

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 09:30 AM
Elizabeth A. Brown
Clerk of Supreme Court

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

S. BRENT VOGEL
Nevada Bar No. 6858
ADAM GARTH
Nevada Bar No. 15045
Lewis Brisbois Bisgaard & Smith LLP
6385 South Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
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Attorneys for Respondent

INDEX TO APPENDIX VOLUME IV

Number	Document	Date	Pages
I	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	10/28/2022	416-492

DATED this 10th day of March, 2023.

LEWIS BRISBOIS BISGAARD &
SMITH LLP

By /s/ Adam Garth

S. BRENT VOGEL

Nevada Bar No. 006858

ADAM GARTH

Nevada Bar No. 15045

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Las Vegas, Nevada 89118

Tel. 702.893.3383

*Attorneys for Respondent Valley Health
System, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 10th 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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*Attorneys for Defendants Dionice S.
Juliano, M.D., Conrado Concio, M.D
And Vishal S. Shah, M.D.*

By /s/ Heidi Brown

An Employee of
LEWIS BRISBOIS BISGAARD &
SMITH LLP

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



We cannot agree to this. Thanks.

Paul S. Padda, Esq.

PAUL PADDALAW, PLLC

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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



Adam Garth
Partner

Adam.Garth@lewisbrisbois.com

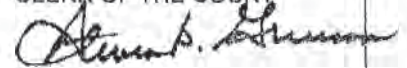
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EXHIBIT A



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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

18 vs.

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

28 Defendants.

Case No. A-19-788787-C

Dept. No. 30

NOTICE OF ENTRY OF ORDER

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

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DATED this 19th day of November, 2021.

LEWIS BRISBOIS BISGAARD & SMITH LLP

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

1 CERTIFICATE OF SERVICE

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

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

14
15
16 By /s/ Roya Rokni
17 An Employee of
18 LEWIS BRISBOIS BISGAARD & SMITH LLP
19
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28

ORDR

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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.: 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 ///

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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.

Dated this 19th day of November, 2021

4
5 Dated: _____



DISTRICT COURT JUDGE

6
7
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
19 Attorneys for Plaintiffs

20 DATED this 18th day of November, 2021

/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
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System, LLC dba Centennial Hills Hospital
Medical Center

/s/ Brad Shipley

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bshipley@jhcottonlaw.com
Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.

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
702 832 5909

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

Counsel,

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

Adam Garth



Adam Garth
Partner
Adam.Garth@lewisbrisbois.com

T: 702.693.4335 F: 702.366.9563

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

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

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

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

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

Importance: High

Counsel:

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

Adam Garth

Adam Garth
Partner
Las Vegas Rainbow
702.693.4335 or x7024335

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

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

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

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

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

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

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

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

Importance: High

Counsel,

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

Adam Garth



Adam Garth

Partner

Adam.Garth@lewisbrisbois.com

T: 702.693.4335 F: 702.366.9563

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

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

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

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

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

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

Importance: High

Counsel:

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

Adam Garth

Adam Garth

Partner
Las Vegas Rainbow
702.693.4335 or x7024335

1 CSERV

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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

CASE NO: A-19-788787-C

8 vs.

DEPT. NO. Department 30

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

11 **AUTOMATED CERTIFICATE OF SERVICE**

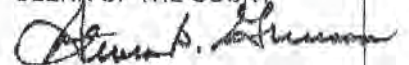
12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 11/19/2021

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



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

15 Plaintiffs,

16 vs.

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

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 ///

1 DATED this 4th day of May, 2022

2 LEWIS BRISBOIS BISGAARD & SMITH LLP

3 By /s/ Adam Garth

4 S. BRENT VOGEL

5 Nevada Bar No. 6858

6 ADAM GARTH

7 Nevada Bar No. 15045

8 6385 S. Rainbow Boulevard, Suite 600

9 Las Vegas, Nevada 89118

10 Tel. 702.893.3383

11 *Attorneys for Attorneys for Defendant Valley*

12 *Health System, LLC dba Centennial Hills Hospital*

13 *Medical Center*

CERTIFICATE OF SERVICE

I hereby certify that on this 4th 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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*Attorneys for Defendants Dionice S. Juliano,
M.D., Conrado Concio, M.D And Vishal S.
Shah, M.D.*

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

**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 ^{4/1/22}~~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.*

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
11 judicial review and review by Plaintiffs."

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

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

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

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

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

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

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

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

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

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

1 CHH further states:

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

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

12 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

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

28 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
(1998); *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121, 345 P.3d 1049 (2015).

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

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

26 Defendant has now provided billing records indicating the following:

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

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

Defendant has now provided documentation supporting the following costs:

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

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

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

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

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


15 **CONCLUSION/ORDER**

16 Based upon the foregoing, and good cause appearing,

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

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

24 Dated this 4th day of May, 2022

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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

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

26
27
28

1	Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
2		
3	Shelbi Schram	shelbi@paulpaddalaw.com
4	Maria San Juan	maria.sanjuan@lewisbrisbois.com
5	Karen Cormier	karen@paulpaddalaw.com
6	Kimberly DeSario	kimberly.desario@lewisbrisbois.com
7	Heidi Brown	Heidi.Brown@lewisbrisbois.com
8	Shelbi Schram	shelbi@paulpaddalaw.com

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EXHIBIT C

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEM, LLC,

Appellant,

vs.

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

Respondents.

Supreme Court No.: 84402

Electronically Filed

May 12 2022 10:56 a.m.

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

NOTICE OF WITHDRAWAL OF APPEAL

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

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

VERIFICATION

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

DATED this 12th day of May, 2022

LEWIS BRISBOIS BISGAARD &
SMITH LLP

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

CERTIFICATE OF SERVICE

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

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

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

1 CSERV

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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

CASE NO: A-19-788787-C

8 vs.

DEPT. NO. Department 30

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

11
12 AUTOMATED CERTIFICATE OF SERVICE

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

15 Service Date: 6/2/2022

16 Paul Padda	psp@paulpaddalaw.com
17 S. Vogel	brent.vogel@lewisbrisbois.com
18 Jody Foote	jfoote@jhcottonlaw.com
19 Jessica Pincombe	jpincombe@jhcottonlaw.com
20 John Cotton	jhcotton@jhcottonlaw.com
21 Paul Padda	civil@paulpaddalaw.com
22 Brad Shipley	bshipley@jhcottonlaw.com
23 Tony Abbatangelo	Tony@thevegaslawyers.com
24 Adam Garth	Adam.Garth@lewisbrisbois.com
25 Srilata Shah	sri@paulpaddalaw.com
26	
27	
28	

1	Shady Sirsy	Shady.Sirsy@lewisbrisbois.com
2		
3	Shelbi Schram	shelbi@paulpaddalaw.com
4	Maria San Juan	maria.sanjuan@lewisbrisbois.com
5	Karen Cormier	karen@paulpaddalaw.com
6	Kimberly DeSario	kimberly.desario@lewisbrisbois.com
7	Shelbi Schram	shelbi@paulpaddalaw.com
8	Heidi Brown	Heidi.Brown@lewisbrisbois.com
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Vendor No.: **64746** **Cuyahoga County Clerk of Court**

Check No.: **200029**

Invoice Date	Invoice No.	Description	Disb. Code	Voucher No.	Account No./ File No.	Amount
7/20/22	CLE-02089	Filing fee for Nevada Certified Judgment and Order on 7/22/22.	5	2922250	28094-190	125.00

Total Amount: 125.00



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS

1200 Ontario Street
Cleveland, Ohio 44113

R E C E I P T

For: CIVIL

Receipt Number: 225000064246

Case Nbr: CV22966476

Date Filed: 07/22/2022

Receipt Date: 07/22/2022

VALLEY HEALTH SYSTEM, LLC

FOREIGN JUDGMENT	125.00
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-vs-

DARCI CREECY ET AL

Judge: ANDREW J. SANTOLI

Total Due	125.00
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Check Number	200029	125.00
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Received From:
LEWIS BRISBOIS BISGAARD & SMITH LLP 000142
1375 E 9TH ST, STE 2250
CLEVELAND, OH 44114-0000

Change	
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Total Paid	125.00
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DEPUTY CLERK

CLMHB

NOTICE OF COURT PROCEEDING TO COLLECT DEBT

To: **Taryn Creecy**
(Name of Judgment Debtor)

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

(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 OF COURT PROCEEDING TO COLLECT DEBT

To: **Darci Creecy**
(Name of Judgment Debtor)
13613 Woodward Boulevard, Garfield Heights, OH 44125
(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 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)

EXECUTION ON FOREIGN JUDGMENT
G.L. c. 218 § 4A

DOCKET NUMBER

2210CV0004

Trial Court of Massachusetts
District Court Department

CASE NAME

Valley Health System, LLC v. Isaiah Khosrof

JUDGMENT DEBTOR AGAINST WHOM EXECUTION IS ISSUED

Isaiah Khosrof
333 Alewife Brook Parkway
Apt. 2
Somerville, MA 02144

COURT NAME & ADDRESS

SOMERVILLE DISTRICT COURT
175 FELLSSWAY
SOMERVILLE, MA 02145

JUDGMENT CREDITOR(S) IN WHOSE FAVOR EXECUTION IS ISSUED

Valley Health System, LLC

JUDGMENT CREDITOR (OR CREDITOR'S ATTORNEY) WHO MUST ARRANGE SERVICE OF EXECUTION

Michael S. Metta, Esquire
Lewis Brisbois Bisgaard and Smith LLP
1 International Place
Boston, MA 02110

FURTHER ORDERS OF THE COURT

TO THE SHERIFFS OF THE SEVERAL COUNTIES OR THEIR DEPUTIES, OR (SUBJECT TO THE LIMITATIONS OF G.L. C. 41 § 92) ANY CONSTABLE OF ANY CITY OR TOWN WITHIN THE COMMONWEALTH:

The judgment creditor(s) has recovered judgment against the judgment debtor named above in a court of the United States or in another court that is entitled to full faith and credit in the Commonwealth. An authenticated copy of a foreign judgment was filed in the above-named Court under the Uniform Enforcement of Foreign Judgments Act (G.L. c. 218 § 4A) for the amount(s) shown below:

WE COMMAND YOU, therefore, from out of the value of any real or personal property of such judgment debtor found within your territorial jurisdiction, to cause payment to be made to the judgment creditor(s) in the amount of the "Execution Total" shown below, plus additional post-judgment interest as provided by G.L. c. 235 § 8 on the "Judgment Total" shown below, and to collect your own fees as provided by law. This Writ of Execution is valid for twenty years from the "Date Judgment Entered" shown below. It must be returned to the court, along with your return of service, within ten days after this judgment has been satisfied or discharged, or after twenty years if this judgment remains unsatisfied or undercharged.

1. Foreign Judgment Totals (with adjustments, if any):	\$ 118,906.78
2. Date Judgment Entered at Originating Court:	June 2, 2022
3. Annual Post-judgment Interest Rate:	.12
4. Post-judgment Interest from Judgment to Execution:	\$ 2,777.54
5. Post-judgment Costs (if any):	\$ 195.00
6. Credits (if any):	\$ 0
7. EXECUTION TOTAL (Lines 1 + 4 + 5, minus Line 6):	\$ 121,879.32
LEVYING OFFICER: (a) Add daily interest from date execution issued.	
(b) Add your fees as provided by law:	

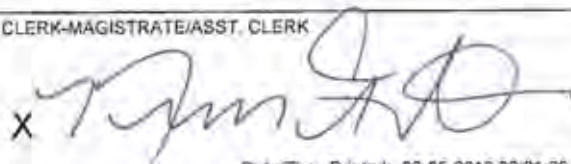
TESTE OF FIRST JUSTICE

WITNESS: **WILLIAM M. FITZPATRICK**

DATE EXECUTION ISSUED

8/12/2022

CLERK-MAGISTRATE/ASST. CLERK

X 



Middlesex Sheriff's Office • 400 Mystic Ave, 3rd Floor, Medford, MA 02155 • 617-547-1171
Middlesex, ss.

8/31/2022

By virtue of this execution, on 8/26/2022, I demanded of the within named, ISIAAH KHOSROF Defendant(s), judgment, costs, and my fees, or that he/she/they exhibit to me real or personal property belonging to him/her/them subject to be taken on execution and sufficient to satisfy this execution, upon which I could levy and satisfy the same, by leaving an attested copy of the within execution with my said demand endorsed thereon at: 333 ALEWIFE BROOK PARKWAY APT 2 SOMERVILLE, MA 02144 . And he/she/they has/have failed to pay the same or to exhibit to me real or personal property belonging to him/her/they, subject to be taken on execution and sufficient to satisfy the same, upon which I could levy to satisfy this execution, or any part thereof. Therefore, I return this execution in no part satisfied. Fees: Attest (\$5.00) Basic Service Fee (\$20.00) Postage and Handling (\$3.00) Travel (\$1.28) Conveyance (\$0.90) Total: \$30.18


Stephen Hickey
Deputy Sheriff

2901026 2



Michael S. Metta
Licensed in Massachusetts and Florida
One International Place, Suite 350
Boston, Massachusetts 02110
Michael.Metta@lewisbrisbois.com
Direct: 857.362.9756

August 22, 2022

File No. 28014.190

VIA FEDEX

Civil Process Division
Middlesex Sheriff's Office
400 Mystic Ave 3rd Floor
Medford, MA 02155

Re: **Valley Health Systems, LLC v. Isaiah Khosrof**
Somerville District Court – Docket No. 2210CV0004
Execution on Foreign Judgment

To Whom it May Concern:

My law firm represents Valley Health Systems, LLC in the above-captioned collections matter.

Enclosed herein is the original Execution on Foreign Judgment issued by the Somerville District Court which authorizes execution of judgment in the amount of \$121,879.32, as against Isaiah Khosrof and in favor of Valley Health Systems, LLC.

As indicated in the Execution on Foreign Judgment, Mr. Khosrof's last known address is 333 Alewife Brook Parkway Apt. 2, Somerville, MA 02144. Please issue a demand for judgment to Mr. Kosrof as soon as possible. Thereafter, I would appreciate it if you would contact me at your earliest opportunity at the above number, or on my cell phone (774) 269-6063, to discuss collection options.

Very truly yours,

A handwritten signature in black ink that reads 'Michael S. Metta'. The signature is written in a cursive, flowing style.

Michael S. Metta

MSM

Enclosure: Original Execution on Foreign Judgment

cc: Kenneth Walton
Adam Garth

EXECUTION ON FOREIGN JUDGMENT
G.L. c. 218 § 4A

DOCKET NUMBER

2210CV0004

Trial Court of Massachusetts
District Court Department

CASE NAME

Valley Health System, LLC v. Isaiah Khosrof

JUDGMENT DEBTOR AGAINST WHOM EXECUTION IS ISSUED

Isaiah Khosrof
333 Alewife Brook Parkway
Apt. 2
Somerville, MA 02144

COURT NAME & ADDRESS

SOMERVILLE DISTRICT COURT
175 FELLSWAY
SOMERVILLE, MA 02145

JUDGMENT CREDITOR(S) IN WHOSE FAVOR EXECUTION IS ISSUED

Valley Health System, LLC

JUDGMENT CREDITOR (OR CREDITOR'S ATTORNEY) WHO MUST ARRANGE SERVICE OF EXECUTION

Michael S. Metta, Esquire
Lewis Brisbois Bisgaard and Smith LLP
1 International Place
Boston, MA 02110

FURTHER ORDERS OF THE COURT

TO THE SHERIFFS OF THE SEVERAL COUNTIES OR THEIR DEPUTIES, OR (SUBJECT TO THE LIMITATIONS OF
G.L. C. 41 § 92) ANY CONSTABLE OF ANY CITY OR TOWN WITHIN THE COMMONWEALTH:

The judgment creditor(s) has recovered judgment against the judgment debtor named above in a court of the United States or in another court that is entitled to full faith and credit in the Commonwealth. An authenticated copy of a foreign judgment was filed in the above-named Court under the Uniform Enforcement of Foreign Judgments Act (G.L. c. 218 § 4A) for the amount(s) shown below:

WE COMMAND YOU, therefore, from out of the value of any real or personal property of such judgment debtor found within your territorial jurisdiction, to cause payment to be made to the judgment creditor(s) in the amount of the "Execution Total" shown below, plus additional post-judgment interest as provided by G.L. c. 235 § 8 on the "Judgment Total" shown below, and to collect your own fees as provided by law. This Writ of Execution is valid for twenty years from the "Date Judgment Entered" shown below. It must be returned to the court, along with your return of service, within ten days after this judgment has been satisfied or discharged, or after twenty years if this judgment remains unsatisfied or undercharged.

1. Foreign Judgment Totals (with adjustments, if any):	\$ 118,906.78
2. Date Judgment Entered at Originating Court:	June 2, 2022
3. Annual Post-judgment Interest Rate:	.12
4. Post-judgment Interest from Judgment to Execution:	\$ 2,777.54
5. Post-judgment Costs (if any):	\$ 195.00
6. Credits (if any):	\$ 0
7. EXECUTION TOTAL (Lines 1 + 4 + 5, minus Line 6):	\$ 121,879.32
LEVYING OFFICER: (a) Add daily interest from date execution issued.	
(b) Add your fees as provided by law	

TESTE OF FIRST JUSTICE

WITNESS: WILLIAM M. FITZPATRICK

DATE EXECUTION ISSUED

8/12/2022

CLERK-MAGISTRATE/ASST. CLERK

X 

EXECUTION ON FOREIGN JUDGMENT
G.L. c. 218 § 4A

DOCKET NUMBER

2210CV0004

Trial Court of Massachusetts
District Court Department

CASE NAME

Valley Health System, LLC v. Isaiah Khosrof

JUDGMENT DEBTOR AGAINST WHOM EXECUTION IS ISSUED

**Isaiah Khosrof
333 Alewife Brook Parkway
Apt. 2
Somerville, MA 02144**

COURT NAME & ADDRESS

**SOMERVILLE DISTRICT COURT
175 FELLSWAY
SOMERVILLE, MA 02145**

JUDGMENT CREDITOR(S) IN WHOSE FAVOR EXECUTION IS ISSUED

Valley Health System, LLC

JUDGMENT CREDITOR (OR CREDITOR'S ATTORNEY) WHO MUST ARRANGE SERVICE OF EXECUTION

**Michael S. Metta, Esquire
Lewis Brisbois Bisgaard and Smith LLP
1 International Place
Boston, MA 02110**

FURTHER ORDERS OF THE COURT

TO THE SHERIFFS OF THE SEVERAL COUNTIES OR THEIR DEPUTIES, OR (SUBJECT TO THE LIMITATIONS OF G.L. C. 41 § 92) ANY CONSTABLE OF ANY CITY OR TOWN WITHIN THE COMMONWEALTH:

The judgment creditor(s) has recovered judgment against the judgment debtor named above in a court of the United States or in another court that is entitled to full faith and credit in the Commonwealth. An authenticated copy of a foreign judgment was filed in the above-named Court under the Uniform Enforcement of Foreign Judgments Act (G.L. c. 218 § 4A) for the amount(s) shown below:

WE COMMAND YOU, therefore, from out of the value of any real or personal property of such judgment debtor found within your territorial jurisdiction, to cause payment to be made to the judgment creditor(s) in the amount of the "Execution Total" shown below, plus additional post-judgment interest as provided by G.L. c. 235 § 8 on the "Judgment Total" shown below, and to collect your own fees as provided by law. This Writ of Execution is valid for twenty years from the "Date Judgment Entered" shown below. It must be returned to the court, along with your return of service, within ten days after this judgment has been satisfied or discharged, or after twenty years if this judgment remains unsatisfied or undercharged.

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6. Credits (if any):	\$ 0
7. EXECUTION TOTAL (Lines 1 + 4 + 5, minus Line 6):	\$ 121,879.32
LEVYING OFFICER: (a) Add daily interest from date execution issued.	
(b) Add your fees as provided by law:	

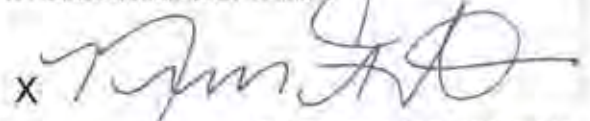
TESTE OF FIRST JUSTICE


WITNESS: **WILLIAM M. FITZPATRICK**

DATE EXECUTION ISSUED

8/12/2022

CLERK-MAGISTRATE/ASST. CLERK

X 

NOTICE OF FILING OF FOREIGN JUDGMENT UNDER THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENT ACT [G.L. C. 218 §4A]		DOCKET NO. 2210FJ000004	Trial Court of Massachusetts District Court Department 
CASE NAME: Valley Health System, LLC v. Isaiah Khosrof		COURT DIVISION Somerville District Court 175 Fellsway Somerville, MA 02145	
JUDGMENT DEBTOR TO WHOM COPY OF NOTICE IS ISSUED Isaiah Khosrof		COURT LOCATION WHERE ORIGINAL JUDGMENT ENTERED: District Court of Clark County Nevada	
JUDGMENT CREDITOR'S ATTORNEY NAME AND ADDRESS: Michael S Metta, Esq. Lewis Brisbois Bisgaard and Smith LLP 1 International Place Boston, MA 02110		JUDGMENT CREDITOR NAME AND ADDRESS Valley Health System, LLC	
NOTICE SENT TO: Michael S Metta, Esq. Lewis Brisbois Bisgaard and Smith LLP 1 International Place Boston, MA 02110			
NOTICE TO ABOVE-NAMED JUDGMENT DEBTOR: This notice is to inform you that the above-named judgment creditor has filed a foreign judgment pursuant to the <i>Uniform Enforcement of Foreign Judgment Act</i> , G.L. c. 218 §4A. The original foreign judgment was entered by the District Court of Clark County Nevada and notice of the filing of the Foreign Judgment and affidavits are being sent to the judgment debtor along with copies of all filed documents.			
ATTACHMENTS: Attached to this notice is a copy of the judgment that was filed for enforcement in Massachusetts under the Uniform Enforcement of Foreign Judgment Act (G.L.C.218 §4A), together with any other documents that were filed by the above-named judgment creditor as supporting documentation.			
NOTICE OF FURTHER ACTION: No execution or other process for the enforcement of the attached foreign judgment shall issue less than 30 days after the filing date as indicated below or for whatever period of time a stay of enforcement may be ordered by this court.			
Notice Date: 07/07/2022	Date of Filing: 07/07/2022	First Justice Hon. William Fitzpatrick	Clerk-Magistrate Kimberly M Foster



Michael S. Metta
One International Place, Suite 350
Boston, Massachusetts 02110
Michael.Metta@lewisbrisbois.com
Direct: 857.362.9756

July 6, 2022

File No. 28094.190

Via Federal Express

Civil Clerk's Office
Somerville District Court
175 Fellsway
Somerville, MA 02145

Re: Valley Health System, LLC v. Isaiah Khosrof
Our File No.: 28094.190

SOMERVILLE DISTRICT
COURT
2022 JUL -7 AM 11:22

Dear Sir/Madam:

Enclosed for filing, please find:

1. Affidavit of Compliance of Michael S. Metta;
2. Check payable to the Commonwealth of Massachusetts in the amount of \$195; and
3. Original Nevada Judgment in the amount of \$118,906.78 as set forth in the judgment.

Kindly file in your ordinary course and please date stamp the extra copy and return to us in the self-addressed stamped envelope.

Thank you for your assistance. If you have any questions or concerns, please contact me at (857) 362-9756 or Michael.Metta@lewisbrisbois.com

Very truly yours,

Michael S. Metta

MSM:cgt
Enclosures

cc: Kenneth B. Walton, Esquire
Adam Garth, Esquire

COPY

COMMONWEALTH OF MASSACHUSETTS

SOMERVILLE DISTRICT COURT
2022 JUN -7 AM 11:25
SOMERVILLE DISTRICT COURT

VALLEY HEALTH SYSTEM, LLC

Plaintiffs

v.

ISAIAH KHOSROF,

Defendant.

CIVIL ACTION

AFFIDAVIT OF COMPLIANCE

I, Michael S. Metta, duly sworn, states as follows:

1. I am over 21 years of age, sui juris, and competent to make the statements contained in this Affidavit.

2. I am a partner of Lewis Brisbois Bisgaard & Smith LLP with an office at One International Place, Suite 350, Boston, Massachusetts 02110. My email address is Michael.Metta@lewisbrisbois.com. My Massachusetts Bar License No. is 709490. My telephone number is (857) 362-9756.

3. I submit this Affidavit in compliance with the Massachusetts Uniform Enforcement of Foreign Judgments Act, ALM GL ch. 218 §4A.

4. I represent the judgment creditor, Valley Health System, LLC, whose last known post office address is 367 South Gulph Road, King of Prussia, PA 19406. However, I ask that any notices for Valley Health System, LLC, be sent to my attention at Lewis Brisbois Bisgaard & Smith LLP.

5. On June 2, 2022, the judgment creditor, Valley Health System, LLC, secured a judgment as against the judgment debtor, Isaiah Khosrof, whose last known post office address is 333 Alewife Brook Parkway, Apt. 2, Somerville, Massachusetts 02144.

6. The judgment is in the amount of \$118,906.78 as set forth in the judgment entitled "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." See Exhibit A to the certified copy of Notice of Entry of Judgment which I have sent with this Affidavit of Compliance.

7. Any questions should be addressed to me at (857) 362-9756 or Michael.Metta@lewisbrisbois.com

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Michael S. Metta
(Affiant Signature)

July 6, 2022
(Date)

MASSACHUSETTS NOTARY ACKNOWLEDGEMENT


COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK

Sworn to (or affirmed) and subscribed before me this 6th day of July, 2022.
(day) (month)

By: Michael S. Metta
(Name of person making statement)

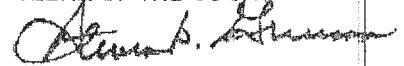
Laura J. Bourgeois
Notary Public
My Commission Expires: July 1, 2027

 **LAURA J. BOURGEOIS**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 1, 2027

(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known ☒ or ☐ Produced Identification

Type of Identification Produced _____



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

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA
11

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

18 Plaintiffs,

19 vs.

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

Defendants.

Case No. A-19-788787-C

Dept. No.: 30

NOTICE OF ENTRY OF JUDGMENT

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

5
6 DATED this 7th day of June, 2022

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

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

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JUN - 8 2022
CERTIFIED COPY
DOCUMENT ATTACHED IS A
TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE
Adam D. Johnson
CLERK OF THE COURT

1 CERTIFICATE OF SERVICE

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

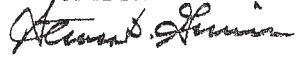
6 Paul S. Padda, Esq.
7 PAUL PADDA LAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
9 Las Vegas, NV 89103
10 Tel: 702.366.1888
11 Fax: 702.366.1940
12 psp@paulpaddalaw.com
13 *Attorneys for Plaintiffs*

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

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


CLERK OF THE COURT

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

16 VALLEY HEALTH SYSTEM, LLC (doing
17 business as "Centennial Hills Hospital Medical
18 Center"), a foreign limited liability company;
19 UNIVERSAL HEALTH SERVICES, INC., a
20 foreign corporation; DR. DIONICE S.
21 JULIANO, M.D., an individual; DR.
22 CONRADO C.D. CONCIO, M.D., an
23 individual; DR. VISHAL S. SHAH, M.D., an
24 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**

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

1 (Exhibit "C"),

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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

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

9 DATED this _____ day of _____, 2022.

Dated this 2nd day of June, 2022

10

11

DISTRICT COURT JUDGE

12

13

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

14

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 Agreed as to form and substance by:

2

Refused to sign

3

Paul S. Padda, Esq.

4

Srilata Shah, Esq.

5

PAUL PADDALAW, PLLC

6

4560 S. Decatur Blvd., Suite 300

7

Las Vegas, NV 89103

8

Tel: 702.366.1888

9

Fax: 702.366.1940

10

psp@paulpaddalaw.com

11

Attorneys for Plaintiffs

12

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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.

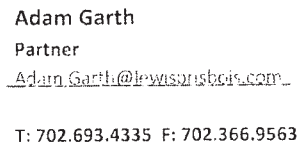
8 Paul S. Padda, Esq.
9 PAUL PADDA LAW, PLLC
4560 S. Decatur Blvd., Suite 300
10 Las Vegas, NV 89103
Tel: 702.366.1888
11 Fax: 702.366.1940
psp@paulpaddalaw.com
12 *Attorneys for Plaintiffs*

13
14
15 By /s/ Heidi Brown
16 An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP
17
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IT'S NOT ABOUT THE INJURY. IT'S ABOUT THE RECOVERY

[illegible]



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

For example, you could install private key certificates and protect them with extended protection (use of the private key is limited to the client's computer, any software used to use the certificate has to be approved by the security administrator, and you can revoke the certificate if you find a problem with the client's computer). To learn more about certificates, see [Certificates](#).

EXHIBIT A



1 NEOJ
2 S. BRENT VOGEL
3 Nevada Bar No. 06858
4 Brent.Vogel@lewisbrisbois.com
5 ADAM GARTH
6 Nevada Bar No. 15045
7 Adam.Garth@lewisbrisbois.com
8 LEWIS BRISBOIS BISGAARD & SMITH LLP
9 6385 S. Rainbow Boulevard, Suite 600
10 Las Vegas, Nevada 89118
11 T: 702.893.3383
12 F: 702.893.3789
13 *Attorneys for Defendant Valley Health System,*
14 *LLC dba Centennial Hills Hospital Medical*
15 *Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 ESTATE OF REBECCA POWELL, through
12 BRIAN POWELL, as Special Administrator;
13 DARCI CREECY, individually and as Heir;
14 TARYN CREECY, individually and as an
15 Heir; ISAIAH KHOSROF, individually and as
16 an Heir; LLOYD CREECY, individually;,
17
18 Plaintiffs,
19
20 vs.
21
22 VALLEY HEALTH SYSTEM, LLC (doing
23 business as "Centennial Hills Hospital Medical
24 Center"), a foreign limited liability company;
25 UNIVERSAL HEALTH SERVICES, INC., a
26 foreign corporation; DR. DIONICE S.
27 JULIANO, M.D., an individual; DR.
28 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 ORDER

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

///

///

///

1 DATED this 19th day of November, 2021.

2 LEWIS BRISBOIS BISGAARD & SMITH LLP

3
4 By /s/ Adam Garth

5 S. BRENT VOGEL

6 Nevada Bar No. 06858

7 ADAM GARTH

8 Nevada Bar No. 15045

9 6385 S. Rainbow Boulevard, Suite 600

10 Las Vegas, Nevada 89118

11 702.893.3383

12 *Attorneys for Attorneys for Defendant Valley*

13 *Health System, LLC dba Centennial Hills Hospital*

14 *Medical Center*

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SOMERVILLE DISTRICT
COURT
2022 JUL -7 AM 11:25

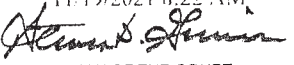
1 CERTIFICATE OF SERVICE

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

6 Paul S. Padda, Esq.
7 PAUL PADDA LAW, PLLC
8 4560 S. Decatur Blvd., Suite 300
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16 An Employee of
17 LEWIS BRISBOIS BISGAARD & SMITH LLP
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14 *LLC dba Centennial Hills Hospital Medical*
15 *Center*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

16 Plaintiffs,

17 vs.

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

23 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**

25 This matter, coming before this Honorable Court on November 18, 2021 at 10:30 a.m. in
26 accordance with the order granting the petition for a writ of mandamus issued by the Nevada
27 Supreme Court dated October 18, 2021, directing that this Court vacate its order of October 29,
28 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 PADDALAW, 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 Plaintiff's 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

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

4 Dated this 19th day of November, 2021

5 Dated: _____


DISTRICT COURT JUDGE

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

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

9 *UNSIGNED*

10 /s/ Adam Garth

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20 DATED this 18th day of November, 2021

21 /s/ Brad Shipley

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From: [Brad Shipley](#)
To: [Garth, Adam](#); [Sriata 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 craft the order.

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



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