

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH BRILL, M.D. and WOMEN'S
HEALTH ASSOCIATES OF
SOUTHERN NEVADA-MARTIN,
PLLC,

Appellants,

v.

KIMBERLY TAYLOR,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

SUPREME COURT CASE NOS.
84492 & 84881 (consolidated)

*On Appeal from the Eighth Judicial District Court
Clark County, Nevada, Department III, Hon. Monica Trujillo, Presiding*

APPENDIX (RESPONDENT'S SUPPLEMENTAL) VOLUME IV

Complaint	Appx. 590-614
Proposed Order submitted by Taylor	Appx. 615-619

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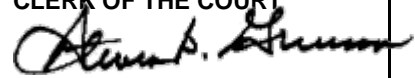
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of November 2022, I served a copy of the foregoing legal document entitled **APPENDIX (RESPONDENT’S SUPPLEMENTAL) VOL. IV** via the method indicated below:

X	Pursuant to NRAP 25(c), by electronically serving all counsel and e-mails registered to this matter on the Supreme Court Electronic Filing System.
	Pursuant to NRCP 5, by placing a copy in the US mail, postage pre-paid to the following counsel of record or parties in proper person:
	Via receipt of copy (proof of service to follow)

An Attorney or Employee of the firm:

/s/ Adam J. Breeden
BREEDEN & ASSOCIATES PLLC



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DISTRICT COURT
CLARK COUNTY, NEVADA

10 KIMBERLY D. TAYLOR, an Individual,)
11)
12 Plaintiff,)

13 vs.)

14 KEITH BRILL, MD, FACOG, FACS, an)
15 Individual; WOMEN'S HEALTH ASSOCIATES)
16 OF SOUTHERN NEVADA - MARTIN, PLLC, a)
17 Nevada Professional Limited Liability Company;)
18 BRUCE HUTCHINS, RN, an Individual;)
19 HENDERSON HOSPITAL and/or VALLEY)
20 HEALTH SYSTEM, LLC, a Foreign LLC dba)
21 HENDERSON HOSPITAL, and/or HENDERSON)
22 HOSPITAL, a subsidiary of UNITED HEALTH)
23 SERVICES, a Foreign LLC; TODD W.)
24 CHRISTENSEN, MD, an Individual; DIGNITY)
25 HEALTH d/b/a ST. ROSE DOMINICAN)
26 HOSPITAL; DOES I through XXX, inclusive;)
27 and ROE CORPORATIONS I through XXX,)
28 inclusive;)

Defendants.)

CASE NO.: A-18-773472-C

DEPT. NO.: Department 10

EXEMPT FROM ARBITRATION:
COMPLAINT FOR MEDICAL
MALPRACTICE

COMPLAINT

COMES NOW Plaintiff, **KIMBERLY D. TAYLOR (Kimberly)**, an individual, by and through
his counsel, JAMES S. KENT, ESQ., and for his causes of action against Defendants, and each of them,
alleges and complains as follows:

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1 **GENERAL ALLEGATIONS**

2 1. That the Plaintiff, KIMBERLY D. TAYLOR (Kimberly), an individual, was at all times
3 mentioned herein a resident of the State of Nevada.

4 2. Upon information and belief, Defendant, KEITH BRILL, MD, FACOG, FACS (Dr.
5 Brill), an individual, was at all times mentioned herein a resident of Clark County, State of Nevada.

6 3. Upon information and belief, Defendant WOMEN'S HEALTH ASSOCIATES OF
7 SOUTHERN NEVADA - MARTIN, PLLC, (WHASN) was a Nevada Professional Limited Liability
8 Company and was licensed to do business in, and at all relevant times was doing business in, Clark
9 County, Nevada.

10 4. Upon information and belief, Defendant, BRUCE HUTCHINS, RN (Hutchins), an
11 individual, was at all times mentioned herein a resident of Clark County, State of Nevada.

12 5. Upon information and belief, Defendant HENDERSON HOSPITAL and/or VALLEY
13 HEALTH SYSTEM, LLC, dba HENDERSON HOSPITAL, and/or HENDERSON HOSPITAL, a
14 subsidiary of UNITED HEALTH SERVICES (HH), was a Foreign LLC and was licensed to do business
15 in, and at all relevant times was doing business in, Clark County, Nevada.

16 6. Upon information and belief, Defendant, TODD W. CHRISTENSEN, MD, (Dr.
17 Christensen), an individual, was at all times mentioned herein a resident of Clark County, State of
18 Nevada.

19 7. Upon information and belief, Defendant DIGNITY HEALTH d/b/a ST. ROSE
20 DOMINICAN HOSPITAL (St. Rose) was a Foreign Non-Profit Corporation and was licensed to do
21 business in, and at all relevant times was doing business in, Clark County, Nevada.

22 8. That at all relevant times mentioned herein, Defendant Dr. Brill was a licensed physician
23 pursuant to NRS §630.014, and was duly admitted and authorized to practice medicine in the State of
24 Nevada.

25 9. That at all relevant times mentioned herein, Defendant Hutchins was a registered nurse
26 licensed to practice as a nurse in the State of Nevada.

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1 10. That at all relevant times mentioned herein, Defendant Dr. Christensen was a licensed
2 physician pursuant to NRS §630.014, and was duly admitted and authorized to practice medicine in the
3 State of Nevada.

4 11. That at all relevant times mentioned herein, Defendant WHASN was the employer for
5 some or all of the other Defendants herein, all of whom were acting within the scope of their
6 employment with full authority.

7 12. That at all relevant times mentioned herein, Defendant HH was the employer for some
8 or all of the other Defendants herein, all of whom were acting within the scope of their employment with
9 full authority.

10 13. That at all relevant times mentioned herein, Defendant St. Rose Dominican was the
11 employer for some or all of the other Defendants herein, all of whom were acting within the scope of
12 their employment with full authority.

13 14. That at all relevant times mentioned herein, Roe Corporation I was the employer for some
14 or all of the other Defendants herein, all of whom were acting within the scope of their employment with
15 full authority.

16 15. That at all times relevant herein, Defendants designated as DOES I through XXX and
17 ROE CORPORATIONS I through XXX, in their true capacities, whether individual, corporate, associate
18 or otherwise of the Defendants named herein are unknown to Plaintiff who, therefore, sues said
19 Defendants by said fictitious names; Plaintiff is informed and believes and thereon alleges that each of
20 the Defendants designated as a DOES I through XXX and ROE CORPORATIONS I through XXX are
21 responsible in some manner for the events and happenings referred to herein, and caused damages
22 proximately to Plaintiff as herein alleged, and Plaintiff will ask leave of this court to amend this
23 Complaint to insert the true names and capacities of DOES I through XXX and ROE CORPORATIONS
24 I through XXX, when the same have been ascertained and to join such Defendants in this action.

25 16. That all events mentioned herein occurred in Clark County, Nevada.

26 17. On or about April 26, 2017 Plaintiff Kimberly Taylor appeared at Henderson Hospital
27 to undergo a dilation and curettage with hysteroscopy with fibroid removal and hydrothermal ablation.

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1 18. That Dr. Brill was to perform, and did partially perform, the surgery referenced in
2 Paragraph 17.

3 19. During the procedure, Dr. Brill perforated Kimberly's uterine wall and her small bowel.

4 20. Dr. Brill only confirmed the perforation with the hysteroscope and did not perform
5 laparoscopy to evaluate for bowel or other injury to Kimberly.

6 21. Dr. Brill continued with the surgical procedure, but ultimately terminated it before
7 completion.

8 22. Dr. Brill never informed Kimberly of the complication of perforating her uterine wall.

9 23. Dr. Brill did not inform the anesthesiologist of the complication of perforating Kimberly's
10 uterine wall.

11 24. Dr. Brill informed the PACU that there were no complications as a result of the surgery.

12 25. After the surgery, Kimberly was transferred to the care of HH and Hutchins.

13 26. Kimberly was in the care of Hutchins and HH for approximately 7 hours, despite normal
14 recovery for this procedure being 1-2 hours or less due to the failure to complete the surgical procedure.

15 27. While in post-operative care, Kimberly complained of severe abdominal pain and nausea.

16 28. Hutchins gave Kimberly significant amounts and types of medications to address her
17 concerns.

18 29. Hutchins and HH never communicated with Dr. Brill, WHASN, or any other physician
19 during the time Kimberly was in their care.

20 30. Hutchins and HH released Kimberly without contacting Dr. Brill despite her still having
21 continuing abdominal pains and nausea.

22 31. On the evening of April 25/early morning of April 26, 2017, Kimberly was transported
23 to the St. Rose emergency department via ambulance.

24 32. Dr. Christensen treated Kimberly at St. Rose for the visit referenced in Paragraph 32.

25 33. Kimberly appeared at St. Rose with complaints of extreme abdominal pain and diffuse
26 torso pain.

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1 34. Dr. Christensen and St. Rose had a CT Abdomen and Pelvis performed, which noted
2 postoperative pneumoperitoneum and small to moderate ascites.

3 35. Dr. Christensen was aware of the surgical procedure Kimberly underwent by Dr. Brill.

4 36. Dr. Christensen did not seek a consult with an OB/GYN and/or surgeon.

5 37. Dr. Christensen did not rule out a more serious injury despite the CT findings consistent
6 with visceral perforation and injury.

7 38. Despite the forgoing, as well as Kimberly still having ongoing severe abdominal pain,
8 she was treated for nausea and released after approximately three hours.

9 39. Later on April 27, 2017, Kimberly appeared yet again at St. Rose, where she was
10 eventually admitted.

11 40. Kimberly underwent a surgical consult, which included examination and review of the
12 previously taken CT scan.

13 41. Based upon the surgical consults examination findings, the clinical significant pain of
14 Kimberly, and the CT findings (which findings were consistent with visceral perforation and injury),
15 Kimberly underwent a diagnostic laparoscopy which was then converted to an exploratory laparotomy
16 with a small bowel resection.

17 42. During the surgical procedure referenced in Paragraph 41, a 3 cm perforation of the small
18 bowel was discovered and a resection was performed; Kimberly was also discovered to have suffered
19 gross peritonitis in all 4 quadrants.

20 43. Kimberly thereafter suffered a prolonged, critical, post-operative course, and was
21 discharged on May 5, 2017.

22 44. Kimberly continues to suffer ongoing repercussions from the aforementioned treatment
23 and care.

24 45. Each of the Defendants were responsible for safely and properly following the standards
25 of care for the medical treatment rendered to Kimberly for the periods referenced above.

26 46. As a result of the actions and inactions listed herein, Kimberly has incurred significant
27 injury to her person and special damages by way of past and future lost personal services, past and future
28 medical costs for treatment, and other losses that are ongoing and not fully calculated at this time.

FIRST CLAIM FOR RELIEF
(Medical Malpractice/Professional Negligence of Defendant Dr. Brill (41A.100))

47. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth hereunder and incorporate the same by reference.

48. At all times pertinent hereto, Defendant Dr. Brill had a duty to adequately and properly provide competent and reasonably safe medical care within the accepted standard of care to Kimberly, as well as properly supervise, monitor, communicate with others, and otherwise ensure her health and safety while she was under his care and recovering from his treatment.

49. Dr. David Berke, DO, FACOOG, has opined in his report attached as Exhibit 1 that Defendant Dr. Brill's care and treatment of Kimberly, to a reasonable degree of medical probability and certainty, fell below the accepted standards of care as follows:

- a. Not properly performing the surgical procedure, causing perforations of Kimberly's uterine wall and small bowel with use of a thermal instrument;
- b. Continuing the surgery, including use of the curettage, after noting the perforation of the uterine wall;
- c. Failing to properly evaluate and diagnose the extent of damage to Kimberly after the perforation of the uterine wall was noted;
- d. Failing to inform and instruct PACU of the uterine perforation and to look for specific concerns which could evidence additional damage and require additional examination; and
- e. Failing to inform Kimberly of the complications resulting from the surgical procedure.

50. As a direct and proximate result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Dr. Brill, Plaintiff Kimberly Taylor suffered injuries and damages, including but not limited to perforation of her uterus, perforation of her small bowel and burn injury to her small bowel, removal of a section of her small bowel, gross peritonitis, and a prolonged, critical, post-operative course, all within a reasonable degree of medical probability and certainty as per Dr. Berke, and all to Plaintiff's damages in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

51. As a direct and proximate result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Dr. Brill, Plaintiff Kimberly Taylor has sustained physical and mental injuries, which have caused and will continue to cause physical and mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

52. As a direct, proximate, and legal result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Dr. Brill, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

53. As a direct, proximate, and legal result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Dr. Brill, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

SECOND CLAIM FOR RELIEF
(Medical Malpractice/Professional Negligence of Defendant Hutchins (41A.100))

54. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth hereunder and incorporate the same by reference.

55. At all times pertinent hereto, Defendant Hutchinsl had a duty to adequately and properly provide competent and reasonably safe medical care with the accepted standard of care to Kimberly, as well as properly supervise, monitor, communicate with others, and otherwise ensure her health and safety while she was under his care and recovering from his treatment.

56. Dr. David Berke, DO, FACOOG, has opined in his report attached as Exhibit 1 that Defendant Hutchin's care and treatment of Kimberly, to a reasonable degree of medical probability and certainty, fell below the accepted standards of care as follows:

a. Failure to contact Dr. Brill or obtain a GYN consult despite the excessive pain medications being given to Ms. Taylor;

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- b. Failure to contact Dr. Brill prior to releasing Ms. Taylor; and
- c. Releasing Ms. Taylor despite her ongoing severe abdominal pain.

57. As a direct and proximate result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Hutchins, Plaintiff Kimberly Taylor suffered injuries and damages, including but not limited to gross peritonitis and a prolonged, critical, post-operative course, all within a reasonable degree of medical probability and certainty as per Dr. Berke, and all to Plaintiff's damages in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

58. As a direct and proximate result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Hutchins, Plaintiff Kimberly Taylor has sustained physical and mental injuries, which have caused and will continue to cause physical and mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

59. As a direct, proximate, and legal result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Hutchins, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

60. As a direct, proximate, and legal result of the medical malpractice, professional negligence and failures to meet the standard of care by Defendant Hutchins, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

**THIRD CLAIM FOR RELIEF
(Medical Malpractice/Professional Negligence of Defendant Dr. Christensen (41A.100))**

61. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth hereunder and incorporate the same by reference.

62. At all times pertinent hereto, Defendant Dr. Christensen had a duty to adequately and properly provide competent and reasonably safe medical care with the accepted standard of care to

1 Kimberly, as well as properly supervise, monitor, communicate with others, and otherwise ensure her
2 health and safety while she was under his care and recovering from his treatment.

3 63. Dr. David Berke, DO, FACOOG, has opined in his report attached as Exhibit 1 that
4 Defendant Dr. Christensen's care and treatment of Kimberly, to a reasonable degree of medical
5 probability and certainty, fell below the accepted standards of care as follows:

- 6 a. Failure to obtain a consult with OB/GYN and/or surgeon based upon the CT
7 report; and
- 8 b. Release of Ms. Taylor despite the CT report and ongoing severe abdominal pain
9 without ruling out a more serious injury with CT findings consistent with visceral
10 perforation and injury.

11 64. As a direct and proximate result of the medical malpractice, professional negligence and
12 failures to meet the standard of care by Defendant Dr. Christensen, Plaintiff Kimberly Taylor suffered
13 injuries and damages, including but not limited to gross peritonitis and a prolonged, critical, post-
14 operative course, all within a reasonable degree of medical probability and certainty as per Dr. Berke,
15 and all to Plaintiff's damages in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

16 65. As a direct and proximate result of the medical malpractice, professional negligence and
17 failures to meet the standard of care by Defendant Dr. Christensen, Plaintiff Kimberly Taylor has
18 sustained physical and mental injuries, which have caused and will continue to cause physical and
19 mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to be
20 compensated in an amount to be determined at the time of trial in this matter and which is in excess of
21 TEN THOUSAND DOLLARS (\$10,000).

22 66. As a direct, proximate, and legal result of the medical malpractice, professional
23 negligence and failures to meet the standard of care by Defendant Dr. Christensen, Plaintiff Kimberly
24 Taylor has incurred and will continue to incur medical expenses and other special damages for which
25 Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial
26 in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

27 67. As a direct, proximate, and legal result of the medical malpractice, professional
28 negligence and failures to meet the standard of care by Defendant Dr. Christensen, it has been necessary

1 for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and
2 Plaintiff is entitled to recover reasonable attorney's fees and costs.

3 **FOURTH CLAIM FOR RELIEF**
4 **(Res Ipsa Loqitur - NRS 41A.100; Medical Malpractice/Professional Negligence of Defendant**
5 **Dr. Brill)**

6 68. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth
7 hereunder and incorporate the same by reference.

8 69. At all times pertinent hereto, Defendant Dr. Brill was the physician performing
9 Kimberly's dilation and curettage with hysteroscopy with fibroid removal and hydrothermal ablation.

10 70. During the course of his medical care, in particular his surgery, Defendant Dr. Brill
11 unintentionally caused burn injuries by heat, radiation, or chemicals to Kimberly's uterus and bowel.

12 71. These injuries do not normally occur in the absence of negligence and a failure to meet
13 the standard of care.

14 72. Kimberly could not and does not have comparative negligence as she was under general
15 anesthesia, completely dependent, and under the total control of Dr. Brill during the entire period in
16 which she sustained these injuries, which caused the intestinal contents to leak into the abdominal and
17 pelvis cavities and directly result in infection and gross peritonitis.

18 73. Pursuant to Nevada Revised Statute 41A.100, Dr. Brill is therefore presumed
19 professionally negligent (i.e. to have fallen below the standard of care).

20 74. As a direct and proximate result of Defendant Dr. Brill's negligent acts and omissions,
21 including, but not limited to, the above-stated res ipsa, presumption of professional negligence, Plaintiff
22 Kimberly suffered injuries and damages, all to Plaintiff Kimberly Taylor's detriment, in an amount in
23 excess of TEN THOUSAND DOLLARS (\$10,000).

24 75. As a direct and proximate result of Defendant Dr. Brill's negligent acts and omissions,
25 including, but not limited to, the above-stated res ipsa, presumption of professional negligence, Plaintiff
26 Kimberly Taylor has sustained physical and mental injuries, which have caused and will continue to
27 cause physical and mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff
28 is entitled to be compensated in an amount to be determined at the time of trial in this matter and which
is in excess of TEN THOUSAND DOLLARS (\$10,000).

76. As a direct and proximate result of Defendant Dr. Brill's negligent acts and omissions, including, but not limited to, the above-stated *res ipsa*, presumption of professional negligence, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

77. As a direct and proximate result of Defendant Dr. Brill's negligent acts and omissions, including, but not limited to, the above-stated *res ipsa*, presumption of professional negligence, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

FIFTH CLAIM FOR RELIEF
(Res Ipsa Loquitur - NRS 41A.100; Medical Malpractice/Professional Negligence of Defendant Henderson Hospital et al)

78. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth hereunder and incorporate the same by reference.

79. At all times pertinent hereto, Defendants Henderson Hospital et al were the owners, managers, distributors, retailers and/or otherwise providers of Henderson Hospital, its operating facility and surgical equipment, including but not limited to the facility used for and equipment used during Kimberly's surgery by Dr. Brill on April 26, 2017.

80. During the use of this equipment in Defendant Henderson Hospital's facility, Kimberly received multiple unintentional burn injuries caused by heat, radiation, or chemicals to Kimberly's uterus and bowel.

81. These injuries do not normally occur in the absence of negligence and a failure to meet the standard of care.

82. Kimberly could not and does not have comparative negligence as she was under general anesthesia, completely dependent, and under the defendants' control during the entire period in which she sustained these injuries, which caused the intestinal contents to leak into the abdominal and pelvis cavities and directly result in infection and gross peritonitis.

83. Pursuant to Nevada Revised Statute 41A.100, Dr. Brill is therefore presumed professionally negligent (i.e. to have fallen below the standard of care).

1 84. As a direct and proximate result of Defendant Henderson Hospital et al's negligent acts
2 and omissions, including, but not limited to, the above-stated res ipsa, presumption of professional
3 negligence, Plaintiff Kimberly Taylor suffered injuries and damages, all to Plaintiff Kimberly Taylor's
4 detriment, in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

5 85. As a direct and proximate result of Defendant Henderson Hospital et al's negligent acts
6 and omissions, including, but not limited to, the above-stated res ipsa, presumption of professional
7 negligence, Plaintiff Kimberly Taylor has sustained physical and mental injuries, which have caused and
8 will continue to cause physical and mental pain and suffering with loss of enjoyment of life. For these
9 damages, Plaintiff is entitled to be compensated in an amount to be determined at the time of trial in this
10 matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

11 86. As a direct and proximate result of Defendant Henderson Hospital et al's negligent acts
12 and omissions, including, but not limited to, the above-stated res ipsa, presumption of professional
13 negligence, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other
14 special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be
15 determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS
16 (\$10,000).

17 87. As a direct and proximate result of Defendant Henderson Hospital et al's negligent acts
18 and omissions, including, but not limited to, the above-stated res ipsa, presumption of professional
19 negligence, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent,
20 Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

21 **SIXTH CLAIM FOR RELIEF**
22 **(Vicarious Liability of Defendant Women's Health Associates of Southern Nevada)**

23 88. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth
24 hereunder and incorporate the same by reference.

25 89. Defendant Dr. Brill was an agent and/or employee of Defendant WHASN, and was acting
26 in the scope of his employment, under WHASN's control, and in furtherance of WHASN's interests at
27 the time their actions caused Plaintiff's injuries.
28

90. Defendant WHASN is vicariously liable for damages resulting from their employees', agents', and/or independent contractors' negligent actions against Kimberly during the scope of their employment.

91. That Kimberly entrusted to Defendants Dr. Brill's and WHASN's care and treatment.

92. That as a direct and proximate result of the negligence and failures to meet the standard of care by Defendants Dr. Brill and WHASN, Plaintiff Kimberly Taylor suffered injuries and damages, including but not limited to gross peritonitis and a prolonged, critical, post-operative course, and all to Plaintiff's damages in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

93. That as a direct and proximate result of the negligence and failures to meet the standard of care by Defendants Dr. Brill and WHASN, Plaintiff Kimberly Taylor has sustained physical and mental injuries, which have caused and will continue to cause physical and mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

94. That as a direct and proximate result of the negligence and failures to meet the standard of care by Defendants Dr. Brill and WHASN, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

95. As That as a direct and proximate result of the negligence and failures to meet the standard of care by Defendants Dr. Brill and WHASN, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

SIXTH CLAIM FOR RELIEF
(Vicarious Liability of Defendant Henderson Hospital et al)

96. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth hereunder and incorporate the same by reference.

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1 97. Defendant Hutchins was an agent and/or employee of Defendant Henderson Hospital and
2 was acting in the scope of his employment, under HH's control, and in furtherance of HH's interests at
3 the time their actions caused Plaintiff's injuries.

4 98. Defendant HH is vicariously liable for damages resulting from their employees', agents',
5 and/or independent contractors' negligent actions against Kimberly during the scope of their
6 employment.

7 99. That Kimberly entrusted to HH's care and treatment.

8 100. That HH selected the medical care providers who rendered care to Kimberly.

9 101. That Kimberly reasonably believed that the medical care providers selected by HH were
10 the agents, employees, or servants of HH.

11 102. That as a direct and proximate result of the negligence and failures to meet the standard
12 of care by Hutchins and/or other employees, agents, or servants of HH, Plaintiff Kimberly Taylor
13 suffered injuries and damages, including but not limited to gross peritonitis and a prolonged, critical,
14 post-operative course, and all to Plaintiff's damages in an amount in excess of TEN THOUSAND
15 DOLLARS (\$10,000).

16 103. That as a direct and proximate result of the negligence and failures to meet the standard
17 of care by Hutchins and/or other employees, agents, or servants of HH, Plaintiff Kimberly Taylor has
18 sustained physical and mental injuries, which have caused and will continue to cause physical and
19 mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to be
20 compensated in an amount to be determined at the time of trial in this matter and which is in excess of
21 TEN THOUSAND DOLLARS (\$10,000).

22 104. That as a direct and proximate result of the negligence and failures to meet the standard
23 of care by Hutchins and/or other employees, agents, or servants of HH, Plaintiff Kimberly Taylor has
24 incurred and will continue to incur medical expenses and other special damages for which Plaintiff
25 Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this
26 matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

27 105. That as a direct and proximate result of the negligence and failures to meet the standard
28 of care by Hutchins and/or other employees, agents, or servants of HH, it has been necessary for Plaintiff

1 Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is
2 entitled to recover reasonable attorney's fees and costs.

3 **EIGHTH CLAIM FOR RELIEF**
4 **(Vicarious Liability of Defendant St. Rose)**

5 106. Plaintiff repeats and re-alleges each and every above paragraph as though fully set forth
6 hereunder and incorporate the same by reference.

7 107. Defendant Dr. Christensen was an agent and/or employee and/or independent contractor
8 of Defendant St. Rose and was acting in the scope of his employment and/or agency and/or contract,
9 under St. Rose's control, and in furtherance of St. Rose's interests at the time their actions caused
10 Plaintiff's injuries.

11 108. Defendant St. Rose is vicariously liable for damages resulting from their employees',
12 agents', and/or independent contractors' negligent actions against Kimberly during the scope of their
13 employment, agency, appointment, or other similar relationship.

14 109. That Kimberly entrusted to St. Rose's care and treatment.

15 110. That St. Rose selected the doctor, doctors, and/or medical care providers who rendered
16 care to Kimberly.

17 111. That Kimberly reasonably believed that the doctor, doctors, and/or medical care providers
18 selected by St. Rose were the agents, employees, or servants of St. Rose.

19 112. That as a direct and proximate result of the negligence and failures to meet the standard
20 of care by Dr. Christensen and/or other employees, agents, or servants of St. Rose, Plaintiff Kimberly
21 Taylor suffered injuries and damages, including but not limited to gross peritonitis and a prolonged,
22 critical, post-operative course, and all to Plaintiff's damages in an amount in excess of TEN
23 THOUSAND DOLLARS (\$10,000).

24 113. That as a direct and proximate result of the negligence and failures to meet the standard
25 of care by Dr. Christensen and/or other employees, agents, or servants of St. Rose, Plaintiff Kimberly
26 Taylor has sustained physical and mental injuries, which have caused and will continue to cause physical
27 and mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to
28 be compensated in an amount to be determined at the time of trial in this matter and which is in excess
of TEN THOUSAND DOLLARS (\$10,000).

114. That as a direct and proximate result of the negligence and failures to meet the standard of care by Dr. Christensen and/or other employees, agents, or servants of St. Rose, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

115. That as a direct and proximate result of the negligence and failures to meet the standard of care by Hutchins and/or other employees, agents, or servants of St. Rose, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

NINTH CLAIM FOR RELIEF
(Negligent Hiring, Training, and Supervision of Defendants Women’s Health Associates of Southern Nevada, Henderson Hospital et al, and St. Rose)

116. Plaintiff repeats and re-alleges each and every allegation and fact contained herein and incorporate the same by reference.

117. Defendants had a duty to hire, properly train, properly supervise, and properly retain competent employees, agents, independent contractors, and representatives.

118. Defendants breached their duty by improperly hiring, improperly training, improperly supervising, and improperly retaining incompetent persons regarding their examination, diagnosis, and treatment of Kimberly during the times referenced herein.

119. Defendants breached the applicable standard of care directly resulting in Kimberly sustaining significant injuries including but not limited to perforation of her uterus, perforation of her small bowel and burn injury to her small bowel, removal of a section of her small bowel, gross peritonitis, and a prolonged, critical, post-operative course.

120. As a direct and proximate result of the Defendants' negligence, medical malpractice, and carelessness, Plaintiff Kimberly Taylor suffered injuries and damages, including but not limited to perforation of her uterus, perforation of her small bowel and thermal injury to her small bowel, removal of a section of her small bowel, gross peritonitis, and a prolonged, critical, post-operative course, all to Plaintiff's damages in an amount in excess of TEN THOUSAND DOLLARS (\$10,000).

///

121. As a direct and proximate result of the Defendants' negligence, medical malpractice, and carelessness, Plaintiff Kimberly Taylor has sustained physical and mental injuries, which have caused and will continue to cause physical and mental pain and suffering with loss of enjoyment of life. For these damages, Plaintiff is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

122. As a direct and proximate result of the Defendants' negligence, medical malpractice, and carelessness, Plaintiff Kimberly Taylor has incurred and will continue to incur medical expenses and other special damages for which Plaintiff Kimberly Taylor is entitled to be compensated in an amount to be determined at the time of trial in this matter and which is in excess of TEN THOUSAND DOLLARS (\$10,000).

123. As a direct and proximate result of the Defendants' negligence, medical malpractice, and carelessness, it has been necessary for Plaintiff Kimberly Taylor to retain the law firm of James S. Kent, Ltd., to prosecute this action, and Plaintiff is entitled to recover reasonable attorney's fees and costs.

WHEREFORE, Plaintiff Kimberly Taylor, reserving the right to amend this Complaint at the time of trial to include all items of damages not yet ascertained, prays for judgment against the Defendants, and each of them, as follows:

1. FOR EACH AND EVERY CAUSE OF ACTION:

- a. For past and future general damages in a sum in excess of \$10,000.00;
- b. For past and future special damages in a sum in excess of \$10,000.00;
- c. For Plaintiff's Court costs and attorney's fees; and,
- d. For such other and further relief as to the Court may seem proper.

DATED this 25th day of April, 2018.

JAMES S. KENT, LTD.



JAMES S. KENT, ESQ.
Nevada Bar No. 5034
9480 S. Eastern Ave., Suite 228
Las Vegas, Nevada 89123
(702) 385-1100
Attorney for Plaintiff

EXHIBIT 1

Appx.-000607

1 DECLARATION OF DAVID BERKE, DO, FACOG

2 STATE OF CALIFORNIA)
3 COUNTY OF RIVERSIDE) ss:

4 DAVID BERKE, having been duly sworn, deposes and says:

5 1. I am a board certified Obstetrician and Gynecologist. I am currently in full-time
6 practice in Riverside, California. All of my licenses are on file with the appropriate authorities in
7 California. My additional qualifications and training are further set forth in my Curriculum Vitae,
8 which is attached hereto and incorporated herein by reference. Based upon my training, background,
9 knowledge, and experience in gynecology and obstetrics, I am familiar with the applicable standards
10 of care for the treatment of individuals demonstrating the symptoms and conditions presented by the
11 Plaintiff in this action. Further, I am qualified on the basis of my training, background, knowledge
12 and experience to offer expert medical care, the breaches thereof in this case, and any resulting
13 injuries and damages arising therefrom. The opinions I give are within the reasonable medical
14 probability and certainty.

15 2. I have reviewed the physician and hospital records pertaining to this matter:

- 16 a. Medical records from the office of Keith Brill, M.D./Women's Health
17 Associates of Southern Nevada;
18 b. Medical records from Henderson Hospital; and
19 c. Medical records from Dignity Health D/b/a St. Rose Dominican Hospital.

20 3. My opinions below pertaining to the care of Kimberly D. Taylor are based upon my
21 review of the aforementioned records, photographs, etc., from the referenced parties.

22 4. Ms. Taylor was a 45 year old woman who had been treated by Dr. Brill for several
23 years prior to the incident in question. She had a history of menorrhagia, and had a bicornuate uterus
24 with a fibroid. After counseling with Dr. Brill, she agreed to dilation and curettage with
25 hysteroscopy with fibroid removal and hydrothermal ablation, all to be performed by Dr. Brill.

26 5. On April 26, 2017, Ms. Taylor appeared at Henderson Hospital for the referenced
27 surgical procedure. During the procedure, Dr. Brill was using a symphion hysteroscope to begin
28 resecting an apparent uterine septum when he noted a uterine perforation. Despite experiencing a



1 uterine perforation during the use of a device that cuts with energy, Dr. Brill only confirmed the
2 perforation with the hysteroscope and did not perform laparoscopy to evaluate for bowel or other
3 injury. He continued with the procedure, thereafter using a #2 sharp curette to remove a small
4 amount of endometrial tissue, but thereafter terminated the procedure. Ms. Taylor was thereafter
5 removed to recovery. There was no record of Ms. Taylor being informed of the perforation by Dr.
6 Brill.

7 6. During a procedure such as the one performed herein, once the perforation of the
8 uterine wall was noted, the proper standard of care is to identify and locate the extent of the injury,
9 and cease all further invasive procedures which may cause injury to adjacent structures. Since a
10 thermal instrument was being used at the time of the injury, a laparoscopy should have been
11 performed immediately to determine if any further damage occurred, and/or obtain a surgical consult.
12 The surgeon then has a duty to inform the patient about the condition and what occurred during
13 surgery. The doctor is also obligated to inform current and subsequent providers of the concern to
14 insure proper and appropriate treatment to the patient.

15 7. Ms. Taylor was thereafter in recovery at Henderson Hospital under the care of Bruce
16 Hutchins, RN, where she remained for approximately 7 hours. It appears Ms. Taylor was discharged
17 despite still complaining of severe abdominal pain. The PACU notes state that per surgeon, there
18 were no complications. No complications were noted by the anesthesiologist. During her post
19 operative stay, Ms. Taylor was medicated for ongoing pain and nausea. No communications to Dr.
20 Brill were noted.

21 8. The normal recovery for the type of procedure performed in this instance would be
22 an hour or two, and generally with minimal pain medications, and the PACU nurse should know this.
23 If a patient is in recovery for 7 hours, and having been given significant pain medications to alleviate
24 the pain being expressed, the proper standard of care is for the PACU nurse to contact the surgeon
25 and inform the surgeon of the patient's condition so the surgeon may determine if alternative or
26 additional treatment should be provided.

27 9. Approximately 7.5 hours after being released from Henderson Hospital, Ms. Taylor
28 appeared via ambulance at St. Rose Dominican ER where she was received by Dr. Todd Christensen.

1 Her complaints at that time were extreme abdominal pain and diffuse torso pain. A CT Abdomen
2 and Pelvis was performed, noting postoperative pneumoperitoneum and small to moderate ascites.
3 Despite these findings, she was treated for nausea and released after approximately three hours
4 without further workup or consultation regarding a possible bowel injury.

5 10. When the CT Abdomen and Pelvis showed "postoperative pneumoperitoneum and
6 small to moderate ascites" following the procedure noted herein, the proper standard of care would
7 be to seek a surgical consult to rule out any possible bowel or other injury.


8 11. Ms. Taylor subsequently appeared at St. Rose ER approximately 6 hours later, again
9 via ambulance, complaining of worsening abdominal pain. A call was placed to Dr. Brill, who was
10 unavailable. Samantha Schoenhaus, DO, OB-GYN, covering for Dr. Brill, admitted Ms. Taylor,
11 but despite her condition, there was still no indication any person associated with the matter had any
12 knowledge that Ms. Taylor's uterine wall had been perforated during the surgery the day before.
13 Elizabeth Hamilton, M.D., was eventually consulted and was eventually informed by report that a
14 uterine perforation had occurred during the prior surgery. Based upon her examination findings,
15 clinical significant pain, and the CT findings (which suggested evidence of perforation), Dr.
16 Hamilton felt it was highly likely Ms. Taylor had a bowel perforation. Dr. Hamilton performed a
17 diagnostic laparoscopy which was then converted to an exploratory laparotomy with a small bowel
18 resection. A 3 cm perforation of the small bowel was discovered and a resection was performed.
19 Ms. Taylor also suffered gross peritonitis in all 4 quadrants. She was eventually discharged nine
20 days later.

21 12. It is my professional opinion, to a reasonable degree of medical certainty, that the care
22 and treatment provided by Dr. Brill, Bruce Hutchins RN, Henderson Hospital, Dr. Christensen, and
23 St. Rose was grossly deficient, negligent, and below the standard of care, including but not limited
24 to the following:

25 a. Dr. Brill

26 i. Not properly performing surgical procedure causing perforations of
27 Ms. Taylor's uterine wall and small bowel with use of a thermal
28 instrument;

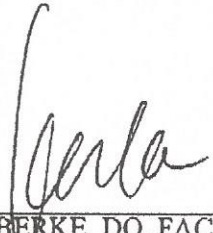


- 1 ii. Continuing the surgery, including use of the curettage, after noting
2 the perforation of the uterine wall;
3 iii. Failing to properly evaluate and diagnose the extent of damage to Ms.
4 Taylor after the perforation of the uterine wall was noted;
5 iv. Failing to inform and instruct PACU of the uterine perforation and to
6 look for specific concerns which could evidence additional damage
7 and require additional examination;
8 v. Failing to inform Ms. Taylor of the complications resulting from the
9 surgical procedure;
10 b. Bruce Hutchins, RN, and Henderson Hospital
11 i. Failure to contact Dr. Brill or obtain a GYN consult despite the
12 excessive pain medications being given to Ms. Taylor;
13 ii. Failure to contact Dr. Brill prior to releasing Ms. Taylor;
14 iii. Releasing Ms. Taylor despite her ongoing severe abdominal pain;
15 c. Dr. Christensen and St. Rose (first visit to ER)
16 i. Failure to obtain a consult with OB/GYN and/or surgeon based upon
17 the CT report;
18 ii. Release of Ms. Taylor despite the CT report and ongoing severe
19 abdominal pain without ruling out a more serious injury with CT
20 findings consistent with visceral perforation and injury..
21 13. The actions of Keith Brill, MD, FACOG, FACS; Women's Health Associates of
22 Southern Nevada - Martin, PLLC; Bruce Hutchins, RN; Henderson Hospital and/or Valley Health
23 System, LLC and/or Henderson Hospital; Todd W. Christensen, MD; and Dignity Health d/b/a St.
24 Rose Dominican Hospital, and their employees, agents and/or contractors, fell below the standard
25 of care and were the direct cause of the injuries sustained by Ms. Taylor, including but not limited
26 ///
27 ///
28 ///
- 

1 to uterine perforation, bowel perforation, bowel resection, gross peritonitis in all 4 quadrants, and
2 a prolonged, critical, post-operative course.

3 I4. I reserve the rights to amend my findings upon the presentation of additional facts
4 and/or records related to this matter.

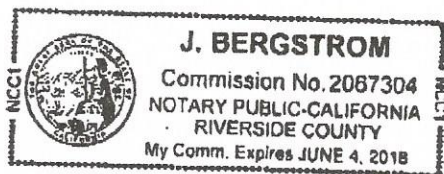
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DAVID BERKE, DO, FACOOG

9 SUBSCRIBED AND SWORN to before me
10 this 25 day of April, 2018.

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NOTARY PUBLIC



242 EAGLE GROVE AVE • CLAREMONT, CA 91711
PHONE (909) 910-8364 • E-MAIL DAVID.BERKE108@GMAIL.COM

DAVID BERKE, DO, FACOOG

EDUCATION

Western University of Health Sciences 6/2003 - 5/2007 Pomona, CA

Doctor of Osteopathic Medicine

The George Washington University 8/1992 - 8/1994 Washington, DC

Bachelor of Science – Physician Assistant

San Diego State University 8/1987 - 6/1992

San Diego, CA

Bachelor of Arts – With Distinction in Psychology

PROFESSIONAL EXPERIENCE

Riverside Medical Clinic 6/2013 – present

Riverside, CA

Obstetrician and Gynecologist

- Full spectrum OB/GYN care, with emphasis on minimally invasive Gynecologic procedures, in large multi-specialty Medical Group
- Assistant Clinical Professor, Department of Obstetrics and Gynecology, University of California, Riverside, School of Medicine
- Medical Director of Ambulatory Surgery Center
- Member of Medical Practice and Peer Review Committees

Magnolia Women's Center 7/2011 – 6/2013

Riverside, CA

Obstetrician and Gynecologist

Arrowhead Regional Medical Center 7/2008 – 6/2011 Colton, CA

Resident in Obstetrics and Gynecology

- Training at both San Bernardino and Riverside's County Hospitals
- Chief Resident 2010-2011

Arrowhead Regional Medical Center 6/2007 – 6/2008 Colton, CA

Internship – Specialty Track for Obstetrics and Gynecology

City of Hope National Medical Center 12/1996 –6/2003 Duarte, CA
Physician Assistant

- Department of Medical Oncology and
Therapeutics Research

Behrooz Tohidi, MD 8/1994 – 12/1996 Oceanside, CA
Physician Assistant

- Orthopedic Surgery

RESEARCH

Tyrosine Kinase Receptor Inhibition and ET-743 for the Ewing Family of Tumors, presented at Western Student Medical Research Forum 2005

Incidence of Umbilical pH < 7.0 in Elective Cesarean Section at Term, presented at Society for Gynecologic Investigation 2007

CURRENT LICENSURE/CERTIFICATION

Board Certified in Obstetrics and Gynecology

Licensed to practice Medicine in the State of California

PROFESSIONAL MEMBERSHIPS

Fellow, American College of Osteopathic Obstetricians and Gynecologists

American Osteopathic Association

California Medical Association

Riverside County Medical Society

1 **ORDD**
2 **ADAM J. BREEDEN, ESQ.**
3 Nevada Bar No. 008768
4 **BREEDEN & ASSOCIATES, PLLC**
5 376 E. Warm Springs Road, Suite 120
6 Las Vegas, Nevada 89119
7 Phone: (702) 819-7770
8 Fax: (702) 819-7771
9 Adam@Breedendassociates.com
10 *Attorneys for Plaintiff*

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 KIMBERLY TAYLOR, an individual,
14
15 Plaintiff,

CASE NO.: A-18-773472-C

DEPT NO.: III

16 v.

17 KEITH BRILL, M.D., FACOG, FACS, an
18 individual; WOMEN'S HEALTH
19 ASSOCIATES OF SOUTHERN NEVADA –
20 MARTIN, PLLC, a Nevada Professional
21 Limited Liability Company; BRUCE
22 HUTCHINS, RN, an individual;
23 HENDERSON HOSPITAL and/or VALLEY
24 HEALTH SYSTEM, LLC, a Foreign LLC dba
25 HENDERSON HOSPITAL, and/or
26 HENDERSON HOSPITAL, a subsidiary of
27 UNITED HEALTH SERVICES, a Foreign
28 LLC; TODD W. CHRISTENSEN, M.D., an
individual; DIGNITY HEALTH d/b/a ST.
ROSE DOMINICAN HOSPITAL; DOES I
through XXX, inclusive; and ROE
CORPORATIONS I through XXX, inclusive,

Defendants.

**ORDER DENYING DEFENDANT KEITH
BRILL, MD AND WOMEN'S HEALTH
ASSOCIATES OF SOUTHERN NEVADA-
MARTIN, PLLC'S MOTION FOR
ATTORNEY'S FEES**

Defendants' Motion for Attorney's Fees came for oral argument on January 18, 2022 at 9:00 a.m. Plaintiff, KIMBERLY TAYLOR was represented by her counsel Adam J. Breeden, Esq. of BREEDEN & ASSOCIATES, PLLC. Defendants, KEITH BRILL, M.D. and WOMEN'S HEALTH ASSOCIATES OF SOUTHERN NEVADA- MARTIN, PLLC were represented by their counsel Heather Hall, Esq. of McBRIDE HALL. Hon. Michael Cherry presided over the hearing.

1 Having reviewed the pleadings and papers on file and heard oral argument;

2 **THE COURT FINDS** that attorney's fees are not recoverable under NRS § 18.010(2)(b)
3 because this action was not filed "without reasonable ground or to harass the prevailing party." *Duff*
4 *v. Foster*, 110 Nev. 1306, 1308, 885 P.2d 589, 591 (1994). Attorney's fees are also not recoverable
5 under NRS § 18.010(2)(a) because the Defendants did not recover on any of their own claims. *Key*
6 *Bank v. Donnels*, 106 Nev. 49, 53, 787 P.2d 382, 385 (1990) ("when attorney's fees are based on the
7 provisions in [NRS 18.010(2)] subsection (a), we have held that an award of a money judgment is
8 a prerequisite to an award of attorney's fees.").

9 **THE COURT FINDS** that attorney's fees are not recoverable under NRCP 68 either.
10 Defendants served a \$0 offer of judgment for a waiver of costs prior to trial. The Court has reviewed
11 the parties' arguments and the factors under *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (Nev.
12 1983) and *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P. 2d 31, 33 (Nev. 1969). The
13 Court believes that Plaintiff Taylor's arguments are more persuasive that the \$0 offer of judgment
14 was not a bona fide settlement offer made in good faith and Taylor's decision to reject the offer and
15 proceed to trial was not grossly unreasonable or in bad faith. Therefore;

16 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED** that Defendants'
17 Motion for Attorney Fees is denied, Plaintiff's counsel shall prepare the Order.

18

19

20

21 Submitted by:

22 **BREEDEN & ASSOCIATES, PLLC**

23 /s/ Adam J. Breeden

24 **ADAM J. BREEDEN, ESQ.**

25 Nevada Bar No. 008768
26 376 E. Warm Springs Road, Suite 120
27 Las Vegas, Nevada 89119
28 Phone: (702) 819-7770
Fax: (702) 819-7771
adam@Breedendassociates.com
Attorneys for Plaintiff



Adam Breeden <adam@breedenandassociates.com>

Re: A-18-773472-C / ORDR / Taylor v. Brill

1 message

Adam Breeden <adam@breedenandassociates.com>

Wed, May 4, 2022 at 8:36 AM

To: "DC3Inbox@clarkcountycourts.us" <dc3inbox@clarkcountycourts.us>, "Candace P. Cullina" <ccullina@mcbridehall.com>

Cc: Robert McBride <rcmcbride@mcbridehall.com>, "Heather S. Hall" <hshall@mcbridehall.com>, Sara Coppage <sara@breedenandassociates.com>

For the Department's convenience, I am also re-attaching the earlier submitted Plaintiff's version of the proposed Order. Thank you.



Adam Breeden, Esq.

Trial Attorney, Breeden & Associates

📍 376 E. Warm Springs Rd. Ste. 120 Las Vegas, NV 89119

📞 702.819.7770 📠 702.819.7771 ✉ adam@breedenandassociates.com 🌐

<http://www.breedenandassociates.com/>



This e-mail may contain or attach attorney-client privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient or received this email by error, please notify the sender.

On Tue, May 3, 2022 at 5:25 PM Candace P. Cullina <ccullina@mcbridehall.com> wrote:

Good Afternoon,

I am just following up on my email below regarding the attached Order Denying Defendants' Motion for Attorney's fees.

Kind regards,

Candace Cullina

Legal Assistant to Robert C. McBride, Esq.,

Heather S. Hall, Esq. and Olivia A. Campbell, Esq.

ccullina@mcbridehall.com | mcbridehall.com

8329 West Sunset Road, Suite 260

Las Vegas, Nevada 89113

Telephone: (702) 792-5855

Facsimile: (702) 796-5855

Appx.-000617

MCBRIDE HALL

NOTICE: THIS MESSAGE IS CONFIDENTIAL, INTENDED FOR THE NAMED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS (I) PROPRIETARY TO THE SENDER, AND/OR, (II) PRIVILEGED, CONFIDENTIAL, AND/OR OTHERWISE EXEMPT FROM DISCLOSURE UNDER APPLICABLE STATE AND FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, PRIVACY STANDARDS IMPOSED PURSUANT TO THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA"). IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY REPLY E-MAIL OR BY TELEPHONE AT (702) 792-5855, AND DESTROY THE ORIGINAL TRANSMISSION AND ITS ATTACHMENTS WITHOUT READING OR SAVING THEM TO DISK. THANK YOU.

From: Candace P. Cullina
Sent: Wednesday, February 16, 2022 1:04 PM
To: DC3Inbox@clarkcountycourts.us
Cc: Adam@Breedendandassociates.com; Robert McBride <rcmcbride@mcbridehall.com>; Heather S. Hall <hshall@mcbridehall.com>
Subject: A-18-773472-C / ORDR / Taylor v. Brill

Please find attached Defendants' Order Denying Defendant Keith Brill, M.D. and Women's Health Associates of Southern Nevada-Martin, PLLC's Motion for Attorney's Fees, for Judge's review and signature. Plaintiff will submit their competing order.

Kind regards,

Candace Cullina

Legal Assistant to Robert C. McBride, Esq.

and Heather S. Hall, Esq.

ccullina@mcbridehall.com | mcbridehall.com

8329 West Sunset Road, Suite 260

Las Vegas, Nevada 89113

Telephone: (702) 792-5855

Facsimile: (702) 796-5855

MCBRIDE HALL

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 **2022.02.16 Revised Order on Attorney Fees motion.pdf**
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