

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

TERESA GUBLER and MARGARET R.  
LEAVITT individually and as Co-Special  
Administrators of the ESTATE OF MARIA  
HEATON, Deceased,

Plaintiff,

vs.

ELLIS, BANDT, BIRKIN, KOLLINS & WONG, PLLC, a  
Nevada Domestic Professional Limited Liability Company,  
dba DESERT RADIOLOGY; SHELIN, AGRAWAL &  
HYER, PLLC, a Nevada Domestic Professional Limited  
Liability Company, dba DESERT RADIOLOGY; FARHAD  
SANI, MD, DOES 1 through 10, inclusive: and ROE  
ENTITIES 1 through 10, inclusive;  
Defendants.

No. 84926

Electronically Filed  
Jul 19 2022 03:38 p.m.

DOCKETING STATEMENT  
CIVIL APPEALS

Elizabeth A. Brown  
Clerk of Supreme Court

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 6  
County Clark Judge Honorable Joe Hardy  
District Ct. Case No. A-20-818370-C

**2. Attorney filing this docketing statement:**

Attorney Travis E. Shetler, Esq. Telephone 702-931-9700  
Firm Law Office of Travis E. Shetler  
Address 3202 W. Charleston Blvd.  
Las Vegas, Nevada 89102

Client(s) Teresa Gubler and Margaret R. Leavitt, Co-Admin's Estate of Maria Heaton

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Robert C. McBride, Esq. Telephone 702-792-5855  
Firm McBride Hall  
Address 8329 W. Sunset Road, Suite 260  
Las Vegas, Nevada 89113

Client(s) Ellis, Bandt, Birkin, Kollins & Wong, PLLC, Shelin, Agrawal & Hyer, PLLC,

Attorney David J. Mortensen, Esq. Telephone 702-363-5100  
Firm Messner Reeves, LLP  
Address 8945 W. Russel Road, Suite 300  
Las Vegas, Nevada 89148

Client(s) Farhad Sani, M.D

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input checked="" type="checkbox"/> Dismissal:                                |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                                 |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                             |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                                 |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input checked="" type="checkbox"/> Other (specify): <u>Motion to Dismiss</u> |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                      |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification       |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____                   |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

n/a

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

n/a

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

Medical Malpractice

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Defendant filed Motion to Dismiss -- failure to timely substitute party for deceased Plaintiff.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

n/a



**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☒ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This is not presumptively retained by the Supreme Court of Nevada.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? \_\_\_\_\_

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?  
No

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** 05/24/2022

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** 05/24/2022

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See *AA Primo Builders v. Washington*, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** 06/22/2022

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)

**SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> Other (specify) _____    |                                       |

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
Appellant has a right to appeal from a Final Judgment in District Court.



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

MARIA HEATON; TERESA GUBLER and MARGARET R. LEAVITT individually and as Co-Special Administrators of the ESTATE OF MARIA HEATON, Deceased; ELLIS, BANDT, BIRKIN, KOLLINS & WONG, PLLC, a Nevada Domestic Professional Limited Liability Company, dba DESERT RADIOLOGY; SHELIN, AGRAWAL & HYER, PLLC, a Nevada Domestic Professional Limited Liability Co dba DESERT RADIOLOGY; FARHAD SANI, MD

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

n/a

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Plaintiff brought a claim for failure to diagnose

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

The Dismissal Order is independently appealable under NRAP 3A(b)

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Teresa Gubler, Margaret Leavitt  
Name of appellant

06/22/2022  
Date

Nevada, Clark County  
State and county where signed

Travis E. Shetler  
Name of counsel of record

  
Signature of counsel of record

## CERTIFICATE OF SERVICE

I certify that on the 22nd day of June, 2022, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Robert McBride, Esq.  
Sean M. Kelly, Esq.  
McBride Hall  
8329 W. Sunset Road, Suite 260  
Las Vegas, Nevada 89113  
Attorney for Defendants  
Ellis Bandt Birkin Kollins and Wong, PLLC dba  
Desert Radiology and Shelin, Agrawal & Hyer,  
PLLC, dba Desert Radiology

David J. Mortensen, Esq.  
Courtney Christopher, Esq.  
Messner Reeves LLP  
8945 W. Russell Road, Suite 300  
Las Vegas, Nevada 89148  
Attorneys for Defendant  
Farhad Sani, M.D.

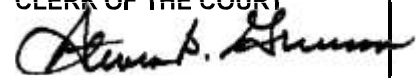
Dated this 22nd day of June, 2022

  
Signature

# EXHIBIT 1

# EXHIBIT 1





CASE NO: A-20-818370-C  
Department 6

**COMP**  
**STEVEN M. BURRIS, ESQ.**  
Nevada Bar No. 000603  
[sb@steveburrislaw.com](mailto:sb@steveburrislaw.com)  
**TRAVIS E. SHETLER, ESQ.**  
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(702) 258-8280 - Facsimile

*Attorneys for Plaintiff*

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

MARIA HEATON, an individual,  
  
Plaintiff,

vs.

ELLIS, BANDT, BIRKIN, KOLLINS &  
WONG, PLLC, a Nevada Domestic  
Professional Limited Liability Company, dba  
DESERT RADIOLOGY; SHELIN,  
AGRAWAL & HYER, PLLC, a Nevada  
Domestic Professional Limited Liability  
Company, dba DESERT RADIOLOGY;  
FARHAD SANI, MD, DOES 1 through 10,  
inclusive; and ROE ENTITIES 1through 10,  
inclusive;

Defendants.

CASE NO.:  
DEPT. NO.:

**ARBITRATION EXEMPTION CLAIMED:  
MEDICAL MALPRACTICE**

**COMPLAINT**

Plaintiff, MARIA HEATON, an individual, by and through her attorneys of record, STEVEN M. BURRIS, ESQ. and TRAVIS E. SHETLER, ESQ. of the LAW OFFICES OF STEVEN M. BURRIS, and for Plaintiff's causes of action against Defendants, and each of them, complains and alleges as follows:

1. At all times relevant herein, Plaintiff, MARIA HEATON, ("MS. HEATON"), was a resident of, and received medical services in, Clark County, Nevada.

1           2.       At all times relevant herein, Defendant, ELLIS, BANDT, BIRKIN, KOLLINS &  
2 WONG, PLLC, is and was a Nevada Company, dba DESERT RADIOLOGY and is and was  
3 licensed and authorized to provide medical and health care services in the State of Nevada.

4           3.       At all times relevant herein, Defendant, AGRAWAL & HYER, PLLC, is and was a  
5 Nevada Company, dba DESERT RADIOLOGY and is and was licensed and authorized to provide  
6 medical and health care services in the State of Nevada.

7           4.       At all times relevant herein, Defendant, FARHAD SANI, M.D., is and was licensed  
8 and authorized to provide medical and health care services in the State of Nevada.

9           5.       Jurisdiction is proper in Clark County, Nevada.

10          6.       The true names, identities and capacities of those individuals named herein as  
11 DOES 1 through 10 are presently unknown to Plaintiff, who therefore sues said Defendants by  
12 such fictitious names. Plaintiff is informed and believes and therefore alleges that each of the  
13 Defendants designated herein as a DOE is legally responsible in some manner for the events and  
14 happenings herein referred to and caused damages proximately to Plaintiff as herein alleged and  
15 Plaintiff will ask leave of the Court to amend the Complaint to insert the true names and identities  
16 of DOES 1 through 10 when the same have been ascertained.

17          7.       That the true names or capacities of those individuals, corporations, associates,  
18 business entities or otherwise, of the Defendants named herein as ROE ENTITIES 1 through 10,  
19 inclusive, are presently unknown to Plaintiff, who therefore sues said Defendants by such  
20 fictitious names. Plaintiff is informed and believes and therefore alleges that each of the  
21 Defendants designated herein as ROE ENTITIES are the owners, operators, managers, employers,  
22 agents, business entities or otherwise of the medical facility and medical and health care providers  
23 identified herein, and therefore vicariously and/or legally responsible in some manner for the  
24 events and happenings referred to and caused damages proximately to Plaintiff as herein alleged,  
25 and Plaintiff will ask leave of the Court to amend the Complaint to insert the true names and  
26 capacities of ROE ENTITIES 1 through 10, inclusive, when the same have been ascertained, and  
27 to join such Defendants in the action.

1           8.       On September 28, 2018, Plaintiff MARIA HEATON underwent imaging at  
2 Defendant DESERT RADIOLOGY. Following the procedure, Defendant FARHAD SANI, MD,  
3 an employee of defendant DESERT RADIOLOGY, working in the course and scope of his  
4 employment or agency, was the doctor who was charged to review the results and sign the report  
5 regarding the imaging. In the course of doing so, Defendant FARHAD SANI, MD failed to  
6 describe and include in the report, the existence of a 4.4 cm right lateral wall soft tissue mass  
7 which was evident in the diagnostic scan. As a result of this failure, Plaintiff MARIA HEATON  
8 remained unaware of this mass until her next diagnostic study, performed on July 25, 2019. At  
9 that time she discovered that there was this mass which had been present and shown in the  
10 diagnostic study of September 28, 2018. Additionally, in the interim, the mass had grown  
11 substantially, was in fact cancerous and as a result of the unchecked growth, had become larger,  
12 much more deadly, and therefore was less susceptible to successful treatment. Following this  
13 discovery, Plaintiff MARIA HEATON sought treatment for her cancer, but she has learned now  
14 that her condition is terminal. The failure to note and report the mass in September of 2018  
15 breached the standard of care and proximately caused the terminal condition Plaintiff MARIA  
16 HEATON now finds herself in, or, at the very least, caused her to lose a significant and substantial  
17 chance at successful life saving or life prolonging treatment. On information and belief, it is  
18 alleged that Defendants, in order to maximize profits, had instituted a system where a high volume  
19 number of studies were to be analyzed by insufficient numbers of board certified radiologists; that  
20 computer software and/or persons who were not American radiologists, or, board certified  
21 radiologists, were used to verify the computer's readouts, or, the computer readouts were not  
22 checked at all by human eyes before reports were electronically signed by physicians; that, had a  
23 board certified radiologist actually checked the first study, the cancerous mass would have been  
24 obvious and would have been reported; and that as a result of this conscious and reckless  
25 disregard for the safety of patients, this cancer was missed; and that therefore Plaintiff is entitled  
26 to punitive damages. It is further alleged that Defendant FARHAD SANI, MD's electronic  
27 signature was affixed to the report without his having actually ever viewed the study/report, and as  
28 such, was fraudulent, and this entitles Plaintiff to punitive damages.

1           9. Defendant FARHAD SANI, MD performed the procedure on September 28, 2018  
2 at Defendant DESERT RADIOLOGY. Defendants are required to take the time necessary to  
3 properly interpret and report on diagnostic studies, by a board certified radiologist, that is the sole  
4 scope of the medical services provided by Defendants. The Defendants' failure to take the time to  
5 do this could not have been done 'accidentally,' but the shortcomings of the assembly line, with  
6 no human eyes involved process, was known to all involved, and as such, was done with  
7 conscious and reckless disregard for the safety of patients, likely in an effort to speed up the  
8 "assembly line" and therefore increase income made by the facility. It is further alleged, upon  
9 information and belief, that the Defendants scheduled too many procedures to be done safely with  
10 available resources, and this was done with reckless and conscious disregard of the patient's  
11 safety. All of which is despicable, done with implied malice, and entitles plaintiff to punitive  
12 damages.

13           10. The Declaration of Expert ROBERT HARRIS, MD, is attached hereto as **Exhibit**  
14 **"1,"** and incorporated fully herein by reference. Said Declaration complies with NRS 41A.071  
15 and supports the allegations of negligence against Defendant FARHAD SANI, MD and Defendant  
16 DESERT RADIOLOGY.

17           11. At all times alleged herein, Defendant DESERT RADIOLOGY was vicariously  
18 liable under the legal doctrine of *respondeat superior* for the negligent actions and inactions of its  
19 employees, agents, officers, managers and contractors including, but not limited to Defendant  
20 Farhad Sani, MD and the JOE and ROE Defendants.

21           12. As a direct and proximate cause of the negligence and/or professional negligence of  
22 Defendants, and each of them, as alleged herein and incorporated herein by reference to **Exhibit**  
23 **"1,"** MARIA HEATON has incurred special and general damages in an amount in excess of  
24 Fifteen Thousand Dollars (\$15,000.00).

25           **WHEREFORE,** Plaintiff, expressly reserving her right to amend this Complaint at the time  
26 of trial of the action herein to include all items of damages not yet ascertained, demands judgment  
27 against Defendants, and each of them, as follows.

28



1. For general and compensatory damages against Defendants, including, but not limited to, damages for pain and suffering, discomfort and anxiety, loss of enjoyment of life; in accordance with proof at trial, all of which are in excess of Fifteen Thousand Dollars (\$15,000.00);
2. For special damages, including past and future medical expenses against Defendants, in accordance with proof at trial, household services past and future; life care plan such as household services; all of which are in excess of Fifteen Thousand Dollars (\$15,000.00);
3. For punitive damages in excess of Fifteen Thousand Dollars (\$15,000);
4. For an award of reasonable attorney's fees;
5. For the costs of suit incurred herein;
6. For prejudgment and post-judgment interest at the maximum amount allowed by law; and,
7. For such other and further relief as the Court deems just and proper.

DATED this 22nd day of July, 2020.

LAW OFFICES OF STEVEN M. BURRIS

*/s/ Travis E. Shetler*

By: \_\_\_\_\_  
Steven M. Burris, Esq.  
Nevada Bar No. 000603  
[sb@steveburrislaw.com](mailto:sb@steveburrislaw.com)  
Travis E. Shetler, Esq.  
Nevada Bar No. 004747  
[ts@steveburrislaw.com](mailto:ts@steveburrislaw.com)  
2810 W. Charleston Blvd., Suite F-58  
Las Vegas, Nevada 89102  
*Attorneys for Plaintiff*

**EXHIBIT 1**  
**to Complaint**

**EXHIBIT 1**  
**to Complaint**

I, ROBERT HARRIS, MD, AMERICAN BOARD OF RADIOLOGY CERTIFIED in DIAGNOSTIC RADIOLOGY, declare under penalty of perjury as set forth in the state of Nevada, that the following is true and correct:

1. I am familiar with the concept of standard of medical care to be observed by physicians & radiologists. My CV is attached and incorporated herein as Exhibit 1.
2. My opinions, as a diagnostic radiologist, below are rendered to a degree of reasonable medical probability.
3. I have been provided, and have reviewed, the following medical or other records or items related to Maria Heaton:

- Desert Radiology

An electronic disc containing these records is attached to my Declaration as Exhibit 2, and the information and data contained thereon is incorporated herein.

4. I have reviewed the Memorandum of History of relevant events, attached hereto as Exhibit 3, and the information and data therein is incorporated herein.
5. My opinions are based on currently available data, and are subject to supplementation as other subsequently supplied data may become known by me.
6. It is my opinion that the diagnostic rendering of the Ms. Heaton's CT scan of interest 9/28/18 falls below the reasonable standard of care by Farhad Sani, MD; as a result Maria Heaton was caused to suffer a substantial delay in diagnosis of her cancer. My opinions can be summarized at this time as follows: Farhad Sani, MD, failed to note in his CT interpretation report a 4.4 cm. (or 2 inches) right lateral abdominal wall soft tissue mass which was evident in the CT scan of September 28, 2018.

This was below the standard of care.

The above is declared by me, under penalty of the perjury laws in the state of Nevada, to be true and correct.

Dated: 7/17/2020

Signed: Robert D Harris MD

**EXHIBIT 1**

**EXHIBIT 1**

**CURRICULUM VITAE**  
**Robert D. Harris, MD, MPH, FACR**  
**June, 2020**

**PERSONAL INFORMATION:**

**Work**

USC Radiology Department  
USC-Keck University Medical Center  
1500 San Pablo St., 2<sup>nd</sup> floor  
Los Angeles, CA 90033  
Work Email: robert.harris@med.usc.edu

**Home: 2446 E. Mountain St.  
Pasadena, CA 91104**

Citizenship: U.S.A.

**EDUCATION AND PROFESSIONAL APPOINTMENTS**

**Education:**

1977	BA, Middlebury College Middlebury, Vermont
1982	MD, University of Vermont College of Medicine Burlington, Vermont

**Post-Graduate Training:**

1982-1983	Flexible (rotating) Internship St. Mary's / McGill University Hospital, Montreal, Quebec
2009	M.P.H. The Dartmouth Institute for HealthCare Policy and Research Dartmouth College
1983-1986	Residency, Body Imaging (US/CT/MRI) Massachusetts General Hospital, Boston, Massachusetts
1986-1987	Fellowship, Body Imaging (US/CT/MRI) University of Washington Hospital, Seattle, Washington

**Academic Appointments:**

1987-1991	Assistant Professor of Diagnostic Radiology	Dartmouth Medical School Dartmouth College, Hanover, NH
1991-2005	Associate Professor of Diagnostic Radiology and Obstetrics/Gynecology	Dartmouth Medical School Dartmouth College, Hanover, NH
2005-2016	Professor of Diagnostic Radiology and Obstetrics/Gynecology	Geisel School of Medicine Dartmouth College, Hanover, NH
2015-2016	Professor of Radiology and Obstetrics/Gynecology	University of Rwanda Kigali, Rwanda

2016-present	Honorary Professor, Radiology and OB/GYN	University of Rwanda, Kigali, Rwanda
2016-2017	Clinical Professor of Radiology	Carver College of Medicine University of Iowa, Iowa City, IA
2018-2019	Professor of Radiology	School of Medicine, University of Washington, Seattle, WA
2019-present	Professor of Clinical Radiology	Keck School of Medicine, USC, Los Angeles, CA

### **LICENSURE CERTIFICATIONS:**

#### **LICENSURE:**

1983-1986	Massachusetts
1986-1987	Washington
1987-2001	New Hampshire
2000-2009	Vermont
2016-2019	Iowa
2018-present	Washington
2019-present	California

#### **BOARD CERTIFICATION OR ELIGIBILITY:**

1986	Diplomate, Diagnostic Radiology
1986	American Board of Radiology

#### **SPECIALTY CERTIFICATION:**

1982	National Board of Medical Examiners
------	-------------------------------------

DEA # BH0931724  
NPI# 1134148034

### **HONORS, AWARDS:**

1977	Cum Laude	Middlebury College
1981	Alpha Omega	University of Vermont College of Medicine
2000	Fellow	American College of Radiology
2004	Fellow	Society of Radiology in Ultrasound
2006	Recipient	AIUM's Endowment for Education and Research Grant
2012	Fellow	American Institute of Ultrasound in Medicine
2019	Distinguished Reviewer	Silver Achievement Award, AJR

### **TEACHING**

#### **DIDACTIC TEACHING:**

<i>Dartmouth Medical School, Dartmouth College</i>		
1995-2015	Radiology and OB/GYN Residents	Informal Didactic Teaching
2000-2015	Ultrasound Curriculum for Radiology Residents and Fellows	Director
2001-2015	Multi-Disciplinary Conference	Director of Maternal-Fetal Medicine Conf
2007-2015	Regularly Scheduled Sessions And Visiting Professors	Director
2010-2013	Dartmouth College Undergraduate	Lecturer



	Course Lectures, Global Health and Bio-Engineering Course	
2013-2015	Global Radiology Senior Elective	Director

*Special Interests: Teaching/training and Donation of Equipment in Low Resource Settings in Radiology, especially Compact Ultrasound:*

2003-2005	Serbia
2006	Nicaragua
2008	Vietnam
2009	Sierra Leone
2010	Haiti
2011	Tanzania
2012	Sierra Leone/Togo
2012	Guinea
2013	Haiti
2013	Republic of Congo
2014	Haiti (2 trips-1 supervising senior resident for global elective),
2015	Ecuador, Puyo (Amazon basin) (supervising 2 senior residents for global elective)
2015-2016	Rwanda, (11 months with HRH grant)
2016	Phillipines (RSNA International Visiting Prof)
2017, 2018	Rwanda

## SERVICES

### **MEDICAL SCHOOL SERVICE:**

April 23-24, 90	Visiting Professor	University of Virginia, Department of Radiology, Charlottesville, Virginia
Jan 13-17, 97	Visiting Professor	Sveti Duh Hospital, Dept. of Obstetrics and Gynecology, University of Zagreb, Zagreb, Croatia.
Mar 17, 1997	Visiting Professor	George Washington University Hospital, Department of Radiology, Washington, D.C.
Feb 23, 1998	Visiting Professor	University of Texas at Houston Medical School Hermann Hospital, Dept. of Radiology, Houston, Texas
Nov 24-25,98	Visiting Professor	University of Pittsburgh Medical Center Dept. of Radiology, Pittsburgh, PA
Nov 18, 1999	Visiting Professor	Mayo Clinic, Dept. of Radiology Rochester, Minnesota
Jan 21, 2000	Visiting Professor	Fletcher Allen Health Care/UVM College of Medicine, Dept. of Radiology, Burlington, VT
April 6, 2000	Visiting Professor	Massachusetts General Hospital, Harvard Medical School, Dept of Radiology, Boston, MA.
June 11, 2000	Visiting Professor	Sveti Duh Hospital / University of Zagreb Dept. of OB/GYN, Zagreb, Croatia
May 15, 2003	Visiting Professor	Tufts Medical School/New England Medical Center, Dept. of Radiology, Boston, MA
Jan 5, 2004	Visiting Professor	University of Novi Sad Medical School Dept of Radiology, Novi Sad, Serbia
May 16, 2005	Visiting Professor	Ochsner Clinic, Dept. of Radiology New Orleans, LA
Jan 17-18, 06	Visiting Professor	Harvard-MGH-BWH Departments of Radiology, Boston, MA

Feb 6, 2006	Visiting Professor	Yale University Department of Radiology New Haven, CT
Mar 16, 2006	Visiting Professor	Cornell Medical College-NY Presbyterian Hospital, Department of Radiology, New York, NY
Jan 23-24, 09	Visiting Professor	Harvard-MGH-BWH Departments of Radiology, Boston MA.
April 10, 2009	Visiting Professor	UVM-Fletcher Allen Medical Center Department of Radiology, Burlington, VT
Dec 9, 2009	Visiting Professor	Miami Baptist Medical Center, Miami, FL
Mar 10, 2010	Visiting Professor	Mt. Sinai Medical Center, Dept. of Radiology New York, NY
Mar 24, 2010	Visiting Professor	University of Connecticut Medical Center Dept. of Radiology, Farmington, CT
July 21, 2010	Visiting Professor	University of Belgrade Medical School, Belgrade, Serbia, Dept. of Ob-Gyn.
Feb 27, 2012	Visiting Professor	University of New Mexico, Department of Radiology, Alberquerque, NM
April 4, 2013	Visiting Professor	Yale University Department of Radiology, New Haven CT
Nov 7, 2013	Visiting Professor	Lahey Clinic, Dept. of Radiology, Burlington, MA
Sept 20, 2014	Visiting Professor	University of Iowa Hospitals Dept. of Radiology, Iowa City, IA
Dec 12, 2014	Visiting Professor	Columbia Presbyterian University Medical Center, Dept. of Radiology, New York City, NY
April 10, 2015	Visiting Professor	University of Vermont College of Medicine
Feb 11-2016	Visiting Professor	RSNA International Visiting Professorship, Manila and Cebu City, Philippines
Feb 15, 2019	Visiting Professor	USC-LAC Medical Centers, Radiology Dept Los Angeles, CA
1995-1999	Mentor	Dartmouth College Women in Science Project Radiology Dept, Burlington, VT
2018-2019	CPI Committee	University of Washington School of Medicine
2020-present	Program Manager	RAD-AID, Rwanda

#### **HOSPITAL OR MEDICAL GROUP SERVICE:**

1987-1999	Director of Body MRI	Department of Radiology, Dartmouth Hitchcock Medical Center, Hanover, NT
1988-1994	Quality Assurance Committee	Radiology Liaison to Medical Staff Mary Hitchcock Memorial Hospital
1989-1993	Selection Committee	Radiology Residency Dartmouth Hitchcock Medical Center
1990-1992	Committee	Student Performance Dartmouth Medical School
1992-1995	Committee	Clinical Therapeutics Program Dartmouth Hitchcock Medical Center
1992-2003	Cross-Sectional Imaging	Dartmouth Hitchcock Medical Center

	Fellowship Director	
1993-2013	Radiology Representative	Urology Tumor Board Dartmouth Hitchcock Medical Center
1998-2008	Incorporator	Hitchcock Foundation Dartmouth Hitchcock Medical Center
1996-2006	Committee	Medical Records and Informatics Dartmouth Hitchcock Medical Center
1996-2001	Committee	Academic and Clinical Practice Dartmouth Hitchcock Medical Center
1999-2015	Co-Director of Ultrasound	Department of Radiology, Dartmouth Hitchcock Medical Center, Hanover, NH
2001 Fall	Study Section	Department of Defense, Prostate Cancer Research Program, Dartmouth Hitchcock Medical Center
2005-2011	Committee Chair	Research Committee, Radiology Dartmouth Hitchcock Medical Center
2002-2012	Committee	Clinic Pension & Benefits Dartmouth Hitchcock Medical Center
2003 Spring	Study Section	Department of Defense, Prostate Cancer Research Program, Dartmouth Hitchcock Medical Center
2011-2013	Director	Regional Radiology Planning Dartmouth Hitchcock Medical Center
2012-2015	Education Committee	Dartmouth Hitchcock Medical Center Radiology Department

PROFESSIONAL SERVICE:

1977-1978	Preparatory School Teacher and Coach	Cate School, Carpinteria, CA
1993-1996	Secretary-Treasurer	NH Chapter of American College of Radiology
1994-1995	Co-Chairman	Educational Committee New England Roentgen Ray Society
1995-2003	Committee	Educational and Executive Committees New England Roentgen Ray Society
1996-1999	President	NH Chapter of American College of Radiology
1998-2001	Committee	Research Committee Society of Radiologists in Ultrasound
1998-2001	Committee	Standards and Practice, SRU
1999-2000	Subcommittee	Curriculum Evaluation American Roentgen Ray Society

1999-2000	Vice President	New England Roentgen Ray Society
1999-2003	Councilor	NH Chapter of American College of Radiology
2001-2004	Committee	Scientific Program Committee American Roentgen Ray Society
2001-2004	Program Committee	Society of Radiologists in Ultrasound
2002-2005	Committee	Human Resources ACR Commission of Ultrasound
2002-2005	Committee	Education, ACR Commission of Ultrasound
2002-2005	Committee	Economics, ACR Commission of Ultrasound
2002-2005	Committee	Guidelines and Standards ACR Commission of Ultrasound
2002-2005	Representative	Joint Review Commission on Education Diagnostic Medical Sonography, ACR
2002-2005	Accreditation Committee	American Institute of Ultrasound of Medicine
2003-2004	Chair	GU/OB/GYN Program Committee American Roentgen Ray Society
2004-2013	Oral Board Examiner	Ultrasound, American Board of Radiology
2005-2010	Publications Committee	Society of Radiologists in Ultrasound
2005-2010	Committee	Corporate Affairs, SRU
2006-2014	Representative	NH Chapter of American College of Radiology
2008-2010	Committee, Edu Exhibits	Ob/GYN Subcommittee, RSNA
2008-2010	Fellowship Committee	Society of Radiologists in Ultrasound
2010-2013	Chair, Educational Exhibits	OB/GYN Subcommittee, RSNA
2010-2015	Committee	ACR Foundation International Outreach Committee
2010-2015	Member	Diagnostic Radiology, Non-Interpretive Skills MOC Committee, American Board of Radiology
2011-2015	Committee	ACR Appropriateness Guidelines Committee Women's Imaging (M. Javitt Chair)
2012-2014	Vice Chair	Education and Outreach Committee Society of Radiologists in Ultrasound
2013-2015	Executive Council	Society of Radiologists in Ultrasound
2017-present	Expert Panel Faculty	CPI Self-Assessment Modules, ACR Ultrasonography

2017-present	Committee	Corporate Affairs Committee, SRU
2017-present	Committee	Education and Outreach, SRU

#### CONSULTANTSHIPS AND ADVISORY BOARDS:

1999-2006	Advisory Council	RADPAC Advisory Council, New Hampshire Delegate, American Board of Radiology
2013-2015	Advisory Committee	Radiology Representative, Continuing Medical Education Advisory Committee, Dartmouth Hitchcock Medical Center

#### PROFESSIONAL SOCIETY MEMBERSHIPS:

1984-present	New England Roentgen Ray Society
1985-present	Radiological Society of North America
1986-present	American Roentgen Ray Society
1987-present	American College of Radiology
1987-present	New Hampshire State Medical Society
1991-2003	Association of University Radiologists
1993-present	American Institute of Ultrasound in Medicine
1993-present	Society of Radiologists in Ultrasound
1995-2000	Society of Uroradiology

### RESEARCH AND SCHOLARSHIP

#### EDITORSHIPS AND EDITORIAL BOARDS:

1998-2002	Editor	Applied Radiology
2000-2004	Editor	Emergency Radiology
2000-2010	Advisory Editorial Board Member	Journal of Ultrasound in Medicine
2010-2013	Associate Editor	Journal of Ultrasound in Medicine
2015-present	Editor	Global Radiology

#### MANUSCRIPT REVIEW:

1990-present	American Journal of Roentgenology
1992-2014	Journal of Clinical Ultrasound
1993-2015	Journal of Ultrasound in Medicine
2000-2004	Academic Radiology
1998-present	Ultrasound Quarterly
1990-2013	Radiology
2016-present	Global Radiology
1999-2015	ACR and AIUM Ultrasound Accreditation Programs

#### MAJOR AREAS OF RESEARCH INTEREST

#### GRANT SUPPORT - PAST:

<i>Grant No. (PI) 901-03B</i>	<i>Dates of Award 1991-1992</i>
<i>Agency Oncomembranc, Inc., Seattle WA</i>	<i>Percent Effort</i>
<i>Patients Undergoing Magnetic Resonance Imaging of Upper Abdomen</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$40,000.</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 1992-1993</i>
<i>Agency Berlex Laboratories, Inc., Wayne, NJ</i>	<i>Percent Effort</i>
<i>Pilot Study to Image Breast Prostheses with MRI and Gadolinium</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$1,500.</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 1992-1993</i>
<i>Agency MedRad, Pittsburgh, PA</i>	<i>Percent Effort</i>
<i>Pilot Study to Evaluate Pre and Post Biopsy Change in Endorectal Coil MRI for Prostate Cancer</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$1,000</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 1996-1997</i>
<i>Agency Advanced Magnetics, Inc. Princeton NJ</i>	<i>Percent Effort</i>
<i>Multicenter Phase III Trial of Combadox as an MRI contrast agent for Lymph node metastases.</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$10,000.</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 2000-2001</i>
<i>Agency Vical Corporation, San Diego, CA</i>	<i>Percent Effort</i>
<i>Leuvenin Gene Therapy for Metastatic Renal Cell Carcinoma</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$10,000.</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 2000-2001</i>
<i>Agency DuPont Corporation, Andover, MA</i>	<i>Percent Effort</i>
<i>Phase III Ultrasound Contrast Trial for Liver and Renal Masses, DMP 110 (Definity)</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$15,000.</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 2002-2003</i>
<i>Agency Bristol-Myers Squibb Medical Imaging, Inc., Andover MA</i>	<i>Percent Effort</i>
<i>Phase III Comparison of DEFINITY-Enhanced Ultrasound vs. Contrast Enhanced CT for Characterization of Liver Lesions,</i>	
<i>Description</i>	
<i>Role:</i>	
<i>Total Direct Costs \$8,000.</i>	

<i>Grant No. (PI)</i>	<i>Dates of Award 2004-2006</i>
<i>Agency Quality Research Grant Program, DHMC</i>	<i>Percent Effort</i>
<i>Analysis of Ultrasound-Guided Thyroid Fine Needle Biopsies: On-Site Cytologic Assistance vs. Non Assisted Biopsy</i>	



*Description*

*Role:*

*Total Direct Costs \$7,500.*

*Grant No. (PI)*

*Dates of Award 2006*

*Agency Unrestricted grant, Philips Ultrasound Systems*

*Percent Effort*

*For teleultrasound project*

*Description*

*Role:*

*Total Direct Costs \$5,000.*

*Grant No. (PI)*

*Dates of Award 2006*

*Agency AIUM Endowment for Education and Research Award*

*Percent Effort*

*For Teleultrasound Project*

*Description*

*Role:*

*Total Direct Costs \$8,500.*

*Grant No. (PI)*

*Dates of Award 2014*

*Agency Haiti Outreach- Dartmouth Program*

*Percent Effort*

*Awarded for Radiology outreach efforts in Mirebalais, Haiti*

*Description*

*Role:*

*Total Direct Costs \$5,200.00*

#### **INVITED LECTURES, SYMPOSIA, KEYNOTE ADDRESSES**

Oct 1986	Lecture	Shoulder Sonography: Technique and Interpretation. Presented to the Department of Radiology, Massachusetts General Hospital, Boston, MA
Dec 1987	Lecture	Magnetic Resonance Imaging: Clinical State of the Art. Presented to Medical Staff, Littleton Hospital, Littleton, New Hampshire
Jan 1988	Lecture	Body Magnetic Resonance Imaging. Presented to Medical Staff, Brattleboro Memorial Hospital, Brattleboro, Vermont
Jan 1988	Lecture	Body Magnetic Resonance Imaging. Presented to Medical Staff, Rutland Regional Medical Center, Rutland, Vermont
Mar 1988	Lecture	MRI and the General Surgeon, Surgical Grand Rounds, Dartmouth-Hitchcock Medical Center, Hanover, New Hampshire
Mar 1988	Lecture	MRI of the Abdomen and Genitourinary Tract, Urology Rounds, Dartmouth Hitchcock Medical Center, Hanover, New Hampshire
Apr 1988	Lecture	MRI in Sports Medicine, presented at Vermont/ New Hampshire State Radiological Societies Meeting, Woodstock, Vermont
Apr 1988	Lecture	Ultrasound of Extra-CNS Fetal Anomalies; presented at The Fetus as a Patient Conference sponsored by New Hampshire Regional Perinatal Program and Dartmouth Medical School, Hanover, NH
Sept 1989	Lecture	Magnetic Resonance Imaging - When and Why. Regional Meeting of the American College of Physicians, Hanover, New Hampshire
Apr 1990	Lecture	Non-fetal Aspects of Obstetrical Ultrasound, presented to the Department of Radiology, University of Virginia, Charlottesville, Virginia
Apr 1990	Lecture	Ultrasound of the Placenta, Membranes, and Amniotic Fluid, presented at the 1st Annual OB-GYN Ultrasound for the 90's Conference, Dartmouth-Hitchcock Medical Center, Hanover, New Hampshire

Oct 1990	Lecture	MRI of the Knee: Pathology and Pitfalls, presented at the Practical MRI Course of the New England Roentgen Ray Society, Cape Cod, Massachusetts
Dec 1991	Lecture	Update on Ob/Gyn Ultrasound, presented to Medical Staff, Springfield Hospital, Springfield, Vermont
Oct 1992	Lecture	Principles and Indications for Body MRI, presented to Medical Staff, Chelmsford MRI, Chelmsford, MA
Apr 1993	Lecture	GU Radiology in Primary Care, presented at Urology for the Primary Care Physician, Dartmouth-Hitchcock Medical Center, Lebanon, New Hampshire
Mar 1994	Lecture	MRI of the Knee and Shoulder: The Dartmouth Experience. Presented to the Maine Radiological and Orthopaedic Societies, Sugarloaf, Maine
Mar 1994	Lecture	Body MRI: Problem Solving Diagnostic Tool. Presented to the Maine Radiological Society, Sugarloaf, Maine
Apr 1994	Lecture	Sonography of the Fetal Environment: The Placenta, Amniotic Fluid, and Gravid Uterus. Refresher Course, 94th Annual Meeting of the American Roentgen Ray Society, New Orleans
Apr 1995	Lecture	Update on Sonography of the Placenta, 3rd Annual OB-GYN Ultrasound Course, DHMC, Lebanon, NH
May 1995	Lecture	MRI of the Prostate, 1st Annual DHMC Frontiers in Radiology Course, Woodstock, VT
Jun 1996	Lecture	Update on Non-fetal Obstetrical Ultrasound, 2nd Annual DHMC Frontiers in Radiology Course, Lebanon, NH
Oct 1996	Lecture	The Placenta: the Forgotten Organ, Granite State Sonographers Society, Manchester, NH
Jan 1997	Lecture	Ultrasound of the Placenta and Membranes, Sveti Duh Hospital, University of Zagreb, Zagreb, Croatia
Feb 1997	Lecture	Sonography of the Placenta, New England Roentgen Ray Society Meeting, Boston, MA
Mar 1997	Lecture	Ultrasound of the Scrotum: Doppler Plays a Role, Dartmouth-Hitchcock Medical Center, Lebanon, NH, 1997 Ultrasound Biannual Course
Mar 1997	Lecture	The Placenta: the Forgotten Organ, Department of Radiology, George Washington University Hospital, Washington, D.C.
Oct 1997	Lecture	Update on New Applications of Body MRI, Medical Grand Rounds, Springfield Hospital, Springfield, VT
Feb 1998	Lecture	Problems in the Placenta, UT-Houston Medical School, Hermann Hospital, Houston, Texas
Apr 1998	Lecture	Urinary Tract Infections and Renal Colic, When to Image and How. Primary Care Radiology, DHMC, Lebanon, NH
Jul 1998	Lecture	GU Complications of Pregnancy, presented at the 25th annual meeting of the Society of Uroradiology, Bermuda
Nov 1998	Lecture	Scrotal Ultrasound: Pearls and Pitfalls, Univ. of Pittsburgh Medical Center, Pittsburgh, PA
Dec 1998	Lecture	Liver MRI with Ferridex, Oncology Outreach Program, DHMC, Lebanon, NH
Dec 1998	Lecture	Imaging Complications of Pregnancy, OB-GYN Grand Rounds, DHMC, Lebanon, NH
Mar 1999	Lecture	Imaging of Maternal Complications of Pregnancy, Ultrasound 1999 Biannual Course, Dartmouth-Hitchcock Medical Center, Lebanon, NH
Sept 1999	Lecture	Imaging of Renal Tumors, 41 <sup>st</sup> New England Conference of Radiologic Technologists, Manchester NH
Sept 1999	Lecture	Abdominal and Pelvic Ultrasound for Vascular Sonographers: Life Beyond Doppler, New England Vascular Technology Symposium, Lebanon, NH
Jan 2000	Lecture	Maternal Genito-urinary Complications of Pregnancy, New England Society of Ultrasound in Medicine, Boston MA
Jan 2000	Lecture	New Concepts in Imaging of the Placenta, Grand Rounds, Radiology Dept., Fletcher Allen Health Care, Burlington, VT
Jan 2000	Lecture	Grand Rounds-Scrotal Ultrasound 2000. UVM College of Medicine, Radiology Dept., Fletcher Allen Health Care, Burlington, VT
Apr 2000	Lecture	Scrotal Ultrasound, MGH-Harvard Medical School, Department of Radiology,

		Boston MA
Jun 2000	Lecture	Advances in Fetal Urologic Imaging, International Congress of Pediatric Urologists, Tours, France
Jun 2000	Lecture	Fetal MR Imaging, Departments of Radiology and Obstetrics and Gynecology, Sveti Duh Hospital, Zagreb, Croatia
Mar 2001	Lecture	New Concepts in Scrotal Sonography, New England Roentgen Ray Society Ultrasound Refresher Course, Boston MA
Apr 2001	Lecture	Placental Ultrasound 2001, and Imaging of Maternal Complications of Pregnancy, Rhode Island Society of Diagnostic Medical Sonographers, Providence, RI
Apr 2002	Keynote	Keynote Address, "Fetal MRI: Great Hope or Hype", American Roentgen Ray Society, 102 <sup>nd</sup> Annual Meeting, Atlanta GA
Apr 2002	Moderator	GU Session Moderator, American Roentgen Ray Society, 102 <sup>nd</sup> Annual Meeting, Atlanta GA
Oct 2002	Moderator	Abdominal Ultrasound Session Moderator, Society of Radiologists in Ultrasound, Denver, CO
Mar 2003	Lecture	Imaging of Maternal Complications of Pregnancy, presented at the annual US meeting of the New England Roentgen Ray Society, Boston, MA
May 2003	Lecture	Update on the Placenta and Gravid Cervix, Tufts-NEMC, Dept. of Radiology, Boston, MA
Sept 2003	Lecture	Imaging of Non-obstetrical Complications of Pregnancy, DHMC Dept. of OB-GYN, Lebanon, NH
Oct 2003	Lecture	Interesting Obstetrical Ultrasound Cases, Presented to the Society of Radiologists in Ultrasound. Chicago, IL
May 2004	Moderator	Lecture Moderator, Scientific Session, GU/OB/GYN, ARRS 104 <sup>th</sup> Annual Meeting, Miami Beach, FL
Oct 2004	Lecture	Placental Insufficiency and Cervical Incompetence: Out with the "In's", presented at the Society of Radiologists in Ultrasound annual meeting, Washington D.C.
Jan 2005	Lecture	Imaging of Maternal Complications in Pregnancy, given to regional medical society, Zrejanin, Serbia
Jan 2005	Lecture	Abdominal Unknown Cases, Film Panel Moderator, New England Roentgen Ray Society, Boston MA
May 2005	Lecture	Placental Sonography, Ochsner Clinic, New Orleans, LA
Jun 2005	Lecture	Imaging of GU Maternal Complications in Pregnancy, AIUM Meet the Professor Session. Orlando, FL
Sept 2005	Lecture	Primer on First Trimester Ultrasound, presented to OB/GYN Dept. Grand Rounds, DHMC, Lebanon, NH
Jan 2006	Lecture	Imaging of GU Maternal Complications of Pregnancy, presented to MGH and BWH, Department of Radiology, Boston, MA
Feb 2006	Lecture	Update on Placental and Cervical Sonography, Dept. of Radiology, Yale University School of Medicine, New Haven, CT
Mar 2006	Lecture	Imaging of Maternal Complications of Pregnancy, Dept. of Radiology, Cornell Medical College, New York City, NY
May 2007	Lecture	High-risk Obstetrical ultrasound cases, ARRS Case Review session, May 9, 2007, ARRS annual meeting, Orlando, FL
May 2007	Lecture	Ob-Gyn Grand Rounds, DHMC, May 31, 2007. The Role of Compact 200 Ultrasound in Developing Countries. Lebanon, NH
Sept 2007	Lecture	First trimester sonography: basic concepts and newer developments. 30 <sup>th</sup> A Annual Postgraduate Seminar in Diagnostic Ultrasound, Pontiac Michigan. also, Sonography of the Placenta and Gravid Cervix, and Sonography and Imaging of Maternal Complications of Pregnancy.
Oct 2007	Lecture	Potpourri of Difficult U/S Cases, Presented at the Annual meeting of the Society of Radiologists in Ultrasound, Chicago, IL
Mar 2008	Lecture	Series of Lectures on Ultrasound, Hanoi National Pediatrics Hospital, Vietnam.
Nov 2008	Lecture	New Topics in Scrotal Sonography, Granite State Sonography Society annual meeting, Manchester, NH

Jan 2009	Lecture	New Topics in Scrotal Sonography, MGH-BWH Hospitals, Depts. of Radiology, Boston, MA
Apr 2009	Lecture	Testicular Ultrasound and Bayes Theorem: Mixing Radiology and Epidemiology, Department of Radiology, Fletcher Allen-UVM Health Care, Burlington, VT
Dec 2009	Lecture	Placental Ultrasound: Morphologic and Doppler Assessment, Baptist Health South Florida Hospitals, Radiology Grand Rounds, Miami, FL
Mar 2010	Lecture	A Rational Approach to Fetal MRI: Where It Really Helps, Mt. Sinai Medical Center, Dept. of Radiology, NYC, NY
Mar 2010	Lecture	Testicular Sonography Update: 2010, UConn. Medical Center, Dept. of Radiology Grand Rounds, Farmington, CT
Jul 2010	Lecture	First Trimester U/S: New Thoughts, and Ultrasound of the Ovary: Benign Disease. University of Belgrade Medical School, Dept. of OB-GYN. Serbia
Oct 2010	Lecture	Newer Concepts in Testicular Sonography, Society of Radiologists in Ultrasound, Las Vegas, NV
Oct 2011	Lecture	You made the Diagnosis on OB ultrasound: Now what? Society of Radiologists in Ultrasound, Chicago, IL
Jan 2012	Lecture	Lectures on basic OB and abdominal ultrasound, Ola During Pediatric and Princess Christian Maternity Hospitals, Freetown, Sierra Leone
Feb 2012	Lecture	Borderland Findings on Obstetrical Ultrasound, University of New Mexico Hospital. New Mexico, NM
Apr 2013	Lecture	Soft Marker Findings for Aneuploidy on Obstetrical Ultrasound, AIUM National Meeting. New York, NY
Nov 2013	Lecture	Borderlands in Obstetrical Ultrasound, Lahey Clinic Visiting Professor Rounds
Mar 2014	Lecture	Imaging of Superficial Lumps and Bumps, ACR Radiology Education Days, Port-au-Prince, Haiti
Sept 2014	Lecture	Global Radiology Resident Education: Opportunities, Challenges, and Implementation Strategies, University of Iowa, Iowa City, IA
Oct 2014	Lecture	Natural History and Clinical Course of Gallbladder Sludge Diagnosed in Outpatients, Denver, SRU Fellows meeting
Oct 2014	Lecture	Imaging of Superficial Lumps and Bumps, Workshop Sessions, SRU Denver, CO
Dec 2014	Lecture	Global Radiology Resident Education: Opportunities, Challenges, and Implementation Strategies, Columbia-Presbyterian Medical Center, NYC
Feb 2016	Lecture	Four lectures on OB-GYN Ultrasound, presented at the Philippines Congress of Radiology, Manila, Philippines
Oct 2017	Lecture	Iowa State Radiology Annual Meeting, Oct. 21, 2017, Iowa City, IA. New Concepts in Testicular Ultrasound including US contrast and elastography.
Aug 2018	Lecture	Hot Topics in OB/GYN Ultrasound: New Findings in the First Trimester. Presented to the University of Washington Emergency Radiology Annual Meeting, Seattle, WA
Feb 2019	Lecture	Borderlands in Obstetrical Ultrasound: An Update. USC -Keck School of Medicine, Los Angeles, CA
Sept 2020	Lecture	Borderlands in Obstetrical Ultrasound, given at USC Alumni Radiology Course, Palm Desert, CA

## **PUBLICATIONS:**

### **REFEREED JOURNAL ARTICLES:**

1. **Harris RD**, Simeone JF, Mueller PR, Butch RJ. Portable Ultrasound Examination in Intensive Care Unit. J Ultrasound Med 1985;4:463-465.
2. **Harris RD**, Nyberg DA, Mack LA, Weinberger E. Ano-rectal atresia: Accuracy of Prenatal Diagnosis by Ultrasound and Clinical Significance. AJR 1987; 149:395-400.

3. **Harris RD**, Askin FB, Vincent LM. Yolk sac calcification: A Sonographic Finding Associated with In Utero Fetal Demise. *Radiology* 1988; 166:109-110.
4. Mack LA, Nyberg DA, Matsen RF, Kilcoyne RF, **Harris RD**, Harvey DA. Sonographic Evaluation of the Post-operative Rotator Cuff. *AJR* 1988; 150:1089-1094.
5. **Harris RD**, Harris JH Jr, The Prevalence and Significance of Missed Scapular Fractures in Blunt Chest Trauma. *AJR* 1988; 151:747-750
6. DeRoo TD, **Harris RD**, Sargent SK, Denholm TA, Crow, HC. Fetal Choroid Plexus Cysts: Prevalence, Clinical Significance, and Sonographic Appearance. *AJR* 1988; 151:1179-1181.
7. **Harris RD**, Heaney JA, Sueoka BL, Burke PR. Retroperitoneal Leiomyosarcoma: A Rare Cause of Adrenal Psuedotumor on CT and MRI. *Urologic Radiology* 1988;10:186-188.
8. **Harris RD**, Simpson W. MRI of Splenic Hemangioma Associated withThrombocytopenia. *Gastrointestinal Radiology*, 1989; 14:308-310.
9. **Harris RD**, Roberts DW, Cromwell, LD. Magnetic Resonance Imaging of Corpus Callosotomy. *AJNR*, 1989; 10:677-680.
10. Sueoka BL, Kasales CJ, **Harris RD**, Heaney JA. MR and CT Imaging of Perirenal Amyloidosis. *Urologic Radiology*, 1989; 11:97-99.
11. Edwards MK, **Harris RD**, Spiegel PK. Offset Electrocardiographic Electrode Simulating a Pulmonary Nodule on Radiographs. *Radiology* 1989; 172:281-282.
12. **Harris RD**, Simpson W, Marin-Padilla M, Pet R, Crow, HC. Placental Sonolucencies and Infarction: Sonographic-Pathologic Correlation. *Radiology* 1990; 176:75-80.
13. Chung T, **Harris RD**. Tuberculous Epididymo-Orchitis: Sonographic Findings. *Journal of Clinical Ultrasound* 1991, 19:367-369.
14. Weaver JB, **Harris RD**, Spiegel PK. Limited Field of View Spin Echo MR Imaging. *Magnetic Resonance Imaging* 1991; 9:389-394.
15. **Harris RD**, Barth RA. Sonography of the Gravid Uterus and Placenta: Current Concepts, *AJR* 1993;160:955-966.
16. Stommel EW, Ward TN, **Harris RD**. MRI Findings in a Case of Ophthalmoplegic Migraine. *Headache*, 1993;33:234-237.
17. Bacic G, Lui KJ, O'Hara JA, **Harris RD**, Szybinski K, Goda F and Swartz HM. Oxygen Tension in a Murine Tumor: A Combined EPR and MRI Study. *Magnetic Resonance in Medicine* 1993;30:568-572.
18. Patten RM, Lo SK, Phillips JJ, Bowman SC, Glazer, GM, Wall SD, Bova JG, **Harris RD**, et al. Positive Bowel Contrast Agent for MR Imaging of the Abdomen: Phase II and III Clinical Trials. *Radiology* 1993;189(1)277-283.
19. Amdur RJ, Conine FE, **Harris RD**, Leopold KA. Arytenoid Sparing During Irradiation of Early Stage Vocal Cord Cancer. *Int J Radiat Onc Biol Phys*, 1995, 32 (3):801-808.
20. **Harris RD**, Schned AS, Heaney JA. Staging of Prostate Cancer by Endorectal MRI: Lessons from a Learning Curve. *Radiographics*, 1995; 15 (813-829) and Author's Response, p.832.
21. Blackmore CC, Ratcliffe NR, **Harris RD**. Verrucous Carcinoma of the Bladder. *Abdominal Imaging* 1995, 20:480-482.

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# **EXHIBIT 2**

# **EXHIBIT 2**





Heaton v. Desert Radiology / Dr. Sani  
Exh 2 to Complaint  
Expert Dr. Robert Harris

**EXHIBIT 3**

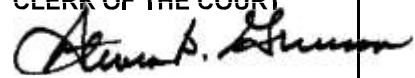
**EXHIBIT 3**

## **Case Overview**

This case involves a 65-year-old female with a history of ovarian cancer who saw an oncologist for followup. The physician ordered a CT of her abdomen and pelvis on 9/28/18. The radiologist allegedly reported nothing suspicious. A year later, she saw the oncologist again. When the patient had a second CT on 9/28/19, there was a soft tissue mass on the right 11th rib. This time, the radiologist reviewing the study identified the lesion. After further testing, the patient started chemotherapy and radiation. We are looking for an expert in radiology to review the images and provide an opinion.

# EXHIBIT 2

# EXHIBIT 2



1 **ANSW**  
2 **ROBERT C. MCBRIDE, ESQ.**  
3 Nevada Bar No.: 7082  
4 **SEAN M. KELLY, ESQ.**  
5 Nevada Bar No.: 10102  
6 **McBRIDE HALL**  
7 8329 W. Sunset Road, Suite 260  
8 Las Vegas, Nevada 89113  
9 Telephone No. (702) 792-5855  
10 Facsimile No. (702) 796-5855  
11 E-mail: [rcmcbride@mcbridehall.com](mailto:rcmcbride@mcbridehall.com)  
12 E-mail: [smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)  
13 Attorneys for Defendants  
14 *Ellis Bandt Birkin Kollins and Wong, PLLC*  
15 *dba Desert Radiology and Shelin, Agrawal*  
16 *& Hyer, PLLC, dba Desert Radiology*

11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13 MARIA HEATON, individually,  
14 Plaintiff,

15 vs.

16 ELLIS, BANDT, BIRKIN, KOLLINS &  
17 WONG, PLLC, a Nevada Domestic Professional  
18 Limited Liability Company, dba DESERT  
19 RADIOLOGY; SHELIN, AGRAWAL &  
20 HYER, PLLC, a Nevada Domestic Professional  
21 Limited Liability Company, dba DESERT  
22 RADIOLOGY; FARHAD SANI, MD, DOES 1  
23 through 10, inclusive; and ROE ENTITIES 1  
24 through 10, inclusive;

25 Defendants.

**CASE NO.: A-20-818370-C**  
**DEPT NO.: 6**

**DEFENDANTS ELLIS BANDT  
BIRKIN KOLLINS AND WONG, PLLC  
DBA DESERT RADIOLOGY AND  
SHELIN, AGRAWAL & HYER, PLLC,  
DBA DESERT RADIOLOGY'S  
ANSWER TO PLAINTIFF'S  
COMPLAINT**

26 COME NOW, Defendants, ELLIS BANDT BIRKIN KOLLINS and WONG, PLLC dba  
27 DESERT RADIOLOGY and SHELIN, AGRAWAL & HYER, PLLC, dba DESERT  
28 RADIOLOGY, by and through their counsel of record, ROBERT C. McBRIDE, ESQ. and SEAN  
M. KELLY, ESQ. of the law firm of McBRIDE HALL, and hereby submits their Answer as  
follows:

///

1. Answering Paragraph 1 of Plaintiff's Complaint, these Answering Defendants are without sufficient knowledge to form a belief as to the truth of the allegations contained in said paragraph and therefore deny the same.

2. Answering Paragraphs 2, 3 and 4 of Plaintiff's Complaint, these Answering Defendants admit each and every allegation contained therein.

3. Answering Paragraphs 5, 6, and 7 of Plaintiff's Complaint, these Answering Defendants are without sufficient knowledge to form a belief as to the truth of the allegations contained in said paragraph and therefore deny the same.

4. Answering Paragraphs 8 and 9 of Plaintiff's Complaint, these Answering Defendants deny each and every allegation contained therein as it pertains to them. As to the remaining allegations, these Answering Defendants are without sufficient knowledge to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

5. Answering Paragraph 10 of Plaintiff's Complaint, these Answering Defendants admit there is an affidavit from Robert Harris, M.D. attached as Exhibit "1". These Answering Defendants specifically deny that this affidavit has merit or provides support for Plaintiff's claims.

6. Answering Paragraphs 11 and 12 of Plaintiff's Complaint, these Answering Defendants deny each and every allegation contained therein as it pertains to them. As to the remaining allegations, these Answering Defendants are without sufficient knowledge to form a belief as to the truth of the allegations contained in said paragraph and therefore denies the same.

## AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim against these answering Defendants upon which relief can be granted.

2. Defendants allege that in all medical attention and care rendered to Plaintiff, these answering Defendants possessed and exercised that degree of skill and learning ordinarily possessed and exercised by members of the medical profession in good standing practicing in similar localities and that at all times these answering Defendants used reasonable care and diligence in the exercise of skill and application of learning, and at all times acted in accordance with best medical judgment.

1           3.       Defendants allege that any injuries or damages alleged sustained or suffered by the  
2 Plaintiff at the times and places referred to in Plaintiff's Complaint were caused in whole or in part  
3 or were contributed to by the negligence or fault or want of care of the Plaintiff, and the negligence,  
4 fault or want of care on the part of the Plaintiff was greater than that, if any, of these answering  
5 Defendants.

6           4.       That in all medical attention rendered by these answering Defendants to the  
7 Plaintiff, these Defendants possessed and exercised the degree of skill and learning ordinarily  
8 possessed and exercised by members of their profession in good standing, practicing in similar  
9 localities, and that at all times, these answering Defendants used reasonable care and diligence in  
10 the exercise of their skills and the application of their learning, and at all times acted according to  
11 best judgment; that the medical treatment administered by these Defendants was the usual and  
12 customary treatment for the physical condition and symptoms exhibited by the Plaintiff, and that  
13 at no time were these Defendants guilty of negligence or improper treatment; that, on the contrary,  
14 these Defendants performed each and every act of such treatment in a proper and efficient manner  
15 and in a manner approved and followed by the medical profession generally and under the  
16 circumstances and conditions as they existed when such medical attention was rendered.

17           5.       Defendants allege that they made, consistent with good medical practice, a full and  
18 complete disclosure to the Plaintiff of all material facts known or reasonably believed be true  
19 concerning the Plaintiff's physical condition and the appropriate alternative procedures available  
20 for treatment of such condition. Further, each and every service rendered to the Plaintiff by these  
21 answering Defendants was expressly and impliedly consented to and authorized by the Plaintiff  
22 on the basis of said full and complete disclosure.

23           6.       Defendants allege that they are entitled to a conclusive presumption of informed  
24 consent pursuant to NRS §41A.110.

25           7.       Defendants allege that the Complaint is barred by the applicable statute of  
26 limitations.

27           8.       Defendants allege that Plaintiff assumed the risks of the procedures, if any,  
28 performed.

1           9.     Plaintiff's damages, if any, were caused by and due to an unavoidable condition or  
2 occurrence.

3           10.    Plaintiff has failed to mitigate her damages.

4           11.    Defendants allege that the injuries and damages, if any, alleged by the Plaintiff were  
5 caused in whole or in part by the actions or inactions of third parties over whom these answering  
6 Defendants had no liability, responsibility or control.

7           12.    Defendants allege that the injuries and damages, if any, complained of by the  
8 Plaintiff were unforeseeable.

9           13.    Defendants allege that the injuries and damages, if any, complained of by the  
10 Plaintiff were caused by forces of nature over which these answering Defendants had no  
11 responsibility, liability or control.

12          14.    Defendants allege that the injuries and damages, if any, complained of by the  
13 Plaintiff were not proximately caused by any acts and/or omissions on the part of these answering  
14 Defendants.

15          15.    Plaintiff's Complaint violates the Statute of Frauds.

16          16.    Defendants allege that pursuant to Nevada law, they would not be jointly liable,  
17 and that if liability is imposed, such liability would be several for that portion of the Plaintiff's  
18 damages, if any, that represents the percentage attributed to these answering Defendants.

19          17.    Defendants allege that the injuries and damages, if any, suffered by the Plaintiff  
20 were caused by new, independent, intervening and superseding causes and not by these answering  
21 Defendants' alleged negligence or other actionable conduct, the existence of which is specifically  
22 denied.

23          18.    Defendants allege that Plaintiff's damages, if any, are subject to the limitations and  
24 protections as set forth in Chapter 41A of the Nevada Revised Statutes including, without  
25 limitation, several liability and limits on non-economic damages.

26          19.    Defendants allege that it has been necessary to employ the services of an attorney  
27 to defend this action and a reasonable sum should be allowed these Defendants for attorney's fees,  
28 together with the costs expended in this action.



1           20. Defendants allege that it is not guilty of fraud, oppression or malice, express or  
2 implied, in connection with the care rendered to Plaintiff at any of the times or places alleged in  
3 the Complaint.

4           21. Defendants allege that at all relevant times these Defendants were acting in good  
5 faith and not with recklessness, oppression, fraud or malice.

6           22. Defendants allege that Defendants never engaged in conduct which constitutes  
7 battery, abuse, neglect or exploitation of Plaintiff.

8           23. Defendants allege that the injuries and damages, if any, suffered by Plaintiff can  
9 and do occur in the absence of negligence.

10          24. Plaintiff has failed to allege any facts sufficient to satisfy Plaintiff's burden of proof  
11 by clear and convincing evidence that these answering Defendants engaged in any conduct that  
12 would support an award of punitive damages.

13          25. No award of punitive damages can be awarded against these answering Defendants  
14 under the facts and circumstances alleged in Plaintiff's Complaint.

15          26. Plaintiff's Complaint and attached affidavit fail to satisfy the requirements of NRS  
16 41A.071.

17          27. To the extent Plaintiff has been reimbursed from any source for any special  
18 damages claimed to have been sustained as a result of the incidents alleged in Plaintiff's  
19 Complaint, Defendants may elect to offer those amounts into evidence and, if Defendants so elect,  
20 Plaintiff's special damages shall be reduced by those amounts pursuant to NRS §42.021.

21          28. Pursuant to N.R.C.P. 11 all possible affirmative defenses may not have been alleged  
22 since sufficient facts were not available and, therefore, these Defendants reserve the right to amend  
23 this Answer to allege additional affirmative defenses if subsequent investigation warrants.  
24 Additionally, one or more of these Affirmative Defenses may have been pled for the purposes of  
25 non-waiver.

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1 WHEREFORE, Defendants pray for relief as follows:

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

5 DATED this 27<sup>th</sup> day of August 2020.

6 McBRIDE HALL

7

8 /s/ Sean M. Kelly

9 Robert C. McBride, Esq.

10 Nevada Bar No.: 7082

11 Sean M. Kelly, Esq.

12 Nevada Bar No.: 10102

13 8329 W. Sunset Road, Suite 260

14 Las Vegas, Nevada 89113

15 Attorneys for Defendants

16 *Ellis Bandt Birkin Kollins and Wong, PLLC*

17 *dba Desert Radiology and Shelin, Agrawal*

18 *& Hyer, PLLC, dba Desert Radiology*

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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 27<sup>th</sup> day of August 2020, I served a true and correct copy  
3 of the foregoing ELLIS BANDT BIRKIN KOLLINS AND WONG, PLLC dba DESERT  
4 RADIOLOGY and SHELIN, AGRAWAL & HYER, PLLC, dba DESERT RADIOLOGY'S  
5 ANSWER TO PLAINTIFF'S COMPLAINT addressed to the following counsel of record at the  
6 following address(es):

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

13 Steven M. Burris, Esq.  
14 Travis E. Shelter, Esq.  
LAW OFFICES OF STEVEN M. BURRIS  
15 2810 W. Charleston Blvd., Suite F-58  
16 Las Vegas, Nevada 89102  
Attorney for *Plaintiff*

17

18

19 /s/ Kellie Piet  
20 An Employee of McBRIDE HALL

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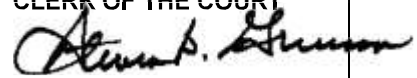
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# EXHIBIT 3

# EXHIBIT 3



1 ANS

2 DAVID J. MORTENSEN, ESQ.

3 Nevada Bar No. 2547

4 CANDACE C. HERLING, ESQ.

5 Nevada Bar No. 13503

6 MESSNER REEVES LLP

7 8945 West Russell Road, Suite 300

8 Las Vegas, Nevada 89148

9 Telephone: (702) 363-5100

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11 E-mail: [dmortensen@messner.com](mailto:dmortensen@messner.com)

12 [cherling@messner.com](mailto:cherling@messner.com)

13 *Attorneys for Defendant*

14 *Farhad Sani, M.D.*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 MARIA HEATON, an individual,

18 Plaintiffs,

19 vs.

20 ELLIS, BANDT, BIRKIN, KILLINS &  
21 WONG, PLLC, a Nevada Domestic  
22 Professional Limited Liability Company, dba  
23 DESERT RADIOLOGY; SHELIN,  
24 AGRAWAL & HYER, PLLC, a Nevada  
25 Domestic Professional Limited Liability  
26 Company, dba DESRT RADIOLOGY;  
27 FARHAD SANI, MD, DOES 1 through 10,  
28 inclusive; and ROE ENTITIES 1 through 10,  
inclusive;

Defendants.

Case No. A-20-818370-C

Dept. No. 6

**DEFENDANT FARHAD SANI, M.D.'S**  
**ANSWER TO COMPLAINT**

COMES NOW Defendant FARHAD SANI, M.D. (hereinafter referred to as "Defendant") by and through its attorneys of record, DAVID J. MORTENSEN, ESQ. and CANDACE C. HERLING, ESQ. of the law firm MESSNER REEVES LLP, and hereby answers Plaintiff MARIA HEATON'S (hereinafter referred to as "Plaintiff") Complaint as follows:

1           1.       Answering Paragraph 1 of Plaintiff's Complaint, Answering Defendant is without  
2 knowledge and or information sufficient to form a belief as to the truth of the allegations contained  
3 in said paragraph and therefore denies the allegations contained therein.

4           2.       Answering Paragraph 2 of Plaintiff's Complaint, Answering Defendant is without  
5 knowledge and or information sufficient to form a belief as to the truth of the allegations contained  
6 in said paragraph and therefore denies the allegations contained therein.

7           3.       Answering Paragraph 3 of Plaintiff's Complaint, Answering Defendant is without  
8 knowledge and or information sufficient to form a belief as to the truth of the allegations contained  
9 in said paragraph and therefore denies the allegations contained therein.

10          4.       Answering Paragraph 4 of Plaintiff's Complaint, Answering Defendant admits he is a  
11 physician licensed to practice medicine in the State of Nevada pursuant to Chapter 630 of the Nevada  
12 Revised Statutes. As to any remaining allegations contained in said paragraph, this Answering  
13 Defendant states that it is without sufficient information to form a belief as the truth of the allegations  
14 and therefore denies the allegations contained therein.

15          5.       Answering Paragraph 5 of Plaintiff's Complaint, Answering Defendant is without  
16 knowledge and or information sufficient to form a belief as to the truth of the allegations contained  
17 in said paragraph and therefore denies the allegations contained therein.

18          6.       Answering Paragraph 6 of Plaintiff's Complaint, Answering Defendant is without  
19 knowledge and or information sufficient to form a belief as to the truth of the allegations contained  
20 in said paragraph and therefore denies the allegations contained therein.

21          7.       Answering Paragraph 7 of Plaintiff's Complaint, Answering Defendant is without  
22 knowledge and or information sufficient to form a belief as to the truth of the allegations contained  
23 in said paragraph and therefore denies the allegations contained therein.

24          8.       Answering Paragraph 8 of Plaintiff's Complaint, Answering Defendant denies said  
25 allegations contained therein as it pertains to him. As to the remaining allegations, this Answering  
26 Defendant is without knowledge and or information sufficient to form a belief as to the truth of the  
27 allegations contained in said paragraph and therefore denies the allegations contained therein.

1           9.       Answering Paragraph 9 of Plaintiff's Complaint, Answering Defendant denies said  
2 allegations contained therein as it pertains to him. As to the remaining allegations, this Answering  
3 Defendant is without knowledge and or information sufficient to form a belief as to the truth of the  
4 allegations contained in said paragraph and therefore denies the allegations contained therein.

5           10.      Answering Paragraph 10 of Plaintiff's Complaint, Answering Defendant admits there  
6 is a declaration from Robert Harris, M.D. attached as Exhibit "1". This Answering Defendant specifically  
7 denies that this declaration has merit or provides support for Plaintiff's claims or complies with NRS  
8 41A.071.

9           11.      Answering Paragraph 11 of Plaintiff's Complaint, Answering Defendant denies said  
10 allegations contained therein as it pertains to him. As to the remaining allegations, this Answering  
11 Defendant is without knowledge and or information sufficient to form a belief as to the truth of the  
12 allegations contained in said paragraph and therefore denies the allegations contained therein.

13          12.      Answering Paragraph 12 of Plaintiff's Complaint, Answering Defendant denies said  
14 allegation in said paragraph.

15                                   **FIRST AFFIRMATIVE DEFENSE**

16          Plaintiff's Complaint on file herein fails to state a claim against this Defendant upon which  
17 relief can be granted.

18                                   **SECOND AFFIRMATIVE DEFENSE**

19          The injuries, if any, complained of by Plaintiff in her Complaint were proximately caused by  
20 the acts or omissions of unknown third parties or other persons over whom the Defendant exercised  
21 no control and over whom this Answering Defendant had no right or duty to control; nor ever has  
22 had a right or duty to exercise control; and for whom this Answering Defendant cannot be held  
23 vicariously or directly liable.

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**THIRD AFFIRMATIVE DEFENSE**

Plaintiff did not exercise ordinary care, caution or prudence in the conduct of her affairs relating to the allegations of the Complaint herein for damages in order to avoid the injuries or damages of which Plaintiff complains; said injuries or damages, if any, were directly and proximately contributed to or caused by the fault, carelessness and negligence of the Plaintiff.

**FOURTH AFFIRMATIVE DEFENSE**

The fault of Plaintiff, relating to the allegations of the Complaint, exceeded that of Defendant, if any, and Plaintiff is therefore barred from any recovery.

**FIFTH AFFIRMATIVE DEFENSE**

The damages, if any, alleged by Plaintiff were not the result of any acts of omission, or commission, or negligence, but were the result of a known risk which was consented to by the Plaintiff, such risks being inherent in the nature of the care rendered and such risks were assumed by the Plaintiff when he consented to treatment.

**SIXTH AFFIRMATIVE DEFENSE**

In all medical attention rendered by the Defendant to the Plaintiff, this Defendant possessed and exercised that degree of skill and learning ordinarily possessed and exercised by the members of their profession in good standing, practicing in similar localities, and that at all times this Defendant used reasonable care and diligence in the exercise of their skills and the application of their learning, and at all times acted according to their best judgment; that the medical treatment administered by this Defendant was the usual and customary treatment for the physical condition and symptoms exhibited by Plaintiff and that at no time was this Defendant guilty of negligence or improper treatment; that, on the contrary, this Defendant did perform each and every act of such treatment in a proper and efficient manner and in a manner most thoroughly approved and followed by the medical profession generally and under the circumstances and conditions as they existed when such medical attention was rendered.

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**EIGHTH AFFIRMATIVE DEFENSE**

Defendant asserts any and all statute of limitations, limitations of action, defenses in abatement, estoppel, laches and statutes of repose including those provisions available to Defendant under the Federal Rules of Civil Procedure, the Nevada Rules of Civil Procedure, and the Nevada Supreme Court Rules, in full avoidance of any and all claims or causes of action.

That it has been necessary for the Defendant to employ the services of an attorney to defend this action and a reasonable sum should be allowed Defendant for attorneys' fees, together with costs of suit incurred herein.

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

Pursuant to N.R.C.P. 11, as amended, all possible Affirmative Defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend its Answer to allege additional Affirmative Defenses if subsequent investigation warrants.

Plaintiff failed to take reasonable efforts to mitigate her damages, if any, and Plaintiff is therefore barred from recovering any damages from Defendant.

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 Plaintiff is comparatively at fault; Plaintiff's recovery, if any, should be reduced in proportion  
3 to his own fault, or in the event his fault exceeds that of Defendant, he is not entitled to any recovery.

4 **FOURTEENTH AFFIRMATIVE DEFENSE**

5 Defendant denies each and every allegation of Plaintiff's Complaint not specifically admitted  
6 or otherwise pled to herein.

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 Plaintiff's non-economic damages, if any, may not exceed \$350,000 pursuant to NRS  
9 41A.035; Defendant is otherwise entitled to all protections, benefits, and set offs available to  
10 Defendant in professional negligence actions under NRS Chapters 41A and 42.

11 **SIXTEENTH AFFIRMATIVE DEFENSE**

12 To the extent Plaintiff is entitled to recover any damages from Defendant, Defendant may be  
13 held severally liable only for that portion of any judgment which represents the percentage of  
14 negligence attributable to this answering Defendant pursuant to NRS 41A.045 and NRS 41.141.

15 **SEVENTEENTH AFFIRMATIVE DEFENSE**

16 To the extent Plaintiff have been reimbursed from any source for any special damages claimed  
17 to have been sustained as a result of the incidents alleged in Plaintiff's Complaint, Defendant may  
18 elect to offer those amounts into evidence and, if Defendant so elect, Plaintiff's special damages shall  
19 be reduced by those amounts pursuant to NRS 42.021.

20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 To the extent Plaintiff is entitled to recover any future damages from Defendant, Defendant  
22 may satisfy that amount through periodic payments pursuant to NRS 42.021.

23 **NINETEENTH AFFIRMATIVE DEFENSE**

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

1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8  
3 and Rule 12 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further  
4 investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right  
5 to seek leave of Court to amend their Answer to specifically assert any such defense(s). Such defenses  
6 are herein incorporated by reference for the specific purpose of not waiving any such defense.

7 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

8 Plaintiff's claims are time-barred by the applicable statute of limitations.

9 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

10 Defendant alleges that recovery of unlimited punitive damages or exemplary damages is  
11 barred because N.R.S. Chapter 42, as amended, denies this Defendant equal protection of the law  
12 under Article Four, Section Twenty of the Nevada Constitution, and the Fourteenth Amendment to  
13 the United States Constitution.

14 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

15 Defendant alleges that any award of punitive or exemplary damages in this action is barred as  
16 excessive, as the product of bias or passion and/or by proceedings lacking sufficient guidelines and/or  
17 the basic elements of fundamental fairness, under the Due Process Clause of the Fourteenth  
18 Amendment to the United States Constitution and Article One, Section Eighth, of the Nevada  
19 Constitution.

20 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

21 Plaintiff has failed to plead any acts or omissions of Defendant sufficient to warrant  
22 consideration of exemplary or punitive damages.

23 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

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

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**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

Defendant alleges that her made, consistent with good medical practice, a full and complete disclosure to the Plaintiff of all material facts known or reasonably believed be true concerning the Plaintiff's physical condition and the appropriate alternative procedures available for treatment of such condition. Further, each and every service rendered to the Plaintiff by these answering Defendants was expressly and impliedly consented to and authorized by the Plaintiff on the basis of said full and complete disclosure.

Plaintiff's damages, if any, were caused by and due to an unavoidable condition or occurrence.

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

Plaintiff's Complaint violates the Statute of Frauds.

[illegible]

1 **PRAYER FOR RELIEF**

2 Answering Defendant denies Plaintiff is entitled to any of the requested relief as Contained  
3 within Plaintiff's Complaint.

4 Wherefore, Defendant prays for judgment as follows:

- 5 1. That Plaintiff takes nothing by virtue of her Complaint;  
6 2. For reasonable attorneys' fees and costs of suit incurred herein; and  
7 3. For such other and further relief as the Court deems just and proper.

8 DATED this 10th day of September, 2020.

9 MESSNER REEVES LLP

10 /s/ *David J. Mortensen, Esq.*

11 DAVID J. MORTENSEN, ESQ. (NBN 2547)  
12 CANDACE C. HERLING, ESQ. (NBN 13503)  
13 8945 West Russell Road, Suite 300  
14 Las Vegas, Nevada 89148  
15 Telephone: (702) 363-5100  
16 Facsimile: (702) 363-5101  
17 E-mail: [dmortensen@messner.com](mailto:dmortensen@messner.com)  
18 [cherling@messner.com](mailto:cherling@messner.com)

19 *Attorneys for Defendant*  
20 *Farhad Sani, M.D.*  
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1 **CERTIFICATE OF SERVICE**

2 On this 10th day of September, 2020, pursuant to Administrative Order 14-2 and Rule 9 of  
3 the NEFCR, I caused the foregoing **DEFENDANT FARHAD SANI, M.D.'S ANSWER TO**  
4 **COMPLAINT** to be transmitted to the person(s) identified in the E-Service List for this captioned  
5 case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State of  
6 Nevada. A service transmission report reported service as complete and a copy of the service  
7 transmission report will be maintained with the document(s) in this office.

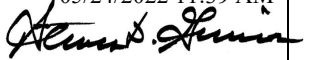
8 Steven M. Burris, Esq. (NBN 00603)  
9 Travis E. Shetler, Esq. (NBN 04747)  
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11 2810 W. Charleston Blvd, Suite F-58  
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P: 702-792-5855

15 /s/ Tya Frabott  
Employee of MESSNER REEVES LLP

**EXHIBIT 4**

**EXHIBIT 4**

  
CLERK OF THE COURT

**ORDR**

DAVID J. MORTENSEN, ESQ.  
Nevada Bar No. 2547  
COURTNEY CHRISTOPHER, ESQ.  
Nevada Bar No. 12717  
DEREK LINFORD, ESQ.  
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E-mail: [dmortensen@messner.com](mailto:dmortensen@messner.com)  
[cchristopher@messner.com](mailto:cchristopher@messner.com)  
[dlinford@messner.com](mailto:dlinford@messner.com)

*Attorneys for Defendant Farhad Sani, M.D.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARIA HEATON, an individual,

Plaintiffs,

vs.

ELLIS, BANDT, BIRKIN, KILLINS &  
WONG, PLLC, a Nevada Domestic  
Professional Limited Liability Company, dba  
DESERT RADIOLOGY; SHELIN,  
AGRAWAL & HYER, PLLC, a Nevada  
Domestic Professional Limited Liability  
Company, dba DESERT RADIOLOGY;  
FARHAD SANI, MD, DOES 1 through 10,  
inclusive; and ROE ENTITIES 1 through 10,  
inclusive;

Defendants.

Case No. A-20-818370-C

Dept. No. 15

**ORDER GRANTING DEFENDANT  
FARHAD SANI, MD'S MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT  
AND DEFENDANTS ELLIS BANDT  
BIRKIN KOLLINS AND WONG, PLLC  
DBA DESERT RADIOLOGY AND  
SHELIN, AGRAWAL & HYER, PLLC,  
DBA DESERT RADIOLOGY'S  
PEREMPTORY JOINDER TO MOTION  
TO DISMISS PLAINTIFF'S COMPLAINT**

On March 23, 2022, Defendant FARHAD SANI, MD (hereinafter "Dr. Sani") filed a Motion to Dismiss Plaintiff's Complaint and on March 28, 2022, Defendants ELLIS, BANDT, BIRKIN, KILLINS & WONG, PLLC, dba DESERT RADIOLOGY and SHELIN, AGRAWAL & HYER, PLLC, dba DESERT RADIOLOGY (hereinafter "Desert Radiology Defendants") filed a Joinder to

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A-20-818370-C



1 the Motion to Dismiss. Thereafter, Plaintiff filed an Opposition to the Motion to Dismiss and Joinder  
2 on April 1, 2022, Defendant Dr. Sani filed a Reply on April 14, 2022, and Desert Radiology  
3 Defendants filed a Joinder to the Reply on April 19, 2022.

4 On May 9, 2022, Defendant Dr. Sani's Motion to Dismiss and Desert Radiology Defendants'  
5 Joinder came before this court for oral argument. Travis E. Shetler, Esq. appeared on behalf of  
6 Plaintiff, Derek Linford, Esq. appeared on behalf of Defendant Dr. Sani, and Sean M. Kelly, Esq.  
7 appeared on behalf of Desert Radiology Defendants. Pursuant to the arguments of said hearing, the  
8 pleadings and papers on file, and good cause appearing, the Court hereby GRANTS Defendant Dr.  
9 Sani's Motion to Dismiss and Desert Radiology Defendants' Joinder thereto.

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's Complaint is  
11 DISMISSED in its entirety pursuant to NRCP 25(a)(1).

12 On June 15, 2021, Plaintiff Maria Heaton, the sole Plaintiff in this lawsuit passed away. On  
13 September 20, 2021, Plaintiff's counsel filed a Suggestion of Death Upon the Record. Pursuant to  
14 NRCP 25(a)(1), Plaintiff's counsel had 180 days after the filing of the Suggestion of Death Upon the  
15 Record to file a Motion to Substitute a proper party, which expired on March 21, 2022. Plaintiff's  
16 counsel failed to file the required Motion to Substitute by March 21, 2022, and as such the Court is  
17 compelled to dismiss Plaintiff's Complaint.

18 NRCP 25(a)(1) provides that if the motion is not made within 180 days the claims by or  
19 against the decedent must be dismissed. However, Nevada case law has provided a possible exception  
20 to this rule. The Nevada Supreme Court has held that the deadline to substitute a proper party may be  
21 extended after it has expired under NRCP 6(b) only on a showing of excusable neglect. *Moseley v.*  
22 *Eighth Jud. Dist. Ct.*, 124 Nev. 654 (2008). In *Moseley*, the Nevada Supreme Court ruled that to  
23 establish excusable neglect and extend the time to file for substitution under NRCP 25(a)(1), the party  
24 must "demonstrate that (1) it acted in good faith, (2) it exercised due diligence, (3) there is a  
25 reasonable basis for not complying within the specified time, and (4) the nonmoving party will not  
26 suffer prejudice." *Id.* at 667-68.

27 The facts of the case are important. Plaintiff's counsel was the attorney for the appointment  
28

1 of Special Co-Administrators for Plaintiff Maria Heaton's Estate. As such, Plaintiff's counsel was  
2 aware of the appointment, and this is not a case where Plaintiff's counsel was not aware of the  
3 appointment. The appointment of Special Co-Administrators occurred well before the 180-day  
4 deadline to file a motion to substitute expired. There was no obstruction on the part of Defendants or  
5 Defendants' counsel in this matter. Plaintiff's counsel represented that prior to the deadline to file the  
6 motion to substitute, he asked his paralegal if the document had been filed. Plaintiff's counsel was  
7 not specific as to which document he was speaking, and as a result, when the question was answered  
8 in the affirmative, it was for the wrong case. Plaintiff's counsel's reliance on his paralegal's response  
9 is not excusable neglect. The lateness of Plaintiff's Suggestion of Death does not factor into this  
10 Court's decision.

11       The facts of this case are not similar to the facts of the *George v. United States*, 208 F.R.D.  
12 29 (D. Conn. 2001) or *Al-Jundi v. Estate of Rockefeller*, 757 F.Supp. 206 (W.D.N.Y. 1990), wherein  
13 the *Moseley* Court noted excusable neglect could exist. First, in the *George* case, excusable neglect  
14 was found because "any delay in moving for substitution was not due to any inaction on the part of  
15 the deceased plaintiffs counsel" and that "she moved for an extension of time to be substituted as the  
16 personal representative...four days after receiving the documentation reflecting the appointment."  
17 *Moseley*, 124 Nev. at 666. This ruling does not apply to this case as the delay in moving for  
18 substitution was due to inaction on the part of Plaintiff's counsel.

19       Second, in the *Al-Jundi* case, the court noted excusable neglect existed when following the  
20 defendant's death "decendent's daughter refused to be appointed, but she also objected to the plaintiff's  
21 efforts to have an administrator ad litem appointed" and the "decendent's attorney attempted to stall  
22 any substitution." *Moseley*, 124 Nev. at 667. This ruling also does not apply to this case as there was  
23 no obstruction or interference by Defendants or Defendants' counsel.

24       In applying the four factors identified by the *Moseley* Court to the facts of this case, the Court  
25 finds that there is no question Plaintiff's counsel acted in good faith and there would be no prejudice  
26 in this matter. However, the Court finds that Plaintiff's counsel did not exercise due diligence and  
27 Plaintiff's counsel did not have a reasonable basis for not complying within the specified time. Based

on the finding of lack of due diligence and no reasonable basis for failing to comply within the specified time on behalf of Plaintiff's counsel, the Court cannot find excusable neglect. As such the Court is compelled to Grant the Motion to Dismiss and Joinder thereto and dismiss Plaintiff's Complaint.

Respectfully submitted by:

MESSNER REEVES LLP

/s/ Derek Linford

David J. Mortensen, Esq. (NBN 2547)  
Courtney Christopher, Esq. (NBN 12717)  
Derek Linford, Esq. (NBN 14909)  
8945 West Russell Road, Suite 300  
Las Vegas, Nevada 89148  
*Attorneys for Defendant  
Farhad Sani, M.D.*

Approved as to form and content by:

LAW OFFICES OF TRAVIS E. SHETLER, PC

*Refused to sign*

Travis E. Shetler, Esq. (NBN 004747)  
3202 W. Charleston Blvd.  
Las Vegas, NV 89102  
*Attorney for Plaintiff*

Approved as to form and content by:

McBRIDE HALL

/s/ Sean Kelly

Robert C. McBride, Esq. (NBN 7082)  
Sean M. Kelly, Esq. (NBN 10102)  
8329 W. Sunset Road, Suite 260  
Las Vegas, NV 89113  
*Attorneys Defendants  
Ellis Bandt Birkin Kollins and Wong, PLLC  
dba Desert Radiology and Shelin, Agrawal &  
Hyer, PLLC, dba Desert Radiology*

**ORDER**

Pursuant to the foregoing, and good cause appearing therefrom:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant FARHAD SANI, MD's Motion to Dismiss and Defendants ELLIS, BANDT, BIRKIN, KILLINS & WONG, PLLC, dba DESERT RADIOLOGY and SHELIN, AGRAWAL & HYER, PLLC, dba DESERT RADIOLOGY's Joinder are GRANTED pursuant to NRCP 25(a)(1), and Plaintiff's Complaint is DISMISSED in its entirety.

**IT IS SO ORDERED.**

Dated this 24th day of May, 2022

  
DISTRICT JUDGE

**61B 4AD 69F6 408A  
Joe Hardy  
District Court Judge**

---

**From:** Derek Linford  
**Sent:** Monday, May 23, 2022 3:10 PM  
**To:** Tya Frabott  
**Cc:** Stephanie Prescott; Courtney Christopher  
**Subject:** FW: Heaton adv. Sani / Our File No. 10555.0025 / ORDER - DUE TODAY  
**Attachments:** ORDR - Order Granting Motion to Dismiss (06351674xA9B4D).docx

**Follow Up Flag:**  
**Flag Status:**

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**From:** Derek Linford  
**Sent:** Monday, May 23, 2022 3:05 PM  
**To:** 'Sean M. Kelly' <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>; Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>  
**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>  
**Subject:** RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Good Afternoon,

Our office will go ahead and submit our proposed Order today. We will indicate that Plaintiff's counsel does not approve and attach our emails to the submission.

Thank you,  
Derek

**DEREK K. LINFORD**  
Attorney  
**Messner Reeves LLP**  
**O:** 702.363.5100 **E:** [dlinford@messner.com](mailto:dlinford@messner.com)  
8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

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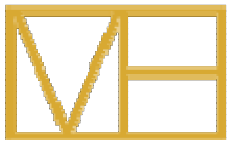
**From:** Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>  
**Sent:** Friday, May 20, 2022 1:01 PM  
**To:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>; Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>  
**Subject:** [EXTERNAL] - RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

I would agree...Judge Hardy wanted a detailed Order, one that is likely more detailed than the court's minutes.

**Sean M. Kelly, Esq.**  
[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com) | [www.mcbridehall.com](http://www.mcbridehall.com)

8329 West Sunset Road  
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Las Vegas, Nevada 89113  
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**MCBRIDE HALL**  
**ATTORNEYS AT LAW**

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---

**From:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>  
**Sent:** Friday, May 20, 2022 12:57 PM  
**To:** Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>  
**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>  
**Subject:** RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Hi Travis,

Do you have any suggestions on how to edit the proposed Order to limit it? I based the Order on my notes from Judge Hardy's ruling at the hearing. I do believe Judge Hardy had asked that the Order include his detailed findings. I am available this afternoon to discuss further if you would like. I can be reached on my cell at 208-965-4408.

Thank you,  
Derek

**DEREK K. LINFORD**  
Attorney  
**Messner Reeves LLP**  
**O:** 702.363.5100 **E:** [dlinford@messner.com](mailto:dlinford@messner.com)  
8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

---

**From:** Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>  
**Sent:** Friday, May 20, 2022 12:29 PM  
**To:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Subject:** [EXTERNAL] - RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Good afternoon,

I have reviewed the order.

I do not think the Order should include language which stretches so far beyond the court minutes. I will sign off if we can limit it accordingly

Thank you and enjoy your weekends.

Travis

---

**From:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>

**Sent:** Thursday, May 19, 2022 8:08 AM

**To:** Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Subject:** FW: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Hi Travis,

I wanted to follow-up on our proposed Order. The Order is due to the Court Monday, 5/23. Let me know if you have any requested changes, or if it is approved to submit with your e-signature.

Thank you,  
Derek

**DEREK K. LINFORD**

Attorney

**Messner Reeves LLP**

**O:** 702.363.5100 **E:** [dlinford@messner.com](mailto:dlinford@messner.com)

8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

---

**From:** Derek Linford

**Sent:** Thursday, May 12, 2022 2:14 PM

**To:** [travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Subject:** RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Hi Travis,

I just wanted to follow-up on our proposed Order. Please let me know if there are any requested changes, or if it is approved to submit with your e-signature.

Thank you,

Derek

**DEREK K. LINFORD**

Attorney

**Messner Reeves LLP**

O: 702.363.5100 E: [dlinford@messner.com](mailto:dlinford@messner.com)

8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

---

**From:** Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Sent:** Wednesday, May 11, 2022 12:46 PM

**To:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>

**Cc:** [travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com); Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[spreScott@messner.com](mailto:spreScott@messner.com)>

**Subject:** [EXTERNAL] - Re: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Thanks for preparing. You can use my e-signature.

Thank you,

Sean M. Kelly, Esq.

[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com) | [www.mcbridehall.com](http://www.mcbridehall.com)

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On May 11, 2022, at 12:44 PM, Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)> wrote:

Good afternoon Travis and Sean,

Attached please find our proposed Order Granting the Motion to Dismiss and Joinder thereto. Please advise of any suggested changes, or if approved to submit with your e-signatures.



Thank you,  
Derek

**DEREK K. LINFORD**

Attorney

☎: 702.363.5100 E: [dlinford@messner.com](mailto:dlinford@messner.com)

8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

---

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1 **CSERV**

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3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Maria Heaton, Plaintiff(s)

CASE NO: A-20-818370-C

7 vs.

DEPT. NO. Department 15

8 Ellis, Bandt, Birkin, Kollins &  
9 Wong, PLLC, Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/24/2022

15 Robert McBride

rcmcbride@mcbridehall.com

16 Sean Kelly

smkelly@mcbridehall.com

17 Kristine Herpin

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18 David Mortensen

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19 Stephanie Prescott

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20 Tya Frabott

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21 Candace Cullina

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22 Travis Shetler

travis@shetlerlawfirm.com

23 Susan Dolorfino

sdolorfino@messner.com

24 Courtney Christopher

cchristopher@messner.com

25 Derek Linford

Dlinford@messner.com

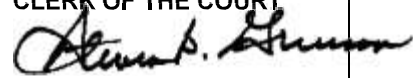
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Lauren Smith	lsmith@mcbridehall.com
Natalie Jones	njones@mcbridehall.com
Madeline VanHeuvelen	mvanheuvelen@mcbridehall.com
Ericka Lemus	elemus@mcbridehall.com

# EXHIBIT 5

# EXHIBIT 5



**NEOJ**

DAVID J. MORTENSEN, ESQ.  
Nevada Bar No. 2547  
COURTNEY CHRISTOPHER, ESQ.  
Nevada Bar No. 12717  
DEREK LINFORD, ESQ.  
Nevada Bar No. 14909  
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E-mail: [dmortensen@messner.com](mailto:dmortensen@messner.com)  
[cchristopher@messner.com](mailto:cchristopher@messner.com)  
[dlinford@messner.com](mailto:dlinford@messner.com)

*Attorneys for Defendant Farhad Sani, M.D.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARIA HEATON, an individual,

Plaintiffs,

vs.

ELLIS, BANDT, BIRKIN, KILLINS &  
WONG, PLLC, a Nevada Domestic  
Professional Limited Liability Company, dba  
DESERT RADIOLOGY; SHELIN,  
AGRAWAL & HYER, PLLC, a Nevada  
Domestic Professional Limited Liability  
Company, dba DESRT RADIOLOGY;  
FARHAD SANI, MD, DOES 1 through 10,  
inclusive; and ROE ENTITIES 1 through 10,  
inclusive;

Defendants.

Case No. A-20-818370-C

Dept. No. 15

**NOTICE OF ENTRY OF ORDER**

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10555.0025

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A-20-818370-C

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DATED this 24<sup>th</sup> day of May, 2022.

/s/ Derek Linford

*Attorneys for Defendant Farhad Sani, M.D.*

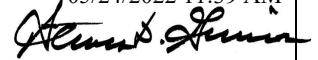
1 **CERTIFICATE OF SERVICE**

2 On this 24<sup>th</sup> day of May, 2022, pursuant to Administrative Order 14-2 and Rule 9 of the  
3 NEFCR, I caused the foregoing **NOTICE OF ENTRY OF ORDER** to be transmitted to the  
4 person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the  
5 Eighth Judicial District Court, County of Clark, State of Nevada. A service transmission report  
6 reported service as complete and a copy of the service transmission report will be maintained with  
7 the document(s) in this office.

8 Steven M. Burris, Esq. (NBN 00603)  
9 Travis E. Shetler, Esq. (NBN 04747)  
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P: 702-792-5855  
*Attorneys for Defendants Ellis Bandt Birkin  
Kollins and Wong, PLLC dba Desert Radiology  
and Shelin, Agrawal & Hyer, PLLC, dba Desert  
Radiology*

17 /s/ Tya Frabott  
18 Employee of MESSNER REEVES LLP

  
CLERK OF THE COURT

**ORDR**

DAVID J. MORTENSEN, ESQ.  
Nevada Bar No. 2547  
COURTNEY CHRISTOPHER, ESQ.  
Nevada Bar No. 12717  
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[dlinford@messner.com](mailto:dlinford@messner.com)

*Attorneys for Defendant Farhad Sani, M.D.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MARIA HEATON, an individual,

Plaintiffs,

vs.

ELLIS, BANDT, BIRKIN, KILLINS &  
WONG, PLLC, a Nevada Domestic  
Professional Limited Liability Company, dba  
DESERT RADIOLOGY; SHELIN,  
AGRAWAL & HYER, PLLC, a Nevada  
Domestic Professional Limited Liability  
Company, dba DESERT RADIOLOGY;  
FARHAD SANI, MD, DOES 1 through 10,  
inclusive; and ROE ENTITIES 1 through 10,  
inclusive;

Defendants.

Case No. A-20-818370-C

Dept. No. 15

**ORDER GRANTING DEFENDANT  
FARHAD SANI, MD'S MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT  
AND DEFENDANTS ELLIS BANDT  
BIRKIN KOLLINS AND WONG, PLLC  
DBA DESERT RADIOLOGY AND  
SHELIN, AGRAWAL & HYER, PLLC,  
DBA DESERT RADIOLOGY'S  
PEREMPTORY JOINDER TO MOTION  
TO DISMISS PLAINTIFF'S COMPLAINT**

On March 23, 2022, Defendant FARHAD SANI, MD (hereinafter "Dr. Sani") filed a Motion to Dismiss Plaintiff's Complaint and on March 28, 2022, Defendants ELLIS, BANDT, BIRKIN, KILLINS & WONG, PLLC, dba DESERT RADIOLOGY and SHELIN, AGRAWAL & HYER, PLLC, dba DESERT RADIOLOGY (hereinafter "Desert Radiology Defendants") filed a Joinder to

10555.0025

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A-20-818370-C



1 the Motion to Dismiss. Thereafter, Plaintiff filed an Opposition to the Motion to Dismiss and Joinder  
2 on April 1, 2022, Defendant Dr. Sani filed a Reply on April 14, 2022, and Desert Radiology  
3 Defendants filed a Joinder to the Reply on April 19, 2022.

4 On May 9, 2022, Defendant Dr. Sani's Motion to Dismiss and Desert Radiology Defendants'  
5 Joinder came before this court for oral argument. Travis E. Shetler, Esq. appeared on behalf of  
6 Plaintiff, Derek Linford, Esq. appeared on behalf of Defendant Dr. Sani, and Sean M. Kelly, Esq.  
7 appeared on behalf of Desert Radiology Defendants. Pursuant to the arguments of said hearing, the  
8 pleadings and papers on file, and good cause appearing, the Court hereby GRANTS Defendant Dr.  
9 Sani's Motion to Dismiss and Desert Radiology Defendants' Joinder thereto.

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's Complaint is  
11 DISMISSED in its entirety pursuant to NRCP 25(a)(1).

12 On June 15, 2021, Plaintiff Maria Heaton, the sole Plaintiff in this lawsuit passed away. On  
13 September 20, 2021, Plaintiff's counsel filed a Suggestion of Death Upon the Record. Pursuant to  
14 NRCP 25(a)(1), Plaintiff's counsel had 180 days after the filing of the Suggestion of Death Upon the  
15 Record to file a Motion to Substitute a proper party, which expired on March 21, 2022. Plaintiff's  
16 counsel failed to file the required Motion to Substitute by March 21, 2022, and as such the Court is  
17 compelled to dismiss Plaintiff's Complaint.

18 NRCP 25(a)(1) provides that if the motion is not made within 180 days the claims by or  
19 against the decedent must be dismissed. However, Nevada case law has provided a possible exception  
20 to this rule. The Nevada Supreme Court has held that the deadline to substitute a proper party may be  
21 extended after it has expired under NRCP 6(b) only on a showing of excusable neglect. *Moseley v.*  
22 *Eighth Jud. Dist. Ct.*, 124 Nev. 654 (2008). In *Moseley*, the Nevada Supreme Court ruled that to  
23 establish excusable neglect and extend the time to file for substitution under NRCP 25(a)(1), the party  
24 must "demonstrate that (1) it acted in good faith, (2) it exercised due diligence, (3) there is a  
25 reasonable basis for not complying within the specified time, and (4) the nonmoving party will not  
26 suffer prejudice." *Id.* at 667-68.

27 The facts of the case are important. Plaintiff's counsel was the attorney for the appointment  
28

1 of Special Co-Administrators for Plaintiff Maria Heaton’s Estate. As such, Plaintiff’s counsel was  
2 aware of the appointment, and this is not a case where Plaintiff’s counsel was not aware of the  
3 appointment. The appointment of Special Co-Administrators occurred well before the 180-day  
4 deadline to file a motion to substitute expired. There was no obstruction on the part of Defendants or  
5 Defendants’ counsel in this matter. Plaintiff’s counsel represented that prior to the deadline to file the  
6 motion to substitute, he asked his paralegal if the document had been filed. Plaintiff’s counsel was  
7 not specific as to which document he was speaking, and as a result, when the question was answered  
8 in the affirmative, it was for the wrong case. Plaintiff’s counsel’s reliance on his paralegal’s response  
9 is not excusable neglect. The lateness of Plaintiff’s Suggestion of Death does not factor into this  
10 Court’s decision.

11         The facts of this case are not similar to the facts of the *George v. United States*, 208 F.R.D.  
12 29 (D. Conn. 2001) or *Al-Jundi v. Estate of Rockefeller*, 757 F.Supp. 206 (W.D.N.Y. 1990), wherein  
13 the *Moseley* Court noted excusable neglect could exist. First, in the *George* case, excusable neglect  
14 was found because “any delay in moving for substitution was not due to any inaction on the part of  
15 the deceased plaintiffs counsel” and that “she moved for an extension of time to be substituted as the  
16 personal representative...four days after receiving the documentation reflecting the appointment.”  
17 *Moseley*, 124 Nev. at 666. This ruling does not apply to this case as the delay in moving for  
18 substitution was due to inaction on the part of Plaintiff’s counsel.

19         Second, in the *Al-Jundi* case, the court noted excusable neglect existed when following the  
20 defendant’s death “decendent’s daughter refused to be appointed, but she also objected to the plaintiff’s  
21 efforts to have an administrator ad litem appointed” and the “decendent’s attorney attempted to stall  
22 any substitution.” *Moseley*, 124 Nev. at 667. This ruling also does not apply to this case as there was  
23 no obstruction or interference by Defendants or Defendants’ counsel.

24         In applying the four factors identified by the *Moseley* Court to the facts of this case, the Court  
25 finds that there is no question Plaintiff’s counsel acted in good faith and there would be no prejudice  
26 in this matter. However, the Court finds that Plaintiff’s counsel did not exercise due diligence and  
27 Plaintiff’s counsel did not have a reasonable basis for not complying within the specified time. Based

on the finding of lack of due diligence and no reasonable basis for failing to comply within the specified time on behalf of Plaintiff's counsel, the Court cannot find excusable neglect. As such the Court is compelled to Grant the Motion to Dismiss and Joinder thereto and dismiss Plaintiff's Complaint.

Respectfully submitted by:

MESSNER REEVES LLP

/s/ Derek Linford

David J. Mortensen, Esq. (NBN 2547)  
Courtney Christopher, Esq. (NBN 12717)  
Derek Linford, Esq. (NBN 14909)  
8945 West Russell Road, Suite 300  
Las Vegas, Nevada 89148  
*Attorneys for Defendant  
Farhad Sani, M.D.*

Approved as to form and content by:

LAW OFFICES OF TRAVIS E. SHETLER, PC

*Refused to sign*

Travis E. Shetler, Esq. (NBN 004747)  
3202 W. Charleston Blvd.  
Las Vegas, NV 89102  
*Attorney for Plaintiff*

Approved as to form and content by:

McBRIDE HALL

/s/ Sean Kelly

Robert C. McBride, Esq. (NBN 7082)  
Sean M. Kelly, Esq. (NBN 10102)  
8329 W. Sunset Road, Suite 260  
Las Vegas, NV 89113  
*Attorneys Defendants  
Ellis Bandt Birkin Kollins and Wong, PLLC  
dba Desert Radiology and Shelin, Agrawal &  
Hyer, PLLC, dba Desert Radiology*

**ORDER**

Pursuant to the foregoing, and good cause appearing therefrom:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant FARHAD SANI, MD's Motion to Dismiss and Defendants ELLIS, BANDT, BIRKIN, KILLINS & WONG, PLLC, dba DESERT RADIOLOGY and SHELIN, AGRAWAL & HYER, PLLC, dba DESERT RADIOLOGY's Joinder are GRANTED pursuant to NRCP 25(a)(1), and Plaintiff's Complaint is DISMISSED in its entirety.

**IT IS SO ORDERED.**

Dated this 24th day of May, 2022

  
DISTRICT JUDGE

**61B 4AD 69F6 408A**  
**Joe Hardy**  
**District Court Judge**

---

**From:** Derek Linford  
**Sent:** Monday, May 23, 2022 3:10 PM  
**To:** Tya Frabott  
**Cc:** Stephanie Prescott; Courtney Christopher  
**Subject:** FW: Heaton adv. Sani / Our File No. 10555.0025 / ORDER - DUE TODAY  
**Attachments:** ORDR - Order Granting Motion to Dismiss (06351674xA9B4D).docx

**Follow Up Flag:**  
**Flag Status:**

---

**From:** Derek Linford  
**Sent:** Monday, May 23, 2022 3:05 PM  
**To:** 'Sean M. Kelly' <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>; Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>  
**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>  
**Subject:** RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Good Afternoon,

Our office will go ahead and submit our proposed Order today. We will indicate that Plaintiff's counsel does not approve and attach our emails to the submission.

Thank you,  
Derek

**DEREK K. LINFORD**  
Attorney  
**Messner Reeves LLP**  
**O:** 702.363.5100 **E:** [dlinford@messner.com](mailto:dlinford@messner.com)  
8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

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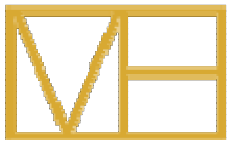
**From:** Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>  
**Sent:** Friday, May 20, 2022 1:01 PM  
**To:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>; Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>  
**Subject:** [EXTERNAL] - RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

I would agree...Judge Hardy wanted a detailed Order, one that is likely more detailed than the court's minutes.

**Sean M. Kelly, Esq.**  
[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com) | [www.mcbridehall.com](http://www.mcbridehall.com)

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**MCBRIDE HALL**  
**ATTORNEYS AT LAW**

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---

**From:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>  
**Sent:** Friday, May 20, 2022 12:57 PM  
**To:** Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>  
**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>  
**Subject:** RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Hi Travis,

Do you have any suggestions on how to edit the proposed Order to limit it? I based the Order on my notes from Judge Hardy's ruling at the hearing. I do believe Judge Hardy had asked that the Order include his detailed findings. I am available this afternoon to discuss further if you would like. I can be reached on my cell at 208-965-4408.

Thank you,  
Derek

**DEREK K. LINFORD**  
Attorney  
**Messner Reeves LLP**  
**O:** 702.363.5100 **E:** [dlinford@messner.com](mailto:dlinford@messner.com)  
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**From:** Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>  
**Sent:** Friday, May 20, 2022 12:29 PM  
**To:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Subject:** [EXTERNAL] - RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Good afternoon,

I have reviewed the order.

I do not think the Order should include language which stretches so far beyond the court minutes. I will sign off if we can limit it accordingly

Thank you and enjoy your weekends.

Travis

---

**From:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>

**Sent:** Thursday, May 19, 2022 8:08 AM

**To:** Travis Shetler <[travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)>

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Subject:** FW: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Hi Travis,

I wanted to follow-up on our proposed Order. The Order is due to the Court Monday, 5/23. Let me know if you have any requested changes, or if it is approved to submit with your e-signature.

Thank you,  
Derek

**DEREK K. LINFORD**

Attorney

**Messner Reeves LLP**

**O:** 702.363.5100 **E:** [dlinford@messner.com](mailto:dlinford@messner.com)

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---

**From:** Derek Linford

**Sent:** Thursday, May 12, 2022 2:14 PM

**To:** [travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com)

**Cc:** Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[sprescott@messner.com](mailto:sprescott@messner.com)>; Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Subject:** RE: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Hi Travis,

I just wanted to follow-up on our proposed Order. Please let me know if there are any requested changes, or if it is approved to submit with your e-signature.

Thank you,

Derek

**DEREK K. LINFORD**

Attorney

**Messner Reeves LLP**

O: 702.363.5100 E: [dlinford@messner.com](mailto:dlinford@messner.com)

8945 W. Russell Road, Suite 300, Las Vegas, NV 89148

---

**From:** Sean M. Kelly <[smkelly@mcbridehall.com](mailto:smkelly@mcbridehall.com)>

**Sent:** Wednesday, May 11, 2022 12:46 PM

**To:** Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)>

**Cc:** [travis@shetlerlawfirm.com](mailto:travis@shetlerlawfirm.com); Courtney Christopher <[CChristopher@messner.com](mailto:CChristopher@messner.com)>; Stephanie Prescott <[spreScott@messner.com](mailto:spreScott@messner.com)>

**Subject:** [EXTERNAL] - Re: Heaton adv. Sani / Our File No. 10555.0025 / PROPOSED ORDER GRANTING MOTION TO DISMISS

Thanks for preparing. You can use my e-signature.

Thank you,

Sean M. Kelly, Esq.

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On May 11, 2022, at 12:44 PM, Derek Linford <[DLinford@messner.com](mailto:DLinford@messner.com)> wrote:

Good afternoon Travis and Sean,

Attached please find our proposed Order Granting the Motion to Dismiss and Joinder thereto. Please advise of any suggested changes, or if approved to submit with your e-signatures.



Thank you,  
Derek

**DEREK K. LINFORD**

Attorney

☎: 702.363.5100 E: [dlinford@messner.com](mailto:dlinford@messner.com)

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA  
4

5  
6 Maria Heaton, Plaintiff(s)

CASE NO: A-20-818370-C

7 vs.

DEPT. NO. Department 15

8 Ellis, Bandt, Birkin, Kollins &  
9 Wong, PLLC, Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/24/2022

15 Robert McBride

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