming in here as heirs. This isn't a case

1 that should be litigated, to the extent that, you know, he wants to enforce  
2 his judgement, this should be before the Probate Court. And so as, Your  
3 Honor, knows even in the Supreme Court you can always challenge  
4 subject matter jurisdiction at any time.

5 THE COURT: So I understand that there's been very  
6 extensive litigation in this case and there's some pretty strong  
7 differences of opinions regarding the facts and circumstances. But at  
8 this point I issued an order for an examination of judgement debtor on  
9 August 18<sup>th</sup> and there was no response to that until after business hours  
10 yesterday.

11 MR. PADDA: Right.

12 THE COURT: So can we talk about that issue because that's  
13 not really procedurally --

14 MR. PADDA: So my representation of the Powell's ended  
15 when the case ended and perhaps I should have filed a *Motion to*  
16 *Withdraw*. When I saw that order I did contact the Powell's I spoke to Mr.  
17 Creecy. He's told me that, look I'm on Social Security Disability. I can't  
18 even leave the house. I'm very ill. I have a kidney issue, I can't come to  
19 Nevada. And then I said well we have to do another retainer just like  
20 they had to do another retainer with me and I'm representing them pro  
21 bono in the Supreme Court for the appeal. But the case was technically  
22 over, this is now the tail end of once a judgement has already been  
23 issued, you're correct perhaps I maybe I should have filed something  
24 with respect to your order but I didn't have a chance to respond to the  
25 Ex Parte Motion or it's an application. It's Ex Parte --

1 THE COURT: Well so I mean the -- but that's how that goes,  
2 right? There's an application. The order is just saying hey you need to  
3 appear and provide these documents and then you have at that point  
4 the opportunity to respond with a request for a protective order, a  
5 request to --

6 MR. PADDA: But when?

7 THE COURT: After the order is filed.

8 MR. PADDA: But the next day or before the order, I mean  
9 there's not a time frame. What would I be filing? I filed a *Motion to Set*  
10 *Aside and Stay the Order* based on lack of jurisdiction of the Court.

11 THE COURT: Not on an *Order Shortening Time* and I mean  
12 within less than 24 hours before -- this hearing, right? So typically you  
13 need to file it before there's anything that needs to be done. So this  
14 required documents 14 days prior to the examination.

15 MR. PADDA: Right and I explained to you that I was not  
16 representing them and I just recently became retained.

17 THE COURT: Well I mean you're still counsel of record, right?  
18 You're counsel of record until you're not.

19 MR. PADDA: Right.

20 THE COURT: So you're still responsible for what's happening  
21 in the case until --

22 MR. PADDA: Well I'm responsible for notifying the client that  
23 this is what's happened.

24 THE COURT: Well as long as you're counsel of record you're  
25 still responsible for whatever happens in the case, right? Until you have

1 formally withdrawn. I mean I'm just -- well --

2 MR. PADDA: Well we didn't even have a meaningful  
3 opportunity to respond to his application because its Ex Parte by  
4 definition how would we --

5 THE COURT: Okay, but Mr. Padda --

6 MR PADDA: So you're just granting an order based on one  
7 side.

8 THE COURT: Yes when there's a judgement that's how it  
9 works. There's an *Ex Parte Application* for the judgement debtor exam.  
10 That Order goes out. You then have the opportunity to take some action  
11 to stop that Order from going forward. That's how that works.

12 MR. PADDA: Would that be through a *Motion for*  
13 *Reconsideration* or a *Motion to Stay*? I mean there's no time limit.

14 THE COURT: *Motion to Stay, Motion to Quash*, like --

15 MR. PADDA: But where in the local rules does it say here's  
16 your time frame?

17 MR. GARTH: Your Honor, if I may?

18 THE COURT: Okay.

19 MR. GARTH: The *Ex Parte Motion* was filed in July. We filed  
20 it purposely through the Odyssey system so that Mr. Padda, who was  
21 counsel of record, would know that it's out there. This wasn't some  
22 surprise. So whether he felt he should respond then or not he had plenty  
23 of opportunity, months, to develop some theory to contact us, to do  
24 something. And you are correct, when you get the order you have  
25 multiple avenues open to you. Do something, don't sit on your hands

1 and do absolutely nothing. We have no way of knowing whether Mr.  
2 Padda's representation of the -- of his clients has terminated based on  
3 their retainer agreement. I don't see a copy of it. And it's not my  
4 business. If he is counsel of record he's going to get the notice. It's his  
5 responsibility to do something about it. Now he keeps asking the Court  
6 for legal advice on what he's supposed to do and by when he's  
7 supposed to do it. Common sense would dictate before you need to act  
8 on something, before a Court Order tells, you know, gives you a  
9 deadline to do something you do something to counter act it. But no,  
10 that's not what happened here. You pointed out correctly, Your Honor,  
11 he had 14 days in advance his clients were obligated to provide  
12 materials. They didn't do it. He had the 2 week period before then to do  
13 something. But until 5:30 last night he did nothing. And we are now here,  
14 I mean, according to his email he wanted to spare us the inconvenience.  
15 I don't really understand what the -- what sparing us would be. We had  
16 to be here. There's a Court Order for us to be here. So this is not only an  
17 enormous inconvenience but this Court has definitive jurisdiction to deal  
18 with these issues.

19 MR. PADDA: Well that's an open question.

20 MR. GARTH: Because --

21 MR. PADDA: That's the basis of my whole motion is read the  
22 probate laws it couldn't be any clearer.

23 MR. GARTH: This -- so I guess what I'm trying to figure out,  
24 Your Honor, is that the Probate Court grants a Special Administrator the  
25 right to pursue an action in State Court and to represent the estates

1 interest.

2 THE COURT: Okay.

3 MR. GARTH: Moreover these other plaintiffs aren't part of the  
4 probate court they -- assuming in their individual capacities --

5 THE COURT: I got it, so hang on Mr. Garth. So what I have  
6 right now is I don't have anybody here for the judgement debtor's exam  
7 and I have a motion that is not calendared. It is not on for today, and it is  
8 not calendared at all because it does not say hearing requested. So I  
9 think perhaps the best thing to do at this point is, Mr. Garth, to give you  
10 the time that you need to file an opposition and anything else that you  
11 want to file in response to all of that. And then I can consider it when I  
12 actually have it all in front of me.

13 So how much time do you need to respond to the motion that  
14 was filed yesterday?

15 MR. GARTH: If I could have 30 days, Your Honor, I'm loaded  
16 up with depositions.

17 THE COURT: Okay. You need 30 days to file your  
18 opposition?

19 MR. GARTH: 30 days I mean I may file it sooner and, you  
20 know, if I can get to it I just need a break. I need like a body.

21 THE COURT: Okay. No, its fine. And then you want me to set  
22 it 45 days out then?

23 MR. GARTH: That sounds fine, Your Honor. He would --

24 MR. PADDA: That's fine.

25 MR. GARTH: -- typically get a week to interpose his reply.



1 THE COURT: Yeah that will give Mr. Padda time to reply.  
2 We'll set it in 45 days and then we'll --

3 MR. PADDA: But I would emphasize, Your Honor, this is  
4 purely the jurisdictional issue. If you take a look, I mean there's  
5 arguments about superstitious bonds but the law couldn't be any clearer.

6 THE COURT: I am -- I just don't know the answer to that  
7 right, because I haven't had the time --

8 MR. PADDA: I understand.

9 THE COURT: -- to really consider it. My concern is more the  
10 procedural way that this went down. All right so --

11 MR. GARTH: And we also have the issue, I mean, I mean I  
12 have citations for the Court, statutory citations, that I'm permitted to and  
13 the Court is allowed to you know issue an arrest warrant for contempt for  
14 people who fail to show up. And since they -- since certainly the  
15 individual defendants, plaintiffs, subjected themselves to jurisdiction  
16 here then you pay the piper. That's it, they lost.

17 MR. PADDA: You're asking the judge to arrest the man  
18 whose daughter died and he sued because he wanted answers?

19 THE COURT: Okay

20 MR. PADDA: Is that what you're asking?

21 MR. GARTH: Well you can of course pay the judgment on  
22 their behalf.

23 THE COURT: Mr. Garth if you want --

24 MR. PADDA: Somethings wrong with you.

25 THE COURT: -- to consider that option feel free to include

1 that in any of your response and pleadings and we will talk about it in 45  
2 days.

3 MR. PADDA: Thank you, Your Honor.

4 MR. GARTH: Absolutely.

5 THE COURT CLERK: And that will be on November 9<sup>th</sup> at  
6 9:00 a.m.

7 MR. PADDA: What day is that?

8 THE COURT: November 9<sup>th</sup>.

9 MR. PADDA: Okay, thank you.

10 THE COURT: Thank you.

11 MR. GARTH: Thank you. Will that be 9:00, Your Honor?

12 THE COURT CLERK: Yes.

13 MR. GARTH: Okay. Have a nice day.

14 THE COURT: You too.

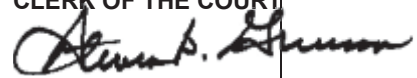
15 [Hearing concluded at 9:34 a.m.]

16  
17  
18  
19 \* \* \* \* \*

20  
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio/video proceedings in the above-entitled case to the best of my  
23 ability.

24   
25 Kimberly Estala  
Court Recorder/Transcriber

# EXHIBIT H



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

ESTATE OF REBECCA  
POWELL,

Plaintiff,

vs.

VALLEY HEALTH SYSTEM,  
LLC,

Defendant.

CASE NO. A-19-788787-C

DEPT. NO. VII

BEFORE THE HONORABLE LINDA MARIE BELL,

DISTRICT COURT JUDGE

WEDNESDAY, NOVEMBER 16, 2022

**RECORDER'S TRANSCRIPT OF HEARING:**

**ALL PENDING MOTIONS**

APPEARANCES:

For the Plaintiff:

PAUL PADDA, ESQ.,

For the Defendant:

ADAM GARTH, ESQ.,  
Appeared by Video

RECORDED BY: KIMBERLY ESTALA, COURT RECORDER

1 Las Vegas, Nevada; Wednesday, November 16, 2022

2 [Hearing commenced at 10:17 a.m.]

3  
4 THE COURT: Page 17 case number A788787.

5 MR. PADDA: Good Morning, Your Honor, Paul Padda on  
6 behalf of plaintiffs.

7 MR. GARTH: Good Morning, Your Honor, Adam Garth on  
8 behalf of the defendant judgement creditors.

9 THE COURT: So Mr. Garth -- just because you weren't here  
10 because you can't see what happened but Mr. Shetler was fixing Mr.  
11 Padda's attire which was --

12 MR. PADDA: A bit ironic.

13 THE COURT: Yes. Yeah okay,

14 MR. GARTH: I don't know if I want to know.

15 THE COURT: All right.

16 MR. GARTH: That may be too much information for this  
17 morning but.

18 THE COURT: Okay, so we have this on today for a, hold on,  
19 a *Motion for Stay*. All right, so -- Odyssey's being very uncooperative  
20 with me this morning. Mr. Padda, go ahead.

21 MR. PADDA: Thank you, Your Honor. We filed -- so Mr.  
22 Garth, after we filed our *Motion to Stay* Mr. Garth filed a *Countermotion*  
23 *for Contempt* or --

24 THE COURT: Yeah.

25 MR. PADDA: He asked for all kinds of relief including

1 imprisonment of my client. We then filed a reply brief and a lot of the  
2 main argument here is in the reply brief and I filed an appendix. And  
3 really the record in this case speaks for itself. What happened was  
4 Judge Wiese originally denied Valley Health Systems *Motion for Fees*  
5 *and Costs*. Then Valley Health System through Mr. Garth filed an appeal  
6 to the Nevada Supreme Court. While that appeal was pending he filed a  
7 *Motion for Reconsideration* with Judge Wiese. Judge Wiese once a  
8 again denied his *Motion for Fees and Costs*, stating I do not have  
9 jurisdiction to entertain this matter because it's on appeal. The best I can  
10 do is give you a *Huneycutt* Order and you can take this and certify it with  
11 the Supreme Court and then they'll give you a limited remand and you  
12 can come back here. But I don't have the power to do anything other  
13 than that. That's all he did. There was never a decision in this case, of  
14 any kind, awarding fees and costs to Mr. Garth's client. Mr. Garth then  
15 voluntarily dismissed his appeal in response to a Show Cause Order  
16 from the Nevada Supreme Court saying, tell us why we have jurisdiction  
17 over this matter. Now he could have said well you have jurisdiction to  
18 give me a limited remand based on *Huneycutt* I have a ruling here from  
19 Judge Wiese, he chose not to do that. He dismissed his appeal and he  
20 put in there, I think it was a declaration or a representation to the  
21 Supreme Court that, I realize that by dismissing this appeal my client will  
22 waive the right to ever pursue this issue again. So now it comes, the  
23 appeal is dismissed. Then what Mr. Garth does is he prepares a  
24 judgement. He sends it to me and I refuse to sign it. I said I'm not going  
25 to sign this under protest. I said I completely disagree with this. And in

1 his judgement he references the reconsideration order and then sends it  
2 to Judge Wiese's chambers. Now, our entire system works on a certain  
3 level of trust, right? Judges don't necessarily scrutinize every judgement.  
4 If you get something that comes in court staff is going to look at it and  
5 what happened here is they affixed Judge Wiese's electronic signature  
6 to that judgement awarding \$100,000.00 in fees and costs.

7 THE COURT: Okay but Mr. Padda that's not -- that order the  
8 judgment was entered before the appeal was dismissed. I mean the  
9 judgment I have in the file was signed by Judge Wiese on June 2<sup>nd</sup> of  
10 2022.

11 MR. PADDA: Well he wouldn't have had jurisdiction to sign it.  
12 And he said in his decision I don't have jurisdiction over this.

13 THE COURT: I understand what you're saying --

14 MR. PADDA: So --

15 THE COURT: -- I'm just telling you what I have in the court  
16 file is that he issued the Order regarding the *Motion for Reconsideration*  
17 on May 4<sup>th</sup> and in that it goes through everything in quite a bit of detail  
18 but the -- it says in the last paragraph this Court now indicates its  
19 indication pursuant to *Huneycutt vs Huneycutt* and *Foster vs Dingwall*  
20 that if the Court had jurisdiction to decide the matter the Court would  
21 now award attorney's fees and costs and it gives the amounts.

22 MR. PADDA: But an intent to do something is not --

23 THE COURT: And there was -- okay so the Court requests  
24 counsel prepare a notice -- prepare a *Notice of Entry* and convey the  
25 decision to the Supreme Court. So that's May 4<sup>th</sup>. The -- there is a May



1 16<sup>th</sup> *Order Dismissing the Appeal* that was filed in the Nevada Supreme  
2 Court. And then following that there was a Judgement for the attorney's  
3 fees and costs that was sent to the Court and signed on June 2<sup>nd</sup> after  
4 the appeal was dismissed. I don't --

5 MR. PADDA: So that makes it procedurally defective.

6 THE COURT: I don't know if there was a remitter.

7 MR. PADDA: Absolutely not.

8 THE COURT: I don't see that I don't know. But that's -- and  
9 then there's a new *Notice of Appeal*. So there was a new *Notice of*  
10 *Appeal* from that judgement that you filed on June 2<sup>nd</sup> but I'm not sure, I  
11 mean, there's multiple -- because I don't know what -- I mean one  
12 appeal was dismissed and then there's an *Order Dismissing Appeal as*  
13 *Abandoned* but I don't know what--

14 MR. PADDA: And that was Mr. Garth's appeal by the way.

15 THE COURT: Okay so what was -- what was voluntarily  
16 dismissed?

17 MR. PADDA: Mr. Garth's appeal.

18 THE COURT: Okay --

19 MR. PADDA: So but my basic point is that it's -- its really just  
20 is hornbook law 101 that you cannot --

21 THE COURT: So --

22 MR. PADDA: You can't have a judgment unless there's a  
23 decision.

24 THE COURT: So then I get -- there's a remitter issued July  
25 20<sup>th</sup> but what is the status of your appeal? Your June 2<sup>nd</sup> appeal.

1 MR. PADDA: It's still live and pending.

2 THE COURT: Okay.

3 MR. PADDA: And that's what we intend to impart argue in  
4 that appeal. Although I have filed -- we filed yesterday because of some  
5 technical snafu it didn't get filed so it's going to be -- I think it was filed  
6 this morning was a *Motion to Set Aside the Judgement* on the Rule 60.

7 THE COURT: I've got that.

8 MR. PADDA: So that's pending and but the point --

9 THE COURT: Well I don't --

10 MR. PADDA: Yeah.

11 THE COURT: I don't know that I can do anything right now.

12 MR. PADDA: You may not have jurisdiction, Your Honor, but  
13 you're in the same position that Judge Wiese was in.

14 THE COURT: Okay --

15 MR. PADDA: And what Judge Wiese said is that this is like  
16 the Supreme Court decision that's a seminal authority is *Huneycutt*  
17 which is a judge -- and under *Foster v Dingwall* a judge does not have  
18 authority to grant a motion but a judge does have authority to deny a  
19 motion and once that motion is denied then the proper procedure is you  
20 take that and you go back to the Supreme Court and you say now Court  
21 can you give me a limited remand so I can go, this is what the judge's  
22 intention is. That never happened here.

23 THE COURT: Mr. Garth.

24 MR. GARTH: Lots to unpack, Judge. Okay, in the first  
25 instance let me address several issues that were raised by Mr. Padda's

1 reply. Not the least of which was a material misrepresentation that our  
2 opposition was late. So we were in court before you on September 28<sup>th</sup>  
3 based upon his after business filing the night before of this nonsensical  
4 motion. Once that happened I asked the court --

5 THE COURT: Mr. Garth.

6 MR. GARTH: -- for 30 days to --

7 THE COURT: Mr. Garth. Mr. Garth you've got to do me a  
8 favor okay. I'm just trying to sort out this issue --

9 MR. GARTH: Well --

10 THE COURT: If we can just focus on the facts and you know.

11 MR. GARTH: Well the facts are as follows.

12 THE COURT: Okay.

13 MR. GARTH: The issues that Mr. Padda is now raising were  
14 not raised until his reply. This is entirely new material that he never  
15 addressed on his original motion because what he wanted to do was to  
16 sandbag or else he wakes up to gee I didn't --

17 THE COURT: Okay, Mr. Garth there's not --

18 MR. GARTH: This was never addressed in his original motion  
19 Judge.

20 THE COURT: Okay, I got that, right, but I don't need the  
21 name calling, right. It just doesn't help me. It's very distracting. I want to  
22 just try and figure this out. It's very complicated. There's layers of  
23 appeals and things that got filed that seem I don't even know if the court  
24 had jurisdiction to file. I need to sort that out and when you get upset  
25 with Mr. Padda because you disagree with how he handled something

1 that's very distracting to the actual issue that I need to decide. So if we  
2 could focus on that without getting into our opinions about peoples  
3 arguments or whatever it would be very helpful to me.

4 MR. GARTH: Okay, Your Honor, one of the problems is that  
5 all the issues that are being raised here should not even be raised.  
6 There's a rule where you are only supposed to be replying to materials  
7 that are raised in the opposition. Anything that is new material should  
8 have been put into your original motion. So everything, number 1, that  
9 Mr. Padda is raising here today is based upon what our -- what we have  
10 not been given an opportunity to properly oppose and reply to and other  
11 courts have stricken this very -- kind of behavior. So basically what I'm  
12 saying is these issues should not even be before you because they  
13 weren't raised initially in his motion.

14 THE COURT: Okay, so --

15 MR. GARTH: He only came --

16 THE COURT: So --

17 MR. GARTH: So that's number 1.

18 THE COURT: Okay.

19 MR, GARTH: All right. Then there's a bunch of other things  
20 which I can help straighten things out a little bit for you.

21 THE COURT: Sure.

22 MR. GARTH: Okay so then we can make a little bit more  
23 sense of it. The citations that he is making to *Huneycutt* and its progeny  
24 are inaccurate. And the problem there is that he hasn't quoted the  
25 appropriate part of the Supreme Court's decision, which is whether or

1 not the Supreme Court even has jurisdiction to deal with an appeal when  
2 a *Motion for Reconsideration* is pending. Now it's quite confusing in the  
3 statute and in the appellate rules and I checked Rule 4 of the appellate  
4 rules to try to ascertain when an appeal can be done. And a *Motion for*  
5 *Reconsideration* is not listed among those. But the Supreme Court never  
6 the less is interpreting it that way. And in the *Foster vs Dingwell* case it  
7 states specifically the court has repeatedly held that the timely -- filing of  
8 a *Notice of Appeal* divest the District Court of jurisdiction to act and vest  
9 jurisdiction in this Court. I will refer you, Your Honor, to the decision or  
10 the *Order to Show Cause* that was issued by the Nevada Supreme  
11 Court on April 29<sup>th</sup>, and it says specifically the *Notice of Appeal* appears  
12 to be prematurely filed under NARP 4a because it appears that it was  
13 filed after the timely filing of a tolling *Motion for Reconsideration* and  
14 before that motion had been formally resolved. Therefore the Supreme  
15 Court was determining that the Notice of Appeal wasn't timely filed  
16 because it was prematurely filed. The Supreme Court never had  
17 jurisdiction under those circumstances to be dealing with the issue. And  
18 even if they did we abandoned the appeal because after receiving Judge  
19 Wiese's decision we said okay, he's giving us a hair cut off of what  
20 should be over \$200,000.00 in fees but we'll agree to take that and  
21 [Indiscernible] take any problems off the table for Judge Wiese we will  
22 withdraw our appeal. And we provided Judge Wiese with a copy of the  
23 judgement and the prior -- decision that he made. We provided him a  
24 copy of the withdrawal notice. There was never at that point, once we  
25 withdrew the appeal there was never anything pending in front of the

1 Supreme Court. So when he received the judgment for which Mr. Padda  
2 did zero to deal with until today's filing this morning. The judgement  
3 stood. There wasn't any hoodwinking of anybody. There wasn't any  
4 attempt to mislead anybody. In fact there was no misleading anybody. It  
5 was all done out in the open. Mr. Padda was given a copy of the  
6 judgment to review and agree to sign. He didn't say, and I have a copy  
7 of the email, because I save everything from him. I have a copy of the  
8 email, all he said was I won't sign it. There wasn't any commentary or  
9 anything, I won't sign it. Okay, I submitted his email to the Court along  
10 with the judgement indicating that he refused to sign it. There wasn't  
11 anything about jurisdictional problems. There wasn't anything about any  
12 problem other than the fact that this was a judgement against his clients  
13 which presumably he didn't want filed. Oh well. But we took it off the  
14 table by withdrawing the appeal and the Supreme Court itself never had  
15 jurisdiction. In other words, Judge Wiese always had jurisdiction to  
16 render the decision and render the judgement. Because apparently  
17 because of the lack of clarification in the appellate rules we wanted to  
18 preserve our clients rights to an appeal so we filed the *Notice of Appeal*  
19 and we also filed the *Motion for Reconsideration*. Since the Court -- the  
20 Supreme Court is now interpreting that rule and expanding it beyond the  
21 statutory provisions of those orders that are listed in there under the  
22 sections of the Civil Practice Rules that they say stay any, you know,  
23 any need to pursue the appeal. We received the *Order to Show Cause*. I  
24 said okay no problem appeal withdrawn, done. So there was no need for  
25 the Supreme Court to act. The Supreme Court was indicating that they

1 themselves had no jurisdiction and therefore if they'd ever had  
2 jurisdiction in the first place Judge Wiese always had the jurisdiction. So  
3 he was supplied with everything. Then for Mr. Padda to suggest that  
4 somehow the judge didn't review any of the paperwork I think is a little  
5 ridiculous. He had copies of everything. If Mr. Padda had a proposed  
6 judgement or an objection he could have filed it when I filed it with the  
7 Court. He was copied on it. The judge could have refused to sign it. He  
8 was given a copy of the withdrawal notice --

9 THE COURT: Mr. Garth.

10 MR. GARTH: -- a copy of his decision. A copy of the  
11 judgement. Everything --

12 THE COURT: Mr. Garth.

13 MR. GARTH: -- was there.

14 THE COURT: Can you explain something to me?

15 MR. GARTH: Sure.

16 THE COURT: I'm a little confused by the May 16, 2022 *Order*  
17 *Dismissing Appeal* and then the June 22<sup>nd</sup>, 2022 *Order Dismissing*  
18 *Appeal as Abandoned*.

19 MR. GARTH: There were multiple appeals here, Your Honor,  
20 I don't -- I haven't to be honest with you I haven't unpacked all of them.  
21 We filed a -- an appeal which you're aware of.

22 THE COURT: Right.

23 MR. GARTH: That led to the *Summary Judgement Motion*.  
24 That was one thing disposed of. Then we filed a -- we pursued costs  
25 subsequent to that.

1 THE COURT: Okay.

2 MR. GARTH: Mr. Padda did not file an appropriate objection  
3 to any of that memorandum of costs and therefore Judge Wiese ordered  
4 -- said while he wasn't going to grant costs because he wanted to have  
5 some kind of hearing which I volunteered to have. I asked for  
6 reconsideration of that motion and supplied over 600 pages to him  
7 saying this is what I was going to give Mr. Padda and you for the hearing  
8 to show all of the time that we spent on the case, all of the expenses we  
9 laid out. He said okay, well I didn't know you were going to do that even  
10 though I volunteered to do it in my original papers. But he -- I didn't want  
11 to trot out all of my clients expenses and our firms time sheets in the  
12 public forum. So I said we would have an in camera hearing to make this  
13 determination, certainly Mr. Padda could -- appear for, make any  
14 objections he wanted to with respect to any costs that he believed were  
15 inappropriate, and not an issue. He didn't object to any of the costs  
16 either. Judge Wiese came back after seeing the 6, 700 pages worth of  
17 timesheets and expenses that we laid out on behalf of the clients and  
18 that's where he issued his decision. Beyond that Mr. Padda then filed an  
19 appeal. We filed an appeal originally based upon the denial of the -- of  
20 our *Motion for Costs*, which we withdrew and was no longer an issue on  
21 the table. And then Mr. Padda filed an appeal. And that's the one that's  
22 pending which is also concerning because having taken just a brief  
23 gander at his motion and then Rule 60 if his appeal is pending there's  
24 no, you can't be filing motions that effect a judgement without first  
25 getting permission of the Nevada Supreme Court. So the motion he just



1 filed today is totally out of order as is all of his commentary on the  
2 original motion.

3 MR. PADDA: So that --

4 MR. GARTH: So those are I think the 3 appeals that were  
5 being handled. One the original one on the summary judgement motion,  
6 the second one was based upon our -- appeal which we withdrew, and  
7 the third I believe was Mr. Padda's that's now pending with a briefing  
8 date of I believe January 9<sup>th</sup>.

9 THE COURT: Okay. Mr. Padda, I'm sorry you were saying  
10 something.

11 MR. PADDA: Let me just start with the argument about the  
12 reply. First of all what Mr. Garth filed was an opposition to our *Motion to*  
13 *Stay* and then he combined a counter motion for sanctions in that. We  
14 filed a response. We filed a response to his opposition and to his  
15 counter motion. He had the opportunity to file a reply up until whenever,  
16 he's not done that.

17 MR. GARTH: Not true.

18 MR. PADDA: He hasn't filed a reply, there's no reply to his --  
19 there's no reply to our opposition to his countermotion. So what you  
20 have before you, what he labels only as a reply was also information  
21 that I think is pertinent to Your Honor, as far as making a ruling whether  
22 there's actually an enforceable judgment in this case and whether you --  
23 you were asked here's an *Ex Parte Application* please order all these  
24 things and make these people come here and produce all kinds of  
25 documents and there's a valid order in place, a judgment. If that's at

1 issue then he could have addressed it in the reply, he didn't do that.

2           Anyways, going back to Judge Wiese's decision on the  
3 reconsideration I don't think it could be any clearer. He stated right there  
4 and its page 96 of the appendix that I filed, he said that Judge  
5 entertained the *Motion for Reconsideration* but did not change his  
6 opinion or alter or modify his prior finding that plaintiffs decision to reject  
7 the offer of judgement was not grossly unreasonable or in bad faith. And  
8 then he went on to say quote I no longer have jurisdiction to address the  
9 issue of fees and costs. And so, you know, what Mr. Garth's talking  
10 about here as far as well Mr. Padda should -- court doesn't have the  
11 jurisdiction to enter a Rule 60b motion, well that's the whole point. That's  
12 what Judge Wiese said, he said I can't even grant you any relief all I can  
13 do is give you a *Huneycutt* order. If you want to take it in response to the  
14 *Order to Show Cause* present it to the Supreme Court, ask for a limited  
15 remand that was Mr. Garth's opportunity. Then come back to Judge  
16 Wiese and say Judge the Supreme Court has given me the authority to  
17 come back to you under *Huneycutt* and now ask you to make this  
18 decision. That never happened.

19           THE COURT: Well I mean I'm not -- I suppose I'm not  
20 commenting any on the procedural merits of what happened but it  
21 appears what happened was that after the appeal was dismissed but it's  
22 not clear to me which appeal was dismissed. But one of the appeals was  
23 dismissed then Judge Wiese entered a judgement based on his decision  
24 to award the fees. So --

25           MR. PADDA: Well again I would say no --

1 THE COURT: I mean --

2 MR. PADDA: Maybe the devils in the details but if a Judge  
3 says --

4 THE COURT: Right.

5 MR. PADDA: -- I can't I'm not awarding fees and costs but I  
6 might be -- but that might be my intention to do so. And then I should  
7 also point out what the Supreme Court said was not that it didn't have  
8 jurisdiction it -- that's the whole the clue should have been the title *Order*  
9 *to Show Cause* whether we have jurisdiction or not that was Mr. Garth's  
10 opportunity to say hey this is what I want to accomplish and instead his  
11 response was he didn't respond at all he just said okay I'm going to  
12 dismiss my appeal.

13 THE COURT: Yeah so this is what I would like to do at this  
14 point because I would like to not make things worse than they already  
15 are. I am going to grant the *Motion for Stay of Execution* while the  
16 appeal is pending. I'm going to deny the *Motion to Set Aside* because I  
17 don't think I can do anything while the appeal is pending and I think if I  
18 do were going to cause more problems than already exist. So I don't  
19 know if there's a hearing date on that but if there is --

20 MR. PADDA: Well the motion was just filed yesterday.

21 THE COURT: Yeah there's no hearing date set on that. I'm  
22 just going to I'm going to --

23 MR. PADDA: That's fine.

24 THE COURT: I'm going to --

25 MR. PADDA: But in denying it will you give us a *Huneycutt*

1 decision -- so basically what --

2 THE COURT: I'm not making any decision at all. I don't think  
3 that's going to be helpful at all. I think we need to let the Nevada  
4 Supreme Court consider what they have in front of them and make a  
5 ruling on that.

6 MR. PADDA: Well you'll be there soon.

7 THE COURT: Well I'm not going to be deciding on this lucky  
8 for me. So thank you --

9 MR. PADDA: For many reasons.

10 THE COURT: -- for having this in front of me today. So and  
11 then I am going to deny the *Counter Motion for Sanctions* I just think  
12 given the -- I understand everybody is frustrated here and I understand  
13 why but, you know, I think there's some procedural concerns with this  
14 case that have created frustrations on both sides. So *Motion for Stay* is  
15 granted. *Counter Motion* is denied. The *Motion to Set Aside* I'm just  
16 going to vacate it, I'm not ruling on it. I'm just going to vacate it I don't  
17 believe I have jurisdiction to consider it. And then I am happy to set a  
18 status check just to see when we get a ruling on from the Nevada  
19 Supreme Court in 90 days or something 120 days.

20 MR. PADDA: That would be fair.

21 THE COURT: Or I can just --

22 MR. GARTH: Your Honor, -- if I may.

23 THE COURT: Yes.

24 MR. GARTH: One of the things that we have been asking for  
25 is an appeal bond or some guarantee as to costs. There has been no

1 proof whatsoever that he is entitled to proceed without an appeal bond.  
2 We've provided ample statutory and case authority indicating that an  
3 appeal bond is required.

4 THE COURT: I show --

5 MR. GARTH: And Mr. Padda --

6 THE COURT: -- an appeal bond posted July 7<sup>th</sup> of 2022.

7 MR. GARTH: There was no -- I don't see anything, Your  
8 Honor.

9 THE COURT: Well you wouldn't see it but I have a receipt for  
10 it. It's not -- it's filed as a non-docketable event in -- I have it --

11 MR. GARTH: Then -- that's probably why we haven't seen it.  
12 Mr. Padda has indicated that he wasn't filing any appeal bond and that  
13 he didn't have to file one.

14 THE COURT: Well I have one, I don't know. I have one that  
15 was filed, it was filed July 7<sup>th</sup> it was \$500.00 so that's what I have.

16 MR. GARTH: Okay so I guess at this point -- do you have  
17 jurisdiction for us to make a motion since we weren't informed about that  
18 bond until literally this second to object to the bond and request that it be  
19 increased to the amount of the costs that were awarded in the  
20 judgment? We need to be able to protect our client's rights here. We  
21 have no means of collection. Mr. Padda -- you've already indicated we  
22 can't have a hearing to determine what assets these folks have. Mr.  
23 Padda has represented that his clients are indigent. So we have no  
24 means of collecting on any judgment should it be affirmed. And that is  
25 the very purpose of these appeal bonds. And \$500.00 is far shy of

1 \$120,000.00.

2 MR. PADDA: There are significant jurisdictional issues here,  
3 Your Honor. We filed our appeal bond. If he wanted to make an  
4 objection he should -- you can't just come to court unprepared and then  
5 say well I'm going to make a motion right now. That's not how it works.  
6 That's why we are in the mess we are because he didn't even follow  
7 proper procedure. But my point is simply that if you don't have  
8 jurisdiction on that I think the time has come and gone for him to make a  
9 motion on the appeal bond. It is what it is. Supreme Court's going to  
10 make a ruling and I'm very confident they're going to rule in our favor  
11 and find that not only did Mr. Garth not follow procedure --

12 THE COURT: Yeah well --

13 MR. PADDA: -- but that Judge Wiese the judgement was  
14 improperly executed.

15 THE COURT: There was a bond filed I again I'm happy to set  
16 a status check or no as you would prefer. I'm not going to address  
17 anything else today.

18 MR. GARTH: Well Mr. Padda's original appeal was due, the  
19 briefing was originally due on November 9<sup>th</sup>. He asked me as a courtesy  
20 to agree to extend it by 60 days due to some apparently some medical  
21 issues that he was going to be --

22 THE COURT: How about -- all right --

23 MR. GARTH: -- and I agreed to do that.

24 THE COURT: -- how about I do a status check in about 6  
25 months?

1 MR. PADDA: That sounds great.

2 THE COURT: That way things don't fall through the cracks

3 and it probably won't be done by then but we'll just have it on

4 somebody's radar.

5 MR. PADDA: That makes sense. Judge would you like me to

6 prepare the order?

7 THE COURT: Yes please.

8 MR. PADDA: Thank you

9 THE COURT: Thank you.

10 MR. PADDA: Have a very nice day.

11 THE COURT: Thanks you too.

12 MR. GARTH: Do we have a date for the status check, Your

13 Honor?

14 THE COURT: Yeah hold on just a second the Clerks getting

15 it.

16 THE COURT CLERK: Wednesday, June 7, 2023 at 9:00 a.m.

17 MR. PADDA: I think that's the day my Myers trial starts.

18 THE COURT: All right, well I mean I think it will probably end

19 up getting moved anyway so all right.

20 MR. PADDA: No problem.

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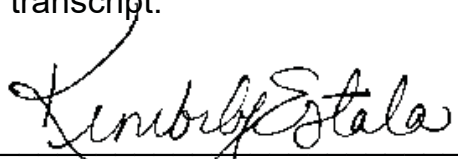
THE COURT: Great thank you.

MR. PADDA: Thank you, Judge.

[Hearing concluded at 10:49 a.m.]

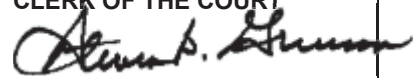
\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability. Please note: Technical glitches which resulted in distortion in the Bluejeans audio/video and/or audio cutting out completely were experienced and are reflected in the transcript.

  
\_\_\_\_\_  
Kimberly Estala  
Court Recorder/Transcriber



# EXHIBIT I



**OPPC**

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 7

**DEFENDANT/JUDGMENT CREDITOR  
VALLEY HEALTH SYSTEM, LLC'S  
OPPOSITION TO PLAINTIFFS'  
MOTION TO STAY EXECUTION ON  
JUDGMENT FOR ATTORNEYS' FEES  
AND COSTS INCLUDING STAY OF  
EXAMINATION OF JUDGMENT  
DEBTORS AND PRODUCTION OF  
DOCUMENTS AND COUNTERMOTION  
FOR CONTEMPT AND ATTORNEYS'  
FEES**

**Hearing Date: November 9, 2022**

**Hearing Time: 9:00 a.m.**

Defendant and Judgment Creditor, VALLEY HEALTH SYSTEM, LLC ("VHS"), by  
and through its counsel of record, S. Brent Vogel, Esq. and Adam Garth, Esq. of the Law Firm  
LEWIS BRISBOIS BISGAARD & SMITH LLP, hereby file their Opposition to Plaintiffs' Motion to  
Stay Execution on Judgment for Attorneys' Fees and Costs Including Stay of Examination of  
Judgment Debtors and Production of Documents and Countermotion for Contempt and Attorneys'

1 Fees. This opposition and countermotion is based upon the Memorandum of Points and Authorities  
2 below, the pleadings and papers on file herein, any oral argument which may be entertained by the  
3 Court at the hearing of this matter.

4 DATED this 28<sup>th</sup> day of October, 2022

5

6

LEWIS BRISBOIS BISGAARD & SMITH LLP

7

8

By /s/ Adam Garth

9

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1 MEMORANDUM OF LAW

2 I. INTRODUCTION

3 This case has a storied history involving one decision from the Nevada Supreme Court  
4 overturning Judge Wiese's denial of summary judgment, and what will be an ill-fated appeal by  
5 Plaintiffs to overturn the reconsideration and the award of costs and fees their attorney foisted upon  
6 them. It was Plaintiffs' counsel's failure to consider firmly established legal precedent and  
7 uncontroverted evidence, in which he was in exclusive possession, demonstrating the commencement  
8 of inquiry notice in this case. Plaintiffs were given a graceful means of extricating themselves from  
9 this judgment long ago, when they were presented with an offer of judgment for a waiver of all costs  
10 and fees in exchange for dismissal of their case after the aforementioned evidence of inquiry notice was  
11 presented. They rejected that offer, no doubt on the advice of counsel, and now face the legal  
12 consequences of their collective decision.

13 What is even more concerning is the complete contempt Plaintiffs and their counsel have  
14 shown this Court in defying multiple court orders to produce documents and records by a date certain,  
15 and a failure to appear as ordered by this Court for a judgment debtors' examination. Plaintiffs'  
16 counsel did **absolutely nothing** until the day before the judgment debtors' examination scheduled for  
17 September 28, 2022. Plaintiffs' ignoring of legal precedent, ignoring facts within their exclusive  
18 possession, failing to present evidence they are required to present, and now defying multiple court  
19 orders demonstrates a clear pattern of contempt for not only this process, but of the Court itself. It is  
20 Plaintiffs and their counsel's utter disregard for professional courtesy and court orders which has  
21 continued throughout this litigation because they have not been appropriately stopped and their  
22 behavior punished in the past, driven by their counsel's distilled argument that he was winning until  
23 he lost. In other words, he was emboldened by multiple incorrect judicial decisions which completely  
24 ignored the uncontroverted evidence and ignored Plaintiffs' counsel's abject failure to come forth with  
25 any evidence supportive of their legal position in this case. Plaintiffs and their counsel have been  
26 afforded multiple judicial passes and lifelines only to now thumb their nose at the Court when their  
27 fortunes have turned. It is time that these Plaintiffs and their counsel reap the harvest they have sown  
28 – contempt, sanctions, costs and fees.

1 **II. STATEMENT OF FACTS**

2 On July 19, 2022, VHS filed and served its ex parte application for judgment debtors  
3 examination and production of documents<sup>1</sup> on Plaintiffs' counsel of record. Plaintiffs and their  
4 counsel did nothing in opposition to said application.

5 On August 18, 2022, this Court signed an order directing the judgment debtors examination to  
6 take place on September 28, 2022 at 9:00 a.m. and to produce all documents requested in the  
7 aforementioned ex parte application no later than September 14, 2022 to counsel for VHS. This order was  
8 served with notice of entry upon Plaintiffs' counsel of record on August 19, 2022.<sup>2</sup> Once again,  
9 Plaintiffs and their counsel did nothing in response to the order. They failed to move for a protective  
10 order. They failed to file an appeal bond for the amount of the judgment. They failed to take any legal  
11 action whatsoever. Moreover, they defied the Court's order and never produced any of the ordered  
12 documents by September 14, 2022. Furthermore, they failed to show as ordered for the judgment  
13 debtors examination on September 28, 2022.

14 On September 27, 2022 at 2:21 p.m., Plaintiffs' counsel sent an email<sup>3</sup> notifying our firm that  
15 his clients would be defying a court order and not appearing for their court ordered examination, that  
16 his clients had limited financial resources<sup>4</sup> and would be unable to travel to court for the proceedings,  
17 and that he was providing this "advanced notice" "to avoid any inconvenience." This was the first and  
18 only communication from Plaintiffs or their counsel since the filing of the July 19, 2022 application.

19 Thereafter, at 5:24 p.m., after the close of business on September 27, 2022, **the day before the**  
20 **hearing, and two weeks after their required discovery was due**, Plaintiffs' counsel filed this  
21 baseless motion.

22 As the Court is already aware, counsel for VHS and Plaintiffs appeared at 9:00 a.m. on  
23 September 28, 2022. When questioned by the Court why his clients failed to appear as ordered, why

24 <sup>1</sup> **Exhibit A**, Ex Parte Application

25 <sup>2</sup> **Exhibit B**, Order Directing Judgment Debtors Examination and Production of Documents

26 <sup>3</sup> **Exhibit C**, Email from Plaintiffs' counsel notifying that Plaintiffs will not show for the court ordered  
examination.

27 <sup>4</sup> The very purpose of these proceedings is to ascertain what, if any assets, the respective Plaintiffs  
28 have to pay the judgment entered against them. Their bold refusal to engage in these proceeding by  
the Court's order defeats the very purpose the proceedings were authorized to determine.

1 his clients failed to provide the requisite documentation as ordered, and why he did nothing in advance  
2 of any deadlines ordered by the Court to challenge same, he responded that the Court lacked  
3 jurisdiction (nonsense) and he also stated that he did not know what to do given that the application  
4 was made ex parte (despite his having been served and notified when the application was filed). He  
5 proceed to ask the Court what steps he was to have taken, further advising the Court that his  
6 representation terminated upon the Supreme Court's dismissal of this case. Again, Plaintiffs' counsel  
7 took no steps to disassociate himself from this case, filed no notices that he was no longer counsel of  
8 record, and then made a claim that he decided to take the appeal of the award of costs and fees pro  
9 bono.<sup>5</sup> When questioned by this Court why Plaintiffs' counsel took no steps to disassociate himself  
10 from representing these Plaintiffs, he had no answer. The Court properly noted that all evidence  
11 demonstrated he was and remained counsel of record in this case, making him responsible to act on  
12 his clients' behalf. He even was so bold as to improperly request legal advice on how he was  
13 expected to have proceeded after being served with the orders to produce and appear.

14 Despite Plaintiffs and their counsel's complete disregard for Court orders or procedure, this  
15 Court nonetheless agreed to entertain Plaintiffs late, improper and baseless motion filed literally on the  
16 eve of the Court ordered examination in which Plaintiffs so boldly refused to participate or appear. It  
17 is presumed that the hearing will be equivalent to an order to show cause as to why an order of  
18 contempt and the implications thereof not be imposed upon Plaintiffs for their defiance of multiple  
19 court orders.

### 20 **III. LEGAL ARGUMENT**

#### 21 **A. Plaintiffs Are In Contempt**

22 NRS § 21.270(3) states: "A judgment debtor who is regularly served with an order issued  
23 pursuant to this section, and who fails to appear at the time and place specified in the order, may be  
24 \_\_\_\_\_

25 <sup>5</sup> His offer of pro bono representation on appeal is more likely to avoid a potential legal malpractice  
26 suit stemming from his placement of his clients in the position of judgment debtors due to his pursuit  
27 of a case filed so far beyond the statute of limitations and with such clear evidence of the  
28 commencement date for inquiry notice that the Supreme Court took the unusual step of chastising  
Judge Wiese for a "manifest abuse of discretion" in denying summary judgment in the wake of  
overwhelming evidence.

1 punished for contempt by the judge issuing the order.” It is uncontroverted that Plaintiffs failed to  
2 appear as ordered. It is also uncontroverted that Plaintiffs defied the Court’s order and did not produce  
3 any materials as ordered by September 14, 2022. It is uncontroverted that Plaintiffs filed no appeal  
4 bond, nor did they take any legal steps such as filing a timely and a proper legally supported motion  
5 addressed to the Court’s order.

6 Disobedience of an order of the master or court in supplementary proceedings is  
7 contempt. *See*, NRS § 21.340. Disobedience of a subpoena or a court order directing attendance at  
8 supplementary proceedings is also contempt. *See*, NRS § 22.010(3), (4). “Courts have inherent power  
9 to enforce their decrees through civil contempt proceedings, and this power cannot be abridged by  
10 statute.” *See S. Fork Band of the Te-Moak Tribe v. State Eng'r (in Re Determination of Relative Rights*  
11 *of Claimants & Appropriators of Waters of the Humboldt River Stream Sys.*, 118 Nev. 901, 909, 59  
12 P.3d 1226, 1231 (2002).

13 A court may issue a bench warrant for the arrest of a person guilty of contempt. NRS § 22.040.  
14 Moreover, the person guilty of contempt may be imprisoned until he or she performs the ordered act,  
15 if it is within his or her power to perform. *See*, NRS § 22.110. If there is danger of the person  
16 absconding, NRS § 21.280 also authorizes the arrest of a person to bring the person to court on  
17 supplementary proceedings.

18 A civil contempt order is designed to coerce compliance with a court order and is of a  
19 conditional or intermediate nature—ending when the contemnor complies. *See S. Fork Band of the Te-*  
20 *Moak Tribe v. State Eng'r (in Re Determination of Relative Rights of Claimants & Appropriators of*  
21 *Waters of the Humboldt River Stream Sys.*, 118 Nev. at 909, 59 P.3d at 1231.

22 Arrests may also be used in civil cases in certain limited actions involving fraudulent conduct  
23 or concealment of assets. *See*, NRS §§ 31.470–31.550. Specifically, NRS § 31.480 states:

24 The defendant may be arrested, as hereinafter prescribed, in the  
25 following cases:

26 1. In an action for the recovery of money or damages on a cause of  
27 action arising upon contract, express or implied, when the defendant is  
about to depart from the State with intent to defraud the defendant’s  
creditors, or when the action is for libel or slander.

28 2. In an action for a fine or penalty, or for money or property

1           embezzled, or fraudulently misapplied or converted to his or her own  
2           use by a public officer, or an officer of a corporation, or an attorney,  
3           factor, broker, agent or clerk in the course of his or her employment as  
4           such or by any other person in a fiduciary capacity, or for misconduct  
5           or neglect in office, or in professional employment, or for a willful  
6           violation of duty.

7           3. In an action to recover the possession of personal property unjustly  
8           detained, when the property, or any part thereof, has been concealed,  
9           removed, or disposed of so that it cannot be found or taken by the  
10          sheriff.

11          4. When the defendant has been guilty of a fraud in contracting the  
12          debt or incurring the obligation for which the action is brought, or in  
13          concealing or disposing of the property, for the taking, detention or  
14          conversion of which the action is brought.

15          5. When the defendant has removed or disposed of the defendant's  
16          property, or is about to do so, with intent to defraud the defendant's  
17          creditors.

18           In this case, we have no information whatsoever about the Plaintiffs' assets or whether they are  
19           attempting or have disposed of same after learning of the judgment against them, since they defied  
20           multiple Court orders to produce information concerning same and refused to appear for their Court  
21           ordered examination regarding those very assets. That is contempt on its face. There is more than  
22           ample evidence of contempt here, authorizing fines and even justifying a bench warrant for the arrest  
23           of the Plaintiffs for their defiance. In anticipation of Plaintiffs' counsel's song and dance about one  
24           senior citizen client, he fails to point out that this very senior citizen and his coterie of co-Plaintiff  
25           court order defiant ones, demonstrated contempt for this Court and the process, most likely in  
26           consultation with their counsel.

27           Additionally, civil contempt orders can also be used to compensate other parties for costs  
28           resulting from the contempt. *See, S. Fork Band of the Te-Moak Tribe v. State Eng'r (in Re*  
29           *Determination of Relative Rights of Claimants & Appropriators of Waters of the Humboldt River*  
30           *Stream Sys.*, 118 Nev. at 909, 59 P.3d at 1231. As noted by the Nevada Supreme Court, the district  
31           court is free to exercise its "inherent power to protect dignity and decency in its proceedings, and to  
32           enforce its decrees." *S. Fork Band of the Te-Moak Tribe v. State Eng'r (in Re Determination of*  
33           *Relative Rights of Claimants & Appropriators of Waters of the Humboldt River Stream Sys.*, 118 Nev.  
34           at 906, 59 P.3d at 1229. It is high time that compensation inure to the benefit of the winning party



1 here at the expense of the losing parties and their counsel.

2 A civil contempt order “must be conditional or indeterminate—that is, it  
3 must end if the contemnor complies.” . . . Here, the district court  
4 ordered that the Tribe would have to post a \$ 10,000 bond only if it  
5 violated the injunctions in the contempt order. This condition was  
6 designed to coerce the Tribe's compliance. Thus, this is a civil  
7 contempt order, regardless of the district court's motive.

8 Courts have inherent power to enforce their decrees through civil  
9 contempt proceedings, and this power cannot be abridged by statute. A  
10 civil contempt order may be used to compensate the contemnor's  
11 adversary for costs incurred because of the contempt.

12 *S. Fork Band of the Te-Moak Tribe v. State Eng'r (in Re Determination of Relative Rights of*  
13 *Claimants & Appropriators of Waters of the Humboldt River Stream Sys.)*, 118 Nev. 901, 909, 59 P.3d  
14 1226, 1231.

15 VHS asks that this Court proceed in ordering contempt by the Plaintiffs in this action, or  
16 alternatively ordering the posting of a bond in sufficient amount to guarantee the full amount of the  
17 judgment (\$118,906.78) plus post judgment interest from June 2, 2022 (\$3,398.62), the date of entry  
18 of the judgment up through and including the date of the hearing (November 9, 2022) in the total  
19 amount of \$122,305.40. Plaintiffs had this as a remedy and an obligation in the first place.

20 NRAP 7 states in pertinent part as follows:

21 **(a) When bond required. In a civil case, unless an appellant is**  
22 **exempted by law, or has filed a supersedeas bond or other**  
23 **undertaking that includes security for the payment of costs on**  
24 **appeal, the appellant shall file a bond for costs on appeal or**  
25 **equivalent security in the district court with the notice of appeal. But a**  
26 **bond shall not be required of an appellant who is not subject to costs.**

27 **(b) Amount of bond.** The bond or equivalent security shall be in the  
28 sum or value of \$500 unless the district court fixes a different amount.  
A bond for costs on appeal shall have sufficient surety, and it or any  
equivalent security shall be conditioned to secure the payment of costs  
if the appeal is finally dismissed or the judgment affirmed, or of such  
costs as the Supreme Court or Court of Appeals may direct if the  
judgment is modified. If a bond or equivalent security in the sum or  
value of \$500 is given, no approval thereof is necessary.

**(c) Objections.** After a bond for costs on appeal is filed, a respondent  
may raise for determination by the district court clerk objections to the  
form of the bond or to the sufficiency of the surety.

(emphasis supplied).

Plaintiffs filed a notice of appeal and represented they are pursuing an appeal of the judgment

1 and the underlying decision of Judge Wiese to reconsider and order costs and fees against Plaintiffs.  
2 NRAP 7 **requires** the filing of an appeal bond. Again, Plaintiffs and their counsel failed to do so in  
3 further defiance of court rules and statutes.

4 Moreover, NRS § 20.037 states in pertinent part:

5 1. Notwithstanding any other provision of law or court rule, and except  
6 as otherwise provided in this section and NRS 20.035, **if an appeal is**  
7 **taken of a judgment in a civil action in which an appellant is**  
8 **required to give a bond in order to secure a stay of execution of the**  
9 **judgment during the pendency of any or all such appeals, the total**  
10 **cumulative sum of all the bonds required from all the appellants**  
11 **involved in the civil action must not exceed the lesser of**  
12 **\$50,000,000 or the amount of the judgment.**

13 NRS § 20.037 obligates a party who is otherwise obligated to post a bond for appeal (Plaintiffs  
14 so qualify), to post a bond for at least the amount of the judgment entered, which is \$118,906.78 plus  
15 post judgment interest from June 2, 2022 (\$3,398.62), the date of entry of the judgment up through  
16 and including the date of the hearing (November 9, 2022) for a total amount of \$122,305.40.  
17 Plaintiffs defied this statute as well.

18 Additionally, NRCP 62 states in pertinent part:

19 **(a) Automatic Stay; Exceptions for Injunctions and Receiverships.**

20 **(1) In General.** Except as stated in this rule, no execution may issue  
21 on a judgment, nor may proceedings be taken to enforce it, until 30  
22 days have passed after service of written notice of its entry, unless  
23 the court orders otherwise.

24 \* \* \*

25 **(d) Stay Pending an Appeal.**

26 **(1) By Supersedeas Bond.** If an appeal is taken, the appellant may  
27 obtain a stay by supersedeas bond, except in an action described in  
28 Rule 62(a)(2). The bond may be given upon or after filing the  
notice of appeal or after obtaining the order allowing the appeal.  
The stay is effective when the supersedeas bond is filed.

**(2) By Other Bond or Security.** If an appeal is taken, a party is  
entitled to a stay by providing a bond or other security. Unless the  
court orders otherwise, the stay takes effect when the court  
approves the bond or other security and remains in effect for the  
time specified in the bond or other security.

Plaintiffs defied NRCP 62 as well. The judgment was docketed on June 2, 2022. VHS waited  
the requisite 30 days and did not do anything to seek enforcement during that time. Thereafter, VHS

1 sought enforcement in all jurisdictions in which the respective Plaintiffs reside.<sup>6</sup> To add further  
2 insult to injury, Plaintiffs' counsel fails to properly analyze *Nelson v. Heer*, 121 Nev. 832, 122 P.3d  
3 1252 (2005) upon which he relies in an effort to convince this Court that no bond is required to be  
4 posted. In *Nelson*, Plaintiff, a buyer of a cabin, discovered it had a preexisting broken water pipe  
5 which caused severe mold damage. He sued defendant, the seller, and obtained a large judgment  
6 against her. The Nevada District Court granted a stay pending appeal and rejected defendant's request  
7 to use of alternate security, in lieu of a supersedeas bond. Defendant then filed a motion in the Nevada  
8 Supreme in relation to the supersedeas bond issue.

9 The record showed defendant had difficulty obtaining a supersedeas bond. Further, plaintiff  
10 promptly obtained a judgment lien on all of her real property, and he began to execute on the  
11 judgment by garnishing her slot route operator income. According to defendant, the garnishment  
12 threatened the viability of her businesses, primarily two small bars, for which she had several  
13 employees. She asserted that without said income, she would have been unable to pay other creditors  
14 and certain mortgages.

15 The Nevada Supreme Court denied defendant's motion, noting the district court was in the best  
16 position to weigh the relevant considerations in determining whether "alternate security" was  
17 warranted. However, the Supreme Court clarified its prior opinion of *McCulloch v. Jeakins*, 99 Nev.  
18 122, 659 P.2d 302 (1983) which allowed for alternate security (other than a supersedeas bond), only in  
19 "unusual circumstances." As to when a full supersedeas bond could be waived and/or alternate  
20 security substituted, the Supreme Court adopted a five factor analysis set forth by the United States  
21 Seventh Circuit Court in *Dillon v. City of Chicago*, 866 F.2d 902 (7th Cir. 1988). In general, those  
22 factors were applied with respect to the unique circumstances of each case.

23 Specifically, *Nelson* set forth five factors to consider in determining when a full supersedeas  
24 bond may be waived and/or alternate security substituted:

- 25 (1) the complexity of the collection process; (2) the amount of time  
26 required to obtain a judgment after it is affirmed on appeal; (3) the  
27 degree of confidence that the district court has in the availability of  
funds to pay the judgment; (4) whether the defendant's ability to pay

---

28 <sup>6</sup> **Exhibit D**, Judgments filed in respective jurisdictions in which Plaintiffs reside.

1 the judgment is so plain that the cost of a bond would be a waste of  
2 money; and (5) whether the defendant is in such a precarious financial  
3 situation that the requirement to post a bond would place other  
4 creditors of the defendant in an insecure position.

5 We conclude that this framework provides a useful analytical tool, and  
6 we adopt it for Nevada. Therefore, **when confronted with a motion to  
7 reduce the bond amount or for alternate security, the district court  
8 should apply these factors.** In considering the second factor, the  
9 district court should take into account the length of time that the case is  
10 likely to remain on appeal.

11 *Nelson, supra* 121 Nev. at 836, 122 P.3d at 1254 (emphasis supplied). It is significant that *Nelson*  
12 refers to when a motion is pending to either reduce the bond amount or provide for alternate security  
13 to consider these factors. Plaintiffs are attempting to use the decision to somehow waive a statutorily  
14 imposed obligation to obtain an appropriate guarantee that the judgment at issue will be paid.

15 Taking each point in seriatim, the collection process is incredibly complicated. The Creecy  
16 Plaintiffs each reside in Ohio, and in two different counties. The Khosrof Plaintiff resides in  
17 Massachusetts. The Estate is a Nevada entity. As evidenced by the judgments in those respective  
18 jurisdictions, a considerable effort needed to be employed to authenticate and obtain full faith and  
19 credit for the Nevada judgments. Separate enforcement mechanisms in the respective jurisdictions  
20 must be employed to obtain judgment enforcement and it is already evident that Plaintiffs have  
21 refused to pay the judgments in their respective jurisdictions despite presentment of the judgments for  
22 payment. Plaintiffs' nonsensical musings about probate procedures have nothing whatsoever to do  
23 with these proceedings to obtain information about assets. Moreover, the claim against the Estate has  
24 already been filed in Probate Court.<sup>7</sup>

25 Second, the amount of time to obtain judgment after appeal is unknown at this time, however,  
26 as the *Nelson* Court advised, when considering this factor, the time within which the case is scheduled  
27 to be on appeal needs to be factored. Plaintiffs filed their notice of appeal on June 14, 2022. They  
28 already sought an extension of their briefing time which is now due on November 9, 2022, the date of  
the hearing on this motion. At the earliest, the case will not be fully submitted until January 9, 2023,  
possibly longer, depending upon whether there is motion practice associated with the filing of

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<sup>7</sup> Exhibit E

1 Plaintiffs' opening brief. It is likely, given the average time for appeals to make their way through the  
2 Supreme Court, that an additional 6 months to 1 year from the submission of all briefing would a  
3 decision render, extending the execution of any judgment for nearly two years of obtaining same.  
4 Such a time period is extreme and endangers the viability of collection without some safeguard to  
5 guarantee payment.

6 Third, the degree of confidence that the district court has in the availability of funds to pay the  
7 judgment, is completely unknown. Plaintiffs' counsel has not bothered to interpose any evidence of  
8 funding sources. The very purpose of this hearing is to ascertain just such information. If Plaintiffs  
9 lack the requisite funds to pay a validly obtained judgment, all the more reason to obtain a proper  
10 mechanism to secure it. If Plaintiffs' counsel's claims of their virtual "judgment proof" status are  
11 correct, the question is raised why bother pursuing a stay and pursuing an appeal. The answer is  
12 simple – either Plaintiffs have the resources or posting a bond with the likelihood of a loss by  
13 Plaintiffs on appeal will result in the forfeiture of the bond and expenses associated with same.

14 Fourth, the judgment debtors' ability to pay, is most definitely a question. Again, these  
15 proceedings are designed to elicit that very information, not for their counsel to profess his opinions.  
16 If Plaintiffs are as destitute, as Plaintiffs' counsel would have this Court believe, this factor weighs  
17 astonishingly high in VHS's favor.

18 Fifth, whether the judgment debtors' financial position is so precarious as to place other  
19 creditors at risk, is also an open question. For all of the reasons cited above, this factor weighs heavily  
20 in VHS's favor.

21 Thus, not only was Plaintiffs' counsel's analysis and reference to *Nelson* incomplete, he  
22 misconstrued its import, and the factors articulated in that decision so weigh in favor of VHS that to  
23 not require a bond or other viable security as a means of collection on the judgment would be  
24 tantamount to this Court's overturning of the judgment itself. To agree with Plaintiffs' counsel's  
25 assertions, the Plaintiffs cannot pay the judgment and absent some means of enforcing same, it renders  
26 a judgment moot.

27 Had Plaintiffs and their counsel even read the law, certainly as Plaintiffs' counsel is obligated  
28 to do, it would be clear that he was obligated to file an appeal bond on behalf of his clients long ago,

1 thus obviating the need to proceed with these enforcement proceedings. There can be only a limited  
2 number of explanations for this “in your face” defiance: (1) Complete ignorance of the law; (2)  
3 Complete disregard for the law; (3) A recognition that the Plaintiffs have no means with which to  
4 satisfy a judgment, have little to no chance of success on appeal, and by posting an appeal bond, it is  
5 more likely than not that the bond will be executed upon once the Plaintiffs lose the appeal. Any of  
6 those scenarios are unacceptable reasons for defiance of legal requirements. Plaintiffs offer no legal  
7 basis upon which they failed to fulfill the bond posting requirement or comply directly with multiple  
8 court orders. Such conduct can be defined as nothing short of contemptuous.

9       Moreover, as the Supreme Court reminded us in *S. Fork Band of the Te-Moak Tribe v. State*  
10 *Eng'r (in Re Determination of Relative Rights of Claimants & Appropriators of Waters of the*  
11 *Humboldt River Stream Sys.*, 118 Nev. at 909, 59 P.3d at 1231, civil contempt is a mechanism by  
12 which a party seeking the contempt may be recompensed for their costs and fees resulting from the  
13 contempt. This would include the attorneys fees associated with the civil enforcement proceedings  
14 which Plaintiffs so openly defied as well as the costs associated with this unnecessary and improper  
15 motion practice by Plaintiffs’ counsel in a further attempt to distract from his incompetent and failed  
16 attempt to prosecute a case which was dead for nearly a year before he filed it. Plaintiffs’ counsel bet  
17 and lost. He cost his clients over \$120,000 for his actions and now cries foul to the Court for his own  
18 failures. In so doing, he defies Court orders and now seeks a judicial lifeline from the same Court he  
19 defied. What more will it take to impose lessons on attorneys in this State who do not comply with  
20 rules and orders?

21       **B. Plaintiffs’ Motion Is Baseless**

22       In the first place, Plaintiffs’ counsel attempts to have this Court reconsider Judge Wiese’s  
23 reconsideration, which itself is improper. There is no point in rehashing the nonsense in which  
24 Plaintiffs’ counsel engaged which brought us to this point. The only issue before this Court is  
25 discovery attendant to a judgment validly obtained after Plaintiffs rejected the NRCP 68 offer of  
26 judgment for a waiver of costs, and after Plaintiffs’ case was dismissed upon the granting of summary  
27 judgment due to their violation of the statute of limitations. All the rest proffered by Plaintiffs’  
28 counsel is a smokescreen and attempt to distract from his multiple legal failures and calculations in



1 this case which wound up subjecting his clients to a six figure judgment. If he is so concerned about  
2 his clients and their ability pay the judgment he caused due to his legal advice, he or his legal  
3 malpractice carrier may feel free to pay on his clients behalf at any time. VHS does not care the  
4 legitimate source of the funds so long as they are recompensed for Plaintiffs' counsel's legal folly.

5 **1. Claim of Defective Judgment Regarding Apportionment**

6 Plaintiffs' first assertion is that the judgment against them is defective in that it does not  
7 indicate whether the Plaintiffs are jointly and severally liable nor did it apportion liability between and  
8 among the respective Plaintiffs.

9 Conspicuously absent from Plaintiffs' motion is reference to the very rule which governs and  
10 resulted in the judgment against them, NRCP 68.<sup>8</sup> NRCP 68 states in pertinent part:

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

15 \* \* \*

16 **(c) Joint Unapportioned Offers.**

17 \* \* \*

18 **(3) Offers to Multiple Plaintiffs. An offer made to multiple  
19 plaintiffs will invoke the penalties of this rule only if:**

20 **(A) the damages claimed by all the offeree plaintiffs are solely  
21 derivative, such as where the damages claimed by some  
22 offerees are entirely derivative of an injury to the others or  
where the damages claimed by all offerees are derivative of an  
injury to another; and**

23 **(B) the same entity, person, or group is authorized to decide**

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24 <sup>8</sup> While it may be impossible to definitively ascribe motive for Plaintiffs' counsel's massive failure to  
25 reference this rule, when observed in the totality of the actions taken related to these enforcement  
26 proceedings and the predicate conduct which resulted in the imposition of the very judgment at issue,  
27 this failure cannot be taken as an isolated incident but rather an attempt to either mislead the Court or  
28 a complete disregard for his professional obligations. Nev. Rules of Prof'l Conduct 3.3 "(a) A lawyer  
shall not knowingly: . . . (2) Fail to disclose to the tribunal legal authority in the controlling  
jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed  
by opposing counsel."

whether to settle the claims of the offerees.

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

- (1) Within 14 days after service of the offer, the offeree may accept the offer by serving written notice that the offer is accepted.
- (2) Within 21 days after service of written notice that the offer is accepted, the obligated party may pay the amount of the offer and obtain dismissal of the claims, rather than entry of a judgment.
- (3) If the claims are not dismissed, at any time after 21 days after service of written notice that the offer is accepted, either party may file the offer and notice of acceptance together with proof of service. The clerk must then enter judgment accordingly. The court must allow costs in accordance with NRS 18.110 unless the terms of the offer preclude a separate award of costs. Any judgment entered under this section must be expressly designated a compromise settlement.

**(e) Failure to Accept Offer.** If the offer is not accepted within 14 days after service, it will be considered rejected by the offeree and deemed withdrawn by the offeror. Evidence of the offer is not admissible except in a proceeding to determine costs, expenses, and fees. The fact that an offer is made but not accepted does not preclude a subsequent offer. With offers to multiple offerees, each offeree may serve a separate acceptance of the apportioned offer, but if the offer is not accepted by all offerees, the action will proceed as to all. Any offeree who fails to accept the offer may be subject to the penalties of this rule.

**(f) Penalties for Rejection of Offer.**

- (1) **In General.** If the offeree rejects an offer and fails to obtain a more favorable judgment:
  - (A) the offeree cannot recover any costs, expenses, or attorney fees and may not recover interest for the period after the service of the offer and before the judgment; and
  - (B) the offeree must pay the offeror's post-offer costs and expenses, including a reasonable sum to cover any expenses incurred by the offeror for each expert witness whose services were reasonably necessary to prepare for and conduct the trial of the case, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney fees, if any be allowed, actually incurred by the offeror from the time of the offer. If the offeror's attorney is collecting a contingent fee, the amount of any attorney fees awarded to the party for whom the offer is made must be deducted from that contingent fee.

(emphasis supplied). Furthermore, under NRS § 17.115, unapportioned offers made to multiple plaintiffs mandate the attorney fees and costs penalties once certain requirements are met. As spelled



1 out in NRS § 17.115(9), those sanctions do not apply to:

2 (b) An offer of judgment made to multiple plaintiffs unless the same  
3 person is authorized to decide whether to settle the claims of all the  
plaintiffs to whom the offer is made *and*:

4 (1) There is a single common theory of liability claimed by all the  
plaintiffs to whom the offer is made;

5 (2) The damages claimed by one or more of the plaintiffs to whom the  
6 offer is made are entirely derivative of an injury to the remaining  
7 plaintiffs to whom the offer is made; *or*

8 (3) The damages claimed by all the plaintiffs to whom the offer is  
made are entirely derivative of an injury to another person.

9 As the Supreme Court noted:

10 NRS 17.115 includes an alternative requirement that can be met  
11 instead of the derivative damages requirement—an unapportioned offer  
is also proper if there is a single common theory of liability claimed by  
12 all plaintiffs. This language does not appear in NRCP 68.

13 "Apparent conflicts between a court rule and a statutory provision  
should be harmonized and both should be given effect if possible." We  
14 have previously addressed differences between NRCP 68 and NRS  
17.115 and concluded that when NRCP 68 is silent with respect to  
15 something addressed under NRS 17.115, "it should be interpreted  
harmoniously with the more specific provisions and legislative policy  
16 of NRS 17.115." Additionally, when possible, we construe statutes  
such that no part of the statute is turned to mere surplusage.

17 Under NRCP 68, the defendant must show that the plaintiffs' damages  
are derivative. NRS 17.115, on the other hand, allows the defendant to  
18 show that there is a single common theory of liability *or* that the  
damages are in some way derivative. To construe NRS 17.115 as  
19 requiring Horizon to show that the injuries were derivative would  
render NRS 17.115(9)(b)(1) mere surplusage. Therefore,  
20 reading NRCP 68 and NRS 17.115 in harmony and giving effect to  
both, we conclude that Horizon was required to demonstrate either that  
21 the Albioses asserted a single common theory of liability against  
Horizon *or* that the damages were derivative. Because the Albioses  
22 jointly sued Horizon under the same constructional defect liability  
theory, Horizon satisfied the first requirement necessary for a valid  
23 offer of judgment involving multiple plaintiffs.

24 *Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 422, 132 P.3d 1022, 1030-31 (2006).

25 This offer was an unapportioned offer of judgment made to Plaintiffs. On September 28,  
26 2022, Plaintiffs' counsel acknowledged that this matter is derivative in nature. In other words,  
27 Plaintiffs claims for the death of Rebecca Powell were derivative of the decedent's claims (now her  
28 estate's claims) for the alleged wrongful death they were not permitted to prosecute due to the late

1 filing and violation of the statute of limitations. All Plaintiffs in this matter had their fortunes rise and  
2 fall together. The offer was made jointly to them. Plaintiffs never responded to the offer and by  
3 operation of Rule 68(e), it was deemed rejected collectively within 14 days of its making. The Rule  
4 provides for “penalties” for rejection of offers and then a loss upon trial or judgment. That is what  
5 occurred here. Rule 68, by its own terms, and NRS § 17.115 specifically provide for this very  
6 situation. The plaintiffs jointly pursued a derivative claim against VHS, and jointly rejected the offer  
7 to dismiss for a waiver of costs. They jointly rejected the offer. Now, they can be jointly responsible  
8 for its payment and can decide between and among themselves how to reimburse one another for their  
9 collective miscalculation. However, that is not VHS’s concern. That is between the Plaintiffs and  
10 their counsel. VHS just wants partial compensation for the costs and fees which they incurred due to  
11 Plaintiffs’ fools’ errand of a late filed lawsuit.

12         Once again, Plaintiffs’ counsel provides no legal authority to support his assertion, just the  
13 Music Man’s “think system”, much the same as his personal belief that his clients were confused by  
14 Rebecca Powell’s cause of death listed on her death certificate without having interposed one shred of  
15 legal evidence to support his personal “out of thin air” conclusion.

16         As further proof of Plaintiffs’ counsel’s lack of genuineness in making this motion is his  
17 assertion that it is unclear whether VHS seeks enforcement against Brian Powell, the Estate’s Special  
18 Administrator, in his individual capacity or solely as the Estate’s Special Administrator, and therefore  
19 only against the Estate.<sup>9</sup> Plaintiffs brought this action on behalf of the Estate and individually named  
20 heirs. Brian Powell was named solely in his capacity as the Special Administrator of the Estate. He  
21 was not pursuing any personal claim for damages. His participation in enforcement proceedings is  
22 solely as the Special Administrator, without his personal liability, but rather as the Estate’s  
23 representative, as the Estate has the debt, not Mr. Powell. Plaintiffs’ counsel’s feigning of ignorance  
24 on this issue is belied by the clear language of all captions and documents filed in this case. To  
25 suggest otherwise is counsel’s further attempt at distracting from the simple, core issue here – his  
26 mistake and that of his clients resulting in a judgment against the clients.

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27 <sup>9</sup> Just so there is no confusion, the judgment is against the Estate and the individually named plaintiffs  
28 only.

1                               **2.        Probate Procedures Are Irrelevant to These Proceedings**

2                    In yet another attempt to hoodwink this Court, Plaintiffs selectively cite to NRS §147.195  
3 which states in its entirety:

4                               **The debts and charges of the estate must be paid in the following**  
5                               **order:**

- 6                               1. Expenses of administration.  
7                               2. Funeral expenses.  
8                               3. The expenses of the last illness.  
9                               4. Family allowance.  
10                              5. Debts having preference by laws of the United States.  
11                              6. Money owed to the Department of Health and Human Services as a  
12                              result of the payment of benefits for Medicaid.  
13                              7. Wages to the extent of \$600, of each employee of the decedent, for  
14                              work done or personal services rendered within 3 months before the  
15                              death of the employer. If there is not sufficient money with which to  
16                              pay all such labor claims in full, the money available must be  
17                              distributed among the claimants in accordance with the amounts of  
18                              their respective claims.  
19                              8. Judgments rendered against the decedent in his or her lifetime, and  
20                              mortgages in order of their date. The preference given to a mortgage  
21                              extends only to the proceeds of the property mortgaged. If the proceeds  
22                              of that property are insufficient to pay the mortgage, the part remaining  
23                              unsatisfied must be classed with other demands against the estate.  
24                              9. All other demands against the estate.

25 (emphasis supplied). Conspicuously absent from Plaintiffs' citation to this statute is the phrase "The  
26 debts and charges of the estate must be paid in the following order:." These proceedings have nothing  
27 whatsoever to do with the order of payment of a debt. This judgment debtors' examination is to  
28 ascertain the specific assets of the respective judgment debtors including the Estate. At this point, we  
are not discussing priority of payment. We are discussing what the Estate and the remaining Plaintiffs  
possess to pay the judgment. Once those assets are identified, enforcement would occur within the  
respective forums required.

Moreover, Plaintiffs cite no authority to demonstrate that a judgment may not be secured in the  
district court stemming from a motion pursuant to NRCP 68 and other governing statutes against the  
Estate or the individual Plaintiffs. In fact, where else, other than district court, was VHS supposed to  
secure the very judgment against the Estate at issue?<sup>10</sup> The Probate Court lacks any authority to

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<sup>10</sup> Out of an abundance of caution, in order to pursue the judgment against the Estate once assets are  
(footnote continued)

1 render any Rule 68 penalties against an Estate in proceeding which were not before it which  
2 precipitated the penalties themselves. Once again, more misdirection by Plaintiffs' counsel.

3 Furthermore, Plaintiffs' reliance upon *Jacobson v. Estate of Clayton*, 121 Nev. 518, 119 P.3d  
4 132 (2005) is entirely misplaced as the facts and holding are completely inapplicable to this scenario.  
5 In *Jacobson*, plaintiff had a tort action against the decedent's estate. The Nevada Supreme Court  
6 revisited its 1969 decision in *Bodine v. Stinson*, 85 Nev. 657, 461 P.2d 868 (1969) in which the Court  
7 determined that the probate statutes of NRS Chapter 147 provide the statutory scheme for the  
8 administration of estates and must be followed in every case regardless of the existence of insurance.  
9 The import of *Jacobson* was the conclusion that *Bodine* was superseded by the Legislature's 1971  
10 amendment of NRS 140.040 to specifically allow suits against a special administrator, in place of  
11 probate proceedings, when the estate's sole asset is a liability insurance policy.

12 Plaintiffs' citation to *Jacobson* as standing for the proposition that probate procedures be  
13 followed first by filing a claim with the administrator<sup>11</sup> is not only inaccurate, but problematic. In the  
14 first place, Plaintiffs' citation within *Jacobson* is actually the *Jacobson* Court's quotation of the now  
15 overruled *Bodine* case. Second, this proceeding is not a lawsuit filed against the Estate. This is a  
16 penalty imposed upon the Estate by this Court for their rejection of a valid offer of judgment. Third,  
17 these proceedings are to ascertain the specific assets of the judgment debtors, nothing more at this  
18 point. Plaintiffs cite no authority indicating that this Court lacks jurisdiction to conduct the judgment  
19 debtors' examination of any Plaintiff, including the Estate. It is extremely disturbing that Plaintiffs'  
20 counsel's improper reliance and mischaracterization of *Jacobson* is being advanced to support his  
21 untenable position.

22 Moreover, counsel's reference to the Special Administrator being authorized to proceed  
23

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24 ascertained in these proceedings, a creditor's claim was filed with the Probate Court along with notice  
25 of entry of judgment from this Court (**collectively Exhibit E**). Given that this is a judgment obtained  
26 in district court, not subject to payment of an original claim against the Estate based upon the liability  
27 of a decedent before death, this filing was extraneous. To the extent that the Probate Court must be  
28 aware of any dissipation of Estate assets due to subsequently obtained judgments after death for issues  
arising after death, the Probate Court has been so notified.

<sup>11</sup> Plaintiffs' Motion, pp. 10-11

1 without bond refers solely to that individual's dispensation as to his personal liability for his actions  
2 on the Estate's behalf. The Probate Court's appointment of Mr. Powell without bond did not refer to  
3 his posting of an appeal bond on the Estate's behalf before his ability to pursue to that appeal of the  
4 motion to reconsider the imposition of Rule 68 penalties which form the basis of the judgment at  
5 issue.

### 6                   **3.       The Non-Estate Plaintiffs Remain Liable for Judgment**

7           Again, Plaintiffs' counsel employs the "think system" to the notion that the remaining  
8 individually named Plaintiffs have no liability here. He spends so much time trying to create a  
9 distraction regarding the Estate, he fails to address the simple notion that there are four individually  
10 named Plaintiffs against whom judgments have already been entered in their home counties.<sup>12</sup> For all  
11 of the reasons cited hereinabove, there is no excuse nor bar to collection of the judgment against each  
12 and every one of the Plaintiffs. Once again, they collectively rejected the offer of judgment made to  
13 each of them. As a result, they each remain liable for payment of the entire judgment, jointly and  
14 severally.

### 15           **C.       Fees and Costs Should Be Assessed Against Plaintiffs and Their Counsel**

16           EDCR 7.60 states in pertinent part:

17           **(a) If without just excuse or because of failure to give reasonable**  
18           **attention to the matter, no appearance is made on behalf of a party**  
19           **on the call of a calendar, at the time set for the hearing of any**  
              **matter, at a pre-trial conference, or on the date of trial, the court may**  
              **order any one or more of the following:**

20                   **(1) Payment by the delinquent attorney or party of**  
21                   **costs, in such amount as the court may fix, to the**  
                      **clerk or to the adverse party.**

22                   **(2) Payment by the delinquent attorney or party of the**  
23                   **reasonable expenses, including attorney's fees, to**  
                      **any aggrieved party.**

24                   **(3) Dismissal of the complaint, cross-claim, counter-**  
25                   **claim or motion or the striking of the answer and**  
26                   **entry of judgment by default, or the granting of the**  
                      **motion.**

27                   **(4) Any other action it deems appropriate, including,**

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28           <sup>12</sup> **Exhibit D**

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without limitation, imposition of fines.

(b) **The court may, after notice and an opportunity to be heard, impose upon an attorney or a party any and all sanctions which may, under the facts of the case, be reasonable, including the imposition of fines, costs or attorney's fees when an attorney or a party without just cause:**

- (1) Presents to the court a motion or an opposition to a motion which is obviously frivolous, unnecessary or unwarranted.**
- (2) Fails to prepare for a presentation.**
- (3) So multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.**
- (4) Fails or refuses to comply with these rules.**
- (5) Fails or refuses to comply with any order of a judge of the court.**

(emphasis supplied).

NRS § 7.085 states:

If a court finds that an attorney has:

(a) **Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith;**  
or

(b) **Unreasonably and vexatiously extended a civil action or proceeding before any court in this State,**

**the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.**

**2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations.** It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

(emphasis supplied).

1 NRS § 18.010 states in pertinent part:

2 1. The compensation of an attorney and counselor for his or her  
3 services is governed by agreement, express or implied, which is not  
restrained by law.

4 2. In addition to the cases where an allowance is authorized by specific  
5 statute, **the court may make an allowance of attorney's fees to a  
prevailing party:**

6 \* \* \*

7 **(b) Without regard to the recovery sought, when the court finds**  
8 **that the claim, counterclaim, cross-claim or third-party complaint**  
9 **or defense of the opposing party was brought or maintained**  
10 **without reasonable ground or to harass the prevailing party. The**  
11 **court shall liberally construe the provisions of this paragraph in**  
12 **favor of awarding attorney's fees in all appropriate situations.** It is  
13 the intent of the Legislature that the court award attorney's fees  
14 pursuant to this paragraph and impose sanctions pursuant to Rule 11 of  
the Nevada Rules of Civil Procedure in all appropriate situations to  
punish for and deter frivolous or vexatious claims and defenses  
because such claims and defenses overburden limited judicial  
resources, hinder the timely resolution of meritorious claims and  
increase the costs of engaging in business and providing professional  
services to the public.

15 3. In awarding attorney's fees, the court may pronounce its decision on  
16 the fees at the conclusion of the trial or special proceeding without  
written motion and with or without presentation of additional evidence

17 (emphasis supplied).

18 In imposing costs and fees on the offending counsel, the Court in *Berberich v. S. Highland*  
19 *Cnty. Ass'n*, 2019 Nev. Dist. LEXIS 130, \*11, Case No. A-16-731824-C, (Nev. Dist. Ct. January 29,  
20 2019) stated “NRS 7.085 essentially provides, where an attorney violates NRS 18.010(2), NRCP 11 or  
21 EDCR 7.60, the delinquent lawyer may be required to personally pay the additional costs, expenses  
22 and/or attorney's fees in all appropriate situations. Notably, as shown above, NRS 18.010(2)(b),  
23 EDCR 7.60 and NRS 7.085 do not require Defendants to be "prevailing parties" and attorneys' fees  
24 may be awarded without regard to the recovery sought.” “The statutes are clear—parties who bring  
25 and maintain an action without grounds shall have attorney fees imposed against them. We therefore  
26 reverse the district court's decision regarding attorney fees and remand for a determination of attorney  
27 fees pursuant to NRS 7.085.” *Lopez v. Corral*, Nos. 51541, 51972, 2010 Nev. LEXIS 69, at \*24, 2010  
28 WL 5541115 (Dec. 20, 2010). The Nevada Supreme Court also held that:



1 [t]he language of NRS 7.085 is straightforward. Subsection 1 of NRS  
2 7.085 provides that district courts "shall" hold attorneys "personally"  
3 liable for "additional costs, expenses and attorney's fees" under certain  
4 circumstances. If the statutory conditions are met, "the court shall"  
5 impose a sanction of taxable fees and costs "reasonably incurred  
6 because of such conduct." *Id.* With respect to "such conduct," the  
7 statute requires no more than what it states: in relevant part, that "a  
8 court find[] that an attorney has" (i) "[brought or] maintained ... a civil  
9 action" that (ii) either (a) "is not well-grounded in fact," (b) "is not  
10 warranted by existing law," or (c) "is not warranted ... by a[] [good  
11 faith] argument for changing the existing law." *See* NRS 7.085(1)(a).  
12 Subsection 2 requires Nevada courts to "liberally construe" subsection  
13 1 "in favor of awarding costs, expenses and attorney's fees *in all*  
14 *appropriate situations.*" NRS 7.085(2) (emphasis added).

15 *Washington v. AA Primo Builders, Ltd. Liab. Co.*, 440 P.3d 49 (Nev. 2019). As noted, NRS  
16 7.085 is non-discretionary. Upon a finding that any of the criteria of NRS 7.085 or EDCR 7.60 have  
17 been met, the Court is obligated to impose costs and sanctions.

18 As demonstrated above, it is uncontroverted that Plaintiffs' and their counsel defied multiple  
19 Court orders. They failed to produce materials ordered by September 14, 2022 directed at their  
20 respective assets. They failed to appear for a judgment debtors' examination on September 28, 2022  
21 as ordered by this Court. Despite having their counsel served with a copy of the motion for the  
22 judgment debtors examination, Plaintiffs and their counsel did absolutely nothing to seek a protective  
23 order, nor to stay the proceedings before any of the deadlines by which to comply had elapsed.  
24 Plaintiffs' counsel's sole communication in this regard was the aforementioned email at 2:21 the day before  
25 the scheduled hearing to advise that his clients would be defying this Court's order and not appear for  
26 the hearing, followed by his after business day filing the day before the scheduled hearing, his motion  
27 to stay these proceedings. When asked in open Court why he took no action on his clients' behalf,  
28 Plaintiffs' counsel had no valid excuse. He supplied no affidavits of his clients regarding their  
financial circumstances. He provided no evidence of anything. Instead, as he did in opposition to the  
summary judgment motion, he interposed his own beliefs and interpretations without any evidentiary  
substantiation whatsoever. As if that failure did not land him in enough trouble by having this case  
dismissed and subjecting his clients to the judgment now pending, the failure of the Court to impose  
sanctions, costs and fees on Plaintiffs' counsel emboldened the very behavior which brings this  
countermotion to bear. By failing to call out this behavior and impose the financial hardship on



1 Plaintiffs' counsel he so richly deserves by defying Court orders and engaging in baseless and  
2 unsupported motion practice, which itself attempts to mislead the Court as to the proper state of the  
3 law and the proceedings, it further encourages the very behavior which must be deterred. No longer  
4 should this attorney or any other be permitted to operate with impunity and continue to delay, harass  
5 and improperly utilize the legal system to the detriment of others. Plaintiffs and their counsel cost  
6 VHS money here, multiple times. Their conduct needs to be met with compensation for their actions  
7 upon a proper hearing at which evidence of the time spent preparing for the September 28, 2022  
8 hearing, preparing the application for same, and now preparing this opposition and countermotion and  
9 further attendance at the hearing of same should be paid for courtesy of Mr. Padda. Once he starts by  
10 paying for the trouble he precipitates, he will be deterred from creating it in the future.

11 The totality of this is conduct not only warrants the imposition of costs and fees, but it is also  
12 conduct to which this Court should refer Mr. Padda to Bar Counsel for disciplinary action.

13 DATED this 28<sup>th</sup> day of October, 2022

14 LEWIS BRISBOIS BISGAARD & SMITH LLP

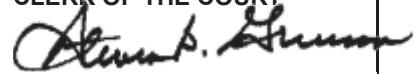
15 By /s/ Adam Garth  
16 S. BRENT VOGEL  
17 Nevada Bar No. 6858  
18 ADAM GARTH  
19 Nevada Bar No. 15045  
20 6385 S. Rainbow Boulevard, Suite 600  
21 Las Vegas, Nevada 89118  
22 Tel. 702.893.3383  
23 *Attorneys for Attorneys for Defendant Valley*  
24 *Health System, LLC dba Centennial Hills Hospital*  
25 *Medical Center*  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 28<sup>th</sup> day of October, 2022, a true and correct copy  
3 of **DEFENDANT/JUDGMENT CREDITOR VALLEY HEALTH SYSTEM, LLC'S**  
4 **OPPOSITION TO PLAINTIFFS' MOTION TO STAY EXECUTION ON JUDGMENT FOR**  
5 **ATTORNEYS' FEES AND COSTS INCLUDING STAY OF EXAMINATION OF JUDGMENT**  
6 **DEBTORS AND PRODUCTION OF DOCUMENTS AND COUNTERMOTION FOR**  
7 **CONTEMPT AND ATTORNEYS' FEES** was served by electronically filing with the Clerk of the  
8 Court using the Odyssey E-File & Serve system and serving all parties with an email-address on  
9 record, who have agreed to receive electronic service in this action.

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

18 By /s/ Sue Awe  
19 an Employee of  
20 LEWIS BRISBOIS BISGAARD & SMITH LLP  
21  
22  
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1 S. BRENT VOGEL  
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*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;  
UNIVERSAL HEALTH SERVICES, INC., a  
19 foreign corporation; DR. DIONICE S.  
JULIANO, M.D., an individual; DR.  
20 CONRADO C.D. CONCIO, M.D., an  
individual; DR. VISHAL S. SHAH, M.D., an  
21 individual; DOES 1-10; and ROES A-Z,;

22 Defendants.  
23

Case No. A-19-788787-C

Dept. No.: 30

**APPENDIX TO  
DEFENDANT/JUDGMENT CREDITOR  
VALLEY HEALTH SYSTEM, LLC'S  
OPPOSITION TO PLAINTIFFS'  
MOTION TO STAY EXECUTION ON  
JUDGMENT FOR ATTORNEYS' FEES  
AND COSTS INCLUDING STAY OF  
EXAMINATION OF JUDGMENT  
DEBTORS AND PRODUCTION OF  
DOCUMENTS AND COUNTERMOTION  
FOR CONTEMPT AND ATTORNEYS'  
FEES**

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**INDEX TO DEFENDANT'S APPENDIX**

<b>Exhibit</b>	<b>Document</b>	<b>Date</b>	<b>Page Nos.</b>
A	Ex Parte Application for Judgment Debtors Examination and Production of Documents	7/19/2022	1-66
B	Notice of Entry of Order on Order Directing Examination of Judgment Debtors and Production of Documents	08/19/2022	67-74
C	Email String Between Paul Padda and Adam Garth – Re: Estate of Rebecca Powell	9/27/2022	75-77
D	Judgments Entered Against Plaintiffs in Respective Jurisdictions	9/27/2022	78-210
E	Probate Court Claim	10/06/2022	211-213

DATED this 28<sup>th</sup> day of October, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

By /s/ Adam Garth

S. BRENT VOGEL

Nevada Bar No. 6858

ADAM GARTH

Nevada Bar No. 15045

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Tel. 702.893.3383

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

1 **CERTIFICATE OF SERVICE**

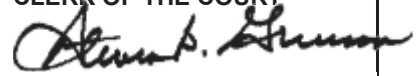
2 I hereby certify that on this 28<sup>th</sup> day of October, 2022, a true and correct copy of **APPENDIX**  
3 **TO DEFENDANT/JUDGMENT CREDITOR VALLEY HEALTH SYSTEM, LLC'S**  
4 **OPPOSITION TO PLAINTIFFS' MOTION TO STAY EXECUTION ON JUDGMENT FOR**  
5 **ATTORNEYS' FEES AND COSTS INCLUDING STAY OF EXAMINATION OF**  
6 **JUDGMENT DEBTORS AND PRODUCTION OF DOCUMENTS AND**  
7 **COUNTERMOTION FOR CONTEMPT AND ATTORNEYS' FEES** was served by  
8 electronically filing with the Clerk of the Court using the Odyssey E-File & Serve system and serving  
9 all parties with an email-address on record, who have agreed to receive electronic service in this  
10 action.

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

21 By /s/ Sue Awe  
22 an Employee of  
23 LEWIS BRISBOIS BISGAARD & SMITH LLP  
24  
25  
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27  
28

# EXHIBIT A



**EXPM**

S. BRENT VOGEL  
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*Attorneys for Defendant Valley Health System,  
LLC dba Centennial Hills Hospital Medical  
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 7

**EX PARTE APPLICATION FOR  
JUDGMENT DEBTORS EXAMINATION  
AND PRODUCTION OF DOCUMENTS**

Judgment Creditor, VALLEY HEALTH SYSTEM, LLC, applies to this Court for an Order  
setting and requiring Judgment Debtors, ESTATE OF REBECCA POWELL, through BRIAN  
POWELL, as Special Administrator, individually and as the representative or "person most  
knowledgeable", DARCI CREECY, TARYN CREECY, ISIAHA KHOSROF, and LLOYD

1 CREECY, to each appear and answer upon oath or affirmation questions concerning Judgment  
2 Debtors' assets, pursuant to NRS Chapter 21 and produce documents attendant thereto.

3 This Motion is based on the following Points and Authorities, and the pleadings and papers on  
4 file herein, and any oral argument permitted by this Court.

5 DATED this 19<sup>th</sup> day of July, 2022

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7 By /s/ Adam Garth  
8 S. BRENT VOGEL  
9 Nevada Bar No. 6858  
10 ADAM GARTH  
11 Nevada Bar No. 15045  
12 6385 S. Rainbow Boulevard, Suite 600  
13 Las Vegas, Nevada 89118  
14 Tel. 702.893.3383  
15 *Attorneys for Attorneys for Defendant Valley*  
16 *Health System, LLC dba Centennial Hills Hospital*  
17 *Medical Center*  
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1                    **DECLARATION OF ADAM GARTH, ESQ. IN SUPPORT OF MOTION FOR**  
2                    **EXAMINATION OF JUDGMENT DEBTORS**

3                    I, ADAM GARTH, ESQ. do declare under penalty of perjury as follows:

4                    1.        I am an attorney and partner with the law firm Lewis Brisbois Bisgaard & Smith LLP  
5 and am duly licensed in the State of Nevada.

6                    2.        I am an attorney of record representing Valley Health System, LLC ("Judgment  
7 Creditor") in the above entitled action, before Department 7 of the Eighth Judicial District Court for  
8 the State of Nevada, Case No. A-19-788787-C.

9                    3.        I make this Declaration in support of Judgment Creditor's Motion for Examination of  
10 Judgment Debtors.

11                   4.        I have personal knowledge of the facts contained herein and am competent to testify to  
12 these facts.

13                   5.        A judgment was entered in this action on June 7, 2022 in favor of the Judgment  
14 Creditor and against Plaintiffs Estate of Rebecca Powell, through Brian Powell as Special  
15 Administrator, Darci Creecy, Taryn Creecy, Isaiah Khosrof, and Lloyd Creecy (collectively  
16 "Judgment Debtors"), ordering them to pay the total sum of \$118,906.78 plus statutory interest  
17 accruing from the date of the Judgment.

18                   6.        As of this date, no portion of the Judgment has been satisfied and to my knowledge,  
19 Judgment Debtors have taken no action to satisfy the Judgment.

20                   7.        Attached hereto as **Exhibit A** is a true and correct copy of the June 7, 2022 Judgment  
21 with Notice of Entry thereof.

22                   8.        Attached hereto as **Exhibit B** is a true and correct copy of the proposed Order  
23 permitting the requested examination and production of materials.

24                   9.        This Motion has not been filed in bad faith, for the purpose of undue delay, or to harass  
25 the Judgment Debtors or their counsel.

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I declare under the penalty of perjury that the foregoing is true and correct.

Dated this the 19<sup>th</sup> day of July, 2022

/s/ Adam Garth

Adam Garth, Esq.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 A Judgment was entered against Judgment Debtors on June 7, 2022, in the amount of  
4 \$118,906.78 plus post judgment interest to run at the statutory rate, plus fees and costs in executing  
5 the judgment. As of the date of this application, no payments have been made by Judgment Debtors to  
6 satisfy this debt and Judgment Debtors have made no effort to pay the Judgment.

7 **II. LEGAL ARGUMENT**

8 **A. The Judgment Creditors Should be Permitted to Conduct Examination of the**  
9 **Judgment Debtors.**

10 “Nevada law provides procedures governing execution on a judgment, including proceeding  
11 supplementary to execution to aid the judgment creditor in collecting the judgment[.]” *Mona v. Eight*  
12 *Judicial Dist. Court*, 132 Nev. 719, 726, 380 P.3d 836 (2016) (citing NRS 21.010-.340) (citations  
13 omitted). “Under these procedures, a judgment creditor may conduct the examination of a judgment  
14 debtor at any time after the judgment is entered,”<sup>1</sup> subject to certain automatic stay procedures. *Id.*  
15 (citations omitted) (internal quotation marks omitted). Pursuant to NRS 21.270, any time after a  
16 judgment is entered, a Judgment Creditor is entitled to proceed with a court-ordered Judgment Debtor  
17 Examination. Specifically, NRS 21.270 states, in pertinent part, as follows:

- 18 1. A judgment creditor, at any time after the judgment is entered, is  
19 entitled to an order from the judge of the court requiring the  
20 judgment debtor to appear and answer upon oath or affirmation  
21 concerning his property, before:

- (a) The judge or a master appointed by him/her; or  
(b) An attorney representing the judgment creditor.<sup>2</sup>

22 The Nevada Supreme Court has explained that a “judgment creditor can, in a summary  
23 manner, compel the disclosure of any property belonging to the judgment debtor in the hands or under  
24 the control of any other person, and of any indebtedness due to the judgment debtor, and for this

25 <sup>1</sup> Judgments in Nevada are enforceable for six years. *See* NRS 11.190(1).

26 <sup>2</sup> Although the statute also permits the examination to be conducted by “[a]n attorney representing the  
27 judgment creditor,” Judgment Creditors request that this Court permit the examination to be  
28 conducted before this Court or a master appointed by the Court. *See* NRS 21.270(1)(b).

1 purpose great latitude is usually allowed.” *Hagerman v. Tong Lee*, 12 Nev. 331, 334 (1877); *see also*  
2 *Greene v. Eighth Judicial Dist. Ct.*, 115 Nev. 391, 396, 990 P.2d 184 (1999) (“Nevada law provides  
3 proceedings supplementary to execution[.]” in order to permit a judgment creditor “to protect and  
4 recover on a judgment.”) (citations omitted). Indeed, “[t]hese procedures have existed and been  
5 largely unchanged since Nevada became a state, and now, as then, ‘[t]he creditor is always entitled to  
6 prosecute the inquiry to such an extent as to enable him to ascertain the true condition of the property  
7 and business affairs of the judgment debtor.’” *Mona*, 132 Nev. at 726-27 (citation omitted); *see also*  
8 *Hagerman*, 12 Nev. at 334-35. “A judgment debtor who is regularly served with an order issued  
9 pursuant to [NRS 21.270], and who fails to appear at the time and place specified in the order, may be  
10 punished for contempt by the judge issuing the order.” NRS 21.270(3).

11 Pursuant to NRS 21.270, Judgment Creditor respectfully requests that this Court grant this  
12 Motion to allow it to determine the identity and extent of property and assets in the possession or  
13 control of the Judgment Debtors with which the Judgment may be satisfied. In this case, one judgment  
14 has been entered against Judgment Debtors Estate of Rebecca Powell, through Brian Powell as Special  
15 Administrator, Darci Creecy, Taryn Creecy, Isaiah Khosrof, and Lloyd Creecy attached hereto as  
16 **Exhibit A** with notice of entry thereof. To date, no part of the Judgment has been paid by Judgment  
17 Debtors. Accordingly, Judgment Creditor hereby requests this Court’s intervention to order the  
18 Judgment Debtors to: (1) appear for an examination to answer questions regarding the property and  
19 assets of each of the Judgment Debtors and (2) to produce the information and materials identified  
20 herein so that Judgment Creditor may identify property and assets so as to satisfy the Judgment.  
21 Judgment Creditor further respectfully requests that this Court order precluding the Judgment Debtors  
22 from selling, transferring, or otherwise disposing of any property or assets not exempt from execution  
23 pursuant to NRS 21.005, et seq. A proposed Order has been attached hereto. **See Exhibit B.**

24 **B. The Judgment Debtor Should be Ordered to Produce Documents and Things**  
25 **in Its Possession Relating to Its Respective Property and Assets Prior to Its**  
26 **Examination.**

27 The Nevada Supreme Court has made clear that “NRCp 69(a) also authorizes the judgment  
28 creditor to ‘obtain discovery from any person, including the judgment debtor, in the manner provided

1 in' the NRC[.]” *Mona*, 132 Nev. at 726 (citations omitted); *see also* NRC[.] 69(a) (“In aid of the  
2 judgment or execution, the judgment creditor . . . may obtain discovery from any person – including  
3 the judgment creditor – as provided in these rules or by state law.”). Rule 34 of the Nevada Rules of  
4 Civil Procedure permits a party to serve on another party requests for production of documents,  
5 electronically stored information, and tangible things so as to “permit the requesting party or its  
6 representative to inspect, copy, test, or sample” such items. NRC[.] 34(a)(1)(A)-(B). “The party to  
7 whom the request is directed must respond in writing within 30 days after being served[;]” however,  
8 “[a] shorter or longer time may be stipulated to under Rule 29 or be ordered by the court.” NRC[.]  
9 34(2)(A).

10 NRS 21.180 provides that “[a]ll goods, chattel, moneys and other property, real and personal,  
11 of the judgment debtor not exempt by law, and all property and rights of property seized and held  
12 under attachment in the action, shall be liable to execution.”

13 The Judgment Creditor therefore respectfully requests that this Court enter an Order requiring  
14 the Judgment Debtors to provide the following documents, electronically stored information, and  
15 tangible things to the Judgment Creditor at the law offices of **Lewis Brisbois Bisgaard & Smith**  
16 **LLP, located at 6385 S. Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118**, no later than  
17 **fourteen (14) days** prior to the date of the examinations so as to permit the Judgment Creditors to  
18 prepare for such examinations and to conduct them in the most efficient manner possible. Judgment  
19 Creditors further respectfully request that the Judgment Debtors be ordered to be prepared to discuss  
20 the below-listed documents, electronically stored information, and tangible things at the time of their  
21 respective examinations.

## 22 **Requests for Production to Each Judgment Debtor.**

### 23 *Instructions and Definitions.*

24 1. Each Judgment Debtor is instructed to respond to these Requests for Production  
25 separately and pursuant to Rule 34 of the Nevada Rule of Civil Procedure.

26 2. “You” and “Your” shall refer to and any past or present agents, attorneys, accountants,  
27 employees, representatives, or any other person or persons acting for, on behalf of, or in concert with  
28 Estate of Rebecca Powell, through Brian Powell as Special Administrator, Darci Creecy, Taryn

1 Creecy, Isaiah Khosrof, and/or Lloyd Creecy.

2       3.       “Document” or “documents” means any tangible thing upon which any expression,  
3 communication, representation, or data has been recorded by any means including, but not limited to,  
4 handwriting, typewriting, printing, photostating, photographing, on a computer, instant messages,  
5 magnetic impulse, or mechanical or electronic recording and any non-identical copies (whether  
6 different from the original because of notes made on such copies, because of indications that said  
7 copies were sent to different individuals than were the originals, or because of any other reason),  
8 including but not limited to working papers, preliminary, intermediate, or final drafts, correspondence,  
9 memoranda, charts, notes, records of any sort of meetings, invoices, financial statements, financial  
10 calculations, diaries, reports of telephone or other oral conversations, desk calendars, appointment  
11 books, audio or video tape recordings, microfilm, microfiche, computer tape, computer disk, computer  
12 printout, computer card, and all other writings and recordings of every kind that are in your actual or  
13 constructive possession, custody or control.

14       4.       “Referring to” or “relating to” means concerning, reflecting, discussing, referring or  
15 relating to, describing, evidencing, or constituting.

16       5.       The term “identify” when used with respect to a person, shall mean to provide: (a) his  
17 or her full name; (b) present (or last known) business and residence; (c) telephone numbers; (d) the  
18 name and address of his or her present (or last known) employer; and (e) his or her title or position  
19 with that employer.

20       6.       The term “identify” when used with respect to a document, shall mean to state: (a) the  
21 identity of each person who authored or prepared the document; (b) the identity of each person who  
22 signed it and in whose name it was issued; (c) the identity of each person to whom it was address or  
23 distributed; (d) its date; (e) its present location; (f) its substance; and (g) the identity of each person  
24 currently having custody or possession of it.

25       7.       Wherever used herein, the singular includes the plural and vice versa; the words “and”  
26 and “or” shall be both conjunctive and disjunctive; the words “all” and “any” shall mean “any and  
27 all”; the word “including” means “including without limitation.”

28       *Requests for Production.*

1 **REQUEST FOR PRODUCTION NO. 1:**

2 Any and all monthly statements, books of account, check books, records of wire transfers, cancelled  
3 checks and instruments of deposit and/or withdrawal for any accounts located at any financial or  
4 banking institution including, but not limited to, bank, savings and loan association, investment,  
5 brokerage, hedge fund, mutual fund, merchant bank, thrift and loan, credit union, mutual thrift, and  
6 virtual currency (including cryptocurrency) from January 1, 2017 to the present.

7 **REQUEST FOR PRODUCTION NO. 2:**

8 Any and all receipts for any and all safe-deposit boxes to which You have access, either directly or  
9 indirectly, or which contain property belonging to You our which is under Your control from January  
10 1, 2017 to the present.

11 **REQUEST FOR PRODUCTION NO. 3:**

12 Any and all deeds or other evidence of an ownership interest either directly, indirectly or beneficially  
13 by You in any real property in any location and at any time during the period from January 1, 2017 to  
14 the present.

15 **REQUEST FOR PRODUCTION NO. 4:**

16 Any and all property tax bills for any real property in which You have an ownership interest or in  
17 which You had an ownership interest, either directly or indirectly, at any location and at any time  
18 during the period from January 1, 2017 to the present.

19 **REQUEST FOR PRODUCTION NO. 5:**

20 Any and all mortgages or deeds of trust conveyed to You from which You derive a benefit of any  
21 nature whatsoever, or in which You had an interest, from January 1, 2017 to the present.

22 **REQUEST FOR PRODUCTION NO. 6:**

23 Any and all promissory notes, security agreements, guarantees, leases or other commercial paper in  
24 which You have an interest of any nature whatsoever or had an interest from January 1, 2017 to the  
25 present.

26 **REQUEST FOR PRODUCTION NO. 7:**

27 Any contracts or any other agreements entered into by You or in which You have an interest or from  
28 which You derive income from January 1, 2017 to the present.

**REQUEST FOR PRODUCTION NO. 8:**

Any and all stocks, bonds, securities, and security instruments owned by You directly, indirectly or beneficially or in which You have an interest or from which You derive a benefit from January 1, 2017 to the present.

**REQUEST FOR PRODUCTION NO. 9:**

Any and all Documents that reflect, refer, or relate to any interest, direct, indirect or beneficial You have in any corporation, partnership, limited liability company, joint venture or other entity from which You derive gain or expect to derive gain.

**REQUEST FOR PRODUCTION NO. 10:**

Any and all settlement agreements to which You are a party and which were entered into between January 1, 2017 to the present from which You received or are entitled to receive a benefit between January 1, 2017 and the present.

**REQUEST FOR PRODUCTION NO. 11:**

Any and all judgments entered in Your favor or in which You have an ownership interest from January 1, 2017 to the present.

**REQUEST FOR PRODUCTION NO. 12:**

Any and all contracts to which You are a party, including but not limited to, promissory notes, leases, security agreements, guarantees, rental agreements, leases, subleases, assignments, assumption agreements and any modifications thereto from January 1, 2017 to the present.

**REQUEST FOR PRODUCTION NO. 13:**

All financial statements either prepared by or for You for the period from January 1, 2017 to the present.

**REQUEST FOR PRODUCTION NO. 14:**

All applications for credit or loans of any kind either prepared by or for You for the period from January 1, 2017 to the present.

**REQUEST FOR PRODUCTION NO. 15:**

Any and all statements for all credit cards, debit cards, and cash cards held in Your name or issued to You or used by You or for Your benefit from January 1, 2017 to the present.



1 **REQUEST FOR PRODUCTION NO. 16:**

2 Any and all Documents that evidences any line(s) of credit, certificates of deposit, stocks, bonds or  
3 other security interests owned or held by You, or in which You have an interest either directly or  
4 indirectly from January 1, 2017 to the present.

5 **REQUEST FOR PRODUCTION NO. 17:**

6 Any and all Documents that reflect Your receipt either directly, indirectly or beneficially of rental  
7 income, dividend income, interest income, proceeds from sale of real or personal property, proceeds  
8 from sale of antiques, artifacts, paintings, jewelry and/or collectibles from January 1, 2017 to the  
9 present.

10 **REQUEST FOR PRODUCTION NO. 18:**

11 All Documents that reflect, refer or relate to all income received by or which You are entitled to  
12 receive from January 1, 2017 to the present, including, but not limited to, all state and federal tax  
13 returns (including all schedules and amendments thereto), W2s, K-1s, 1099s, pay stubs, and all  
14 Documents provided and received from all personal accountants for your yearly tax preparation and  
15 submission.

16 **REQUEST FOR PRODUCTION NO. 19:**

17 All Documents that reflect, refer or relate to any monetary and non-monetary obligations owed to You  
18 with a value in excess of \$20.00 from January 1, 2017 to the present, regardless of whether such  
19 obligations have been satisfied.

20 **REQUEST FOR PRODUCTION NO. 20:**

21 All Documents that reflect, refer or relate to all costs and expenses incurred by You for each month  
22 from January 1, 2017 to the present.

23 **REQUEST FOR PRODUCTION NO. 21:**

24 All insurance policies and other Documents that reflect, refer or relate to any insurance policy that  
25 You currently own, previously owned, and/or are or were a named insured or beneficiary from  
26 January 1, 2017 to the present.

27 **REQUEST FOR PRODUCTION NO. 22:**

28 Any and all information and documentation identifying all automobiles, cars, vans, trucks, sport utility

1 vehicles (SUVs), airplanes, motorcycles, side-by-sides, personal watercraft, boats, snowmobiles, all-  
2 terrain vehicles (ATVs), and any other vehicle owned by You, whether individually, jointly, or  
3 otherwise, and without regard to any liens or other encumbrances.

4 **REQUEST FOR PRODUCTION NO. 23:**

5 All forms, schedules, calculations, summaries, statements, petitions, and other documents submitted  
6 by You or on Your behalf to any bankruptcy court, along with any amendments or modification to the  
7 same, from January 1, 2019 to the present.

8 **III. CONCLUSION**

9 Based on the foregoing, Judgment Creditor respectfully request that this Court grant this  
10 Motion and enter an Order directing the Judgment Debtors to each appear before this Court (or before  
11 a master appointed by this Court) to answer questions under oath regarding their respective property  
12 and assets; to each produce the information and materials identified herein no later than fourteen (14)  
13 days prior to the examination hearing; and to prohibit the them from selling, transferring, or otherwise  
14 disposing of any property or assets not exempt from execution.

15 DATED this 19<sup>th</sup> day of July, 2022

16 LEWIS BRISBOIS BISGAARD & SMITH LLP

17 By /s/ Adam Garth

18 S. BRENT VOGEL

19 Nevada Bar No. 6858

20 ADAM GARTH

21 Nevada Bar No. 15045

22 6385 S. Rainbow Boulevard, Suite 600

23 Las Vegas, Nevada 89118

24 Tel. 702.893.3383

25 *Attorneys for Attorneys for Defendant Valley*

26 *Health System, LLC dba Centennial Hills Hospital*  
27 *Medical Center*  
28

1 **CERTIFICATE OF SERVICE**

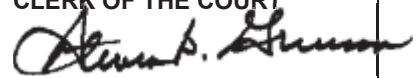
2 I hereby certify that on this 19<sup>th</sup> day of July, 2022, a true and correct copy of **EX PARTE**  
3 **APPLICATION FOR JUDGMENT DEBTORS EXAMINATION** was served by electronically  
4 filing with the Clerk of the Court using the Odyssey E-File & Serve system and serving all parties with  
5 an email-address on record, who have agreed to receive electronic service in this action.

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

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[bshipleyr@jhcottonlaw.com](mailto:bshipleyr@jhcottonlaw.com)  
*Attorneys for Defendants Dionice S. Juliano,*  
*M.D., Conrado Concio, M.D And Vishal S.*  
*Shah, M.D.*

14 By /s/ Heidi Brown  
15 an Employee of  
16 LEWIS BRISBOIS BISGAARD & SMITH LLP  
17  
18  
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# EXHIBIT A



**NJUD**  
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Telephone: 702.893.3383  
Facsimile: 702.893.3789  
*Attorneys for Defendant Valley Health System,  
LLC dba Centennial Hills Hospital Medical  
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF JUDGMENT**

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

5  
6 DATED this 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.  
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[bshipleyr@jhcottonlaw.com](mailto:bshipleyr@jhcottonlaw.com)  
*Attorneys for Defendants Dionice S. Juliano,*  
*M.D., Conrado Concio, M.D And Vishal S.*  
*Shah, M.D.*

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



**JUDG**  
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Adam.Garth@lewisbrisbois.com  
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Telephone: 702.893.3383  
Facsimile: 702.893.3789  
*Attorneys for Defendant Valley Health System,  
LLC dba Centennial Hills Hospital Medical  
Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

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

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

1 (Exhibit "C"),

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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

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

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

Dated this 2nd day of June, 2022

10  
11 \_\_\_\_\_  
12 DISTRICT COURT JUDGE

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

17 By /s/ Adam Garth  
18 S. BRENT VOGEL  
19 Nevada Bar No. 6858  
20 ADAM GARTH  
21 Nevada Bar No. 15045  
22 6385 S. Rainbow Boulevard, Suite 600  
23 Las Vegas, Nevada 89118  
24 Tel. 702.893.3383  
25 *Attorneys for Attorneys for Defendant Valley*  
26 *Health System, LLC dba Centennial Hills Hospital*  
27 *Medical Center*  
28

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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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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  
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12 Tel: 702.366.1888  
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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.**

PAUL PADDA LAW, PLLC

(702) 366-1888

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

~ ~



**Nevada Physical Office:**

4~6~ ~ ~ D~ ~ ~ r~ ~ ~ d~ ~ ~ 3~ ~  
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~ ~ ~ ~ ~ ~ ~ ~ 7~ ~ ~ 366~ ~ ~

**California Physical Office:**

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**Mailing Address For All Offices:**

4~3~ ~ ~ ~ ~ ~ ~ d~ ~ ~ 3~ ~ 37~ ~  
~ ~ ~ ~ ~ ~ ~ ~ d~ ~ ~ 7~ ~ 3



**PAUL PADDA LAW**

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

---

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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)

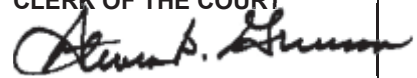
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[Representing clients from coast to coast. View our locations nationwide.](#)

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# EXHIBIT A



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

9  
10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

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

15 Plaintiffs,

16 vs.

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

22 Defendants.

Case No. A-19-788787-C

Dept. No. 30

**NOTICE OF ENTRY OF ORDER**

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

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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.  
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10 Tel: 702.366.1888  
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[bshipleyr@jhcottonlaw.com](mailto:bshipleyr@jhcottonlaw.com)  
*Attorneys for Defendants Dionice S. Juliano,  
M.D., Conrado Concio, M.D And Vishal S.  
Shah, M.D.*

14  
15 By /s/ Roya Rokni  
16 An Employee of  
17 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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*Alanna S. Smith*  
CLERK OF THE COURT

**ORDR**

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Nevada Bar No. 6858

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ADAM GARTH

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

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VALLEY HEALTH SYSTEM, LLC (doing  
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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; and ROES A-Z,;

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ///

27 ///

28 ///

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

4  
5 Dated: \_\_\_\_\_.

Dated this 19th day of November, 2021

  
DISTRICT COURT JUDGE

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

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

9  
10 \*UNSIGNED\*

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

20 DATED this 18<sup>th</sup> day of November, 2021

21 /s/ Brad Shipley

22 John H. Cotton, Esq.  
23 Brad Shipley, Esq.  
24 JOHN H. COTTON & ASSOCIATES  
25 7900 W. Sahara Ave., Suite 200  
26 Las Vegas, NV 89117  
27 Tel: 702.832.5909  
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[jhcotton@jhcottonlaw.com](mailto:jhcotton@jhcottonlaw.com)  
[bshipley@jhcottonlaw.com](mailto:bshipley@jhcottonlaw.com)  
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 <sri@paulpaddalaw.com>; Paul Padda <psp@paulpaddalaw.com>; Brad Shipley <bshipley@jhcottonlaw.com>  
**Cc:** Vogel, Brent <Brent.Vogel@lewisbrisbois.com>; Rokni, Roya <Roya.Rokni@lewisbrisbois.com>; Sirsy, Shady <Shady.Sirsy@lewisbrisbois.com>; San Juan, Maria <Maria.SanJuan@lewisbrisbois.com>; John Cotton <jhcotton@jhcottonlaw.com>  
**Subject:** FW: Adam Garth sent you "Powell v Valley - Proposed Order Vacating Prior MSJ and Ordering SJ on SOL"  
**Importance:** High

Counsel,

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

Adam Garth

~



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

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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@jhcottonlaw.com](mailto:bshipley@jhcottonlaw.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)>; [jhcotton@jhcottonlaw.com](mailto:jhcotton@jhcottonlaw.com)

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

**Importance:** High

Counsel:

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

Adam Garth

**Adam Garth**

**Partner**

— — — R —

7~ 6~ 3~433~ ~7~ 433~

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

---

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

---

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

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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

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One California Plaza  
300 South Grand Avenue, Suite 3840  
Los Angeles, California 90071  
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---

From: Garth, Adam <[Adam.Garth@lewisbrisbois.com](mailto: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@jhcottonlaw.com](mailto:bshipley@jhcottonlaw.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)>; [jhcotton@jhcottonlaw.com](mailto:jhcotton@jhcottonlaw.com)

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

**Importance:** High

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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](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@jhcottonlaw.com](mailto:bshipley@jhcottonlaw.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)>; [jhcotton@jhcottonlaw.com](mailto:jhcotton@jhcottonlaw.com)

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

**Importance:** High

Counsel:

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

Adam Garth

**Adam Garth**

Partner

7 6 3 433 7 433

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

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

CASE NO: A-19-788787-C

8 vs.

DEPT. NO. Department 30

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

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 11/19/2021

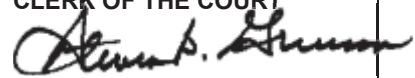
16 Paul Padda	psp@paulpaddalaw.com
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19 Jessica Pincombe	jpinnacle@jhcottonlaw.com
20 John Cotton	jhcotton@jhcottonlaw.com
21 Paul Padda	civil@paulpaddalaw.com
22 Brad Shipley	bshipley@jhcottonlaw.com
23 Tony Abbatangelo	Tony@thevegaslawyers.com
24 Adam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

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Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
Maria San Juan	maria.sanjuan@lewisbrisbois.com
Karen Cormier	karen@paulpaddalaw.com

# EXHIBIT B



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3 Nevada Bar No. 15045  
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4 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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5 Las Vegas, Nevada 89118  
Telephone: 702.893.3383  
6 Facsimile: 702.893.3789  
*Attorneys for Defendant Valley Health System,  
7 LLC dba Centennial Hills Hospital Medical  
Center*  
8

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA  
11

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

15 Plaintiffs,

16 vs.  
17

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

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.

27 ///

28 ///



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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*

1 **CERTIFICATE OF SERVICE**

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

6 Paul S. Padda, Esq.  
7 PAUL PADDALAW, PLLC  
8 4560 S. Decatur Blvd., Suite 300  
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10 Tel: 702.366.1888  
11 Fax: 702.366.1940  
12 [psp@paulpaddalaw.com](mailto:psp@paulpaddalaw.com)  
13 *Attorneys for Plaintiffs*

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Brad Shipley, Esq.  
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[bshipleyr@jhcottonlaw.com](mailto:bshipleyr@jhcottonlaw.com)  
*Attorneys for Defendants Dionice S. Juliano,*  
*M.D., Conrado Concio, M.D And Vishal S.*  
*Shah, M.D.*

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

*Heather S. Smith*  
CLERK OF THE COURT

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

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

Plaintiffs,

vs.

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

Defendants.

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

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

**INTRODUCTION**

The above-referenced matter was scheduled for a hearing on ~~3/30/22~~ <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 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

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26 \_\_\_\_\_

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

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

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

CASE NO: A-19-788787-C

8 vs.

DEPT. NO. Department 30

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

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 5/4/2022

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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-19-788787-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:.

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PAUL PADDA LAW, PLLC  
4560 S. Decatur Blvd., Suite 300  
Las Vegas, NV 89103  
Tel: 702.366.1888  
Fax: 702.366.1940  
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**Attorneys for Plaintiffs**

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

1 **CSERV**

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

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

CASE NO: A-19-788787-C

8 vs.

DEPT. NO. Department 30

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

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

15 Service Date: 6/2/2022

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Shelbi Schram	shelbi@paulpaddalaw.com
Heidi Brown	Heidi.Brown@lewisbrisbois.com

# EXHIBIT B

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

9  
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; ISIAH 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.: 7

**ORDER DIRECTING EXAMINATION OF  
JUDGMENT DEBTORS AND  
PRODUCTION OF DOCUMENTS**

30 After having reviewed the Judgment Creditor's Motion for Examination of Judgment  
31 Debtors and good cause otherwise appearing:

32 IT IS HEREBY ORDERED that Judgment Debtors Estate of Rebecca Powell, through Brian  
33 Powell as Special Administrator, Darci Creecy, Taryn Creecy, Isaiah Khosrof, and Lloyd Creecy

1 shall each appear before this Court located at \_\_\_\_\_ on \_\_\_\_\_  
2 beginning at \_\_\_\_\_ and on such further days as the Court shall determine, if  
3 necessary, to then and there answer upon oath concerning their respective property and assets as  
4 identified in the Judgment Creditor's Ex Parte Examination of Judgment Debtors. The Judgment  
5 Debtors are hereby forbidden in the meantime from selling, transferring, or otherwise disposing of  
6 any property or assets not exempt from execution pursuant to NRS 21.005, *et seq.*

7 IT IS HEREBY FURTHER ORDERED that Judgment Debtors Estate of Rebecca Powell,  
8 through Brian Powell as Special Administrator, Darci Creecy, Taryn Creecy, Isaiah Khosrof, and  
9 Lloyd Creecy shall each individually respond to each of the Requests for Production set forth in  
10 Judgment Creditor's Ex Parte Application for Examination of Judgment Debtors and shall produce  
11 the requested information, documents, and other materials **no later than fourteen (14) days** prior  
12 to the date of the examination as set forth herein. The information, documents, and other materials  
13 shall be produced to the law offices of **Lewis Brisbois Bisgaard & Smith LLP, located at 6385 S.**  
14 **Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118.**

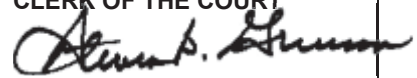
15 Failure to produce the requested materials or failure to appear for the examination at the  
16 dates and times specified above may result in an Order to Show Cause being issued.

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

18  
19 \_\_\_\_\_  
20 **DISTRICT COURT JUDGE**  
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# EXHIBIT B





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

9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA  
11

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

16 Plaintiffs,

17 vs.

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

23 Defendants.  
24  
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Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF ORDER**

1 PLEASE TAKE NOTICE that the Order Directing Examination of Judgment Debtors and  
2 Production of Documents was entered on August 18, 2022, a true and correct copy of which is  
3 attached hereto.

4 DATED this 19<sup>th</sup> day of August, 2022

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6 By /s/ Adam Garth

7 S. BRENT VOGEL

8 Nevada Bar No. 6858

9 ADAM GARTH

10 Nevada Bar No. 15045

11 6385 S. Rainbow Boulevard, Suite 600

12 Las Vegas, Nevada 89118

13 Tel. 702.893.3383

14 *Attorneys for Attorneys for Defendant Valley*

15 *Health System, LLC dba Centennial Hills Hospital*

16 *Medical Center*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 19<sup>th</sup> day of August, 2022, a true and correct copy of **NOTICE**  
3 **OF ENTRY OF ORDER** was served by electronically filing with the Clerk of the Court using the  
4 Odyssey E-File & Serve system and serving all parties with an email-address on record, who have  
5 agreed to receive electronic service in this action.

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

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

14  
15  
16 By /s/ Heidi Brown  
17 an Employee of  
18 LEWIS BRISBOIS BISGAARD & SMITH LLP  
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*Heather S. Smith*  
CLERK OF THE COURT

**ORDJ**

S. BRENT VOGEL

Nevada Bar No. 6858

Brent.Vogel@lewisbrisbois.com

ADAM GARTH

Nevada Bar No. 15045

Adam.Garth@lewisbrisbois.com

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Telephone: 702.893.3383

Facsimile: 702.893.3789

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 7

**ORDER DIRECTING EXAMINATION OF  
JUDGMENT DEBTORS AND  
PRODUCTION OF DOCUMENTS**

After having reviewed the Judgment Creditor's Motion for Examination of Judgment Debtors and good cause otherwise appearing:

IT IS HEREBY ORDERED that Judgment Debtors Estate of Rebecca Powell, through Brian Powell as Special Administrator, Darci Creecy, Taryn Creecy, Isaiah Khosrof, and Lloyd Creecy

1 shall each appear before this Court located at \_\_\_\_\_ in Courtroom 5B of the \_\_\_\_\_ on Wednesday,  
2 beginning at 9:00 am \_\_\_\_\_ and on such further days as the Court shall determine, if  
3 necessary, to then and there answer upon oath concerning their respective property and assets as  
4 identified in the Judgment Creditor's Ex Parte Examination of Judgment Debtors. The Judgment  
5 Debtors are hereby forbidden in the meantime from selling, transferring, or otherwise disposing of  
6 any property or assets not exempt from execution pursuant to NRS 21.005, *et seq.*

7 IT IS HEREBY FURTHER ORDERED that Judgment Debtors Estate of Rebecca Powell,  
8 through Brian Powell as Special Administrator, Darci Creecy, Taryn Creecy, Isaiah Khosrof, and  
9 Lloyd Creecy shall each individually respond to each of the Requests for Production set forth in  
10 Judgment Creditor's Ex Parte Application for Examination of Judgment Debtors and shall produce  
11 the requested information, documents, and other materials **no later than fourteen (14) days** prior  
12 to the date of the examination as set forth herein. The information, documents, and other materials  
13 shall be produced to the law offices of **Lewis Brisbois Bisgaard & Smith LLP, located at 6385 S.**  
14 **Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118.**

15 Failure to produce the requested materials or failure to appear for the examination at the  
16 dates and times specified above may result in an Order to Show Cause being issued.

17 DATED this \_\_\_\_ day of \_\_\_\_\_, 2022. Dated this 18th day of August, 2022

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\_\_\_\_\_  
DISTRICT COURT JUDGE

FC8 154 0748 30FD  
Linda Marie Bell  
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 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 for Examination of Judgment Debtor was served via the court's  
15 electronic eFile system to all recipients registered for e-Service on the above entitled case as  
16 listed below:

17 Service Date: 8/18/2022

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

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

# EXHIBIT C



From: [Paul Padda](#)  
To: [Garth, Adam](#); [Srilata Shah](#); [Vogel, Brent](#)  
Cc: [Lani Esteban-Trinidad](#)  
Subject: [EXT] Re: Estate of Rebecca Powell  
Date: Tuesday, September 27, 2022 2:21:00 PM  
Attachments: [image001.png](#)

---



Dear Messrs. Vogel and Garth,

I am writing to advise that none of the respondents in your Judgment Debtor proceeding will be able to appear tomorrow. As you know, they have very limited financial means and are unable to travel to Las Vegas. In fact, to my knowledge, they haven't stepped foot in Nevada since the passing of Rebecca Powell. I am providing this in advance to avoid any inconvenience. I will also be seeking relief from the Court regarding the same.

Regards,  
Paul Padda

**Paul S. Padda, Esq.**

PAUL PADDALAW, PLLC  
(702) 366-1888  
[paulpaddalaw.com](http://paulpaddalaw.com)

**Nevada Physical Office:**

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

**California Physical Office:**

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

**Mailing Address For All Offices:**

4030 South Jones Blvd., Unit 30370  
Las Vegas, Nevada 89173



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

destroy this communication, any attachments, and all copies thereof. Thank you for your cooperation.

# EXHIBIT D

NOTICE TO JUDGMENT DEBTOR PURSUANT TO OH. REV. CODE § 2716.031

TO: Lloyd Creecy  
(Name of Judgment Debtor)

You are hereby notified that the judgment creditor in this proceeding has issued an affidavit of current balance due on garnishment order in the above-referenced case in the Lorain County Court of Common Pleas. The “Affidavit Of Current Balance Due” on the proceeding page shows the original amount of the judgment that was the basis of the garnishment order, the accrued interest to date, the court costs assessed to date, all moneys paid the judgment creditor and the judgment creditor’s attorney on the judgment to date, and the current balance due on the judgment.

If you dispute the judgment creditor’s determination of these amounts or if you believe that this affidavit is improper for any other reason, you may request a hearing before this court by disputing the affidavit in the Request for Hearing Form, contained in this packet, and delivering the Request for Hearing Form to this court at the address listed on the Form no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor’s determination of the amounts shown in the affidavit of current balance due in the space provided on the Form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor’s determination, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** The hearing will be limited to a consideration of the amount currently due on the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing not later than the end of the fifth business day after you receive this notice, the court will conduct the hearing no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing not later than the end of the fifth business day after you receive this notice, some of your personal earnings will continue to be paid to the judgment creditor until the judgment is satisfied.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. However, be advised that the clerk’s office cannot provide you with legal advice. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, you should contact the lawyer referral service through the local bar association.

Emily Davis  
(Attorney for Judgment Creditor or Judgment Creditor)

September 27, 2022  
(Date)

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lloyd Creevy  
11872 Robeson Road  
Grafton, OH 44094



9590 9402 6688 1060 3222 64

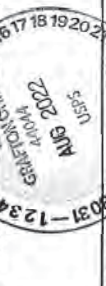
2. Article Number (Transfer from service label)

7017 3040 0000 5325 0449

PS Form 3811, July 2020 PSN 7530-02-000-9003

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature ☒ Agent ☐ Addressee
- B. Received by ☒ Printed Name ☐ Date of Delivery
- C. Date of Delivery
- D. Is delivery address different from item 1? ☒ Yes ☐ No
- If YES, delivery address is:



3. Service Type
- ☒ First Class ☐ Express®
- ☒ Signature Required ☐ Registered Mail®
- ☒ Registered Mail Restricted Delivery®
- ☒ Certified Mail®
- ☒ Signature Confirmation®
- ☒ Collect on Delivery
- ☒ Collect on Delivery Restricted Delivery
- ☒ Mail Restricted Delivery

Domestic Return Receipt

USPS TRACKING #



950 9402 6688 1060 3222 64

United States  
Postal Service

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box\*

Lewis Brisbois Bisgaard & Smith LLP  
1375 E. 9th Street, Suite 7250  
Cleveland, OH 44114

Rowell (EAD)

ATTN: JJ





Emily Davis  
1375 E. 9<sup>th</sup> Street, Suite 2250  
Cleveland, Ohio 44114  
Emily.Davis@lewisbrisbois.com  
Direct: 216.586.8823

August 9, 2022

Lloyd Creecy  
11872 Robson Road  
Grafton, OH 44044-9162

Re: Valley Health System, LLC v. Darci Creecy  
Our File No.: 28094.190

Dear Mr. Creecy:

Enclosed is the Notice of Court Proceeding to Collect debt for your signature. Please review and complete the second page, Payment to Avoid Garnishment and sign.

Once completed and signed on the line stating (Signature of Judgment Debtor), and kindly return to me in the self-addressed stamped envelope.

Thank you for your assistance. If you have any questions or concerns, please contact me at (216) 586-8823 or Emily.Davis@lewisbrisbois.com.

Very truly yours,

*/s/ Emily H. Davis*

Emily H. Davis for  
LEWIS BRISBOIS BISGAARD & SMITH LLP

EHD:js  
Enclosures  
cc: Adam Garth, Esquire



## NOTICE OF COURT PROCEEDING TO COLLECT DEBT

To: Lloyd Creecy

(Name of Judgment Debtor)

11872 Robeson Road, Grafton, OH 44044

(Last Known Residence Address of Judgment Debtor)

You owe the undersigned Valley Health System, LLC \$ 118,906.78, including interest and court costs, for which a judgment was obtained against you or certified in the  
(Name of Judgment Creditor)

Court on July 22, 2022, payment of which is hereby demanded.  
(Date)

If you do not do one of the three things listed below within fifteen days of the date of the mailing of this notice or of its service by the court, we will go to court, unless we are otherwise precluded by law from doing so, and ask that your employer be ordered to withhold money from your earnings until the judgment is paid in full or, if applicable, is paid to a certain extent and to pay the withheld money to the court in satisfaction of your debt. This is called garnishment of personal earnings.

It is to your advantage to avoid garnishment of personal earnings because the placing of the extra burden on your employer possibly could cause you to lose your job.

YOU CAN AVOID THE GARNISHMENT BY DOING ONE OF THESE THREE THINGS WITHIN THE FIFTEEN-DAY PERIOD:

- (1) Pay to us the amount due;
- (2) Complete the attached form entitled "Payment to Avoid Garnishment" and return it to us with the payment, if any, shown due on it; or
- (3) Apply to your local municipal or county court or, if you are not a resident of Ohio, to the municipal or county court in whose jurisdiction your place of employment is located, for the appointment of a trustee to receive the part of your earnings that is not exempt from garnishment, and notify us that you have applied for the appointment of a trustee. You will be required to list your creditors, the amounts of their claims, and the amounts due on their claims, and the amount you then will pay to your trustee each payday will be divided among them until the debts are paid off. This can be to your advantage because in the meantime none of those creditors can garnish your wages.

You also may contact a budget and debt counseling service described in division (D) of section 2716.03 of the Revised Code for the purpose of entering into an agreement for debt scheduling. There may not be enough time to set up an agreement for debt scheduling in order to avoid a garnishment of your wages based upon this demand for payment, but entering into an agreement for debt scheduling might protect you from future garnishments of your wages. Under an agreement for debt scheduling, you will have to regularly pay a portion of your income to the service until the debts subject to the agreement are paid off. This portion of your income will be paid by the service to your creditors who are owed debts subject to the agreement. This can be to your advantage because these creditors cannot garnish your wages while you make your payments to the service on time.

Valley Health System, LLC

(Name of Judgment Creditor)

  
(Signature of Judgment Creditor or Agent)

367 South Gulph Road, King of Prussia, PA 19406

(Address of Judgment Creditor)



## PAYMENT TO AVOID GARNISHMENT

To:

Valley Health System, LLC  
367 South Gulph Road, King  
of Prussia, PA 19406

Judgment Creditor Name and Address

To avoid the garnishment of personal earnings of which you have given me notice, I enclose \$ \_\_\_\_\_ to apply toward my indebtedness to you. The amount of the payment was computed as follows:

- (1) Total amount of indebtedness demanded: \$ 118,906.78
- (2) Enter the amount of your personal earnings, after deductions required by law, earned by you during the current pay period (that is, the pay period in which this demand is received by you): \$ \_\_\_\_\_
- (3) a. Enter your pay period (circle one):  
☒ Weekly ☐ Biweekly ☐ Semimonthly ☐ Monthly
- b. Enter the date when your present pay period ends: \_\_\_\_\_
- (4) Enter an amount equal to 25% of the amount on line (2): \$ \_\_\_\_\_
- (5) a. The current federal minimum hourly wage is \$ \_\_\_\_\_ (to be filled in by Judgment Creditor) (You should use the above figure to complete this portion of the form.) If you are paid weekly, enter thirty times the current federal minimum hourly wage; if paid biweekly, enter sixty times the current federal minimum hourly wage; if paid semimonthly, enter sixty-five times the current federal minimum hourly wage; if paid monthly, enter one hundred thirty times the current federal minimum hourly wage: \$ \_\_\_\_\_
- b. Enter the amount by which the amount on line (2) exceeds the amount on line 5(A): \$ \_\_\_\_\_
- (6) Enter the smallest of the amounts on line (1), (4), or 5(B). Send this amount to the judgment creditor along with this form after you have signed it: \$ \_\_\_\_\_

I certify that the statements contained above are true to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of Judgment Debtor)

\_\_\_\_\_  
Judgment Debtor Name and Residence Address

TO VERIFY THAT THE AMOUNT SHOWN ON LINE (2) IS A TRUE STATEMENT OF YOUR EARNINGS, YOU MUST **EITHER** HAVE YOUR EMPLOYER CERTIFY BELOW THAT THE AMOUNT SHOWN ON LINE (2) IS A TRUE STATEMENT OF YOUR EARNINGS **OR** YOU MAY SUBMIT COPIES OF YOUR PAY STUBS FOR THE TWO PAY PERIODS IMMEDIATELY PRIOR TO YOUR RECEIVING THIS NOTICE.

I certify that the amount shown on line (2) is a true statement of the judgment debtor's earnings.

I certify that I have attached copies of my pay stubs for the two pay periods immediately prior to my receiving this notice.

\_\_\_\_\_  
(Print Name of Employer)

\_\_\_\_\_  
(Signature of Judgment Debtor)

\_\_\_\_\_  
(Signature of Employer or Agent)

NOTICE TO JUDGMENT DEBTOR PURSUANT TO OH. REV. CODE § 2716.06  
(DELIVERED BY EMPLOYER TO EMPLOYEE)

TO THE JUDGMENT DEBTOR: Lloyd Creecy CASE NUMBER: 22CV206538

You are hereby notified that this court has issued an order in the above case in favor of:

Valley Health System, LLC, 367 South Gulph Road, King of Prussia, PA, 19406

(Name and address of judgment creditor)

the judgment creditor in this proceeding, directing that some of your personal earnings be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in the following court:

Clark County District Court of Nevada in case no. A-19-788787-C

on June 7, 2022 .  
(Date)

The law of Ohio provides that you are entitled to keep a certain amount of your personal earnings free from the claims of creditors. Additionally, wages under a certain amount may never be used to satisfy the claims of creditors. The documents entitled "ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER (GARNISHEE)" that are enclosed with this notice show how the amount proposed to be taken out of your personal earnings was calculated by your employer.

If you dispute the judgment creditor's right to garnish your personal earnings and believe that you are entitled to possession of the personal earnings because they are exempt, or you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, enclosed in this packet, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your personal earnings in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING. The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing form no later than the end of the fifth business day after you receive this notice, it will be conducted no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate on the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing form no later than the end of the fifth business day after you receive this notice, some of your personal earnings will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. However, be advised that the clerk's office cannot provide you with legal advice. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, you may wish to contact the lawyer referral service through the local bar association.

TOM ORLANDO, CLERK OF COURT

BY: \_\_\_\_\_  
DEPUTY CLERK

\_\_\_\_\_  
DATE

**CUYAHOGA COUNTY AFFIDAVIT & ORDER & NOTICE OF GARNISHMENT OF PERSONAL EARNINGS & ANSWER OF EMPLOYER**  
CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
<http://coc.cuyahogacounty.us/>

Valley Health System, LLC  
367 South Gulph Road  
King of Prussia, PA 19406

CREDITOR  
(ADDRESS)

CASE NO. CV22966476

DOCKET NO. \_\_\_\_\_

Darci Creecy  
13613 Woodward Boulevard  
Garfield Hts., OH 44125

V.  
DEBTOR  
(ADDRESS)

**STATE OF OHIO, COUNTY OF CUYAHOGA, ss:** The undersigned, being first duly cautioned, sworn or affirmed according to law, says that I am attorney/judgment creditor who recovered or certified a judgment in this court against above named judgment debtor. The garnishee named below may be an employer of the judgment debtor and may have personal earnings owing to the judgment debtor. Written demand on judgment debtor, per § 2716.02 ORC, has been made at least 15 and not more than 45 days before this date. Payment demanded in the written demand has not been made, nor has a sufficient portion been made to prevent the garnishment of personal earnings described in such section. Affiant has no knowledge if the judgment debtor has applied for trusteeship or is the subject of a debt scheduling agreement, either of which precludes the garnishment of judgment debtor's personal earnings.

Emily Davis, Esq. (0100237)  
Lewis Brisbois Bisgaard & Smith  
1375 E 9th Street, Suite 2250  
Cleveland, OH 44114

ATTORNEY FOR  
JUDGMENT CREDITOR  
(INCLUDE FIRM ADDRESS AND REGISTRATION NO.)

\_\_\_\_\_  
Signature: Judgment Creditor/Attorney

Sworn to & Subscribed to me on \_\_\_\_\_

\_\_\_\_\_  
Signature: Notary Public

**SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT**

Garnishee:

The judgment creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this court stating that you may owe the judgment debtor money for personal earnings.

You are therefore ordered to complete the "ANSWER OF EMPLOYER (GARNISHEE)" in section B of this form.

Return one completed and signed copy of this form to the clerk of this court within five (5) business days after you

receive this order of garnishment. Deliver one completed and signed copy of this form and the accompanying documents entitled "NOTICE TO THE JUDGMENT DEBTOR" and "REQUEST FOR HEARING" to the judgment debtor. Keep the other completed and signed copy of this form for your files.

1. The UNPAID PORTION OF THE JUDGMENT amounts to: \$ \_\_\_\_\_
2. Plus INTEREST TO DATE (interest rate = \_\_\_\_%) + \$ \_\_\_\_\_
3. Plus UNPAID COURT COSTS amount to: + \$ \_\_\_\_\_
4. Minus AMOUNT PAID on judgment, costs, and interest - \$ \_\_\_\_\_
5. AMOUNT NOW DUE = \$ \_\_\_\_\_

This garnishment order of personal earnings is a continuous order requiring you to withhold a specified amount, calculated during each pay period at the statutory percentage, of the debtor's personal disposable earnings as determined in accordance with the Interim/Final Report & Answer of Garnishee, from the debtors personal, disposable earnings during each pay period beginning with the first full pay period after you receive the order, until the judgment, court costs, and all applicable interest has been paid in full. **You must pay that specified amount, calculated each pay period at the statutory percentage, to the clerk of this court within 30 days after the end of each pay period of the debtor. You must include with that specified amount an Interim/Final Report & Answer of Garnishee in the form set forth in 2716.07 ORC (form enclosed).** Use a new photocopy with each payment. You are permitted to deduct a processing fee (not part of the court costs) of up to \$3.00 from the debtor's personal, disposable earnings for any pay period of the debtor where an amount was withheld. You are not required to file with the court the Interim/Final Report and Answer of Garnishee for any pay period in which an amount from the debtor's personal, disposable earnings was not withheld.

This garnishment of personal earnings will remain in effect until one of the following occur:

- (1) The total probable amount due on the judgment is paid in full due to your withholding of the specified amount.
- (2) The creditor/attorney files with this court a written notice that the total probable amount due on the judgment has been satisfied; or files a written request to terminate and release this garnishment order, releasing you from the mandate of this garnishment.
- (3) A municipal or county court appoints a trustee for the debtor and issues to you an order that stays this garnishment order.
- (4) A federal bankruptcy court issues to you an order that stays this garnishment order of personal earnings.
- (5) A municipal, county, or a common pleas court issues to you a garnishment order of personal earnings that relates to the debtor and a different creditor, and Ohio or federal law provides the other order with a higher priority than this order.
- (6) A municipal, county, or a common pleas court issues to you a garnishment order of personal earnings that relates to the debtor and a different creditor that does not have a higher priority than this order.

Under any of the circumstances listed, you are required to file with this court an Interim/Final Report & Answer of Garnishee per § 2716.08 ORC. Under the circumstances listed in 5 & 6 above, you must cease processing this garnishment after the expiration of the full pay period within which the 182nd day after you began processing it falls. Special stacking, priority of payment, and manner of payment rules apply when a garnishee receives multiple garnishment orders with respect to the same debtor. Familiarize yourself with the rules are set forth in § 2716.041 ORC.

Witness My Hand & Seal of This Court On Today's Date \_\_\_\_\_

\_\_\_\_\_  
ADMINISTRATIVE AND PRESIDING JUDGE BRENDAN J. SHEEHAN



CUYAHOGA COUNTY AFFIDAVIT & ORDER & NOTICE OF GARNISHMENT OF PERSONAL EARNINGS & ANSWER OF EMPLOYER  
CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
<http://coc.cuyahogacounty.us/>

Valley Health System, LLC CREDITOR

Case No. CV22966476

VS.

Darci Creecy DEBTOR

THIS COMMUNICATION  
IS FROM A DEBT COLLECTOR

**SECTION B. ANSWER OF EMPLOYER (GARNISHEE).** ANSWER ALL PERTINENT QUESTIONS. An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the judgment debtor. Complete and return a signed copy of this page to the above listed address.

Now comes \_\_\_\_\_, the employer (garnishee) herein, who says:

1. This order of garnishment of personal earnings was received on \_\_\_\_\_

2. The judgment debtor is in my/our employ: YES/NO (IF "YES" COMPLETE REMAINDER OF SECTION B AND THE INTERIM/FINAL REPORT FORM)

If answer is "No," give date of last employment: \_\_\_\_\_

If never employed here check here: ☐

3. (A) Is the debt to which this order of garnishment of personal earnings pertains the subject of an existing agreement for debt scheduling between the judgment debtor and a budget and debt counseling service and has the judgment debtor made every payment that was due under the agreement for debt scheduling no later than forty-five days after the date on which the payment was due?

☐ YES

☐ NO

If the answer to both parts of this question is "Yes," give all available details of the agreement, sign this form, and return it to the court.

\_\_\_\_\_

(B) Were you, on the date that you received this order of garnishment of personal earnings, withholding moneys from the judgment debtor's personal disposable earnings pursuant to another order of garnishment of personal earnings that Ohio or federal law provides with a higher priority than this order of garnishment of personal earnings (such as a support order or Internal Revenue service Service levy)?

☐ YES

☐ NO

If the answer to this question is "Yes," give the name of the court that issued the higher priority order, the associated case number, the date upon which you received that order, and the balance due to the relevant judgment creditor under that order.

\_\_\_\_\_

(C) Did you receive prior to the date that you received this order of garnishment of personal earnings one or more other orders of garnishment of personal earnings that are not described in question 3(B), and are you currently processing one or more of those orders for the statutorily required time period or holding one or more of those orders for processing for a statutorily required period in the sequence of their receipt by you?

☐ YES

☐ NO

If the answer to this question is "Yes," give the name of the court that issued each of those previously received orders, the associated case numbers, the date upon which you received each of those orders, and the balance due to the relevant judgment creditor under each of those orders. List first the previously received order(s) that you are currently processing, and list each of the other previously received orders in the sequence that you are required to process them.

\_\_\_\_\_

I certify that the statements above are true.

(Print Name of Employer)

(Print Name and Title of Person Who Completed Form on behalf of the Employer)

Dated \_\_\_\_\_

(Signature of Employer or Employer's Agent)

**CUYAHOGA COUNTY AFFIDAVIT & ORDER & NOTICE OF GARNISHMENT OF PERSONAL EARNINGS & ANSWER OF EMPLOYER**  
CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
<http://coc.cuyahogacounty.us/>

Valley Health System, LLC  
367 South Gulph Road  
King of Prussia, PA 19406

CREDITOR  
(ADDRESS)

CASE NO. CV22966476

DOCKET NO. \_\_\_\_\_

Taryn Creecy  
5305 Northfield Road, Apt 315  
Bedford Hts., OH 44146

V.  
DEBTOR  
(ADDRESS)

**STATE OF OHIO, COUNTY OF CUYAHOGA, ss:** The undersigned, being first duly cautioned, sworn or affirmed according to law, says that I am attorney/judgment creditor who recovered or certified a judgment in this court against above named judgment debtor. The garnishee named below may be an employer of the judgment debtor and may have personal earnings owing to the judgment debtor. Written demand on judgment debtor, per § 2716.02 ORC, has been made at least 15 and not more than 45 days before this date. Payment demanded in the written demand has not been made, nor has a sufficient portion been made to prevent the garnishment of personal earnings described in such section. Affiant has no knowledge if the judgment debtor has applied for trusteeship or is the subject of a debt scheduling agreement, either of which precludes the garnishment of judgment debtor's personal earnings.

Emily Davis, Esq. (0100237)  
Lewis Brisbois Bisgaard & Smith  
1375 E 9th Street, Suite 2250  
Cleveland, OH 44114

ATTORNEY FOR  
JUDGMENT CREDITOR  
(INCLUDE FIRM ADDRESS AND REGISTRATION NO.)

Signature: Judgment Creditor/Attorney

Sworn to & Subscribed to me on \_\_\_\_\_

Signature: Notary Public

**SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT**

Garnishee:

The judgment creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this court stating that you may owe the judgment debtor money for personal earnings.

You are therefore ordered to complete the "ANSWER OF EMPLOYER (GARNISHEE)" in section B of this form.

Return one completed and signed copy of this form to the clerk of this court within five (5) business days after you receive this order of garnishment. Deliver one completed and signed copy of this form and the accompanying documents entitled "NOTICE TO THE JUDGMENT DEBTOR" and "REQUEST FOR HEARING" to the judgment debtor. Keep the other completed and signed copy of this form for your files.

1. The UNPAID PORTION OF THE JUDGMENT amounts to: \$ \_\_\_\_\_
2. Plus INTEREST TO DATE (interest rate = \_\_\_\_%) + \$ \_\_\_\_\_
3. Plus UNPAID COURT COSTS amount to: + \$ \_\_\_\_\_
4. Minus AMOUNT PAID on judgment, costs, and interest - \$ \_\_\_\_\_
5. AMOUNT NOW DUE = \$ \_\_\_\_\_

This garnishment order of personal earnings is a continuous order requiring you to withhold a specified amount, calculated during each pay period at the statutory percentage, of the debtor's personal disposable earnings as determined in accordance with the Interim/Final Report & Answer of Garnishee, from the debtors personal, disposable earnings during each pay period beginning with the first full pay period after you receive the order, until the judgment, court costs, and all applicable interest has been paid in full. **You must pay that specified amount, calculated each pay period at the statutory percentage, to the clerk of this court within 30 days after the end of each pay period of the debtor. You must include with that specified amount an Interim/Final Report & Answer of Garnishee in the form set forth in 2716.07 ORC (form enclosed).** Use a new photocopy with each payment. You are permitted to deduct a processing fee (not part of the court costs) of up to \$3.00 from the debtor's personal, disposable earnings for any pay period of the debtor where an amount was withheld. You are not required to file with the court the Interim/Final Report and Answer of Garnishee for any pay period in which an amount from the debtor's personal, disposable earnings was not withheld.

This garnishment of personal earnings will remain in effect until one of the following occur:

- (1) The total probable amount due on the judgment is paid in full due to your withholding of the specified amount.
- (2) The creditor/attorney files with this court a written notice that the total probable amount due on the judgment has been satisfied; or files a written request to terminate and release this garnishment order, releasing you from the mandate of this garnishment.
- (3) A municipal or county court appoints a trustee for the debtor and issues to you an order that stays this garnishment order.
- (4) A federal bankruptcy court issues to you an order that stays this garnishment order of personal earnings.
- (5) A municipal, county, or a common pleas court issues to you a garnishment order of personal earnings that relates to the debtor and a different creditor, and Ohio or federal law provides the other order with a higher priority than this order.
- (6) A municipal, county, or a common pleas court issues to you a garnishment order of personal earnings that relates to the debtor and a different creditor that does not have a higher priority than this order.

Under any of the circumstances listed, you are required to file with this court an Interim/Final Report & Answer of Garnishee per § 2716.08 ORC. Under the circumstances listed in 5 & 6 above, you must cease processing this garnishment after the expiration of the full pay period within which the 182nd day after you began processing it falls. Special stacking, priority of payment, and manner of payment rules apply when a garnishee receives multiple garnishment orders with respect to the same debtor. Familiarize yourself with the rules are set forth in § 2716.041 ORC.

Witness My Hand & Seal of This Court On Today's Date \_\_\_\_\_

ADMINISTRATIVE AND PRESIDING JUDGE BRENDAN J. SHEEHAN

CUYAHOGA COUNTY AFFIDAVIT & ORDER & NOTICE OF GARNISHMENT OF PERSONAL EARNINGS & ANSWER OF EMPLOYER  
CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
<http://coc.cuyahogacounty.us/>

Valley Health System, LLC CREDITOR

Case No. CV22966476

VS.

Taryn Creecy DEBTOR

THIS COMMUNICATION  
IS FROM A DEBT COLLECTOR

**SECTION B. ANSWER OF EMPLOYER (GARNISHEE).** ANSWER ALL PERTINENT QUESTIONS. An employer is one who is required to withhold payroll taxes out of payments of personal earnings made to the judgment debtor. Complete and return a signed copy of this page to the above listed address.

Now comes \_\_\_\_\_, the employer (garnishee) herein, who says:

1. This order of garnishment of personal earnings was received on \_\_\_\_\_

2. The judgment debtor is in my/our employ. YES/NO (IF "YES" COMPLETE REMAINDER OF SECTION B AND THE INTERIM/FINAL REPORT FORM)

If answer is "No," give date of last employment: \_\_\_\_\_

If never employed here check here: ☐

3. (A) Is the debt to which this order of garnishment of personal earnings pertains the subject of an existing agreement for debt scheduling between the judgment debtor and a budget and debt counseling service and has the judgment debtor made every payment that was due under the agreement for debt scheduling no later than forty-five days after the date on which the payment was due?

☐ YES

☐ NO

If the answer to both parts of this question is "Yes," give all available details of the agreement, sign this form, and return it to the court.

\_\_\_\_\_

(B) Were you, on the date that you received this order of garnishment of personal earnings, withholding moneys from the judgment debtor's personal disposable earnings pursuant to another order of garnishment of personal earnings that Ohio or federal law provides with a higher priority than this order of garnishment of personal earnings (such as a support order or Internal Revenue service Service levy)?

☐ YES

☐ NO

If the answer to this question is "Yes," give the name of the court that issued the higher priority order, the associated case number, the date upon which you received that order, and the balance due to the relevant judgment creditor under that order.

\_\_\_\_\_

(C) Did you receive prior to the date that you received this order of garnishment of personal earnings one or more other orders of garnishment of personal earnings that are not described in question 3(B), and are you currently processing one or more of those orders for the statutorily required time period or holding one or more of those orders for processing for a statutorily required period in the sequence of their receipt by you?

☐ YES

☐ NO

If the answer to this question is "Yes," give the name of the court that issued each of those previously received orders, the associated case numbers, the date upon which you received each of those orders, and the balance due to the relevant judgment creditor under each of those orders. List first the previously received order(s) that you are currently processing, and list each of the other previously received orders in the sequence that you are required to process them.

\_\_\_\_\_

I certify that the statements above are true.

\_\_\_\_\_  
(Print Name of Employer)

\_\_\_\_\_  
(Print Name and Title of Person Who Completed Form on behalf of the Employer)

Dated \_\_\_\_\_

\_\_\_\_\_  
(Signature of Employer or Employer's Agent)



**NOTICE TO JUDGMENT DEBTOR  
PERSONAL EARNINGS GARNISHMENT**

CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
<http://coc.cuyahogacounty.us/>

Valley Health Systems, LLC  
367 South Gulph Road,  
King of Prussia, PA 19406

CREDITOR  
(ADDRESS)

CASE NO. CV22966476

V.

Darci Creecy  
13613 Woodward Blvd  
Garfield Heights, OH 44125

DEBTOR  
(ADDRESS)

You are hereby notified that this court has issued an order in the above case in favor of Valley Health Systems, LLC, the judgment creditor in this proceeding,  
(Creditor's Name)

directing that some of your personal earnings be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the  
judgment creditor's judgment against you that was obtained in the Cuyahoga County Court of Common Pleas on July 26, 2022.

The law of Ohio provides that you are entitled to keep a certain amount of your personal earnings free from the claims of creditors. Additionally, wages under a certain amount may never be used to satisfy the claims of creditors. The documents entitled "**ORDER AND NOTICE OF GARNISHMENT AND ANSWER OF EMPLOYER**" that are enclosed with this notice show how the amount proposed to be taken out of your personal earnings was calculated by your employer.

If you dispute the judgment creditor's right to garnish your personal earnings and believe that you are entitled to possession of the personal earnings because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your personal earnings in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing.

If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted no later than twelve days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you believe that the need for the hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, some of your personal earnings will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association.

by. \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Date

**REQUEST FOR HEARING**

**PERSONAL EARNINGS GARNISHMENT**

CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
<http://coc.cuyahogacounty.us/>

Valley Health Systems, LLC  
367 South Gulph Road,  
King of Prussia, PA 19406

v.

Darci Creecy  
13613 Woodward Blvd  
Garfield Heights, OH 44125

CREDITOR

DEBTOR

CASE NO. CV22966476

I dispute the judgment creditor's right to garnish my personal earnings in the above case and request that a hearing in this matter be held no later than twelve days after delivery of this request to the court.

I \_\_\_\_\_ feel that the need for the hearing is an emergency.  
(insert "Do" or "Do Not")

I dispute the judgment creditor's right to garnish my personal earnings for the following reasons:

(OPTIONAL)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE CONSIDERED AT THE HEARING.

**WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR PERSONAL EARNINGS WILL BE PAID TO**

Valley Health Systems, LLC IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT-CREDITOR.  
(Name of Judgment Creditor)

\_\_\_\_\_  
(Name of Judgment Debtor-Print)

\_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_



**NOTICE TO JUDGMENT DEBTOR  
PERSONAL EARNINGS GARNISHMENT**

CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
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Valley Health Systems, LLC  
367 South Gulph Road,  
King of Prussia, PA 19406

CREDITOR  
(ADDRESS)

CASE NO. CV22966476

V.

Taryn Creecy  
5305 Northfield Rd, Apt. 315  
Bedford Heights, OH 44146

DEBTOR  
(ADDRESS)

You are hereby notified that this court has issued an order in the above case in favor of Valley Health Systems, LLC, the judgment creditor in this proceeding,  
(Creditor's Name)

directing that some of your personal earnings be used in satisfaction of your debt to the judgment creditor instead of being paid to you. This order was issued on the basis of the  
judgment creditor's judgment against you that was obtained in the Cuyahoga County Court of Common Pleas on July 26, 2022.

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notice show how the amount proposed to be taken out of your personal earnings was calculated by your employer.

If you dispute the judgment creditor's right to garnish your personal earnings and believe that you are entitled to possession of the personal earnings because they are exempt or if  
you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a  
substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business  
day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your personal earnings in the space provided on the form;  
however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing.

If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL  
BE HEARD OR CONSIDERED AT THE HEARING.** The hearing will be limited to a consideration of the amount of your personal earnings, if any, that can be used in satisfaction  
of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted no later than twelve  
days after your request is received by the court, and the court will send you notice of the date, time, and place. You may indicate in the form that you believe that the need for the  
hearing is an emergency and that it should be given priority by the court. If you do so, the court will schedule the hearing as soon as practicable after your request is received and  
will send you notice of the date, time, and place. If you do not request a hearing by delivering your request for hearing no later than the end of the fifth business day after you  
receive this notice, some of your personal earnings will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately.  
If you need the name of a lawyer, contact the local bar association.

by, \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Date

**REQUEST FOR HEARING**

**PERSONAL EARNINGS GARNISHMENT**

CUYAHOGA COUNTY CLERK OF COURTS OFFICE, CIVIL DIVISION, 1<sup>ST</sup> FLOOR, JUSTICE CENTER, 1200 ONTARIO STREET, CLEVELAND, OH 44113, (216) 443-3764,  
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Valley Health Systems, LLC  
367 South Gulph Road,  
King of Prussia, PA 19406

v.

Taryn Creecy  
5305 Northfield Rd, Apt. 315  
Bedford Heights, OH 44146

CREDITOR

DEBTOR

CASE NO. CV22966476

I dispute the judgment creditor's right to garnish my personal earnings in the above case and request that a hearing in this matter be held no later than twelve days after delivery of this request to the court.

I \_\_\_\_\_ feel that the need for the hearing is an emergency.  
(insert "Do" or "Do Not")

I dispute the judgment creditor's right to garnish my personal earnings for the following reasons:

(OPTIONAL)

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE CONSIDERED AT THE HEARING.

**WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR PERSONAL EARNINGS WILL BE PAID TO**

Valley Health Systems, LLC IN SATISFACTION OF YOUR DEBT TO THE JUDGMENT-CREDITOR.  
(Name of Judgment Creditor)

\_\_\_\_\_  
(Name of Judgment Debtor-Print)

\_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

# Cuyahoga County Court of Common Pleas

Date: July 26, 2022

Case Number: CV 22 966476

Judgment Creditor:

Valley Health System, LLC  
367 South Gulph Road  
King of Prussia, PA 19406

Judgment Creditor's Attorney:

Emily Davis, Esq.  
Lewis Brisbois Bisgaard & Smith  
1375 E 9th Street, Suite 2250  
Cleveland, OH 44114

VS.

Judgment Debtor:

Taryn Creecy  
5305 Northfield Road  
Apt 315  
Bedford Hts., OH 44146

Notice: A foreign judgement has been filed in this court by

Valley Health System, LLC

Judgment Creditor against Taryn Creecy  
Section 2329.022 of the Ohio Revised Code.

, Judgment Debtor pursuant to

Nailah K. Byrd  
Clerk of the Court of Common Pleas

**CUYAHOGA COUNTY, CLERK OF COURTS**



# Cuyahoga County Court of Common Pleas

Date: July 26, 2022

Case Number: CV 22 966476

Judgment Creditor:

Valley Health System, LLC  
367 South Gulph Road  
King of Prussia, PA 19406

Judgment Creditor's Attorney:

Emily Davis, Esq.  
Lewis Brisbois Bisgaard & Smith  
1375 E 9th Street, Suite 2250  
Cleveland, OH 44114

VS.

Judgment Debtor:

Darci Creecy  
13613 Woodward Boulevard  
Garfield Hts., OH 44125

Notice: A foreign judgement has been filed in this court by

Valley Health System, LLC

Judgment Creditor against Darci Creecy  
Section 2329.022 of the Ohio Revised Code.

, Judgment Debtor pursuant to

Nailah K. Byrd  
Clerk of the Court of Common Pleas

**CUYAHOGA COUNTY, CLERK OF COURTS**

By: \_\_\_\_\_

# RECEIPT



## LORAIN COUNTY Court of Common Pleas

**TOM ORLANDO, Clerk**

LORAIN COUNTY JUSTICE CENTER 225 COURT STREET ELYRIA, OHIO 44035

*Cashier/Bookkeeping (440) 329-5625*

### RECEIPT INFORMATION

Receipt Number:

**22-0017066**

Receipt Date/Time

**Jul 22 2022 12:39PM**

Receipt Type:

**Civil Case Receipt**

### CASE INFORMATION

Case Number:

**22CV206538**

Judge:

**Hon. Judge Raymond J. Ewers**

Case Caption:

**VALLEY HEALTH SYSTEM LLC VS LLOYD CREECY**

### PAYMENT INFORMATION

Paid By:

**LEWIS BRISBOIS BISGAARD &**

Paid For:

Payment Type:

**Check**

Paid To:

**C.H.**

Amount Tendered:

**\$300.00**

Balance Due:

**\$0.00**

Description:

**NEW CASE**





*Steven D. Grierson*

**FILED**

2022 JUL 22 P 2:23

CLERK OF COURTS  
CLARK COUNTY

Judge: ANDREW J. SANTOLI

CV 22 966476

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

**NOTICE OF ENTRY OF JUDGMENT**

**FOREIGN JUDGMENT**  
2329.022 O.R.C.

1 PLEASE TAKE NOTICE that the Defendant Valley Health System LLC's 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*

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JUN - 8 2022

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

*Adam D. Blum*  
CLERK OF THE COURT

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  
12 psp@paulpaddalaw.com  
13 *Attorneys for Plaintiffs*

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

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

**JUDG**

S. BRENT VOGEL

Nevada Bar No. 6858

Brent.Vogel@lewisbrisbois.com

ADAM GARTH

Nevada Bar No. 15045

Adam.Garth@lewisbrisbois.com

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Telephone: 702.893.3383

Facsimile: 702.893.3789

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

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

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

1 (Exhibit "C"),

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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

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

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

Dated this 2nd day of June, 2022

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DISTRICT COURT JUDGE

13

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

14

15

16

By /s/ Adam Garth

17

S. BRENT VOGEL  
Nevada Bar No. 6858

18

ADAM GARTH  
Nevada Bar No. 15045

19

6385 S. Rainbow Boulevard, Suite 600  
Las Vegas, Nevada 89118

20

Tel. 702.893.3383

21

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

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1 Agreed as to form and substance by:

2

Refused to sign

3

Paul S. Padda, Esq.

4

Srilata Shah, Esq.

5

PAUL PADDA LAW, PLLC

6

4560 S. Decatur Blvd., Suite 300

7

Las Vegas, NV 89103

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Tel: 702.366.1888

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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 PADDALAW, PLLC  
10 4560 S. Decatur Blvd., Suite 300  
11 Las Vegas, NV 89103  
12 Tel: 702.366.1888  
13 Fax: 702.366.1940  
14 [psp@paulpaddalaw.com](mailto:psp@paulpaddalaw.com)  
15 *Attorneys for Plaintiffs*

16 By /s/ Heidi Brown  
17 An Employee of  
18 LEWIS BRISBOIS BISGAARD & SMITH LLP  
19  
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